THE STATE OF SOUTH CAROLINA
In the Supreme Court

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S.C. SUPREME COURT

CERTIORARI TO CHARLESTON COUNTY
Edgar W. Dickson, Circuit Court Judge

Appellate Case No: 2020-001709

BARRY STANLEY, RESPONDENT,

v.

STATE OF SOUTH CAROLINA, PETITIONER.

APPENDIX

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STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF GENERAL SESSION
COUNTY OF BERKELEY	)	
State of South Carolina,	)	
	)	
PLAINTIFF,	)	**TRANSCRIPT OF HEARING**
	)	2014-08-00027 and 22228
v.	)	
	)	
Barry Jerod Stanley,	)	
	)	
DEFENDANT.	)	
_____	)	

Monday, April 7, 2014
Berkeley County Courthouse

BEFORE:

HONORABLE KRISTI HARRINGTON, PRESIDING JUDGE

APPEARANCES:

Michael Patterson, Esquire
Attorney for Plaintiff

David Schwacke, Esquire
Attorney for Defendant

Melissa R. Singletary, CVR
Certified Verbatim Reporter

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EXHIBITS

_____(There were no Exhibits marked during this hearing)

The Court: Ladies and Gentlemen, I have a series of questions to determine your qualifications to serve as jurors.

Ladies and Gentlemen, I'm going to ask these questions, then I will give you an opportunity to come forward and speak with me at the appropriate time in private.

Ladies and Gentlemen, we are a court of record so in private means that my court reporter, and this is my court reporter to my right, she is taking down everything that I say as well as everything that you say so it is important that you speak loudly and clearly so that we have a complete record.

Ladies and Gentlemen, I understand that most of you when you received your jury notice, this is not where you wanted to be this week. If you had not shown up for Court here today, the business of the Court would have ceased. We would have shut our doors because without you we cannot do our jobs. So, I understand that for most of you it is an inconvenience but without you the cases would stop here today. So, please understand when I ask you these questions, general inconvenience is not going to be a sufficient reason for me to excuse you from jury service here this week.

Is there any member of the jury panel who is

not a citizen of the United States? If so, please stand. There are none.

Is there any member of the jury panel who is not a resident of Berkeley County? If so, please stand. Thank you. There are none.

Is there any member of the jury panel who is unable to read, write, speak or understand the English language? If so, please stand. Thank you. There are none.

Is there any member of the jury panel that has less than a six grade education or its equivalent? If so, please stand. Thank you. There are none.

Is there any member of the jury panel unable because of a mental or a physical infirmity that you feel you would be unable to render sufficient jury service this week? Ladies and Gentlemen, I find that is an appropriate question if you need to come and speak to me in private. So, please remember, if you need to answer that question, that you have a mental or physical infirmity that would permit you from rendering efficient jury service. We typically take a break every hour and a half or so and we will make any accommodations that are necessary in order for you to feel comfortable during your service that you are with us this week.

Is there any member of the jury panel who has

been convicted by a guilty plea or a trial in a State or Federal Court of record of a crime punishable by imprisonment for more than one year and your civil rights have not been restored by pardon or amnesty. Punishable by more than one year means that you could have received a sentence of more than one year regardless of the punishment that you actually received. Again, that is an appropriate question to speak with me at the end.

Is there any member of the jury panel, a clerk, deputy clerk, court constable, sheriff or other commissioned law enforcement office, probate judge, county commission, magistrate or other county officer or you are employed within the walls of any courthouse? If so, please stand. Yes, your jury number and name, sir.

Juror: Scott Dempsey, Juror number 38.

The Court: Yes, sir.

Juror: I used to be a deputy sheriff.

The Court: Are you currently a commissioned law enforcement officer?

Mr. Dempsey: Not at this time.

The Court: That would not disqualify you at this time. There may be another exception for you. Thank you.

Is there anyone else? Thank you. There are none.

Is there any member of the jury panel that served as a member of the Berkeley County Grand Jury during the last several years? If so, please stand. Thank you. There are none.

Ladies and Gentlemen, we now move on to jury exemptions. State law provides these exemptions. It does not mean that you are not qualified to serve, it simply means you are going to stand up and say Judge, I chose mot to serve this week.

Is there any member of the jury panel age 65 years of age or older and you wish to claim your exemption? If so, please stand. Thank you. There are none.

Is there any member of the jury panel that has served as a juror during the last two calendar years in Circuit Court? If so, please stand. Thank you. There are none.

Persons who have served on a Grand Jury during the last calendar years may also claim an exemption. Is there any member of the jury panel that has served on a Grand Jury during the last five calendar years and you wish to claim your exemption? If so, please stand. Thank you. There are none.

The next exemption deals with those of you who have children. Please listen very carefully. It

contains several parts. All of which may apply in order for you to claim your exemption.

If you have a child or children under the age of seven, you have the care and custody and control of those children and you are unable to make adequate arrangements for the care of your child while you are performing jury duty and you wish to claim your exemption, please come see me at the end.

The next exemption deals with those of you who may be attending school in some capacity in some location and you wish to be exempted or you are a full time school teacher, school bus driver, school crossing guard something of that nature. If you are a full time student, or employed in any capacity within the school and you wish to claim your exemption at this time, please stand. I will transfer your term to a time that doesn't conflict with your school responsibilities. Is there any member of the jury panel who wishes to claim their exemption at this time? Thank you. There are none.

Is there any member of the jury panel who is employed with the Department of Corrections at a prison? If so, please stand. Thank you. There are none.

Is there any juror who is a primary care taker of a mentally handicapped individual or you are the primary caretaker of a person age 65 years of age or

older and you wish to claim your exemption, please stand. Thank you. There are none.

The last question to you. Is there any juror who performs services for a business, commercial or agricultural enterprise that if you were committing your service to our system here this week, that business would shut its store, it will cease functioning. If you need to answer that question or any of my previous questions or you need to speak to me regarding any matter, please move to the center aisles and the bailiffs will escort you and I will address your questions at the appropriate time.

Bailiff: Juror number 4, Richard Bernoulli.

The Court: I need you to come forward so she can hear you.

Mr. Bernoulli: In my past, I have a felony down to misdemeanor. I don't know if that counts or not. It was in Charleston County.

The Court: Do you have the list Mr. Patterson? Is he disqualified? All right. Those would not disqualify you. Juror 4 will remain.

Bailiff: Juror number 51, Pamela Flowers.

The Court: Good morning.

Ms. Flowers: Good morning, Judge. I have a seven year old son that I pick up everyday at 2:00.

The Court: Do you work?

Ms. Flowers: Til 1:30.

The Court: Where do you work?

Ms. Flowers: I'm a security officer

The Court: And you don't have any other ...

Ms. Flowers: I stay home until my oldest gets there and then I go back to work.

The Court: Is there anyway that anybody could help you until she gets there?

Ms. Flowers: No. I'm doing it by myself. I have older neighbors.

The Court: Where does he go to school?

Ms. Flowers: Bluff Elementary.

The Court: What time does your daughter get home?

Ms. Flowers: She gets home at 3:45. Then it's after 4.

The Court: I'm going to excuse you. Juror 51 is excused. Good luck to you.

Bailiff: Juror 115, Ferrell Mitchum.

The Court: Good morning, Mr. Mitchum. How are you?

Mr. Mitchum: I'm fine. I'm a pastor of a church.

The Court: Yes.

Mr. Mitchum: I had a member pass away this week and the funeral is tomorrow at 10 a.m. and I have to officiate that service.

The Court: Thank you. You would probably need to be out all day tomorrow. Can I transfer you to a different week, would that be ...

Mr. Mitchum: Yes, ma'am. That would be fine.

The Court: All right. Juror 115 is transferred. You will get a new notice in the mail. Thank you.

Mr. Mitchum: Thank you.

Bailiff: Juror number 2, Kenneth Alford.

The Court: Good morning.

Mr. Alford: Good morning, Your Honor, Kenneth Alford. With everything that has been going on in my life. My separation, I lost my home. I don't feel like I could be a good juror.

The Court: Those things you just shared would not disqualify you. So, I'm going to have you stay with us and you can keep moving through the process. Juror 2 will remain. Thank you, sir.

Bailiff: Juror number 129, Gheshanna Porcher.

The Court: Good morning, Ms. Porcher.

Ms. Porcher: Good morning. I just started a training for a job.

The Court: Okay.

Ms. Porcher: And it has to be done by this Tuesday coming.

The Court: Tomorrow.

Ms. Porcher: Yes. Also, I just started a job so my child is not in child care right now. I was unemployed for year, so,

The Court: What are your work hours.

Ms. Porcher: Well, I just started Friday. My child is going to after school care but I have to pay for it.

The Court: I haven't heard anything that would disqualify you. What school is your child in?

Ms. Porcher: Whitesville Elementary.

The Court: That's pretty close to here. So, you could pick her up.

Ms. Porcher: I'm in training.

The Court: When are you starting work?

Ms. Porcher: As soon as my training is done.

The Court: Where are you employed?

Ms. Porcher: Westinghome, Incorporated.

The Court: Here's the issue. I can transfer you but you are just going to go through this process again.

Ms. Porcher: That's fine if I'm transferred.

I guess I'll just have to come up with ...

The Court: So do you want me to transfer you or do you want to stay with us?

Ms. Porcher: Transfer me.

The Court: Juror 129 is transferred. Good luck to you.

Bailiff: Juror 21, Christopher Cissell.

Mr. Cissell: Good morning.

The Court: Good morning.

Mr. Cissell: I have tickets that I purchased in January for an out of town event for my wife.

The Court: When is it?

Mr. Cissell: It starts Friday, we will leave Thursday afternoon.

The Court: All right. You will be done by then.

Mr. Cissell: Okay. Good enough.

The Court: Juror 21 will remain. Thank you, Mr. Cissell.

Bailiff: Juror number 102 James Liabastre.

Mr. Liabastre: I have a five year old daughter I'm going to have to take care of. I don't have transportation. I don't have a license.

The Court: I can take care of the transportation. That's not a problem. Do you work?

Mr. Liabastre: I stay home with her.

The Court: Who is watching her now?

Mr. Liabastre: My mom.

The Court: Can she watch her?

Mr. Liabastre: She can't all week.

The Court: Did you ask her?

Mr. Liabastre: No.

The Court: I'm going to ask you to stay with us. Remind me if you are selected for jury duty and I will make arrangements for transportation.

Mr. Liabastre: Thank you.

The Court: Thank you. Juror 102 will remain.

Bailiff: Juror number 138 Stevie Robinson.

The Court: Mr. Robinson, how are you.

Mr. Robinson: I work with the National Guard. I have drill Thursday and Friday.

The Court: So you need to be done by Thursday.

Mr. Robinson: I have to report 8:00 Thursday morning.

The Court: You stay with me Monday, Tuesday and Wednesday.

Mr. Robinson: Juror 138 will remain.

Bailiff: Juror 133, Willie Ramsey.

The Court: Good morning, Mr. Ramsey. How are you?

Mr. Ramsey: I have sickle cell and medication.

The Court: What number are you?

Mr. Ramsey: 133.

The Court: I show you have a conviction that would disqualify you. Use of a vehicle without permission. Is that you?

Mr. Ramsey: (Nods head in the affirmative)

The Court: Okay. Thank you. Juror 133 is excused. Thank you.

Bailiff: Juror 178 Teresa Woodfield.

The Court: Good morning. How are you doing?

Ms. Woodfield: Good.

The Court: Okay.

Ms. Woodfield: In 2011, I was diagnosed with 911 bipolar episode.

The Court: Are you on medication?

Ms. Woodfield: I am. I take two pills every night.

The Court: Are you working now?

Ms. Woodfield: Yes.

The Court: What do you do?

Ms. Woodfield: I'm a manager.

The Court: All right. So, that would not disqualify you.

Ms. Woodfield: All right.

The Court: Thank you. 178 will remain.

Bailiff: Juror number 155, Laura Sroka.

The Court: Good morning.

Ms. Sroka: Good morning. I have a son under the age of three and I am his primary care giver. I only have child care from 8:30 until 2:30.

The Court: Is there anybody in your family that can help you out through the week?

Ms. Sroka: My momma works and I don't have anybody else, really.

The Court: All right. 155 is excused. Good luck to you.

Ms. Sroka: Thank you.

The Court: Is there anyone else? Thank you. There are none. Are we ready? All right. The panel is now qualified. Is the State ready to proceed? Mr. Patterson, is the State ready to proceed?

Mr. Patterson: The State is ready, Your Honor.

The Court: Mr. Schwacke?

Mr. Schwacke: Yes, Your Honor.

The Court: All right. Ladies and Gentlemen we are now going to select a jury for a particular case. The first case that we are going to select a jury for is the case of South Carolina v. Barry Jerod Stanley. Does

your client waive formal arraignment?

Mr. Schwacke: He does, Your Honor.

The Court: And the State is proceeding on which indictment numbers?

Mr. Patterson: Indictment number 2014-GS-08-00028 and 2014-GS-08-00027.

The Court: Thank you.

(End of Voir Dire)

CERTIFICATE

This is to certify that the Hearing in the matter of State vs. Barry Jerrod Stanley, consisting of Sixteen (16) pages is a true and correct transcript; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am not employed by any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 6th of December, 2018.

Melissa R. Singletary

_____

Melissa R. Singletary
Certified Court Reporter

STATE OF SOUTH CAROLINA	)	
	)	IN THE CIRCUIT COURT
COUNTY OF BERKELEY	)	
State of South Carolina,	)	
	)	
PLAINTIFF,	)	**TRANSCRIPT OF VOIR DIRE**
	)	2014-GS-08-00027
v.	)	2014-GS-08-00028
	)	
Barry Jerod Stanley,	)	
	)	
DEFENDANT.	)	
	)	

Berkeley County Courthouse
April 7, 2014

BEFORE:

HONORABLE KRISTI HARRINGTON, PRESIDING JUDGE

APPEARANCES:

Michael Patterson, Esquire
Assistant Solicitor
Attorney for the State of South Carolina

David Schwacke, Esquire
Attorney for Defendant, Barry Jerod Stanley

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

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EXHIBITS

(There were no exhibits marked during this testimony)

The Court: Good morning, Ladies and Gentlemen. I am Kristi Harrington. I am your resident circuit Judge for Berkeley County. It is my pleasure this week to be back in my home county presiding over a term of General Sessions otherwise known as criminal court. Our first step here today is I'm going to determine your general qualifications to serve as jurors. One of the first things that we have to do is administer an oath to you. Madam Clerk. If my jury would please rise.

Clerk: Please raise your right hands to be sworn. Do you swear or affirm that you will provide truthful and complete responses and answers during this jury qualification process? If you accept the oath, please indicate by saying I do.

Jury Panel: I do.

Clerk: Please be seated.

The Court: Madam Clerk, if you will call the roll.

Clerk: Members of the jury panel you were given a slip of paper asking for information. The Court needs the place of employment, the job that you hold. The name of your spouse or your spouses place of employment and position on the job. If you are your spouse has retired or is unemployed, please state the last position held. When I call your name, please stand and speak loud enough for the Judge to hear you.

(Roll Call begins)

The Court: Ladies and Gentlemen, I have a series of questions to determine your general qualifications to serve as jurors.

Ladies and Gentlemen, I'm going to ask these questions, then I will give you an opportunity to come forward and speak with me at the appropriate time in private.

Ladies and Gentlemen, we are a Court of record so in private means that my court reporter, and this is my court reporter to my right, she is taking down everything that I say as well as everything that you say so it is important that you speak loudly and clearly so that we have a complete and accurate record.

Ladies and Gentlemen, I understand that most of you when you received your jury notice, this is not where you wanted to be this week. If you had not shown up here today the business of the Court would have ceased. We would have shut our doors because without you we cannot do our jobs. So, I understand that most of you may find this to be an inconvenience but without you the cases would stop here today. So, please understand when I ask you these questions, general inconvenience is not going to be a sufficient reason for me to excuse you from jury service here this week.

Is there any member of the jury panel who is not a citizen of the United States? If so, please stand. Thank you. There are none.

Is there any member of the jury panel who is not a resident of Berkeley County? If so, please stand. Thank you. There are none.

Is there any member of the jury panel unable to read, write, speak or understand the English language? If so, please stand. Thank you. There are none.

Is there any member of the jury panel that has less than a six grade education or its equivalent? If so, please stand. Thank you. There are none.

Is there any member of the jury panel unable because of a mental or a physical infirmity that you feel you would be unable to render efficient jury service this week? Ladies and Gentlemen, I find that is an appropriate question for you to come and speak to me in private. So, please remember, if you need to answer that question that you have a mental or physical infirmity that would prevent you from rendering efficient jury service. We typically take a break every hour, hour and a half or so and we will make any accommodations that are necessary in order for you to feel comfortable during your service here with us this week.

Is there any member of the jury panel who

either has been convicted by a guilty plea or a trial in a State or Federal Court of record of a crime punishable by imprisonment for more than one year and your civil rights have not been restored by pardon or amnesty. Punishable by more than one year means that you could have received a sentence of more than one year regardless of the punishment that you actually received. Again, I find that is an appropriate question to come speak with me at the end.

Is there any member of the jury panel, a Clerk, Deputy Clerk of Court, Constable, Sheriff or other commissioned Law Enforcement Officer, Probate Judge, County Commissioner, Magistrate or other County Officer or you are employed within the walls of any courthouse? If so, please stand. Yes, your jury number and name, sir.

Juror: Scott Demaskey, Juror number 38.

The Court: Yes, sir.

Mr. Demaskey: I used to be a deputy sheriff.

The Court: Are you currently a commissioned Law Enforcement Officer?

Mr. Demaskey: Not at this time.

The Court: That would not disqualify you at this time but there may be another exception for you. Thank you.

Is there anyone else? Thank you. There are none.

Is there any member of the jury panel that served as a member of the Berkeley County Grand Jury during the last several years? If so, please stand. Thank you. There are none.

Ladies and Gentlemen, we now move on to jury exemptions. State law provides for these exemptions. It does not mean that you are not qualified to serve, it simply means you are going to stand up and say Judge, I chose not to serve this week.

Is there any member of the jury panel age 65 years of age or older and you wish to claim your exemption? If so, please stand. Thank you. There are none.

Is there any member of the jury panel that has served as a juror during the last two calendar years in Circuit Court? If so, please stand. Thank you. There are none.

Persons who have served as a Grand Juror in any county during the last five (5) calendar years may also claim an exemption. Is there any member of the jury panel that has served on a Grand Jury during the last five (5) calendar years and you wish to claim your exemption? If so, please stand. Thank you. There are

none.

The next exemption deals with those of you who have children. Please listen very carefully. It contains several parts. All of which must apply in order for you to claim your exemption.

If you have a child or children under the age of seven, you have the care, custody and control of those children and you are unable to make adequate arrangements for the care of your child while you are performing jury duty and you wish to claim your exemption, please come see me at the end.

The next exemption deals with those of you who may be attending school in some capacity or some location and you wish to be exempted or you are a full time school teacher, school bus driver, school crossing guard something of that nature. If you are a full time student or employed in any capacity within the school and you wish to claim your exemption at this time, please stand. I will transfer your term to a time that doesn't conflict with your school responsibilities. Is there any member of the jury panel who wishes to claim your exemption at this time? Thank you. There are none.

Is there any member of the jury panel who is employed with the Department of Corrections at a prison? If so, please stand. Thank you. There are none.

Is there any juror who is the primary care taker of a mentally handicapped individual or you are the primary caretaker of a person age 65 years of age or older and you wish to claim your exemption, please stand. Thank you. There are none.

The last question to you. Is there any juror who performs services for a business, commercial or agricultural enterprise that if you were completing your service to our system here this week that business would shut its doors, it will cease functioning. If you need to answer that question or any of my previous questions or you need to speak with me regarding any matter, please move to the center aisle and the bailiffs will escort you and I will address your questions at the appropriate time.

Bailiff: Juror number 4, Richard Barnola.

The Court: I need you to come forward so she can hear you.

Mr. Bernoulli: In my past, I had a felony plead down to a misdemeanor. I don't know if that counts or not. It was in Charleston County.

The Court: Do you have the list Mr. Patterson?

Mr. Patterson: We do.

The Court: Is he disqualified? All right. Those would not disqualify you. All right. You can stay

with us. Juror 4 will remain.

Bailiff: Juror number 51, Pamela Flowers.

The Court: Good morning.

Ms. Flowers: Good morning. My name is Pamela Flowers. I have a seven year old son that I pick up everyday at 2:00.

The Court: You work from now until ...

Ms. Flowers: 1:30.

The Court: Where do you work?

Ms. Flowers: Tac American. I'm a security guard officer.

The Court: And you don't have any other ...

Ms. Flowers: I stay home until my oldest daughter gets there and then I go back to work.

The Court: Is there anyway that somebody could help you until she gets there?

Ms. Flowers: No. I'm doing it by myself. I have older neighbors.

The Court: Where does he go to school?

Ms. Flowers: Boulder Bluff Elementary.

The Court: What time does your daughter get home?

Ms. Flowers: She gets home at 3:45. Then it's a few minutes after 4.

The Court: I'm going to excuse you. Juror 51

is excused. Good luck to you.

Bailiff: Juror 115, Ferrell Mitchum.

The Court: Good morning, Mr. Mitchum. How are you?

Mr. Mitchum: I'm fine. As I stated I'm a pastor of a church.

The Court: Yes.

Mr. Mitchum: I had a member that passed away this week and the funeral is tomorrow at 10 a.m. and I have to officiate that service.

The Court: Thank you. You need to officiate that service?

Mr. Mitchum: Yes, ma'am..

The Court: You would probably need to be out all day tomorrow.

Mr. Mitchum: Pretty much.

The Court: Can I transfer you to a different week, would that be ...

Mr. Mitchum: Yes, ma'am. That would be fine.

The Court: All right. Juror 115 is transferred. You will get a new notice in the mail.

Mr. Mitchum: Thank you very much.

The Court: Thank you. Good luck to you.

Bailiff: Juror number 2, Kenneth Alford.

The Court: Good morning.

Mr. Alford: Good morning, Your Honor, Kenneth Alford. With everything that has been going on in my life over the last three months. My separation and I lost my home just last month. I don't feel I would be a complete and good enough person to serve as a juror.

The Court: Those things you just shared would not disqualify you. So, I'm going to have you stay with us and we're going to keep moving through the process. You are qualified to serve. All right. Juror 2 will remain. Thank you, sir.

Bailiff: Juror number 129, Gheshanna Porcher.

The Court: Good morning, Ms. Porcher.

Ms. Porcher: Good morning. I just started a training for a job this past Friday.

The Court: Okay.

Ms. Porcher: And it has to be done by this Tuesday coming.

The Court: Tomorrow.

Ms. Porcher: Yes.

The Court: Okay.

Ms. Porcher: Also, too, I just started a job so my child is not in child care right now.

The Court: What are your work hours?

Ms. Porcher: Well, I just started. I was unemployed for a whole year, so. My child is going to

after school care but I have to pay for it. That's my issue because I just started and after school care closes at 5:00 so I would have to be let out.

The Court: I haven't heard anything that would disqualify you. How old is your child?

Ms. Porcher: She's seven.

The Court: What school is your child in?

Ms. Porcher: Whiteville Elementary.

The Court: So, if we're done by 5:00 you can pick her up from after school care?

Ms. Porcher: She's not in school right now, like I say, I'm in training. So when I do start I guess I would put her into after school care. She's not in after school care now.

The Court: When will that start?

Ms. Porcher: As soon as my training is done.

The Court: Where are you employed?

Ms. Porcher: Westinghome, Incorporated.

The Court: Here's the issue. I can transfer you but you are just going to go through this process again.

Ms. Porcher: That's fine if I'm transferred. I guess I'll just have to come. After school is my issue.

The Court: So do you want to stay since you've

already been here for the morning or do you want me to transfer you?

Ms. Porcher: Transfer me, please.

The Court: Juror 129 is transferred. Good luck to you.

Ms. Porcher: Thank you.

Bailiff: Juror 21, Christopher Cissell.

Mr. Cissell: Good morning.

The Court: Good morning.

Mr. Cissell: I have tickets that I purchased in January for an out of town event for my wife.

The Court: When is it?

Mr. Cissell: It starts Friday, we are going to leave Thursday afternoon.

The Court: All right. You will be done by then.

Mr. Cissell: Okay. Good enough.

The Court: Juror 21 will remain. Thank you, Mr. Cissell.

Bailiff: Juror number 102 James Liabastre.

Mr. Liabastre: I have a five year old daughter I'm going to have to take care of. I don't have proper transportation. I don't have a license.

The Court: Transportation is not an issue. I can send somebody to pick you up. Do you work outside of

the home?

Mr. Liabastre: I stay home with her.

The Court: Who is watching her now?

Mr. Liabastre: My mom.

The Court: Can she watch her?

Mr. Liabastre: She can't all week.

The Court: Did you ask her?

Mr. Liabastre: No.

The Court: I'm going to ask you to stay with us. What is your juror number?

Mr. Liabastre: 102.

The Court: Remind me that you need a ride to and from Court if you're selected for jury duty and I will make arrangements for transportation.

Mr. Liabastre: Thank you.

The Court: Juror 102 will remain. Thank you.

Bailiff: Juror number 138 Stevie Robinson.

The Court: Mr. Robinson, how are you.

Mr. Robinson: I work with the National Guard. I have drill on Thursday and Friday.

The Court: So you need to be done by Thursday.

Mr. Robinson: I have to report at 8:00 Thursday morning.

The Court: You stay with me Monday, Tuesday and Wednesday.

Mr. Robinson: Okay.

The Court: Juror 138 will remain.

Bailiff: Juror 133, Willie Ramsey.

The Court: Good morning, Mr. Ramsey. How are you?

Mr. Ramsey: I have sickle cell and medication.

The Court: What is your juror number?

Mr. Ramsey: 133.

The Court: I show that you have a conviction that would disqualify you. Have you been convicted? Use of a vehicle without permission. Was that you?

Mr. Ramsey: (Nods head in the affirmative)

The Court: Okay. That will disqualify you. Thank you. Juror 133 is excused. Thank you.

Bailiff: Juror 178 Teresa Woodfield.

The Court: Good morning. How are you doing?

Ms. Woodfield: I'm good.

The Court: Okay.

Ms. Woodfield: In 2011, I was diagnosed with 911 bipolar episode.

The Court: Are you on medication?

Ms. Woodfield: I am. I take two pills every night.

The Court: Are you working now?

Ms. Woodfield: Yes.

The Court: What do you do?

Ms. Woodfield: I'm a manager.

The Court: All right. So, that would not disqualify you from being able to serve.

Ms. Woodfield: All right.

The Court: Thank you. 178 will remain.

Bailiff: Juror number 155, Laura Sroka.

The Court: Good morning.

Ms. Sroka: Good morning. I have a young son under the age of three and I am his primary care giver. I work part-time so I only have child care from 8:30 until 2:30.

The Court: Is there anybody in your family that can help you out for the week?

Ms. Sroka: My momma works and I don't have anybody else, really.

The Court: All right. 155 is excused. Good luck to you.

Ms. Sroka: Thank you.

The Court: Is there anyone else? Thank you. There are none. Are we ready? All right. The panel is now qualified. Is the State ready to proceed? Mr. Patterson, is the State ready to proceed?

Mr. Patterson: The State is ready, Your Honor.

The Court: Mr. Schwacke?

Mr. Schwacke: Yes, Your Honor.

The Court: All right. Ladies and Gentlemen we are now going to select a jury for a particular case. The first case that we are going to select a jury for is the case of The State of South Carolina v. Barry Jerod Stanley. Does your client waive formal arraignment?

Mr. Schwacke: He does, Your Honor.

The Court: And the State is proceeding on which indictment numbers?

Mr. Patterson: Indictment number 2014-GS-08-00028 and 2014-GS-08-00027.

The Court: Thank you. Ladies and Gentlemen, Mr. Stanley has been charged in an indictment, and the indictment is simply a piece of paper that brings us to Court here today. It is not in any sense evidence of the allegations that it contains. The State alleges that Mr. Stanley did, in Berkeley County, on or about March 11, 2013 while driving a motor vehicle on a road, street or highway of the State did knowingly, willfully, intentionally and in the absence of mitigating circumstances failed to stop for a law enforcement vehicle after being signaled by a flashing light and/or a siren to do so all in violation of section 56-5-750 of the South Carolina Code of Laws 1976, as amended. Mr.

Stanley has plead not guilty to this indictment.

The State further alleges that Mr. Stanley did, in Berkeley County, South Carolina on or about March 11, 2013 knowingly sell, manufacture, purchase or bring into the State or did provide financial assistance or otherwise aid, abet, attempt or conspire to sell, manufacture, deliver, purchase or bring into the State or did possess or attempt to possess a control substance or a controlled substance analog cocaine base in excess of 28 grams in violation of 44-53-375 of the South Carolina Code of Laws 1976, as amended. Mr. Stanley has plead not guilty to that indictment.

Is there any member of the jury panel that knows anything about this case other than what I have just read to you? If so, please stand. Thank you. There are none. Mr. Schwacke if you would stand, introduce yourself, introduce your client, any persons who may be assisting you throughout this trial.

Mr, Schwacke: Thank you, Your Honor. My name is David Schwacke. I'm an attorney with the Public Defender's Office. I will be assisted by Mr. Chad Shelton in this case. We represent Mr. Stanley.

The Court: Is there any member of the jury panel related by blood, marriage, close personal friends, ever had any business, personal or professional dealings

with Mr. Stanley? If so, please stand. Thank you. There are none.

Any member of the jury panel related by blood, marriage, close personal friends, ever had any personal or professional dealings or ever been represented by Mr. Schwacke or Mr. Shelton? If so, please stand. Thank you there are none.

The Court: Mr. Patterson, if you'd please stand, introduce yourself and any persons who will be assisting you throughout the trial.

Mr. Patterson: Good morning. My name is Michael Patterson, I am one of the Assistant Solicitors here in the Ninth Circuit Solicitor's Office. I work in Berkeley County. Assisting me will be Charles Condon as well as our Investigator David Seastrunk. The Deputy Solicitor here in Berkeley County is Scarlett Wilson

The Court: Thank you. Is any member of the jury panel related by blood, marriage, close personal friend, ever have any business, personal or professional dealings with Mr. Patterson or Mr. Condon? If so, please stand.

Is there any member of the jury panel related by blood, marriage, close personal friend, ever have any business, personal or professional dealings, ever had any matters handled by the Solicitor's office in the Ninth

Circuit, which is Berkeley and Charleston County, do you know anyone that you think may be employed in any capacity within the Solicitor's office please stand. Thank you. There are none.

Is there any member of the jury panel that perhaps goes to church with, play softball with, think you may have gone to middle school with, anybody that has ever worked in the Solicitor's Office as either an investigator or any attorney or paralegal something of that nature. Thank you. Please stand. Yes, sir. Your juror number and name.

Juror: 35. I'm Robert Davis. I know one of the lawyers.

The Court: Who do you know?

Mr. Davis: Mason West.

The Court: How do you know Mr. West?

Mr. Davis: We are friends and we go to church together.

The Court: Is there anything about your relationship with Mr. West that would affect your ability to be fair and impartial in this case?

Mr. Davis: I told him I would be in Court today.

The Court: Mr. West is not involved in this case today, is that correct Mr. West?

Mr. West: That's correct, Your Honor.

The Court: And other than telling Mr. West you were going to be here today, did you have any discussions regarding this case?

Mr. Davis: No, ma'am.

The Court: Is there anything other than you knowing Mr. West at all, and seeing him in Court today, that would affect your ability to be fair and impartial in this case?

Mr. Davis: No, ma'am.

The Court: And your juror number and name before you sit down.

Mr. Davis: Juror number 35, Robert Davis.

The Court: Thank you, Mr. Davis. Is there anyone else? Thank you. There are none. Ladies and Gentlemen, it is important that you just kind of think back and if you even played softball with or walked into the Solicitor's Office for whatever reason or in the Public Defender's Office or had any contact with any people that may be involved with this case whatsoever. It may be important for us to know. Then I'm just simply going to ask you just because you know them that's not the question it is whether or not your relationship with that person can affect your ability to be fair and impartial? It is important because the State and the Defendant deserve a juror who is able to listen to the

facts from the witness stand, apply the law to those facts and render a verdict based on all those things.

Ladies and Gentlemen, I am now going to call a list of potential witnesses. These people make be called to testify and come in and give testimony from the witness stand. Again, if you know these individuals in any capacity related by blood, marriage, close personal friend, ever had any business, personal, professional dealings with any of these individuals. Know these individuals, know the individuals in any way, you are Facebook friends with them, you go to church with them. You work with them, you've went to a garage sale, something with these individuals in any way let me know.

Evette Nelson, Greg Rider, Tanya Deane, Preston Kornahrens, Chris Rowland, William Loflin, Dangelo Watson, Detective Fred Durant, Hanahan Police Department, Detective Amanda Camp, Hanahan Police Department, Officer Travis Dodd, Hanahan Police Department, Corporal Lane Beaudoin, Hanahan Police Department, Corporal Jon Ellwood, Hanahan Police Department, Officer Mike Norton, Hanahan Police Department, Officer Gary Carraway, Hanahan Police Department, Sergeant Travis Lanphere, Hanahan Police Department, Sergeant Cassie Brooks, Hanahan Police Department, Sergeant Pam Nelson, Hanahan Police Department, Lieutenant Michael Fowler, Hanahan Police Department, Lieutenant Dennis Turner, Hanahan Police Department, Sergeant Roberson, Charleston County Sheriff's

Office, Susan Payne, Charleston Police Department Lab Technician, Ashley Earl, Charleston Police Department, Renee Hilton, Charleston Police Department, Sergeant Scot Wyatt, North Charleston Police Department, Al Hallman, North Charleston Police Department, Lieutenant Dean Kokinda, Berkeley County Sheriff's Office. Anyone know any of these individuals in any ways? If so, please stand. Yes, sir. Your juror number and name?

Juror: My number is 78. My name is Tim Hilkhuijsen.

The Court: Yes.

Juror: I know Officer Dodd. We went to Hanahan High School.

The Court: Is there anything about your relationship with Officer Dodd that would affect your ability to be fair and impartial in this case?

Mr. Dodd: No.

The Court: And your juror number before you sit down. Sir, before you sit down tell me your name and juror number.

Juror: 78. Tim Hilkhuijsen.

The Court: Thank you. Yes, ma'am.

Juror: I know Officer Dodd through his grandparents and I know Officer Durant.

The Court: Anything about your relationship

with either one of those officers that would affect your ability to be fair and impartial in this case?

Juror: No.

The Court: Your juror number?

Juror: 100.

The Court: Thank you. Is there anyone else? Thank you. There are none. Any member of the jury panel ever been employed by or a member of your immediate family or close friend employed with the Hanahan Police Department in Charleston Police Department in the lab, the Charleston Police Department in its entirety, the North Charleston Police Department or Berkeley County Sheriff's Office. If so, please stand. Thank you. There are none.

Any member of the jury panel who was a former police officer, a member of their family was a police officer or a very close personal friend currently employed as a police officer? If so, please stand. Yes, ma'am, your juror number and your name.

Juror: Juror number 28. My husband is a retired Federal Marshal.

The Court: Here in Charleston and Berkeley or somewhere else?

Juror: In Berkeley. Do you know any of these individuals?

Juror: No, I do not.

The Court: Is there anything about your husband's former employment that would affect your ability to be fair and impartial in this case?

Juror: No.

The Court: And your juror number.

Juror: Number 28.

The Court: Anyone else? Yes, sir

Juror: I was a Deputy Sheriff in Charleston.

The Court: How long ago was that, sir?

Juror: That was about ten years ago.

The Court: Anything about that employment that would affect your ability to be fair and impartial in this case?

Juror: I don't think so.

The Court: I do that very same thing. I hope so, I think so. I need a yes or no. Will you be able to listen to the facts of the case. Apply the law as the Court gives it and render a verdict based only on those things?

Juror: Yes.

The Court: Your juror number before you sit down, sir?

Juror: Juror number 34.

The Court: Thank you, sir. Yes.

Juror: Juror number 64, Patrice Graigner. My husband is a current State Trooper.

The Court: Is he assigned to this area or somewhere else?

Ms. Grainger: Berkeley and Charleston County.

The Court: Do you know any of these officers that I have listed?

Ms. Grainger: No, I do not.

The Court: Is there anything about your husband's occupation that would affect your ability to be fair and impartial in this case?

Ms. Grainger: No, ma'am.

The Court: And your juror number Ms. Graigner?

Ms. Graigner: 64.

The Court: Thank you. Yes?

Juror: 114, John Miller. Retired State Corrections Officer and I personally know Sheriff Dewitt.

The Court: Anything about what you have shared with us would affect your ability to be fair and impartial in this case?

Mr. Miller: Most likely, yes.

The Court: Let me ask you this because I need a yes or a no. Again, the Defendant and the State deserve a juror who is able to listen to the facts from the witness stand, apply the law as the Court gives it and

render a verdict based on that. Can you do that, sir?

Mr. Miller: Probably not. Because of my past experience I probably would be a little prejudice.

The Court: All right. Sir, your juror number?

Mr. Miller: 114.

The Court: Sir, I am going to excuse you from the trial of this case. Do not answer any further questions regarding this matter, but we are selecting for another case so you may be appropriate for that one. Juror 114 is excused just from the trial of this case. Have a seat. Thank you. Is there anyone else? Thank you. There are none.

Ladies and Gentlemen is there any member of the jury panel who has ever been employed in any capacity or a member of your family has been employed in any capacity with a crime scene lab or a forensic lab? If so, please stand. Thank you. There are none.

Is there any member of the jury panel that has any specialized training in forensic or crime scene analysis? If so, please stand. Thank you. There are none.

Ladies and Gentlemen my final question to you at this time and I would like you to answer it and come forward when I have the group come forward if you have any other questions. Is there any member of the jury

panel who has ever been a victim of domestic violence, you or a member of your immediate family has ever been a victim of domestic violence. If you need to answer that question or if you feel that whatever moral, political, whatever belief that you could not be a fair and impartial juror in this particular case and you need to discuss that with me, please move to the center aisle just as you did in the jury qualifications and I will see you at that time.

Bailiff: Number 12. John Blume.

The Court: Yes, sir.

Mr. Blume: My son was accused when he was married of domestic violence. It was expunged and everything.

The Court: Was this in Berkeley County or somewhere else?

Mr. Blume: Charleston County.

The Court: All right. Is there anything about that that would affect your ability to be fair and impartial in this case?

Mr. Blume: No, ma'am.

The Court: All right. I'm going to have you stay with us. Thank you. Juror Number 12 will remain.

Bailiff: Juror 142. Katherine Sappol.

The Court: Good morning.

Ms. Sappol: Good morning, Your Honor. On your question before. My husband works for U.S. Customs. So he is a law enforcement officer.

The Court: Is there anything about your husband's employment that would affect your ability to be fair and impartial in this case?

Ms. Sappol: No.

The Court: Thank you. Juror 142 will remain. Thank you.

Bailiff: Juror number 3. Paula Amnott.

The Court: Yes, ma'am.

Ms. Amnott: My second husband was physically abusive to me and that's what ended the marriage.

The Court: Is there anything about that that would affect your ability to be fair and impartial in this case?

Ms. Amnott: It would; yes, ma'am.

The Court: I'm going to excuse you from the trial of this case, but we do have another case and you may be appropriate for that one. Juror 3 is excused from the trial of this case.

Ms. Amnott: Thank you.

Bailiff: Juror number 85. Clara Hudson.

The Court: Good morning Ms. Hudson.

Ms. Hudson: Good morning. I just wanted to let

you know that my father was Assistant Director to the FBI. He was brought up in a very conservative background not that I am but I was brought up with that background. I tend to be extremely conservative.

The Court: Will you be able to listen to the facts from the witness stand and render a fair and impartial verdict based on testimony free from any outside influence?

Ms. Hudson: Yes.

The Court: Thank you. All right Juror 85 will remain. Is there anyone else? Thank you. There are none.

Is the State ready to proceed?

Mr. Patterson: We are, Your Honor.

Mr. Schwacke: Yes, Your Honor.

The Court: The strikes are five and five, is that correct?

Mr. Patterson: That's correct, Your Honor.

The Court: Is that correct, Mr. Schwacke?

Mr. Schwacke: That's correct, Your Honor.

The Court: Is the State ready to proceed?

Mr. Patterson: The State's read to proceed.

Mr. Schwacke: Yes, ma'am.

Deputy Clerk: Ladies and Gentlemen of the Jury if I call your name please come forward and bring your

personal belongings with you. If I say seat the juror, please have a seat in the jury box. If I say excuse the juror, please return to your original seating and please follow the instructions of the Bailiffs here.

(End of Voir Dire)

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

The State of South Carolina	)	Case Number:
	)	2014-GS-08-00027
Plaintiff,	)	2014-GS-08-00028
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
Barry Jerrod Stanley,	)	
	)	
Defendant,	)	
	)	

April 7 - 9, 2014
Moncks Corner, South Carolina

BEFORE:

The Honorable Kristi Harrington

APPEARANCES:

Michael Patterson, Assistant Solicitor
Charles Condon, Assistant Solicitor
Attorneys for the State of South Carolina

David Schwacke, Esquire
Chad Shelton, Esquire
Attorneys for the Defendant

Melissa Singletary
Official Court Reporter

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THE COURT: Is the State ready to proceed?

MR. PATTERSON: The State is ready to proceed.

THE CLERK: Ladies and gentlemen of the jury, as I call your name please come forth and bring your personal belongings with you. If I say seat the juror please have a seat in the jury box. If I say excuse the juror, please return to your original seating and please follow the instructions of the bailiffs. Juror 109, Steven Matthews. What says the State?

MR. PATTERSON: Your Honor, may we approach?

THE COURT: You may. Mr. Matthews, this has nothing to do with you. You just stand right there. I know it's kind of tough being the first one.

(Whereupon, a bench conference was held off the record in the presence of the jury panel, but out of the hearing of the jury panel.)

THE COURT: Mr. Matthews, would you approach please?

(Whereupon, the bench conference continued off the record in the presence of the jury panel, but out of the hearing of the jury panel.)

THE COURT: Thank you.

THE CLERK: Juror Number 13, Jonathan Borgmann. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror. Juror 66, Davielle Grover. What says the State?

MR. PATTERSON: Please excuse the juror.

THE CLERK: Excuse the juror. Juror 17, Travis Brown. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror please. Juror 18, Michael Brubaker. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror. Juror 178, Teresa Woodfield. What says the State?

MR. PATTERSON: Court's indulgence.

THE COURT: Take your time.

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror. Juror 23, Kelly Cochran. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror. Juror 72, Theresa Harris. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror. Juror 139, Luke Ryker. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant.

MR. SCHWACKE: Please excuse the juror in the trial of this case.

THE CLERK: Excuse the juror. Juror 166, Naomi Wages. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror. Juror 63, Patrick Goodwin. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror. Juror 35, Robert Davis. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please excuse the juror in the trial of this case.

THE CLERK: Excuse the juror. Juror 43, Teresa Doty. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please excuse her in the trial of this case.

THE CLERK: Excuse the juror. Juror 91, Katherine Jones. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror. Juror number 10, Frances Bellamy. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror. Juror 88, Deborah Johnson. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror. Juror 145, Kay Shenesey. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror. Juror 111, Ryan McMakin. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror.

THE COURT: Any motions or matters pertaining to the jury as selected from the State?

MR. PATTERSON: Nothing from the State, Your Honor.

MR. SCHWACKE: Nothing from the defense.

THE COURT: All right. Ladies and gentlemen, you were selected as the jury to try this case. We are going to be selecting another jury so I'm going to go ahead and let you go to lunch. Please report back and Ms. Evelyn is going to tell you how to do that. Be back at 2:30 and we're going to begin. So please be back at 2:30. Thank you, Ms. Evelyn. You may take the jurors back.

(Whereupon, the jury exited the courtroom at 11:42

a.m.)

(Off the record from 11:42 a.m. until 2:30 p.m.)

MR. PATTERSON: The State just had some 609/403 motions regarding our witness convictions, just in an effort to determine ---

THE COURT: Which witness?

MR. PATTERSON: Evette Nelson, William Loflin, Chris Rowland, Tanya Deane, Greg Rider and Deangelo Watson.

THE COURT: And you're wanting to approve them all right now?

MR. PATTERSON: We can proceed with the Biggers if you prefer to do that first.

THE COURT: Anything else?

MR. SCHWACKE: The only other matters, there's a -- we've been informed by the State that they expect to attempt to elicit testimony from two of their witnesses concerning some matters that we would have objection to. We don't need to address that now because I'm not specifically sure they're even calling them. They're still modifying that but there will be -- as those witnesses are called by the State, we may wish to approach the bench and talk to you.

THE COURT: All right. Let me hear from you on Biggers.

MR. PATTERSON: Do you want us to call our first witness or ---

THE COURT: What's -- Mr. Schwacke, what's the nature of your challenge? As I understand it is a six-pack?

MR. SCHWACKE: It's a six-photo array, Your Honor, that was presented to three witnesses and that would include Ms. Tanya Deane, Mr. Greg Rider and to Preston Kornahrens. It was a six-pack photograph array that was prepared by someone at the Charleston County Detention Center and then provided to -- shown by Officer Nelson to those three witnesses. There are matters concerning the presentation as well as the array itself.

THE COURT: Thank you. Call your first witness.

MR. PATTERSON: The State calls Tanya Deane. Your Honor, I made these exhibits as State's Exhibits. Should I also mark them as Court's Exhibits for the purposes of this hearing or can I leave it ---

THE COURT: Just mark them once.

MR. PATTERSON: Okay.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Tanya Adriana Deane -- D-E-A-N-E.

TANYA DEANE, after being duly sworn, testified as follows:

PROFFERED DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Good afternoon, Ms. Deane. Where do you live?

A. [redacted], in Hanahan, South Carolina.

Q. And what is your relation to Greg Rider and Preston Kornahrens?

A. That is my husband and our son.

Q. And do you know Evette Nelson?

A. Yes.

Q. How do you know her?

A. She was our neighbor at -- in [redacted] right there. We're all in the same building.

Q. And do you know the Defendant Barry Stanley?

A. Yes.

Q. And how do you know him?

A. I was introduced to him by Evette.

Q. And about how many times have you seen him around the apartment complex?

A. Lots of times, eight, nine, 10 times.

Q. Is it fair to say that you knew his face and could recognize him?

A. Yes.

Q. And where was Evette Nelson's apartment and Barry Stanley's in relation to yours?

A. The exact same position but just at the other end of the building.

Q. And did you see the Defendant Barry Stanley in the apartment complex prior to the incident that morning?

A. Yes.

Q. And where did you see him?

A. I mean, I saw him -- seen him on the property. You mean that same day?

Q. That same day.

A. No, sir.

Q. You didn't see him that same day?

A. No.

Q. And did you witness an incident involving the Defendant Barry Stanley on March 11, 2013?

A. No.

Q. In regards to Evette Nelson?

A. Oh, did I witness him?

Q. Can you just explain the incident that you witnessed that day?

A. Oh, yeah. I'm sorry.

Q. That's okay.

A. My husband came to the door and told me to call 911, that Evette Nelson had come running out to the

basketball court where my husband and our son were playing basketball with a neighbor, and told me to immediately call 911, that Evette was in trouble, that Jay -- there was an incident with she and Jay and please let her in. And so I called 911 and she came running into the condo, slammed the door and said that he was going to kill her -- that Jay was going to kill her. So while I was on the phone with the police they told me to stay inside with Evette, and I asked her where the children were and she said they were still down at the condo and then my husband ran into the condo, got Evette and took her out to the police that were waiting outside.

Q. And based on -- Barry Stanley, does he also go by Jay, to your knowledge?

A. Yes.

Q. And so based on the statements made by Evette to you, is that how you knew that he was involved?

A. Yes.

Q. And so after you called the police, what happened?

A. After I -- well, I was still on the phone with the police when my husband ran in the door. Evette was still in there with me. She was very shaken up, very distraught, panicked, and that's when Greg came to the door. I believe the officer -- the officer was

standing right outside of our door and they took Evette outside, I guess, to question her and to -- to handle it outside the door.

Q. And did the police come back a couple of days later?

A. Yes.

Q. Do you know what day that was?

A. I think it was a couple of days later, the 13th, 14th?

Q. 14th maybe?

A. I'm not sure of the exact date. The 14th.

Q. And what happened at that point?

A. The officer -- I believe it was Officer Nelson came to our house and she asked if I would look at some photos and I told her sure, so she opened up the book, asked if I recognized anyone on there and I pointed out my neighbor Jay.

Q. Did she show you two photo lineups?

A. Yes.

Q. I'm going to show you what's been marked as State's Exhibit 18 and 19. Do you recognize these lineups?

A. Yes, sir.

Q. And how do you recognize those lineups?

A. These are the ones that were shown to me.

Q. And did the officer at any time suggest to you who you should select?
A. No, sir.
Q. Did she point at anybody?
A. No, sir.
Q. Were you shown these separately from Greg Rider?
A. Yes, sir.
Q. And who did you select?
A. Jay.
Q. And what number is that?
A. That would be number one.
Q. And how certain were you about the selection?
A. One hundred percent.
Q. And in the second lineup up there, I believe it's State's Exhibit 19, did you recognize anyone in that lineup?
A. No, sir.
Q. Do you recognize the person in the courtroom today that you identified?
A. Yes, sir.
Q. Can you point him out?
A. (Witness does as requested.)
Q. Can you say his name please?
A. Barry -- Jay.
Q. Stanley?

MR. PATTERSON: I just ask that the exhibits be admitted for purposes of this hearing only.

THE COURT: Admitted.

PROFFERED CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. Ms. Deane, when you were shown the photographic array that's been marked as State's Exhibit Number 18, what, if anything, were you told about that?

A. The photos were just put in front of me and all I was asked was to point out if I recognized anyone.

Q. And you obviously recognized number one because that's the one you circled and initialed?

A. Yes, sir.

Q. And that has a date on it?

A. Yes, the 14th of March.

Q. Okay. And the incident that you just testified to that involved Evette where she came into your house, that had actually happened three days earlier on the 11th?

A. Yes, sir.

Q. And you're the one who called 911?

A. Yes, sir.

Q. And did you ever go outside of your apartment unit?

A. Not until after everything was settled down.

Q. So would it be fair to call you an ear witness to what happened that day, because you didn't see -- you never went outside and saw an individual that day; correct?

A. Do you mean concerning ---

Q. This incident.

A. No, I -- no, sir.

Q. The only person that you actually saw to tell you about it was Evette.

A. Right.

Q. Plus your husband ---

A. Yes.

Q. --- and your son? So that day you didn't see ---

A. No, sir.

Q. --- Mr. Stanley?

A. No.

Q. And this is the photo array that you were shown?

A. Yes, sir.

Q. And you were also shown Number 19 as well?

A. Yes, sir.

Q. But on that particular day, on the 11th when this happened ---

A. Uh-huh.

Q. --- you didn't see any -- you didn't see the person at all who you were being told was involved?

A. No, sir.

MR. SCHWACKE: One moment, Your Honor.

Q. How long have you lived in that apartment complex?

A. Eight years.

Q. And how long has Evette lived there?

A. Just months, I would say. I'm not even sure of the exact date, but months.

Q. Is she still there now?

A No, sir.

Q. Did she move out shortly after this?

A. Yes, sir.

Q. So is it months? Is it weeks? Do you know exactly how long they had lived there?

A. Not weeks. I would say months, two months, somewhere around there. Sorry. We weren't real close neighbors. I don't know exactly.

MR. SCHWACKE: That's fine. Thank you. No further questions.

MR. PATTERSON: No redirect, Your Honor.

THE COURT: You may step down. Call your next witness.

MR. PATTERSON: The State calls Greg Rider.

THE COURT: Mr. Rider, please come forward to be sworn.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: My name is Greg Rider -- R-I-D-E-R.

GREG RIDER, after having been duly sworn, testified as follows:

PROFFERED DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Good afternoon, Greg. Where do you live?

A. [redacted].

Q. Do you know Evette Nelson?

A. Yes, Evette Nelson, she -- her and her two sons and another gentleman, we met some time ago.

Q. Is the other gentleman, is that Barry Stanley?

A. Yes, sir.

Q. And did you have a chance to meet him?

A. I introduced myself when they were moving in and, you know, hey, how are you doing.

Q. So you shook his hand and you got to meet him?

A. Pretty much, yes.

Q. Are you pretty familiar with him? If you saw him would you recognize him?

A. Yes, sir. I saw him every day for a month or two.

Q. So it's fair to say that you knew him and his face?

A. Excuse me?

Q. Is it fair to say that you knew him and his face?
A. Yes, sir.
Q. Okay. And did you witness an incident involving the Defendant Barry Stanley on March 11, 2013?
A. Yes, sir.
Q. And can you, kind of, describe for the Judge what happened on that day?
A. Well, my son and myself and a friend of ours who lives in the same complex, we were out shooting baskets late in the afternoon and then as I said, I knew Evette because she was friendly and, you know, she was always running around chasing after her two-year-old basically. Plus we live right next to the laundry, so she was there doing laundry, so we knew Evette and we were out playing basketball and then she came running up to us, screaming frantically, saying Paul, please call the police, he's going to hurt me, he's going to kill me, call the police.

You know, I calmed her down and I said okay. My son and I were there. I said who's going to call - who's going to hurt you. She said he's going to hurt me, he's going to hurt me, Barry's going to hurt me. And then right about that time he drove his vehicle right through the basketball court real slow and she started running to the other unit. I said hang on,

Evette. He's not going to do anything while we have three men here and then he ran off. Okay.

So then at that point I took Evette to my house, which is in the same building, and at that time I said to my wife, Tanya, call the police and I went outside at that time just to make sure that he didn't come back. She was very frantic, very afraid. So then all of a sudden I saw him come back into the complex and he stopped his vehicle in front of his unit. He left the car running, the door was open, he went into his unit and then came right back out and I was afraid he was going to take the children. All right.

So after he got back in the car he drove right up to my condo where I could see him, you know, from almost me to you, and he just looked at me. At that point I was a little -- I got a little hesitant, you know, because I didn't know what was going to happen. I didn't know this gentleman and I held up my phone. I had two women in my house that were frightened and I said they're coming -- all right -- meaning the police. He knew what I meant by that and he sped on out of there and less than -- I would say less than 10 seconds after he left our complex, the police came right in at that time and I said you just missed him. You had to -- you had to see him, you know, driving away. And at

that time I heard sirens everywhere, so that's what I saw.

Q. So on the day of the incident, did you get a clear look at the person who was involved?

A. Yes, I saw him numerous times for -- that day -- the day we -- like I said, we were up this close, me to you, and I saw him clearly. He was in his dark blue vehicle, you know, the car he always drove.

Q. And was it raining that day? What was the weather like outside?

A. Well, we were out shooting baskets so ---

Q. So it was clear?

A. It was very clear.

Q. And it was still light?

A. Yes, it was probably about four or five o'clock, I guess, after school. My son was home after school so.

Q. About how long did you get a chance to view the suspect during the incident?

A. I would say everything took seconds, you know, realistically, but it seems like forever when you're in that kind of situation. Things get a little surreal but I would have to say we looked at each other probably about 10 seconds until I held up my phone, and at that point he got out of there quickly.

Q. So after that day did you ever have a chance --

did a police officer come by at any time?

A. Yes, a police officer -- I think Officer Nelson came by.

Q. Was that a few days later on March 14th?

A. I don't know the date but it was a few days later.

Q. I'm going to show you what's been marked as State's Exhibit 17. Do you recognize that document?

A. I recognize this one, yes.

Q. How do you recognize that?

A. It has my initials on there.

Q. And was that photo lineup provided to you on that day?

A. Yes, sir.

Q. What instructions were given to you when you were shown the photo lineup?

A. Officer Nelson just placed this down and said do you recognize the gentleman -- I don't know how she put it, but I think she said Barry and I said that's him right there and I circled it.

Q. Did she ask you who was involved in the incident or did she ---

A. Well, I never saw it. Evette was saying that he was beating her and everything else, you know. I never witnessed anything like that but I witnessed her running away from him frantically.

Q. And who did you select on that lineup?
A. Number one.
Q. And you weren't instructed to pick anybody, were you?
A. No, sir.
Q. Did she point out anyone to pick?
A. No, she did not. She just placed this sheet right in front of me, asked -- asked me if I recognized the gentleman.
Q. And how certain are you of your selection?
A. I saw him every day for a month or two, so that's him.
Q. Is he present in the courtroom today?
A. Yes, he's sitting right there.
Q. Do you have any doubt about your identification?
A. No, sir.
Q. Was anyone else present when you made it? I mean, did you see your wife make her selection? Was that made in front of you or did y'all do it separately?
A. I don't recall. Officer Nelson only came one time to do this so I think we all did it at the same time basically.
Q. But you were in separate locations; correct?
A. Well, our house is pretty small, but yeah. She was focusing on me when she was talking to me and then

she was focusing on Tanya when she was talking to Tanya.

Q. You don't recall the exact details of how ---

A. No, sir.

Q. Just one more question. The officer arrived early and you were still at work that day; right? Do you recall?

A. Repeat the question?

Q. If I showed you your statement, would that help you refresh your recollection of the events on that day? Like, when you arrived back on that day, March 14th, when Officer Nelson was there, you came there later; correct?

A. Yeah, probably was there later. Yeah, so she might have already dealt with Tanya.

MR. PATTERSON: No further questions.

THE COURT: Mr. Schwacke?

MR. SHWACKE: Thank you, Your Honor.

PROFFERED CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. Mr. Rider, you did a voluntary statement to the Hanahan Police Department?

A. Yes, sir.

Q. But you had your wife write that for you?

A. Yes, sir.

Q. Is there a reason?
A. I think you wanted to read it; right?
Q. Are we talking about handwriting legibility?
A. Yeah, probably, you know, I'm not a very good speller.
Q. Well, I just want to make sure you had the opportunity to review it before it got turned in?
A. No, actually I scribbled it down and then I said here, honey, correct it as far as the spelling, and she's got beautiful handwriting so.
Q. How long have y'all lived in that apartment complex?
A. Seven years maybe.
Q. And ---
A. We know everybody in the complex.
Q. How many black families are in there?
A. Half dozen maybe.
Q. And how long had Evette lived in the complex?
A. I would say a month, maybe a month and a half ---
Q. Because ---
A. --- not long.
Q. --- in the statement you refer to her as your new neighbor.
A. Yes.
Q. So at the time you were shown the lineup, the

photo lineup -- and this is what was presented to you; correct?

A. Yes, sir.

Q. Those are your initials and you dated this on the 14th?

A. Yes, sir.

Q. When Officer Nelson presented that to you, what did she -- what did she ask you?

A. She asked if I could identify the gentleman who everyone was talking about in this -- this complaint.

Q. Well, did she use the name Barry?

A. Possible.

Q. Because I thought when you testified earlier you said can you identify the gentleman Barry?

A. Exactly. And this is a year later.

Q. Right. I understand.

A. There was no mistake who the gentleman was. We were all talking about the same gentleman and it was the gentleman who lived with Evette.

MR. SHWACKE: One moment, Your Honor. Thank you. That's all the questions I have.

THE COURT: Any redirect?

MR. PATTERSON: No redirect, Your Honor.

THE COURT: Please step down. Thank you, sir. Call your next witness.

MR. CONDON: The State calls Pam Nelson.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Pam Nelson -- N-E-L-S-O-N.

PAM NELSON, after being duly sworn, testified as follows:

PROFFERED DIRECT EXAMINATION

BY MR. CONDON:

Q. Good afternoon, Officer Nelson. Who do you work for?

A. Hanahan Police Department.

Q. And what's your title and some of your job duties?

A. Sergeant right now. At the time that this incident happened, I was a detective. Do you want job duties now or back then?

Q. Just back then as a detective.

A. Back then I investigated crimes against the person, child abuse, sexual -- all sexual assaults, domestic violence, elder abuse, murder, assault and batteries.

Q. All kind of stuff?

A. Uh-huh.

Q. And what was your involvement on the investigation of the Barry Stanley case?

A. The involvement -- I presented a photo lineup to three individuals to see if they could identify Mr. Stanley.

Q. And when was that done?

A. That was done on March 14th, 2013.

Q. Can you explain how that -- how the procedure worked?

A. As far as how the photo lineup was obtained?

Q. That's correct.

A. The photo lineup was -- Detective Durant had sent a message to Charleston County Detention Center. They prepared the photo lineups and it was emailed back to him, and then he handed them to me and I took them over to the residence.

Q. Is that standard procedure to have the detention center prepare the photo lineups like that?

A. Yes.

Q. And can you describe when you met with the different witnesses at the home and how -- what instructions you gave to them?

A. On March 14th I first met with Ms. Tanya Deane and asked her if she could identify this person that had came over that was -- had caused the disturbance on the previous date, on March 11th. So she was shown the photo lineup of two different individuals, two

different photo lineups, one with Mr. Stanley in it and one with Mr. Watson in it. And then whenever her son came home I asked him the same. I took him into -- they have a little kitchen area that was away from where Ms. Deane was located and I asked him, and then whenever Mr. Rider came home I also had him in the kitchen away from the son and Ms. Deane and asked him away from those other individuals.

Q. At any time did you suggest to any of them who to select?

A. No.

Q. Did you point anybody out?

A. No, handed them the paper.

Q. Did you reference the Defendant by his name?

A. No.

Q. I'm going to show you what's marked as State's Exhibit 17 and 19 -- excuse me -- State's Exhibit 18 and 19. Are these the lineups that you showed to Tanya Deane?

A. Yes.

Q. And who did she select on those lineups?

A. She selected number one on the State's Exhibit 18.

Q. And who is that?

A. That's Barry Stanley.

Q. And how certain was she of that selection?

A. She said she's positive.
Q. I'm going to also get you to look at State's Exhibit 17.
A. Yes.
Q. And did you show that photo lineup to Greg Rider?
A. I did.
Q. And who did he select?
A. Number one, Mr. Barry Stanley.
Q. And how certain was he?
A. Positive.
Q. And did you show the other lineup as well with Deangelo Watson to Mr. Rider?
A. I don't recall showing that one to Mr. Rider.
Q. And how certain was he with the selection?
A. Positive.
Q. Did they indicate any doubt about who they selected to you?
A. No.
Q. Did they indicate that they knew him prior to the incident?
A. Yes.
Q. And the lineup you showed to Preston Kornahrens, who did he select on that?
A. He selected number one. He said that he couldn't be 100 percent positive but he was 99 percent positive.

Due to that I didn't have him circle it. I told him he needed to be absolutely positive.

MR. CONDON: No further questions.

THE COURT: Mr. Condon, maybe I missed it. What's the significance of having Deangelo Watson in the lineup?

MR. CONDON: Well, as you'll hear one of the witnesses, Evette Nelson, she later came to the police station ---

THE COURT: Are we going to get into that in just a moment?

MR. CONDON: Not in this hearing. I can quickly tell you.

THE COURT: Yes, please.

MR. CONDON: So her involvement was Evette Nelson who is the girlfriend of the Defendant, she came in and gave a second statement at his request -- that's our position -- changing the person she identified to Deangelo Watson, so that was his involvement.

THE COURT: I believe that's significant to know. Is he in -- Mr. Watson in those lineups?

THE WITNESS: Not in these because they didn't circle those.

MR. CONDON: There's two lineups, Your Honor.

MR. PATTERSON: He's in a separate six-array

photo. There's no identification ---

THE COURT: Did you do them at the same time?

THE WITNESS: Yes, ma'am.

THE COURT: Okay.

MR. CONDON: Nothing further.

THE COURT: Thank you.

PROFFERED CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. So the photo arrays were provided to you by detective?

A. Durant.

Q. Durant. The lineups are -- we're talking about State's Exhibit Number 17 which was presented to Mr. Rider and State's Exhibit Number 18 which was presented to Ms. Deane; correct?

A. Yes.

Q. And the exact same photographs in the exact same order appear on both of those lineups.

A. Yes.

Q. And that would be true of the lineups shown to their -- to Ms. Deane's son as well?

A. Yes, we just made photocopies of it.

Q. And that was provided to your department?

A. Yes, from the Charleston County Detention Center.

Q. So in looking at those photographs, would you

agree with me that the photos in position number one and number six on both State's Exhibits 17 and 18 have the darker background?

A. Yeah, the background is different on several of these.

Q. Okay. And would you agree with me that the complexion of the skin of persons shown in positions two, three, four and five are lighter than positions one and six?

A. Yeah. Number two is a little bit darker than three, four and five, but they all basically have the same features. They've all gotten short, cropped hair, that kind of thing.

Q. When you showed the array to Ms. Deane -- we're talking about 18 -- what exactly did you ask her?

A. I believe my words just would have been can you identify the person that was causing the disturbance on March 11th. I don't remember the exact wording.

Q. Even though she never saw the individual doing that on the 11th?

A. Right. I handed her ---

Q. Right?

A. I handed her the two lineups.

Q. To Ms. Deane?

A. Correct.

Q. And Ms. Deane never saw the perpetrator of what was being phoned in to the police.

A. Right. Ms. Deane, I believe, was the caller who was calling the police and Evette then came over to the residence. They stayed inside the residence.

Q. She saw Evette. She saw her husband. She saw her son. But she never saw the individual that the police were being reported to come and deal with?

A. Correct.

Q. So my question again is what did you ask her to do in identifying -- who was she supposed to be picking out and why?

A. I could look back at my notes on my report, but I believe it was who was causing the disturbance, who was outside at the time.

Q. And so all she knows is what she would have heard from somebody else in terms of that?

A. I believe so, yes.

MR. SCHWACKE: That's all the questions I have.

THE COURT: Mr. Condon?

MR. CONDON: Just one quick question.

PROFFERED REDIRECT EXAMINATION

BY MR. CONDON:

Q. What's the race of all the individuals in the photo lineup?

A. They're all black males.

THE COURT: Mr. Schwacke?

MR. SHWACKE: I think that's obvious, Your Honor, so no further questions.

THE COURT: All right. You may step down. Call your next witness.

MR. CONDON: One second, Your Honor. Just briefly the State calls Detective Durant.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: My name is Frederick Joseph Durant. My last name is spelled D-U-R-A-N-T.

FRED DURANT, after being duly sworn, testified as follows:

PROFFERED DIRECT EXAMINATION

BY MR. CONDON:

Q. Good afternoon, detective. In regards to the Barry Stanley case, did you request a photo lineup?

A. I did.

Q. Who did you request it from?

A. Charleston County. Charleston County.

Q. And is the person you requested it from, are they trained and qualified in the preparation of a photo lineup?

A. They are.

Q. And once you got the photo lineup, what did you do with it?

A. I gave it to Sergeant Nelson.

Q. And just briefly look at the State's Exhibits up here. Does that look like an accurate reflection of the photo lineups that you provided to Officer Nelson?

A. It does.

MR. CONDON: Nothing further.

THE COURT: Mr. Schwacke?

MR. SHWACKE: No questions.

THE COURT: Thank you. You may step down.

MR. CONDON: That's it, Your Honor.

MR. SCHWACKE: Your Honor, we don't have any testimony to provide at this time. However I would make a motion that the -- I'm kind of in an odd position here because I believe the State may have been able to show why the witnesses could identify him for reasons apart from the lineup, but at this time based upon the presentation of the lineup, what they were told, how it was identified, I don't believe that the State should be allowed at trial to introduce any testimony regarding actual lineup and its presentation finding although I still believe that they've established the basis by which the witnesses could in

Court make an identification, so it's an odd request and I am not trying to try their case for them but I would ---

THE COURT: I'm perplexed as to why y'all need a lineup. What -- evidently I'm missing a piece of the facts that -- if they can identify him why use the lineup?

MR. CONDON: I think it just confirms specifically to Greg Rider that Mr. Stanley was the person that he saw in the vehicle that day.

MR. PATTERSON: And I think he still gets to that point based upon his knowledge ---

THE COURT: Maybe again because y'all have known these facts for a while. Is there a time or is there a question that Mr. -- that he's not going to be in the vehicle?

MR. PATTERSON: At the end of the pursuit -- there's a vehicle pursuit -- Mr. Stanley flees from his vehicle and they do not capture him that day and Evette Nelson gives one statement -- her very first statement naming this Defendant and then our position would be that she was intimidated to give a second statement.

THE COURT: Yes, there's a time that he's not in the vehicle when he's apprehended.

MR. PATTERSON: That's correct.

THE COURT: All right. Let me hear from you, Mr. Patterson. I'm sorry. Mr. Condon?

MR. CONDON: Your Honor, I think identification is a key issue in this case and therefore the photo lineups are relevant to establish that. And also I don't think the photo lineups are unduly suggestive and based on the testimony provided in light of the facts that they did know him and they're absolutely certainly it was him.

THE COURT: Mr. Schwacke, anything further?

MR. SHWACKE: Your Honor, just again, regarding Mr. Rider, he's in a boat by himself because Ms. Deane is identifying, I guess, by her memory as to who this man is, but not based upon seeing him at all that day of the domestic violence call, chase, none of those items. She never saw who that individual is so clearly if she wants to say she knows him that's one thing, but to say he was the one involved in it, that's just not possible because she admitted she didn't see him.

Mr. Rider has given ample reasons to say why he can recognize him but we believe that the photo lineup that he was shown, under the circumstances, is an improper lineup based upon a number of factors including the darkness of background, complexion of skin, and the fact that she -- and he testified to this

-- can you identify the gentleman and then Stanley. I mean, that was his testimony so we're trying to exclude any of the evidence of the actual photo array identifications. I think this thing still has a way through Mr. Rider for him to make identification based on their view of the case.

THE COURT: Clearly both witnesses testified that they knew him independently of this -- of this lineup, so then we're, kind of, almost reading it in reverse. But you are asking me, first of all, to exclude all the lineup -- the two lineups, 18 and 19, from Ms. Deane because she was not a witness to anything. She was, as you termed it, an ear witness.

MR. SCHWACKE: Ear witness and she never saw anybody to identify. She couldn't identify somebody -- I mean, she could identify somebody that she's been told has been involved in something, but that day she didn't witness anything to be able to make an identification from. So that's with regard to her testimony. They still have surviving the testimony of Mr. Rider and his son based upon their independent knowledge, their having met him, seen him in the apartment complex for the past -- he indicated -- month and a half.

THE COURT: The questions I've heard that I

remember are her statement that she was asked on 18, do you recognize anyone. Not that there was anyone who was involved in the incident, which is different, I think, and a distinction that is of importance. I'll be happy to hear from you.

MR. SCHWACKE: I believe she did say that, Your Honor, that she was asked to identify the person in the incident. And the only way she could do that is through hearsay, what she was told by other people, so ---

THE COURT: So you're really asking me to put it in on different grounds other than whether or not it was unduly suggestive or ---

MR. SCHWACKE: I'm still saying that as well, Your Honor. It's a multitask approach here but we feel like with regard to Mr. Rider any testimony dealing with the photo lineup identification would be improperly bolstering what he's already able to testify to without the lineup, that the lineup is tainted, that there again are issues of complexion and background and those things. It doesn't prevent the State from getting their identification in. It does eliminate what we feel is an improper photo array.

THE COURT: Mr. Condon, I just want to hear from you as to the identification as to the ear witness. Do

you understand what I mean by that?

MR. CONDON: Yes, Your Honor. The State's position is that, you know, obviously excited utterances by the victim and she knew the background of the victim who lived with the Defendant, so we believe that's relevant because she -- you know, based on that it was fair for her to conclude that was the person involved, because while it was ongoing she came into the home and stated that, and we believe that Mr. Schwacke's points are a great cross-examination for their side but we believe that the photo lineup should come in.

THE COURT: But what did she pick him out for of the lineup? That's the question. She didn't pick him out as the perpetrator. She picked him out as the person that she was told was the perpetrator.

MR. CONDON: That's correct.

THE COURT: And is that not a distinction that I need to make?

MR. CONDON: Your Honor, the State believes that, you know, it still comes in as an identification but it's obviously not as strong as other identification, but we still believe it's identification.

THE COURT: Anything further, Mr. Schwacke?

MR. SHWACKE: No, Your Honor.

THE COURT: Okay. I'm going to address -- because I think Mr. Rider is the easy one. It follows the traditional analysis. I do not find that there was -- that the lineup was unduly suggestive as to Detective Nelson and Mr. Schwacke brought up the fact that the dark background or the light background.

It does appear that there are two that are lighter than the other four, but I do not find that that in and of itself makes the picking of the Defendant unduly suggestive. I must decide whether the out of Court identification was so reliable that there is substantial likelihood that misidentification existed. The witness testified that he had the ability to view Mr. Stanley at the time of the incident. He also indicated that at the time of the incident in question he was very close, saw him in the car, saw him numerous times, it was light outside and he indicated that he was very certain that it was the person that he knew to be living with Evette in the car and that is the person that he initialed as number one on State's 17.

As to Ms. Deane, she did testify that she knew the Defendant, had seen him multiple times. She herself has lived in the apartment complex over -- about eight years and had known Evette and was able to recognize the Defendant Mr. Stanley as the individual who was in

number one in State's 18. She initialed it on 3/14/13 for the purposes of this hearing. I don't -- do not find that the identification process was unduly suggestive. I find that she does have the -- there is -- was no substantial likelihood of irreparable misidentification, but I do not find that she -- there was anything -- she did not have an opportunity to view the perpetrator at the time of the crime, so the State's 18 and 19 which is the lineup will be -- I'm granting your request to exclude the lineup.

She is able to testify as to her - that she knows Mr. Stanley, how she knows Mr. Stanley, but the purpose in my view is her opportunity to view the perpetrator, I think, may be confusing to the jury and made your exception to my previous ruling, grant your motion as to Ms. Deane's identification. Anything else? We've gone a little bit over.

MR. PATTERSON: The only thing, again, I have this conviction, clarifying which convictions are going to come in.

THE COURT: Can we do this quickly? Can y'all work on those? Who are your first three witnesses? Let's do it that way.

MR. PATTERSON: Our first three are going to be Evette Nelson, Greg Rider and Tanya Deane.

THE COURT: Okay. So as to Ms. Nelson, what does she have?

MR. PATTERSON: She has a 2011 shoplifting and then in relation to this charge, she has an unlawful conduct to a child and also an obstruction of justice.

THE COURT: Conviction?

MR. PATTERSON: Yes.

THE COURT: And the State's position?

MR. PATTERSON: The State's position is that the shoplifting and the obstruction would come in, but that the unlawful conduct would be more prejudicial than probative.

THE COURT: What does the unlawful conduct carry?

MR. PATTERSON: Zero to 10.

THE COURT: Mr. Schwacke?

MR. SHWACKE: Your Honor, I would argue that the shoplifting together with the unlawful and obstruction of justice all apply. Obviously it carries more than a year so it passes that test.

THE COURT: I agree. All three will come in.

MR. PATTERSON: Your Honor, in reference to the unlawful conduct, will we be able to elicit testimony as to the incident stemming from the unlawful conduct?

THE COURT: What is the incident stemming?

MR. PATTERSON: There is this one, basically there

is -- there's crack cocaine tested -- field tested in the microwave and it would be our position that this Defendant was the person cooking that crack cocaine in the microwave.

THE COURT: Mr. Schwacke?

MR. SHWACKE: Your Honor, we're going to have to get to that because I first don't believe they can prove that there was cocaine in the microwave and that would be a matter that we have to address when we reach it. The obstruction of justice charge is going to put them in the same boat because it's her giving the false statement in this case, so ---

THE COURT: But the unlawful conduct, I haven't heard all the facts, but it's going to be the same crack cocaine that is the trafficking quantity?

MR. SCHWACKE: No, Your Honor. The allegation that they make is that Mr. Stanley has cooked crack in that microwave and then she in turn cooked food for the kids and that's how they end up testing positive hair follicle ---

THE COURT: But it would be the same drugs that are the drugs here today; right?

MR. SCHWACKE: The same type of drug.

THE COURT: I'm sorry.

MR. SHWACKE: It's not the same.

MR. PATTERSON: Same type of drugs.

THE COURT: That is what I meant.

MR. CONDON: The children did test positive for cocaine.

THE COURT: She pled guilty?

MR. CONDON: She did but if that comes in, we just feel like she should be allowed to explain her -- you know, her side of the story to that.

MR. SCHWACKE: I'm not aware of any rule that allows you to explain what your prior convictions are because anyone that would ever testify being faced with the option of being impeached by them would come up with explanations that they want to testify about. That's not the rule so I would object.

THE COURT: All right. Do you have -- is there some rule that will allow her to explain?

MR. CONDON: I think there's no rule that prevents it.

THE COURT: What about Mr. Rider?

MR. CONDON: I don't believe that Mr. Rider has any convictions that are more -- one, I don't think he has any convictions. Let me check his -- he has -- I don't think he has a record. Yes.

THE COURT: I thought you said he did?

MR. CONDON: No, he does not.

MR. SCHWACKE: He doesn't.

MR. CONDON: Sorry. He had a non-conviction for a fraud check.

THE COURT: And then so who's your next one?

MR. CONDON: Tanya Deane and she has a DUI from 1989 which I think is excluded because it's less than a year and also outside the 10-year time frame.

MR. SHWACKE: I agree.

THE COURT: Who else?

MR. CONDON: Mr. Loflin, he has a 2002 forgery but the forgery carried, I believe, a three-year probation which I think puts that within the 10-year time frame.

THE COURT: Who is this? I'm sorry?

MR. CONDON: William Loflin.

THE COURT: All right. And who is he to this? What is he going to testify about?

MR. CONDON: He is the witness to the vehicle pursuit and he observed the Defendant throw the drugs out of his car window.

MR. SHWACKE: Allegedly.

MR. CONDON: Okay. Allegedly.

THE COURT: That's what he's going to testify to?

MR. CONDON: That's what he would testify to. So I think based ---

MR. SHWACKE: He also has a petit larceny in 2007

MR. CONDON: And the 2009 shoplifting and he ---

THE COURT: Petit larceny and shoplifting will come in.

MR. CONDON: And he has a 2007 forgery and a 2007 possession of crack; however again our position on the possession of crack charge will be that it's more prejudicial than probative.

THE COURT: Well, it's a felony; correct?

MR. CONDON: It -- well, it's a misdemeanor, zero to three.

THE COURT: So the drug is not evidence of truthfulness, so the drug won't come in, then so the only issue is the 2002 forgery.

MR. CONDON: That's correct, Your Honor.

MR. SHWACKE: Five years suspended upon three years balance suspended probation two years. There's 53 counts.

THE COURT: Sixty-three counts?

MR. SHWACKE: Fifty-three counts.

THE COURT: What did he plead to?

MR. SHWACKE: (Inaudible)

MR. CONDON: The rap sheet makes it look like that. He told me that he only pled to one. They dismissed the others but on his rap sheet there's, like - there's a ton of, you know, there's probably -- like

Mr. Schwacke said, 53 that say conviction but the way he describes it is that it was just one.

MR. SCHWACKE: So he's still operating under the sentence within a 10-year period. This incident happened approximately a year ago.

THE COURT: Under the rule it comes in. Tell me why it shouldn't or are you just asking for clarification?

MR. CONDON: I was just asking for clarification.

THE COURT: Under the rule it comes in.

MR. CONDON: Okay.

THE COURT: So the drug is the only thing that does not.

MR. CONDON: And in terms of discussing the multiple count forgery, do we have to ask him if it was multiple counts or can he say he was convicted of forgery?

THE COURT: What does the rap sheet say? He's going to say it's one count; right?

MR. CONDON: That's his description of it.

THE COURT: I mean, to him -- I mean, that's where you get -- it gets, kind of, tricky.

MR. CONDON: Right.

THE COURT: Maybe to him that's the truth so, Mr. Schwacke, if he says I was convicted, assuming Mr.

Patterson's going to do something along the lines of you were convicted of forgery in 2002, is that sufficient or do you --- he may not ---

MR. SHWACKE: I believe -- Your Honor wants to limit it to multiple accounts. I understand that but I certainly don't want the jury to think he's just got one forgery conviction.

THE COURT: What does the record show?

MR. CONDON: The record shows multiple counts and I would agree that it would be a fair resolution to ask him if he had multiple counts of forgery convictions in 2002.

THE COURT: Is that sufficient for you? I mean, if you have the certified convictions we'll count them all. But I think we're getting far afield of what we're intending to do. Clearly by the time we go through his rap sheet and his convictions it's clear that he has evidence of other crimes.

MR. SHWACKE: The only thing that I would want to make certain -- you've asked me if I could live with that. I can live with multiple counts in 2002 but then he has some additional forgeries ---

THE COURT: I think we're clear -- I'm hoping we're clear. It's just there seems to be -- there's -- he says -- he says that in 2002 it was one count. I

just want to make sure that whatever -- that y'all have some understanding of what it is in case he says it's one count.

MR. SHWACKE: I'm going to ask about the multiple counts.

THE COURT: I just want you to have -- so if we -- the point is ---

MR. CONDON: I think his understanding -- the way he explained it was yes, I pled to forgery but they told me they were dismissing the others and that may not have been what actually happened.

THE COURT: He needs to be aware if he was convicted of 53 counts or whatever it is ---

MR. CONDON: Right.

THE COURT: --- that Mr. Schwacke is going to say you were actually convicted of 53 counts of forgery or you're just going to go ahead and put it out there.

MR. CONDON: Right. I would be fine saying multiple convictions.

THE COURT: My point is we don't need to be spending a whole lot of time, and it is -- it's more than one. It can either be multiple or it can be 53 counts but y'all need to make sure that there's documentation.

MR. CONDON: With the rule of sequestration can I

discuss -- can I make him aware of what he's -- what convictions we're going to be asking him about?

THE COURT: I think I's appropriate, Mr. Schwacke. It's appropriate to say we had a pretrial conference and the Judge is allowing me -- allowing it to be inquired about your past convictions and it includes this, this and this.

MR. SHWACKE: Your Honor, my understanding of sequestration is really to avoid people trying to duplicate testimony by hearing and coming in and adopting this testimony.

THE COURT: So the answer is yes, you may talk to him.

MR. CONDON: Just briefly while we're on the subject, can I instruct Ms. Deane not to testify about the photo lineup as well?

THE COURT: Yes.

MR. CONDON: Thank you.

THE COURT: All right.

MR. PATTERSON: Mr. Rowland, Christopher Rowland, has a 2003 -- on the rap sheet it says marijuana, but he was given credit for three days time served and I believe that falls outside of the 10-year window and it would be more prejudicial than probative even if it didn't.

THE COURT: Mr. Schwacke?

MR. SHWACKE: It shows the date of the arrest on that particular offense as December 23rd, 2003 which with the court date as being March 15th, 2004, so the offense date of this falling in between those two dates nudges it within the 10-year period, depending on what date you look at, whether it's the date of arrest or the date of the court date. And I don't know. It looks like there might be some out-of-states too.

MR. PATTERSON: He has some charges from 2000 in Georgia, but the only conviction appears to be a criminal trespass which is from April of 2000 and it's not -- it's outside of the 10-year window since it happened 14 years ago. He also has a DUI from 2000 but again it's outside of the 10-year window.

THE COURT: Okay. So when was his release date?

MR. PATTERSON: For which charge?

THE COURT: The one in question.

MR. PATTERSON: It -- his court date is March 15th, 2004, but he was given credit for three days time served so it would be our position that three days would still be March 18th which puts it just outside of the 10-year window.

MR. SHWACKE: But not for the --- March the 11th, 2013.

THE COURT: So at that point it would be nine years.

MR. SHWACKE: Yes, ma'am.

MR. PATTERSON: That is correct. Marijuana.

THE COURT: Here in Berkeley or Charleston?

MR. PATTERSON: Dorchester.

THE COURT: And who is he?

MR. PATTERSON: He was the gentleman living with William Loflin who observes the Defendant throwing the drugs out of the car and Mr. Loflin says hey, Chris, you've got to come out here. I just saw this guy toss something out. Will you go see what it is? And Mr. Rowland says okay. He goes and picks it up.

THE COURT: Mr. Schwacke?

MR. SHWACKE: Your Honor, I --

THE COURT: The question that he will be asked is you were convicted of an offense carrying more than one year.

MR. SHWACKE: That's fine.

THE COURT: In 2000-whatever it was. 2004.

MR. SHWACKE: Yes, ma'am. Thank you.

THE COURT: Have you found anything to allow her to discuss the ---

MR. PATTERSON: I have not. Not her. We have one more individual, Deangelo Watson.

THE COURT: Okay.

MR. PATTERSON: He has a possession of a controlled substance from 2009 and while that is -- it carries six months to a year. Or no, it carries up to six months so we believe that falls outside -- it's not a conviction with a year or more but it does fall within the 10-year time frame, but we believe that it would be more prejudicial than probative. It's something he pled to in transfer court.

THE COURT: I don't think it's -- it's outside the rule. Thank you.

MR. PATTERSON: And in reference to Ms. Nelson, I don't have anything that specifically says she's allowed to elaborate.

THE COURT: I'll give you over the lunch 45 minutes to find that for me.

MR. SHWACKE: And, Your Honor, just to cover my bases regarding Deangelo Watson, we asked the State to verify disposition of the case. He was charged with possession and intent to distribute approximately two weeks after this incident. It's my understanding that three individuals pled guilty to it and everyone else's charges, including Mr. Watson, were dismissed because the other individuals pled guilty and admitted the drugs and that I've been assured that there was no

consideration regards to his testimony in this case for that to happen.

THE COURT: Is that correct?

MR. PATTERSON: That's correct and until Mr. Schwacke brought it to our attention I didn't realize that he had been arrested on that charge and that that charge had been nolle prossed, so there were no conversations between the State and Mr. Watson about that issue.

THE COURT: All right. Anything further?

MR. PATTERSON: Nothing further from the State, Your Honor.

MR. SHWACKE: Nothing that needs to be addressed at this time. As witnesses come up we may need to.

THE COURT: All right. 2:30.

(Off the record for lunch.)

THE COURT: Anything before we bring in the jury?

MR. PATTERSON: Nothing from the State, Your Honor.

MR. SCHWACKE: No, Your Honor.

THE COURT: Do you have any case law for me?

MR. PATTERSON: I do but I think we've made it -- I think we've made a determination just to go with what was originally decided in reference to this.

THE COURT: Thank you. Let's bring in the jury.

(Whereupon, the jury came into open Court at approximately 2:38 p.m.)

THE COURT: Thank you. Please be seated. Ladies and gentlemen, I hope everyone had a wonderful lunch. Ms. Shenesey, you have been selected as the Foreperson in this case, which means you are the jury's spokesperson here in Court, so if at any time any of you need any additional breaks or have any questions or concerns, please let your Foreperson know. She will alert the bailiff and we'll handle the matter immediately.

Ladies and gentlemen, you've also been given notepads which means you may take notes throughout the progress of this trial. Please remember some of us are much better note-takers than others. One juror's notes are no more correct or accurate than another juror's notes. You will have those notes to go back with you during your deliberation. During the evening hour and during the lunch breaks we will collect your notepads and lock them up.

You may also have noticed when you came in this time that members of the audience and the attorneys and the parties involved were standing. This is out of respect for your new position as judges of the facts, so please come in, take your seat and they will all

remain standing until all 13 of you are seated. We must now administer an oath to try this case. Madam Clerk?

THE CLERK: Ladies and gentlemen of the jury, please stand and raise your right hands to be sworn.

(The oath was administered to the jury by the Clerk.)

THE CLERK: Please take your seats.

THE COURT: Was there any member of the jury panel who did not take that oath? If so please stand. Thank you. All 13 members were sworn.

Ladies and gentlemen, the case that we are about to try is the case of the State versus Barry Jerrod Stanley. Mr. Stanley is charged with an indictment filed in this Court for the crime of trafficking cocaine base, 28 grams or more, though less than 100 grams, and failure to stop for a blue light. I will explain the elements of those charges to you later.

What I say now is intended to serve as an introduction to the trial of this case. These remarks are not a charge on the law in this case. I will instruct you on the law after the commencement of this case, throughout the trial and at the end of the trial before you retire to reach your verdict. This is simply an explanation of the procedure that we have to

follow so that you will be better able to understand what is happening before you.

Your purpose is to find and determine the facts. You are the sole judges of the facts in this case and if at any time I make any comment regarding the facts, you must disregard it. You are to determine the facts from the testimony you hear as well as the other evidence that is introduced in Court. It is up to you to determine the inferences that you feel may be properly drawn from the evidence. It is important that you perform your duty and determine the facts diligently and conscientiously because ordinarily there is no way to correct an erroneous determination of the facts by a jury.

On the other hand the same law that makes you the judges of the facts makes me the judge of the law. The law as given by this Court is the only law that you may consider. You must accept it and follow it even though you may disagree with it. I cannot tell you what I think the facts are and you cannot disagree with me about what the law is or what the law ought to be. Your job is to take the law as I give it to you and apply it to the facts that you find in the testimony of the witnesses from the witness stand as well as the other evidence that is introduced.

After doing that you will render your verdict, a true and solemn verdict under the oath that you just took. Until I tell you that you may begin to deliberate, you may not discuss this case with anyone. That includes your fellow jurors, your friends, your family members or anyone else. Ladies and gentlemen, that includes face-to-face discussions, of course, but it also includes any texting, blogging, emailing, anything of that nature concerning this case. Simply put you may not discuss this case in any form with anyone until I tell you to do so.

You must decide this case based solely on the evidence that is presented to you in this courtroom. This means that during the trial you may not conduct any independent research regarding this case, the facts of the case, the evidence that is presented or any of the people or organizations involved in this case.

You do not read, watch, listen to any news accounts regarding this case, should there be any. Do not try to find out any information from any source outside of the courtroom. Ladies and gentlemen, again if you become aware of another juror's violation of these instructions you must inform the Court immediately.

It is important that you keep an open mind and not

decide any issue in this case until all of the evidence has been presented, the parties have made their closing arguments, and I have instructed you on the law applicable to this case. It is your solemn responsibility to determine the guilt or innocence of the Defendant and your verdict must be based solely on the evidence as it is presented to you in this courtroom.

In just a moment the Solicitor will make what's called an opening statement in which the Solicitor will explain to you the issues of this case. The attorney for the Defendant may also make an opening statement although he is not required to do so at this time. Please remember what the attorneys tell you in their opening statements as well as the closing arguments is not evidence in this case. It is merely their contention as to what the evidence has shown. The evidence in this case will be presented to you by the testimony of sworn witnesses from the witness stand as well as any exhibits that may be introduced into evidence.

From time to time you may hear one of the attorneys ask to approach the bench or I may find it necessary to excuse you from the courtroom for a short while. If I have the attorneys approach the bench,

please do not try to read our lips or overhear us. Do not think if I excuse you from the courtroom we're trying to hide anything from you. The reason for this is sometimes it is necessary for me to make a comment regarding the facts in order to issue a ruling on the law and as I just explained to you, the law does not allow me to have an opinion about the facts of this case, so I will excuse you for a short while so that in no way anything that I say or do throughout the progress of this trial will influence you on your opinion of the facts.

In determining what the true facts are in this case you must decide whether or not the testimony you hear is believable. It is my responsibility to determine whether certain testimony is admissible, but once the testimony is admitted whether or not you believe it is solely for you to determine. In deciding whether to believe a witness you have the right to consider the interest of the witness, the bias of the witness, the prejudice of the witness, the opportunity for the witness to have seen and heard the things about which the witness testifies, as well as the way the witness acts on the witness stand.

You have a right to consider anything you feel will help you evaluate the testimony of the witnesses.

That means it's your duty to pay close attention. Do not let your thoughts wander but give strict attention so that at the end of the testimony after you have heard the arguments of counsel and I have instructed you on the law applicable to this case, you will be in a position to determine what the true facts are, apply the law to those facts and render a true and just verdict. Please give your strict attention ---

MR. PATTERSON: Thank you, Your Honor.

THE COURT: --- to Mr. Patterson.

OPENING STATEMENT ON BEHALF OF THE STATE:

MR. PATTERSON: A reckless disregard for the law -- a reckless disregard for the law, that's what the Defendant showed on March 11th, 2013, when he got into a fight with his girlfriend and he fled from police. He fled from police in a vehicle and in that vehicle he took police on a 12-mile chase from Hanahan all the way into downtown Charleston. During that police pursuit the Defendant threw a bag out of his window and that bag contained a little over 28 grams of cocaine base, otherwise known as crack cocaine.

Now, the police didn't catch him that day but you're going to hear a lot of testimony during this trial and I want you to pay close attention, because you're going to hear from the girlfriend, Evette

Nelson. She's going to tell you her story. She's going to tell you why she called 911. You're going to hear from neighbors who knew the Defendant. You're going to hear from one of the neighbors who saw the Defendant in that vehicle leaving that apartment complex.

You're going to hear testimony from an eyewitness who saw the drugs get thrown out of the car in the neighborhood. You're going to hear from law enforcement. Law enforcement is going to tell you all about the investigation. You're going to hear from law enforcement about fingerprinting the vehicle. You're going to hear from a fingerprint expert and how there were fingerprints of the Defendant found in that vehicle. You're going to hear from law enforcement about the fingerprinting of the bag.

There's going to be a lot of testimony and I want you to pay close attention, because at the end of this trial the State is going to ask you to find this Defendant, Barry Stanley, guilty of trafficking cocaine base and guilty of failing to stop for a blue light or siren.

Now, briefly I'm going to just describe what trafficking in cocaine base is and what failing to stop for a blue light is. Trafficking sounds very

complicated but in reality it's very simple. If anything I say conflicts with what the Judge might say, in reality to find the Defendant guilty of trafficking all the State has to prove is that he was in possession of those drugs, that the drugs were a controlled substance in this state, that they were cocaine base, and that those drugs weighed more than 28 grams or less than 100 grams, and that's it.

For failing to stop for a blue light, we have to prove that this Defendant, while being signaled by blue lights and sirens, did not stop and that there was no good reason for him not to stop, otherwise there were no mitigating circumstances as to why he didn't stop. So while you're going to hear a lot of testimony and there's going to be a lot of detail and that detail is important, when it boils right down to it, it's very simple and at the end the State is going to ask you to find this Defendant guilty of trafficking cocaine base and failing to stop for a blue light. Thank you.

THE COURT: Mr. Schwacke.

MR. SHWACKE: Thank you, Your Honor.

OPENING STATEMENT ON BEHALF OF THE DEFENDANT

MR. SHWACKE: We get to go last and the Judge has already told you in her opening comments to you that what we say as attorneys isn't evidence, so I'm not

going to stand in the way of getting testimony underway. Suffice to say the State has told you what they need to prove. We're going to dispute that at the end of the trial whether they have, so it's important that you pay attention during your time as jurors, not only to what is said from the witness stand but what you don't hear and unfortunately that might not be something that becomes clear until the very end of the trial. So I ask for your attention, that you pay attention not only to the testimony or the existence but you start to ask yourself, hey, there's something missing here. I'm convinced at the end of the trial you'll find that factor that's missing.

THE COURT: Call your first witness.

MR. PATTERSON: Thank you, Your Honor. The State calls Evette Nelson.

(Witness sworn)

THE CLERK: Please be seated and state your full name and spell your last name for the record.

THE WITNESS: Evette -- N-E-L-S-O-N.

EVETTE NELSON, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Evette, how are you doing today?

A. Okay.
Q. Are you working currently?
A. Yes.
Q. And how long have you been working?
A. (Inaudible)
Q. I'm sorry?
A. At the job I have now?
Q. Uh-huh.
A. For five months.
Q. Five months? And what type of work is it?
A. I'm a cashier.
Q. And Evette, you have some criminal convictions; right?
A. Uh-huh.
THE COURT: Is that a yes? I'm going to need you to answer yes or no. She's got to write down everything that you say. She can't put uh-huh and so it has to be yes or no.
THE WITNESS: Okay.
THE COURT: Thank you.
THE WITNESS: You're welcome.
Q. Do you have a conviction for shoplifting in 2011?
A. Yes, sir.
Q. And a conviction for obstruction of justice in 2013?

A. Yes, sir.
Q. And also a conviction for unlawful conduct to a child in 2013?
A. Yes, sir.
Q. Where were you living on -- well, before we get to that, are you here to tell the truth today?
A. Yes.
Q. Where were you living on March 11, 2013? Do you remember the address?
A. [redacted].
Q. Would it help if I show you your statement to refresh your recollection?
MR. PATTERSON: Your Honor, may I approach?
THE COURT: You may.
Q. What is that address?
A. [redacted], Hanahan, South Carolina.
Q. Are you a little bit nervous today?
MR. SHWACKE: Your Honor, may I see the ---
THE COURT: Yes.
MR. PATTERSON: I apologize.
Q. Do you remember what happened that day?
A. Uh-huh.
Q. Is that a yes?
A. Yeah.

Q. Where were you coming from when you got home that day?
A. I was picking my kids up from daycare.
Q. And did you notice any type of smell when you were walking into your apartment?
A. It was a strong smell outside.
Q. And was that unusual?
A. Not -- I mean, no, not really.
Q. What did the Defendant tell you that smell was?
A. That he was smoking.
Q. What was he smoking?
A. (Inaudible)
Q. And were you happy about that?
A. No.
Q. What did the kitchen look like?
A. Dirty.
Q. And did you notice anything about the microwave?
A. (Inaudible)
Q. What did it look like?
A. Like a person just don't know how to clean the kitchen.
Q. What would you describe the microwave as looking like?
A. A grits festival.
Q. Say that again?

A. A grits festival.
Q. So was it messy?
A. Yeah, he say he just got through ---
Q. Did you see any ---
A. --- eating some grits.
Q. Did you see any -- a box of grits?
A. I didn't. I don't eat boxed grits.
Q. Did -- were you angry about that, the way it looked?
A. Yeah, because I wish he would just clean up the mess.
Q. Have you ever seen him with drugs in your house?
A. No.
Q. Did he have drugs in the house that day?
A. No.

MR. PATTERSON: Your Honor, may I approach?

THE COURT: You may.

MR. SHWACKE: Your Honor, just for the record could we put on the time or the date of this particular item she's refreshing her memory with?

Q. Evette, when did you write this statement?
A. March 11, 2013.
Q. So that was the day this incident occurred?
A. Yes.
Q. And what does that say you were mad at the

Defendant about?

A. When I got home he told me -- he told me what he did. I can't read it.

Q. Just read that section.

A. Might as well because I wouldn't allow him to keep drugs in my house.

Q. So what made you think he had drugs in the house that day?

A. Because he said he was smoking.

Q. Did you see him placing anything in a bag?

A. (No response)

MR. PATTERSON: Your Honor, may I approach?

THE COURT: You may.

Q. This is another statement you wrote. When did you write this statement?

A. March 14th, 2013.

Q. If you could read this last portion down here onto the second page.

A. And then I saw -- and then I saw the crack.

Q. And on the next page?

A. Put in a bag.

Q. Now, did you get into an argument that day with the Defendant?

A. Yes.

Q. And what happened as a result of that argument?

A. We ended up fighting.
Q. And did you escape from the apartment?
A. Yes.
Q. And was that because you were afraid for your safety?
A. Yes.
Q. And what did you do when you ran outside?
A. Looked for anyone who would be able to help me.
Q. And who did you find?
A. The neighbors that was outside.
Q. And who called the police?
A. At that time I wasn't sure who actually did it. I didn't know if it was the wife or the husband, but I know one of them did it.
Q. And did the Defendant take your car that day?
A. I was inside the neighbor's house when that was going on.
Q. Was your car there when you got back?
A. No.
Q. Who do you think took it?
A. Mr. Stanley.
Q. Evette, I'm going to show you what's been marked for identification as State's Exhibits 1, 2, 3 and 4.
MR. PATTERSON: Your Honor, may I approach?
THE COURT: You may.

Q. Evette, take a look at these exhibits. Do you recognize those?
A. (No response)
Q. Do you recognize that vehicle?
A. (Inaudible)
Q. Is that a yes?
A. Uh-huh. Yes.
Q. How are you able to recognize that vehicle?
A. That's my car.
Q. Is that a fair and accurate representation of the way it looked?
A. Uh-huh.
Q. Is that a yes?
A. Yes.

MR. PATTERSON: Your Honor, at this time I'd like to -- the State would ask that State's 1, 2, 3 and 4 be admitted into evidence.

MR. SHWACKE: No objection.

THE COURT: State's 1, 2, 3 and 4 into evidence without objection.

MR. PATTERSON: Permission to publish?

THE COURT: You may.

Q. Is this the vehicle the Defendant left the apartment complex in?
A. (Inaudible)

Q. I'm sorry?
A. Yes.
Q. And did officers respond to talk with you?
A. Yeah, the officers was talking to me.
Q. And did you tell them who took your car?
A. Yes.
Q. And who did you tell them took it?
A. Barry Stanley.
Q. And he is in the courtroom today?
A. Yes.
Q. Can you point him out for me?
A. Uh-huh.
Q. What's he wearing?
A. A button-up.
Q. And did you tell the officers who met with you the Defendant had anything in the car with him?
A. I don't remember talking to them.
MR. PATTERSON: Your Honor, may I treat my witness as hostile? May I start asking leading questions?
MR. SHWACKE: May we approach?
THE COURT: Yes.
(Whereupon, a bench conference was held off the record in the presence of the jury, but out of the hearing of the jury.)
Q. Evette, did you tell officers that there might

have been drugs and guns in the car ---

A. Huh-uh.

Q. --- when they met with you? Do you not remember or is that a no?

A. (Inaudible)

Q. While officers were at your house, did you have any contact with the Defendant on the phone?

A. Only thing I remember is the officer, she was asking me questions and taking pictures.

Q. When the pursuit ended did he tell you where he was?

A. Not that I can recall because the officer at the time, she was asking me were we in the house and she was asking me where -- when I was fighting, where, you know, I got hit and everything and she just wanted to take pictures.

Q. So she took pictures of you for getting hit?

A. Uh-huh.

Q. Did you provide a written statement that day to police?

A. Yes.

Q. And in that statement who did you identify as the person that you got into a fight with?

A. That day actually?

Q. Uh-huh.

A. Barry Stanley.
Q. Did you make another statement to police?
A. Yes.
Q. When did you make that statement?
A. I'm not sure of the day. Probably the day of the 12th.
MR. PATTERSON: Your Honor, may I approach?
THE COURT: You may.
Q. Can you tell me the date of that?
A. March 12th.
Q. Was that the very next day?
A. Yes.
Q. What did you tell them in that statement?
A. When?
Q. No, what did you tell them?
A. On March 11, 2013 I made a false statement that Barry Stanley was mad and took my vehicle. I was just mad at him because we just not too long broke up and he gave me a STD and I was very hurt by that. Deangelo Watson is the guy who really put his hands on me and slapped me in the face, punching me in the face and kicking me to make sure that I wasn't the only ---
Q. Did ---
A. --- but I ---
Q. I'm sorry. I didn't mean to cut you off. Keep

going.

A. --- but I was able to get away and we called the police and that's when -- that's when he pursued the police.

Q. Is Deangelo Watson actually the person who did those things?

A. (No audible response)

Q. Is that a no?

A. I mean, it seems like he was there. So when I ran out of the house I left my kids in the house and ran to the neighbors.

MR. PATTERSON: Your Honor, may I approach?

THE COURT: You may.

Q. Please read this last statement for me. When did that statement take place?

A. March 14, 2013. On March 11 ---

Q. So that was two days after your second statement?

A. Yes, this was when the DA came and got me.

Q. What does that statement say?

A. The last one?

Q. Uh-huh.

A. On March 11 the statement that I told about Barry was true on the 11th of March. I went to my class and dropped off the kids at the Sunshine Home and then all of that. He called me around my lunch hour and was mad

because I didn't call him in time. Anyway when I got home around 3:30 or 4 o'clock I walked into my front door and I smelled an unusual smell and asked him what is that smell and he said oh, I was just smoking a cabbie, so when I went to look at the kids -- to -- I guess that's look -- the kids -- no, cook the kids some noodles I saw the white tiny spots in the microwave and he told me that he was cooking himself some grits and sausage.

Q. What does the end say after cooking grits and sausage?

A. And that's when I saw -- and that's when I saw the crack. I can't tell what that says.

Q. That's okay. Just read the second page.

A. That's when I saw the crack that he was putting in a bag.

Q. Thank you.

MR. PATTERSON: Court's indulgence.

THE COURT: Take your time.

Q. Evette, when you changed your story is that because you were afraid of the Defendant?

A. I was more worried about my kids than anything.

Q. Did you tell police you changed your story because you felt intimidated?

A. All I know is I just was more -- (inaudible).

Q. Did you tell police while they were on scene that he called you from Maple Street? He was hiding under a house? You don't remember that conversation?

A. Only thing I kept telling the police that day that I needed to go get my kids at the time from the neighbors and that's it because the neighbors had my kids and I was just -- I'm a single parent. All I did was just worried about my kids.

MR. PATTERSON: Court's indulgence.

Q. Did you plead guilty to the obstruction of justice for lying about your second statement?

A. They didn't tell me why I was getting obstruction of justice. They just told me that I was being charged for obstruction of justice and two counts of unlawful conduct towards a child.

MR. PATTERSON: Nothing further.

THE COURT: Mr. Schwacke?

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. Evette, you have two children?

A. Yes, sir.

Q. What are their ages?

A. Three and two.

Q. And you used to have a relationship with Mr. Stanley?

A. Yes.
Q. How long have y'all known each other?
A. Two.
Q. Sorry?
A. I believe about two years.
Q. Two years. And you mentioned another person named Deangelo Watson?
A. Yes, sir.
Q. Do you know him?
A. Yes.
Q. The State has shown you three different statements.
A. Yes, sir.
Q. There was one that's dated the 11th of March.
A. Uh-huh.
Q. One that's dated the 12th of March.
A. Uh-huh.
Q. And one that's dated the 14th of March.
A. Uh-huh.
Q. And each one of those was to a separate police officer; is that right?
A. Uh-huh.
Q. So the first one was to an Officer Ellwood, or do you remember?
A. I ---

Q. Don't remember? The second one was to Officer Beaudoin? Don't remember? Officer Waddell?

A. I remember him.

Q. And was he the last one?

A. He was -- yeah, I believe he was the last one because he -- I remember him. I remember him, like, he was the big scary guy.

Q. Big scary guy? What do you mean?

A. Because I remember him saying that he would take my kids from me if I didn't tell them where Mr. Stanley was, and I told him I didn't know where Mr. Stanley was at the time and he was, like, I can help you as much as I can if you'll tell me where Mr. Stanley is, and I told him I don't know where Mr. Stanley is. I have no contact with Mr. Stanley. So when he came to my house on the 14th that was when he was supposed to be looking for a cell phone. He said do you know where the cell phone device is. They took my cell phone.

Q. They found two cell phones in your apartment; right?

A. I don't know nothing about no second cell phone. All I know is that I was about to leave the apartment because I went back to the apartment to go get some clothing for me and my kids and some food and when I was about to leave, waiting on my stepmom to come, Ms.

Mary Ann Cookson, they snatched the door open and I had the cell phone in my hand to talk to my mom and that's when he threw me in handcuffs and he was, like, if you won't tell us where Stanley is at I promise you I'm going to call DSS and I'm going to get your kids taken away from you.

And I really thought he was, like, BSing and I was, like, yeah, whatever. And when he actually got on the phone and started calling DSS, I went berserk so I -- why are you calling DSS on my kids? I didn't do anything wrong.

Q. So did you have stored phone numbers in your telephone -- cell phone?

A. Stored numbers? Yeah.

Q. Do you know who the name Angelo in your phone?

A. Yeah.

Q. Who's that?

A. That's Deangelo.

Q. Deangelo who?

A. Watson.

Q. So you knew each other?

A. Oh, yes.

Q. How long have you known him?

A. I've known Angelo for, like, years, like, a couple of years.

Q. You and I have never met.
A. No, sir.
Q. I've never talked to you before.
A. No, sir.
Q. And again, you've already admitted to the State you've pled guilty to unlawful conduct towards a child and ---
A. And you want the truth? That was the deal that was given to me. It was either that or 30 years in jail, as I was told by my lawyer, so I took my probation because I was more -- like I say, I'm more worried about my kids than I worry about anything else in life.
Q. When is the last time you've seen your statements?
A. I saw my statements today isn't a week. Today is Monday so I saw my statements, like, about three or four days ago.
Q. Where was that?
A. In my house.
Q. Somebody from the Solicitor's Office?
MR. SHWACKE: One moment, Judge.
Q. When the State was asking questions, you made a comment about Deangelo being there. What do you mean by that?
A. He was over at the apartment.

Q. I'm sorry?
A. He was over at the apartment so he would have been there.
Q. Now, the Crown Vic, is that your car?
A. Yeah.
Q. You actually own it?
A. Yes, sir.
Q. And you indicated you and Mr. Stanley have known each other for a while.
A. Yes, sir.
Q. Does he have permission to use your car?
A. At all times.
Q. So he's used it before?
A. Yeah.

MR. SHWACKE: That's all the questions I have.

THE COURT: Mr. Patterson:

MR. PATTERSON: Just briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. PATTERSON:

Q. Evette, who was in your house that day when ---
A. My kids, Angelo, Mr. Stanley, my sister. Oh, are you talking about when this all happened?
Q. Yes.
A. Angelo was there, Stanley was there, I was there, my kids was there and I want to say my sister, she left

before all this went down because she came by. She wanted some pills.

Q. Did the officer see Angelo there?

A. At the time there wasn't nobody there but just my kids in the house, when the officers came in. One of my sons was outside with the neighbor and my 11-month-old at the time, I believe I left him inside.

Q. Who did you say assaulted you to your neighbors?

A. My boyfriend.

Q. Who is that?

A. Stanley.

MR. PATTERSON: Nothing further at this time, Your Honor.

THE COURT: Mr. Schwacke?

RECROSS-EXAMINATION

BY MR. SCHWACKE:

Q. And you were the victim in that assault case?

A. Sir?

Q. You would be the victim in the assault case?

A. Yes, sir.

Q. Has that ever gone to Court?

A. No, sir.

MR. SHWACKE: That's all the questions I have.

THE COURT: Thank you. You may step down. Call your next witness.

MR. PATTERSON: Your Honor, may we approach?

(Whereupon, a bench conference was held off the record in the presence of the jury, but out of the hearing of the jury.)

MR. PATTERSON: The State calls Tanya Deane.

THE COURT: Ma'am, please come forward and be sworn.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Tanya Adriana Deane, and the last name is D-E-A-N-E.

TANYA DEANE, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Good afternoon, Ms. Deane. Where do you live?

A. [redacted], Hanahan, South Carolina.

Q. And what is your relation to Greg Rider and Preston Kornahrens?

A. Greg is my husband and Preston is our son.

Q. And do you know Evette Nelson?

A. Yes, sir.

Q. And how do you know her?

A. She was a neighbor.
Q. At the apartment complex?
A. Yes, sir.
Q. And how did you first meet her?
A. Met her on property I believe when she was doing laundry in the laundry room right across from where we live.
Q. And did you meet the Defendant Barry Stanley?
A. Yes.
Q. And when did you meet him?
A. She had introduced me to him, again, when she was doing laundry.
Q. And are you able to easily recognize both of them?
A. Yes, sir.
Q. So you've met them numerous times. Where is their apartment in relation to your apartment?
A. Theirs is -- ours is right across from the laundry room in the back corner and theirs is in the exact same spot but yet at the other side of the same building, so we're in the same building.
Q. And were you involved in an incident involving Evette Nelson and Barry Stanley on March 11, 2013?
A. Yes, sir.
Q. And what happened on that day?
A. That afternoon my husband and our son were out

playing basketball, I was in the house cleaning, and all of the sudden Greg came to the door and asked me to call 911. Evette was in trouble. And he told me to let her in when she came down and to take care of her and call the police.

So he went out and the next thing Evette came to my door, ran inside, slammed the door and she was just hysterical saying that Barry was going to kill her, he was after her and would I please help her, please help her. And I was on the phone with the police calling 911.

Q. And did she mention any third party, a Deangelo Watson?

A. No.

Q. It was just -- the only thing she talked about was Barry Stanley?

A. Right. Yes, sir.

Q. And did she appear fearful of him?

A. Absolutely.

Q. And what happened to her children during the incident?

A. The children were -- when I asked her where the children were, if they were okay, she said that they were down in her condo, so at that point we were just staying inside, as the police told me on the phone to

stay inside until they got there.

Q. And did you call the police?

A. Yes, sir.

Q. And why did you call them?

A. Well, my husband told me what all was going on and when Evette came in and told me that she was afraid for her life and for the children, I immediately had already called them to try and help her.

Q. And did you give a statement in this case?

A. I did.

Q. Did you ever see the Defendant Barry Stanley driving a vehicle?

A. Yes.

Q. What vehicle did you normally see him driving?

A. It was a -- well, it was only one vehicle I ever saw him in, was a dark Crown Victoria type older car, two-door or four-door. But it was a dark, dark blue color. He was the only one I ever saw drive it and work on it out in the parking lot.

Q. Do you know whose vehicle that actually is?

A. I believe Evette told me it was hers.

Q. Approximately how many times did you see the Defendant Barry Stanley driving that vehicle?

A. Probably around seven times while they were there.

MR. PATTERSON: No further questions.

THE COURT: Mr. Schwacke?

MR. SHWACKE: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. Ms. Deane, the day of this incident ---

A. Yes, sir.

Q. --- the only person that you saw with regard to the incident was Evette.

A. Evette and her children.

Q. Correct. You didn't see any -- you didn't see Mr. Stanley at all?

A. No, sir.

Q. You were inside your house.

A. Taking care of Evette.

Q. And the only things you saw were the people that came into your house?

A. Yes, sir.

Q. Which would have included your husband and Evette.

A. Yes, sir.

Q. And how long had you known Evette?

A. I believe that they lived there, I want to say, like, three or four months, somewhere -- it wasn't a very long period of time.

Q. Did you notice any injuries on Evette?

A. No, sir.

MR. SHWACKE: That's all I have.

MR. PATTERSON: No more questions, Your Honor.

THE COURT: You may step down. Call your next witness.

MR. CONDON: The State calls Greg Rider.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Greg Rider -- R-I-D-E-R.

GREG RIDER, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CONDON:

Q. Where do you live?

A. [redacted].

Q. And who do you live there with?

A. Tanya -- Tanya Deane.

Q. And who else?

A. And Preston also.

Q. Where do you work?

A. I'm self-employed.

Q. And do you know Evette Nelson?

A. Yes, we do.

Q. And how do you know her?

A. She moved into our building and we've been there

for seven years, so we kind of know everybody in the neighborhood. We try to watch out for everybody, so we kind of befriended her the day that she moved in and we saw her -- you know, I saw her probably every other day.

Q. And do you know the Defendant Barry Stanley?

A. Yes, he was -- he lived there with her along with the two boys and him.

Q. And did you have a chance to meet him?

A. I introduced myself and told him that if he needs anything, you know, just come on by if he has any questions or anything, stuff like that.

Q. So you know him by face and name?

A. Yes, sir.

Q. So you would easily be able to recognize him if you saw him?

A. Yes, sir.

Q. And did you witness an incident involving the Defendant Barry Stanley on March 11, 2013?

A. Yeah, myself, my son and a friend of ours who lives in the complex as well, we were playing basketball right in the little parking lot there and Evette came running out of her unit, frantic, telling us call the police, call the police, he's beating me, he's going to kill me and, you know, she ran right to

us. And we calmed her down and I said okay, Evette. None of us had phones on because we were shooting hoops. Anyway, so right about that time he came out of -- out of his unit, got in his car and ---

Q. Who is he? Let me stop you.

A. Barry. He got in his car and drove right through the basketball court there, real slow. Evette backed up all the way to the other building. I said honey, she's -- he's not going to hurt you. There's three men here. He went on out of the gate and at that point I took Evette and I brought her to my unit and I told my wife to call the police, there's something going on here. All right.

And I had my son go into my -- my unit as well so he'd be with Tanya and Evette, and I went outside just to make sure that he, you know, didn't come back because she was still frantic, afraid that he was going to bust the door down, you know, so I -- I don't know this man. I don't want to risk anything. So I took my phone with me and I went out waiting for the police and at that point I saw him drive back in the complex.

He stopped in front of his unit. He got out of his car. The car was running. He left the door open to his car, went into his unit and at that point I was thinking oh, God, is he going to take the kids. You

know, I got a little frightened for their sake, you know, but he came right back out and got in his car and he drove all the way up to where I was and stopped his vehicle and we, you know, kind of, looked at each other and I held up my phone and I said they're coming, you know, meaning the police are coming. At that point he left the complex and not more than probably 15 seconds later the police arrived.

Q. And on that date did you see another black male with him?

A. No, I didn't see anyone.

Q. Did you see another black male in the car besides him?

A. No, he was alone.

Q. No doubt in your mind about that?

A. He was alone.

Q. And what was Evette's demeanor when she came down?

A. She was frantic. She was scared.

Q. And can you describe the car that you saw flee the scene?

A. It's dark blue, all wheels. It's got huge wheels on it, huge silver rims. Looked like an older model, painted real nice, real dark blue color, like an old police car.

Q. And have you ever seen the Defendant Barry Stanley

driving that vehicle?

A. I have only seen him drive that vehicle. I've never seen Evette driving that vehicle.

Q. Do you know whose car it is?

A. Evette told me it was her car.

Q. So on that day you got a pretty clear look at the person who was ---

A. Twice. He drove through the basketball court, you know, right next to us and drove right up to my unit and then stopped for, you know, like five seconds.

Q. And is the person that you saw driving in that Crown Victoria -- or excuse me -- the car that you described -- is he present in the courtroom today?

A. Yes, sir, he's sitting right there.

Q. Could you point him out and describe him?

A. He's wearing a tan shirt. This black gentleman right here next to the ---

Q. And what's his name?

A. Two things. I thought -- I thought he was introduced to me as Barry and then my wife called him Jay, so I don't know.

Q. That's his nickname maybe? Jay? So is that Barry Stanley?

A. That looks like Barry Stanley.

Q. And that's the person you saw driving the car that

day?

A. He was driving Evette's car.

Q. Any doubt in your mind?

A. No, sir.

MR. CONDON: Please let the record reflect that the witness has identified the Defendant.

THE COURT: Any objection, Mr. Schwacke?

MR. SHWACKE: No objection.

Q. And at any point in time did officers come back by a couple of days later?

A. Yes, Officer Nelson came back by and showed me a picture of six or so people and asked me if I recognized anybody. You know, before she could even speak I pointed it out to her.

Q. I'm going to show you what's been identified as State's Exhibit Number 17. Do you recognize that document?

A. That's my scribble.

Q. And what is that?

A. I circled this picture and dated it and put my initials.

Q. Is that a true version of the photo lineup you were provided that day?

A. Sure is.

MR. CONDON: The State asks that State's Exhibit

17 be moved into evidence.

MR. SHWACKE: No objection.

THE COURT: State's 17 into evidence without objection.

MR. CONDON: And permission to publish?

THE COURT: You may.

Q. And when you were shown that lineup who did you identify on there?

A. Number one looks like him.

Q. And who is that?

A. That's Barry.

Q. Was there any doubt in your mind?

A. No, sir.

MR. CONDON: No further questions.

THE COURT: Mr. Schwacke?

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. You went inside your apartment at some point when this first happened?

A. We -- just to get Evette inside, you know, and explain to my wife what was happening.

Q. So if there had been another black male there who left, you wouldn't have known it during that time frame?

A. If there was another black male where?

Q. At the apartment, Evette's apartment.
A. Well, there was no strange vehicle there.
Q. I'm just saying is there a period of time that you would not have been able to see anyone come or go from Evette's apartment.
A. Yes, probably 15 seconds.
Q. Did you see any injuries to Evette
A. No, I asked her but, you know ---
Q. You didn't see?
A. --- I didn't see her bleeding or anything like that, no, but she was scared. That's for sure.

MR. SHWACKE: That's all the questions I have.

MR. CONDON: One quick question to clarify.

REDIRECT EXAMINATION

BY MR. CONDON:

Q. So what was the time frame where you did not have a view of the parking lot, who was coming out of the apartment?
A. Ten or 15 seconds, if that.

MR. CONDON: No further questions.

THE COURT: Mr. Schwacke?

MR. SHWACKE: No further questions.

THE COURT: You may step down. Thank you. Call your next witness.

MR. CONDON: The State calls Detective Camp.

THE COURT: Please come forward and be sworn

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: My name is Detective Amanda Camp -- C-A-M-P.

AMANDA CAMP, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR CONDON:

Q. Good afternoon, Detective Camp. Who are you employed by?

A. City of Hanahan.

Q. And what is your job title?

A. I'm a detective.

Q. Now, can you describe for the jury some of your duties as a detective?

A. As a detective I investigate crimes against persons, property crimes.

Q. Do you handle a lot of domestic violence cases?

A. I do handle them.

Q. And did you respond to an incident involving the Defendant Barry Stanley on March 11, 2013?

A. I did.

Q. And what was the nature of the call?

A. It was a domestic dispute in progress.
Q. And when you arrived on scene, what information did you receive about what was going on?
A. I received -- a bystander waved me down and informed me that the suspect had left in a Crown Vic.
Q. And did you relay that information?
A. I did.
Q. Who did you relay that to?
A. I relayed it to control and it went out to everyone on the radio.
Q. At any time did you meet with the -- with Evette Nelson?
A. I did.
Q. And what was her demeanor like?
A. She was very upset. She was breathing heavy and talking very quickly.
Q. Did she appear to be fearful?
A. Yes.
Q. And who did she tell you was involved
A. Barry Stanley.
Q. Did she mention a Deangelo Watson at that time?
A. No, sir.
Q. Did she mention anybody else involved?
A. No, sir.
Q. And, in fact, did she provide you a picture of the

person who was involved?

A. She did.

Q. Let me show you what's been previously marked for ID purposes as State's Exhibit 6. Do you recognize that picture?

A. I do.

Q. And how do you recognize that picture?

A. That's the picture I took off of her cell phone.

Q. Is that a true and accurate copy of the picture?

A. It is.

MR. CONDON: The State asks that Exhibit 6 be admitted into evidence.

MR. SHWACKE: Without objection.

THE COURT: State's 6 admitted without objection.

MR. CONDON: And permission to publish?

THE COURT: Yes.

Q. And can you just describe what that is?

A. It's a picture that she stated was of Barry Stanley.

Q. The gentleman that attacked her?

A. Yes.

Q. And that fled the scene?

A. Yes.

Q. And what did you do with this picture? Did you relay it to anybody?

A. I did. I relayed it to the units that were pursuing him.

Q. Did Evette Nelson at the time appear to be fearful of Barry Stanley?

A. She did.

Q. Did she inform you what the argument was over that day?

A. She did.

Q. What was that?

A. She stated that they were arguing because she didn't want him keeping drugs in the house with her two small children.

Q. While you were on scene was any additional information relayed by Ms. Nelson about the whereabouts of the Defendant Barry Stanley?

A. Yes.

Q. What did she tell you?

A. She stated -- she stated that he was hiding under a house.

Q. Do you know where?

A. She did not know where.

Q. And did you take a statement from Evette Nelson at that time?

A. I did.

MR. CONDON: No further questions.

THE COURT: Mr. Schwacke?

MR. SHWACKE: Thank you.

CROSS-EXAMINATION

BY MR SCHWACKE:

Q. How did you distribute this picture?

A. (Inaudible)

Q. So is there some widespread system at the Hanahan Police Department that you can automatically send that to all units?

A. I sent it via text message to the units whose phone numbers I had and they sent it out to others.

Q. And that picture was taken from a cell phone; correct?

A. Yes.

Q. It's a cell phone picture taken of a cell phone picture?

A. Yes

Q. And did any officers make any identification from that? Are you aware of that?

A. I'm not aware.

Q. Specifically Officer Dodd? You're not aware of that?

A. (Inaudible)

Q. And do you know who the bystander was that you first came in contact with?

A. I do not.
Q. You do not? Was it someone you may have seen today waiting to come in and testify?
A. No.
Q. So you were doing the investigation as a criminal domestic violence charge?
A. Yes.
Q. And you noted in your report that you did not observe any major injuries to Evette.
A. There was a small cut.
Q. On her left shin? But then she showed you marks on her chest but you determined that those were not recent and she -- she mentioned something to you when you first arrived, didn't she, about I don't bruise easily?
A. Yes.
Q. That was a comment she made to you?
A. Yes.
Q. You mentioned in the report that you did not observe any bruising or redness on her face where she claimed to have been punched.
A. Yes.
Q. And then she also claimed that Mr. Stanley had had her by the throat?
A. I'd have to look it up.

Q. But there was no marks there. She didn't require any medical care?

A. No.

Q. And the only signs of disturbance you noted in your report were that there were two picture frames which had been knocked askance on a table but not off the table.

A. Yes.

Q. And that's your total involvement in the case?

A. Yes.

Q. So you took the one statement?

A. Yes, I took the statement and the photo.

MR. SHWACKE: Thank you. That's all the questions I have.

MR. CONDON: Just briefly.

REDIRECT EXAMINATION

BY MR. CONDON:

Q. Who did Evette Nelson tell you was involved in the CDV incident?

A. Barry Stanley.

Q. And who did she tell you fled the scene in the car?

A. Barry Stanley.

Q. And did she make any mention of Deangelo?

A. No.

MR. SHWACKE: Your Honor, I think he's asked those questions on his original direct.

THE COURT: Overruled. Mr. Schwacke, any recross?

MR. SHWACKE: No, Your Honor.

THE COURT: You may step down. Thank you. Call your next witness.

MR. CONDON: Officer Dodd.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Officer Travis Dodd -- D-O-D-D.

TRAVIS DODD, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CONDON:

Q. Good afternoon, Officer Dodd.

A. Afternoon.

Q. Who are you employed by?

A. The City of Hanahan.

Q. And what is your job title

A. Currently I'm the school resource officer at Hanahan High School.

Q. And did you respond to an incident involving the Defendant Barry Stanley?

A. Yes, sir, I did.

Q. And can you describe exactly what happened?
A. On that day I was using my vehicle for personal use and I heard a lot of radio traffic and I asked Corporal Lanphere if I could help with anything, at which time he described that they were responding to a domestic assault at the apartment complex nearby.
Q. And what description were you given of the suspect.
A. I was told that a black male driving a dark-colored Crown Vic had left the area.
Q. At any time did you witness someone matching that description?
A. Yes, sir, I did.
Q. And where were you when you witnessed that?
A. On Fort Drive.
Q. And can you explain to the jury what happened with that?
A. Yeah, I observed the vehicle. Fort Drive kind of has a small -- small incline as you're coming down towards the back of the neighborhood and at the time I was coming in the opposite direction going back towards the area they were, and I observed the vehicle coming up through that -- through that street at a high rate of speed and I activated my blue lights to try to get that traffic stop.

Q. And did the Defendant stop at that point?
A. No, sir, he did not.
Q. And what happened?
A. At the time I activated my blue lights I'd already slowed down in my lane of travel and, like I said, attempted to make a traffic stop. The Defendant swerved his vehicle towards my vehicle, nearly striking the front end of my patrol car.
Q. Did you get a look at the person driving the car?
A. I -- yes, sir, I got a brief look.
Q. And what did he look like?
A. He was a -- he matched the description of a black male driving a dark Crown Vic.
Q. And so what happened after he swerved and tried to hit you?
A. I was able to avoid the collision by swerving out of the way into a neighbor's yard, at which time I turned my vehicle around, activated my siren and began to pursue; notified dispatch that I was in pursuit of the vehicle.
Q. And where did you pursue him through, what area?
A. Through that neighborhood, down Fort Drive to Redeemer Road and then Redeemer Road back out to Fort Drive.
Q. And what is that neighborhood called?

A. That's Berkeley Hills four and five.

Q. And what observations did you make of his driving at that time?

A. During the time the driver was driving erratically throughout the neighborhood at a high rate of speed.

Q. And how long were you in lead pursuit?

A. Just the time in that neighborhood, maybe just a matter of minutes.

Q. And so who assumed lead pursuit after that?

A. Corporal Lanphere did.

Q. And did you stop the pursuit at any time?

A. Yes, sir.

Q. And what happened after you stopped the pursuit?

A. After I ended the pursuit I notified Corporal Lanphere who arrived at around the middle of the pursuit and I returned back to the City to assist if they had any other calls pending for service.

Q. Did you receive any calls about narcotics being thrown out of the Defendant's vehicle?

A. Yes, I did.

Q. And where did you respond to?

A. [redacted].

Q. And were any drugs recovered at that address?

A. Yes, sir, there was.

Q. And what county is that in?

A. That's in Berkeley County.
Q. And who had called police?
A. Mr. Loflin.
Q. And what did you learn when you arrived there?
A. When I showed up on scene Corporal -- excuse me -- Officer Ellwood was already there and we were all speaking with Mr. Loflin. He said that ---

MR. SHWACKE: Objection, hearsay.

THE COURT: Any exception?

MR. CONDON: Yes, Your Honor. We're offering it for effect on the officer's investigation.

THE COURT: Overruled. You may continue.

Q. You can continue.
A. I was on the scene. Mr. Loflin had stated that as the pursuit had passed by Spring Hill Road ---

MR. SHWACKE: Your Honor, again, I have to object.

THE COURT: Rephrase your question, Mr. Condon.

Q. Officer Dodd, what did you learn during your investigation?
A. I learned that as the pursuit passed by Spring Hill Road, that an amount of narcotics was seen coming out of the vehicle that was located at the intersection of Spring Hill Road and Fort Drive.
Q. And what vehicle?
A. The Defendant's vehicle, the dark-colored Crown

Vic.

Q. And did you get out on the scene and look for any other drugs around?

A. Yes, sir, I did.

Q. Did you find any?

A. No, sir, nothing else was found.

Q. And was a statement taken from the eyewitness, Loflin?

A. Yes, sir, it was.

Q. And can you describe to the jury the area where the crack was located? Was there a sidewalk there? Can you kind of describe the area?

A. No, the neighborhood is ---

MR. SHWACKE: Your Honor, I'm --

(Whereupon, a bench conference was held off the record in the presence of the jury, but out of the hearing of the jury.)

Q. Did the call come with the location of where the drug was found? Was that along the route that you had chased the Defendant?

A. Yes, sir, it was.

Q. And did you ever see the Defendant throw anything out of his vehicle?

A. No, sir, I did not.

Q. And the approximate area where the drugs were

recovered, did you lose sight of the Defendant?
A. I did.
Q. And why is that?
A. The neighborhood has some sharp turns in it and I'm very familiar with that neighborhood, and because I know the fact that there's children playing in the neighborhood I decreased my speed just to avoid anybody else being involved, me striking somebody or anybody running out in the road, causing an issue. I backed off and I lost him. I lost the view of the driver's window.
Q. So there was a sharp turn?
A. Correct.
Q. And do you actually live in that neighborhood?
A. I do.
Q. So you know it pretty well?
A. Yes, sir.
MR. CONDON: Your Honor, may I get the easel?
THE COURT: You may.
MR. CONDON: Prop this up here. Is it okay if the witness steps down?
THE COURT: You may. Just speak loudly.
Q. Let me show you what's been marked as State's Exhibit 8. Do you recognize that?
A. Yes, sir.

Q. Did the chase go along any of these roads here?
A. Yes, this was the main road. Fort Drive is this area.
Q. Can you, kind of, trace, so the jury can understand ---
A. Yeah.
Q. --- where all this occurred?
A. Chase actually started a little bit off the map, and we came down Fort Drive, came around here, past this intersection, which is Spring Hill Road, and then he came around. Fort Drive continues around until it comes a little bit past this intersection, this area here, to where it becomes Redeemer Road and then comes back around this way and Redeemer circles back around to Fort Drive.
Q. Where is the area where the drugs were located?
A. Right here in this area here.
Q. Is this the sharp turn you referenced?
A. Yes, this is the turn.
Q. And you chased the Defendant through this area?
A. Yes.
Q. Did you have a camera in your car at the time?
A. No, sir, I did not.
Q. Is that because you're a school resource officer?
A. Yes, sir.

Q. What was the time frame that the call about the drugs came in, in reference -- in regards to you were pursuing the Defendant?

A. It was shortly after we passed the intersection. I couldn't give you the approximate time because the radio traffic had been closed for emergency transmissions only, so I'm not sure exactly.

Q. So fairly shortly after you had passed ---

A. Yes, sir.

Q. --- that location you got a call coming in about the drugs?

A. Yes, sir.

MR. CONDON: No further questions.

THE COURT: Mr. Schwacke?

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. You actually live on Fort Road; right?

A. Yes, sir, Fort Drive.

Q. Fort Drive. And you're, kind of, around somewhere up here?

A. No, sir, the -- where I live is actually more (inaudible).

Q. Up here?

A. Yes, sir.

Q. And so yours starts, sort of, a downward slope

towards the intersection where the Redeemer Church is?
A. Yes and no. The -- the downward slope starts a little bit further down, but ---
Q. But you're at the top of the hill there?
A. Correct.
Q. And you drive what kind of vehicle?
A. A Crown Vic.
Q. What kind of markings does it have on it?
A. It's marked Hanahan Police.
Q. So it's black and white?
A. No, sir, it's all white.
Q. All white. And has school resource officer on it?
A. Yes, sir, it does underneath the Hanahan Police -- underneath the Hanahan Police lettering.
Q. So you have to, at some point, turn around on the vehicle?
A. Yes, sir.
Q. And at what speed is that Crown Vic that you're pursuing -- how fast is it going?
A. At the time I turned around or when I first saw him?
Q. Well, over the course -- let's say when you first saw him.
A. When I first saw him probably between 40 and 45 miles an hour.

Q. Forty to forty-five miles an hour?
A. Yes, sir.
Q. And then when you turned on your blue lights and siren?
A. When I turned on the siren and began pursuit, speeds increased throughout the neighborhood, I would say, probably between 50 and 60 miles an hour.
Q. And what kind of -- how close were you able to get up on the Crown Vic?
A. When I -- after I turned around I stayed a good bit behind him.
Q. What is a good bit?
A. Probably about two or three houses.
Q. What about -- what kind of distance are we talking about there?
A. I'm not sure. I can't estimate without measuring. Two or three yards.
Q. Those houses don't have necessarily big yards?
A. No, sir, they're common yards.
Q. And you didn't see anything thrown from the vehicle?
A. No, sir.
Q. Were you ever shown a picture that you were asked to identify?
A. Yes, sir, I was.

Q. Is it that one that's sitting right there next to you?
A. Yes, sir, that is.
Q. So that would be State's Exhibit Number 6?
A. Yes, sir, that's correct
Q. And when were you asked to look at that?
A. It was shortly after the pursuit. I'm not exactly sure how long.
Q. So on March 11?
A. Yes, sir.
Q. Who showed you the picture?
A. I don't remember.
Q. Did you receive it by your cell phone or did you -- did someone ask you to see it?
A. I don't remember.
Q. And you made an identification based upon that picture?
A. Yes, sir.
Q. And that is the person you say was driving?
A. Yes, sir.
Q. That's the person you witnessed?
A. Yes, sir.
Q. And you did not participate in the chase once it gets taken up by two other -- or essentially three other units, did you?

A. No, sir, I did not.
Q. You went out later to look for the drugs?
A. Yes, sir.
Q. And who else was out there with you?
A. Officer Ellwood.
Q. Who got there first?
A. Officer Ellwood.
Q. And who did y'all talk to?
A. Mr. Loflin.
Q. Anybody else?
A. Not that I identified, no, sir.
Q. See anybody?
A. Not that I remember. There was people out there but I don't remember. I didn't speak to anybody else, no, sir.
Q. Again could you come down here?
A. Sure.
Q. Here we have Fort Drive.
A. Yes, sir.
Q. You live right there.
A. Correct.
Q. This would lead us down to Redeemer Road.
A. Correct.
Q. And that ultimately will loop back around.
A. Yes, sir.

Q. The place where y'all were searching for additional drugs was in this area?
A. Yes, sir, right here, right around the stop sign.
Q. Here?
A. Correct.
Q. And you're sure it's up here by the stop sign?
A. Yes, sir, it was right -- right here around this intersection is where we were looking.
Q. And that's your understanding of where the drugs were found?
A. Yes, sir.
Q. In this area right here?
A. Correct.

MR. SHWACKE: Thank you. That's all the questions I have.

REDIRECT EXAMINATION

BY MR. CONDON:

Q. Officer Dodd, just to clarify real quickly, you've got State's Exhibit 6 up there.
A. Yes, sir.
Q. Is that the person you saw driving the car?
A. Yes, sir, I -- yes, sir, it was.

MR. CONDON: Permission to publish to the jury.

THE COURT: You may.

MR. CONDON: No further questions.

MR. SHWACKE: No other questions.

THE COURT: You may step down. You may stay with us or you can leave. Thank you. Call your next witness or do y'all need a break? We're going to take a short break. If anyone cannot stay until six p.m., if you'll let the bailiff know, but I anticipate we'll stay until six p.m. Do not begin your deliberations. Do not discuss this case amongst yourselves. Please leave your notepads in the chair. Please rise.

(Whereupon, the jury exited the courtroom at 4:10 p.m.)

(Off the record)

(Whereupon, the jury came into open court.).

THE COURT: Thank you. Be seated. Call your next witness.

MR. CONDON: The State calls Sergeant Travis Lanphere.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Travis Lanphere -- spelled L-A-N-P-H-E-R-E.

TRAVIS LANPHERE, after being duly sworn, testified as follows:

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DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Sergeant Lanphere, how are you doing today?

A. Doing well. How are you?

Q. Very well. Sergeant Lanphere, where do you currently work?

A. I work for the City of Hanahan Police Department.

Q. And how long have you been employed by Hanahan?

A. Since June 1st of 2006.

Q. And did you work anywhere else in law enforcement prior to working for Hanahan?

A. I did.

Q. And where did you work?

A. I worked for the Charleston County Detention Center.

Q. How long was that?

A. Six months, and then I worked for Madison County Sheriff's Office in Madison County, Georgia, for a year and a half.

Q. What is your current rank at the Hanahan Police Department?

A. My rank is Sergeant.

Q. And what was your rank on March 11th, 2013?

A. At that time I was a Corporal.

Q. And what were your duties back then on March 11,

2013?

A. As well as being assistant supervisor on night shift, I was also at the time the city's only canine handler.

Q. And do you remember the events of March 11, 2013?

A. Yes, I do.

Q. Tell me what happened.

A. Shortly after five p.m. in the afternoon, I was observing traffic. Heard a call come out for a criminal domestic violence with an active assault. Started heading in the direction of where the call -- where we were sent to as advised by -- heard over the radio by Officer Camp that the male suspect had left in a blue Ford Crown Victoria. Shortly after that Officer Dodd came across the radio, wanted to know what we were looking for. I explained it to him just as briefly as I could. I gave him as much information as needed.

Shortly after that he informed us over the radio that he was in vehicle pursuit with the suspect, at which time I came into the area which was a -- a one-way-in, one-way-out kind of road. There were multiple streets but the main streets are the only way to get in and get out, and I set up my vehicle near Redeemer in that area. Suspect vehicle came down Redeemer where I observed it and that's when I took over pursuit.

Q. Would it be helpful to use the map?
A. Yes, sir.
Q. Sergeant Lanphere, I'm going to show you what has been marked as State's Exhibit 9 for demonstrative purposes.
MR. PATTERSON: Your Honor, may I approach?
THE COURT: You may.
MR. PATTERSON: May he step down?
THE COURT: He may.
Q. If you could describe, using this map, exactly where you were and where you joined the pursuit.
A. Can I use this ruler?
Q. Yeah, of course.
A. That way my arm is not blocking it. This is before it starts. This is going to be there, where I was saying it's one way in and one way out. Here's where I was sitting, right in this area. Pursuit started over here with PFC Dodd, came all the way through the back of the neighborhood. I set up right here at this intersection on Fort and Redeemer. Suspect vehicle came off of Redeemer which is coming down the hill. I saw the suspect vehicle make a right-hand turn onto Fort, where I intercepted and took over. We came out of Fort, took a left onto Murray and Murray Drive sweeps around. It's a gradual left-hand turn.

We continued at speeds anywhere from, like, 40 to 50 miles an hour. Crossed over the railroad tracks that separate the City of Hanahan and North Charleston, Hanahan Road. From Hanahan Road we came up to Rivers Avenue. At Rivers Avenue there was heavy traffic. Suspect vehicle went off the side of the road. I guess it's -- it's a center divide but when it comes to a traffic light there's going to be a grassy little area beside the roadway. Drove over that. I drove over that. We took a left on Rivers Avenue. Came down Rivers heading towards Remount and there was -- I don't remember the name of the road, but at one of the intersections right on Rivers Avenue suspect vehicle struck a vehicle that was waiting at the intersection for a red light.

Cleared that intersection, came up to Remount Road. At Remount Road he took a right. Came back up towards the loop to get onto I26 heading eastbound. We got on I26 eastbound. That's where speeds increased up to about 90 miles an hour. Went all the way down I26 eastbound through -- weaving in and out of traffic, past multiple cars, all the way down to Rutledge Avenue going into downtown.

When we got off on Rutledge I was advised over the radio to back off from pursuit and to allow North

Charleston units who had caught up to us to take over as lead. They took over lead pursuit. They took a left onto Maple Street. Maybe -- maybe a tenth of a mile down Maple Street suspect stops, exits the vehicle and is on foot. By the time that had happened I was rounding the corner. Came to a stop. I'd asked officers if they had the suspect apprehended. They did not, so at that time I deployed. My partner at the time was named Shadow and we began to do our canine work.

Q. Thank you, Sergeant Lanphere. Sergeant Lanphere, was the patrol vehicle you were driving, was that a marked patrol vehicle?

A. Yes, it was. It was a fully marked Chevy Tahoe.

Q. And was it equipped with blue lights and a siren?

A. Yes, sir, it was.

Q. Were those operational at the time you were in the pursuit?

A. They were.

Q. And were you signaling him to stop?

A. I was.

Q. Sergeant Lanphere, I'm going to show you what has already been admitted as State's 1, 2, 3 and 4. Please take a look at those. Do you recognize those?

A. I do.

Q. How do you recognize them?
A. Recognize them because that's the suspect (inaudible) while I was chasing him.
Q. Is there any damage to that vehicle?
A. There is.
Q. What does that indicate to you?
A. To the front passenger side on the quarter panel and the headlight area, appears there's some sort of collision that took place with that vehicle.
Q. Did that collision take place while you were pursuing him?
A It did.
Q. What did he strike?
A. Struck a van. It was a van.
Q. Did you put that out on the radio?
A. I did.
Q. Did another officer get out to handle that?
A. I believe it was Corporal Beaudoin.
Q. Did you apprehend the Defendant at the end of that pursuit?
A. I did not.
Q. Sergeant Lanphere, I'm going to show you what has been marked as State's Exhibit 7 for identification.
MR. PATTERSON: Your Honor, may I approach?
THE COURT: You may.

Q. Do you recognize this?
A. I do.
Q. How do you recognize it?
A. It's a copy from the dash-cam video from my pursuit from my vehicle.
Q. And have you viewed this video?
A. I have.
Q. Are those your initials on the CD?
A. They are.
Q. Has anything been altered, modified or deleted?
A. No.
Q. Is that a fair and accurate representation of the vehicle pursuit you were a part of?
A. It is.

MR. PATTERSON: Your Honor, at this time the State would ask that State's 7 be admitted into evidence.

MR. SHWACKE: No objection.

THE COURT: State's 7 admitted without objection.

MR. PATTERSON: Permission to publish?

THE COURT: You may.

(Whereupon, the video was played in open court.)

Q. Sergeant Lanphere, at that point where we ended that video, is that when you lost contact with the driver of that vehicle?
A. That is correct.

Q. Did you observe how many people were in that vehicle?

A. Only one.

Q. And did you observe him touch anything in the car?

A. Yeah, when we were getting onto I26 subject reached up and touched the center mirror with his right hand and then put a Bluetooth -- Bluetooth device in the mirror.

Q. Are you familiar with any connections the Defendant might have to downtown?

A. Not that I recall.

Q. Is there any reason -- throughout the investigation did you figure out any reason why he might have bailed out at [redacted]?

MR. SHWACKE: Objection, Your Honor. May we approach?

THE COURT: You may.

(Whereupon, a bench conference was held off the record in the presence of the jury, but out of the hearing of the jury.)

THE COURT: Sustained.

MR. PATTERSON: Thank you, Sergeant Lanphere. Nothing further, Your Honor.

MR. SHWACKE: I don't have any questions.

THE COURT: You may step down. You're free to

stay with us. You're also free to go. Call your next witness.

MR. PATTERSON: Your Honor, the State calls William Loflin.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: William Kenneth Loflin -- L-O-F-L-I-N.

WILLIAM LOFLIN, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Mr. Loflin, how are you doing today?

A. I'm doing all right.

Q. Mr. Loflin, where do you currently work?

A. Right now I'm unemployed but I'm an electrician.

Q. Do you do contract work?

A. I do. I'm doing a house now.

Q. And what type of electrician are you?

A. I'm a journeyman.

Q. And is that a skill that you have to achieve? How does that work?

A. Yeah, you have to go to school, technical college.

Q. What's the rank? Like journeyman, master?

A. Probably second from -- or third from master electrician.
Q. And how long have you been doing that type of work?
A. About nine years.
Q. Mr. Loflin, you have some criminal convictions; is that correct?
A. Yes, I do.
Q. You have -- in 2002 you have multiple convictions for forgery?
A. Correct.
Q. And in 2007 you also have a conviction for forgery?
A. Yeah.
Q. And in 2007 you have a conviction for petit larceny?
A. Yeah.
Q. And in 2009 you have a conviction for shoplifting?
A. Yeah.
Q. But today are you going to tell the truth today?
A. Yes, I will.
Q. Were you subpoenaed here by our office?
A. Yes, I was.
Q. And do you know the Defendant?
A. No.

Q. Do you have any grudges against the Defendant?
A. (Inaudible)
Q. Where do you currently live?
A. I live in Great Falls, South Carolina.
Q. And how long have you lived in Great Falls?
A. Thirty-five years.
Q. But you weren't living there on March 11, 2013?
A. No, I had a job to do in Charleston off George Street.
Q. So where were you living in March of 2011 -- or -- excuse me -- March 11, 2013?
A. At [redacted].
Q. And that was in Hanahan?
A. Right.
Q. And who were you staying with?
A. Chris Rowland. He's an electrician too.
Q. Do you remember what happened that day?
A. That day we got off early, about 2:30, three o'clock, and I'm a smoker and we don't smoke in the house, so I went on the back porch to smoke a cigarette and our neighborhood is one way in, one way out, and I hear sirens through the neighborhood. You know, a quiet neighborhood, kids riding bicycles, no commotion whatsoever.

I was sitting there. I hear sirens so I stood up,

kind of walked into the backyard a little bit to see what's going on. It's on the back street. Tried to catch a glimpse. I see a Crown Vic come flying by, cut the corner, the siren is behind him. Cut the corner and he's looking over his shoulder the whole time.

I seen him throw something out. Don't know what it was at the time. He takes off and the officer cuts the corner after him, trying to catch up with him but they didn't see him throw out the bag.

MR. PATTERSON: Your Honor, may I approach?

THE COURT: You May.

Q. Mr. Loflin, I'm going to show you what's been marked as State's Exhibit 8 for demonstrative purposes.

MR. PATTERSON: Is it all right if he steps down?

THE COURT: He is very soft spoken. You're going to have to speak loudly. Can you do that for me?

THE WITNESS: Yeah, I can.

THE COURT: Okay.

Q. Step down if you would and give us a visual of where you were and what you saw.

A. I was standing here at this residence here. Well, I started to hear sirens come down through here. As he cuts this corner he's looking over his shoulder the whole time, throws out a bag in this area right here which I see directly across here. About the time he

gets here the officer's cutting the corner. I don't know which way he went from there. I don't know which way they turned but then, like I said, he threw something out and that's when I hollered at my roommate, Chris ---

Q. Before we go any further what did you do when you saw him throw the bag out?

A. Well, I noticed it wasn't a piece of trash because it, kind of, went up too quick and come down too quick. Since I was, you know, renting a room from my roommate Chris, and he knows everybody in the neighborhood, I got him to go retrieve the bag, or whatever it was. It looked like a Pepsi bottle to me.

I'm not going -- I watch TV. I said not going to go. I said Chris, come here. What is it? I said walk through there and grab that clear-looking thing. What is it? I said I don't know. Just grab it. Some guy threw it out of the car running from the law. So he walked around the front, comes back holding it, looking at it. Asked me what it is. Asked me was it sugar cookies. I said no, that's not sugar cookies. It was crack cocaine.

Q. And did you call the police?

A. Yes, right then. I told him to go ahead and call the police right then. That's when the neighbor walked

up across the street at the same time, so we had him as a witness that it all happened. So they heard sirens come through the neighborhood too.

Q. Mr. Rowland (sic), I'm going to show you what has been pre-marked as State's 10, 11 and 20 for identification.

MR. SHWACKE: No objection.

MR. PATTERSON: Your Honor, may I approach?

THE COURT: You may.

Q. Will you take a look at these?

A. Yeah.

Q. Do you recognize those?

A. I sure do.

Q. How do you recognize them?

A. Backyard of Mr. Rowland.

Q. And is that a fair and accurate representation of the way it looked on March 11?

A. It is but this one picture. Like I said I heard sirens and I stepped down the walkway to walk into the backyard to catch a glimpse of what was going on, so that's what I was looking at at the time.

Q. Have there been any additions, deletions or modifications to those as you remember it?

A. No, because, like I said, it was just angles. If you're standing on the back porch that's what you see

and I stepped off the back porch and that's what I seen.

MR. PATTERSON: Your Honor, at this time the State would ask that State's 10, 11 and 20 be admitted into evidence.

MR. SHWACKE: No objection.

THE COURT: State's 10, 11 and 20 into evidence without objection.

MR. PATTERSON: Permission to publish?

THE COURT: You may.

Q. So is this the view you would have had ---

A. Yes.

Q. --- when you were watching the vehicle pursuit?

A. Yeah.

Q. And were you able to see the vehicle?

A. I actually seen the vehicle on the back street coming around speeding. Then right about here I seen the police officer.

Q. What did the vehicle look like, if you remember?

A. A blue Crown Vic (inaudible).

MR. PATTERSON: Your Honor, the Court's indulgence?

THE COURT: Take your time.

Q. Mr. Loflin, I'm going to show you what has been premarked for identification as State's Exhibit 5.

Please take a look at that. Do you recognize that?
A. That's what we found.
Q. How do you recognize that?
A. The shape of an actual cookie. It looks like a bottle or a beer can.
Q. Is that a fair and accurate representation of the bag that Mr. Rowland handed to you that day?
A. Yes, sir.
MR. PATTERSON: Your Honor, at this time the State would ask that State's 5 be admitted into evidence.
THE COURT: Any objection?
MR. SHWACKE: No objection.
THE COURT: State's 5 into evidence without objection.
Q. Mr. Loflin, I'm going to show you what's been marked as State's Exhibit 21 for identification. I know there's a lot of markings on there but try and take a good look at that. Do you recognize that?
A. It's kind of hard to tell with the plastic but yeah.
Q. How do you recognize it?
A. The sandwich bag it was in.
Q. Is that a fair and accurate representation of the bag that would have been handed to you by Mr. Rowland?
A. Yes, sir. Looks like it's been handled a lot.

That's how (inaudible).

MR. PATTERSON: Nothing further at this time, Your Honor.

THE COURT: Mr. Schwacke?

MR. SHWACKE:

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. Mr. Loflin, who called the police?

A. Chris Rowland.

Q. You didn't?

A. No, sir, because my area code -- I wouldn't dial 911 because my area is Great Falls.

Q. And you indicated y'all had been at work that day?

A. Work too?

Q. Pardon?

A. Work. Yeah.

Q. And you'd gotten off what time?

A. 2:30, three o'clock. Got off early that day.

Q. Where was the job that you were working on?

A. On George Street. (Inaudible)

Q. Did you have anything to drink after work?

A. No, sir.

Q. So you were living at the residence of Mr. Rowland?

A. Rowland. Yes, I was renting a room from him just

for this job.

Q. I was, kind of, tucked away in that corner so I couldn't really see where you were pointing at. If you could, kind of, come back down here just for a second?

A. This is Mr. George's house. This is Mr. Rowland's house. This is his back porch. There's a small step down, not steps but, like, a ramp. Like I said, I heard a car coming through. I walked into the middle of the yard right about here and seen -- you could see -- standing in the backyard you could see a section through here and a section through here and that's when I seen the car. And as he got around right here he was looking over his shoulder -- over his shoulder.

Q. You could still see that from where you were pointing?

A. Right here? Yes.

Q. You're here.

A. Right.

Q. And you're looking through this house?

A. No, through the backyard of the house.

Q. Okay. So he's already made the corner?

A. Right. He was looking over his shoulder for the officer.

Q. Again, where is he looking over his shoulder?

A. Right through here in this curve.

Q. Okay. And in this curve this house is blocking your view; isn't that correct?
A. Right. Right here. And then he throws it out right here.
Q. So your view at this point is restricted by this house ---
A. Right.
Q. --- and this house and these trees?
A. Right.
Q. Okay. So ---
A. I wouldn't say these trees because of this photo that he has.
Q. You can have a seat. So at this point ---
A. He tossed the bag out.
Q. --- you have a house here and you have the start of a house; correct?
A. The house is actually a little bit further back there over here.
Q. Okay.
A. You can see the house.
Q. Now, you do electrical work; right?
A. Yes, sir.
Q. And part of that is you've got to know your measurements and your distances; correct?
A. Right.

Q. So this exhibit comes with a distance scale; correct? Do you want to come down here? All right. So we have 20 feet, 40 feet, then 80 feet and 120.

A. Right. For every inch you've got 20 feet

Q. Well, actually a little bit more -- right -- because it looks like 120 is four; right? It looks like every inch is 30 by this scale; right?

A. Right.

Q. All right. So at four inches on this scale, or 120 feet, we know the distance between this house and this house, which is the one you're looking through, is less than 120 feet; correct?

A. This shot here ---

Q. The opening that is unobstructed to you ---

A. Right.

Q. --- is less than 120 feet; isn't that right?

A. Can I look at it?

Q. Sure.

A. Right.

Q. I mean, it's, like, half of that; right?

A. Right.

Q. So we're talking about 60 feet.

A. But what I'm saying, the whole time that I seen him from here, he was steadily looking over his shoulder at the officer that was chasing him.

Q. At the point that you say you see a bag get thrown from the car, was in this limited area right here; correct?

A. Right here is where that bag landed.

Q. So 60 feet.

A. In between ---

Q. Based on your own check and measure; right?

A. Right.

Q. Okay.

A. But like I said, that's where I seen it landed and Mr. Rowland will tell you exactly where he picked it up, because he's lived there his whole life. He should be able to mark.

Q. So show me again where you say you saw it land.

A. In between these two houses.

Q. Okay. And again, that's a 60-foot distance.

A. Right.

Q. You can have a seat. So on State's Exhibit Number 20 you can see someone in the picture?

A. Right.

Q. Who is that?

A. That's Inez.

Q. Inez who?

A. (Inaudible) There's the ramp I was talking about. So if I walked down that's going to change all that

measuring.

Q. Not across from house to house. You're going to see the same distance between the two houses because you didn't move the houses.

A. No, but if you move the center of the triangle it's going to move. If you're going to move the point of the triangle it's going to move all that.

Q. And we're going to move it five feet so now we're talking six -- seven?

A. Give or take.

Q. So who touches the bag first?

A. Mr. Rowland.

Q. And he's the one who goes outside and does what?

A. Walks out down his driveway, across the -- down the road to the stop sign. Do you want me to show you on that?

Q. Well, I guess this house on the corner is, I guess, the house that sort of blocks everything; right?

A. Right.

Q. Because he's one in from that?

A. Right. He comes straight down his driveway into the road.

Q. And walks down here.

A. And walks through it and it was beside the bench right there.

Q. And you didn't see him actually pick up the bag.
A. What's that?
Q. You didn't see him pick up an item.
A. I seen him pick up the bag.
Q. You went out there with him?
A. No.
Q. Well, where were you?
A. I was on the back porch watching him pick up the bag.
Q. Again, the back porch of this house watching him pick up a bag ---
A. Let me rephrase that; in the backyard.
Q. Sorry?
A. The backyard.
Q. You weren't on the porch?
A. I wasn't ---
Q. Now you're in the yard?
A. I wasn't on the deck. I was in the grass. Then he picks it up. I walked through the garage and meets him at the front driveway.
Q. Had the police already been called at that point?
A. No, because he didn't know what it was. He thought it was sugar cookies so you can imagine if a kid found that.
Q. Sugar cookies.

A. Yeah.
Q. So let me ask you about that because when you were asked to identify that bag you indicated that you were able to do that because of the cookie.
A. Yeah, I watch Cops.
Q. What does that mean?
A. I mean, they show it a lot on Cops.
Q. They show a lot about Cops too.
A. (Inaudible) I mean, I didn't know what it was until after the officer tested it on the back of the car.
Q. Well, I want to know how you knew it wasn't sugar cookies.
A. I mean, it looked like the bottom of a beer can.
Q. You've seen crack before?
A. I have.
Q. You knew that was crack.
A. Yeah.
Q. How fast were the cars going?
A. Which one?
Q. You saw two?
A. Yeah.
Q. Okay. Let's start ---
A. The Crown Vic ---
Q. --- with the first one.

A. The Crown Vic, I'd say when he cut the corner, about 30 and then he picked it up and gunned it.
Q. At the point you see him go between those two houses, how fast was he going?
A. About 30 at the most and then he disappeared and the officer come around about the same speed and he disappeared. Then I just hear sirens through the neighborhood.
Q. How far behind was the officer from the Crown Vic?
A. Probably, I'd say -- when? Before the curve? Because I caught a glimpse of it on the back street. All I seen was the Crown Vic. He cut the corner.
Q. Do you mean the curve there?
A. Right.
Q. Okay. And how did he cut it? He went up in the yard?
A. No, turning.
Q. He just turned?
A. Fast.
Q. So he made the turn?
A. Yeah, fast.
Q. And how ---
A. Well, I mean, cut it, he was center line.
Q. And again, the speed you have is what?
A. I would estimate between 30 and 40 at the most.

Q. And at that ---
A. It's a sharp curve.
Q. At that point how far behind is the ---
A. Officer?
Q. --- officer.
A. Maybe four car lengths. That one house obstructed the view. That's when he threw out the bag.
Q. So he's four car lengths behind on the curve?
A. Right.
Q. And at the point they passed by where you say the bag comes out, how far behind?
A. What's that again?
Q. How far are they behind at that point?
A. After he threw the bag out? About four car lengths.
Q. Still four car lengths?
A. He's -- he's done made the curve into the straightaway.
Q. So four car lengths would be 60 feet?
A. Give or take.
Q. So again on the map, we're dealing with this and four inches is 120 feet.
A. Right.
Q. And we're talking 60 so half of that so we'll go in two. At this point ---

A. (Inaudible)
Q. I'm asking you -- I'm asking you what the car length difference was. That's what I'm asking you.
A. See, the way I was thinking earlier (inaudible) officer up here. I don't know if he tried to stop him and maybe -- I don't know what happened up here but I was thinking that maybe he tried to stop the guy in the Crown Vic and (inaudible) in the other car. I'm not sure.
Q. We got kind of lucky here because there's a car right here on the map.
A. All right.
Q. So how far are we talking? Use that as one.
A. About like this.
Q. So ---
A. He was right here.
Q. This is where you say you saw the bag, so at that point again, that's before.
A. (Inaudible)
Q. So that would be the Crown Vic here.
A. Correct.
Q. Police car right here?
A. No, police car is here. (Inaudible)
Q. Are you saying now it's more than four car lengths behind?

A. Yes.
Q. That's what you're saying now?
A. Yeah.
Q. Because you're seeing ---
A. Because I usually don't look at an aerial photograph.
Q. But you do measurements every day and you know your distances.
A. Right.
Q. And ---
A. It's just a wire, not chasing cars.
Q. And you know your crack cocaine.
A. Not really. I know not to throw it out the window.
Q. Pardon? So again, you were not -- you were where you could see from ---
A. I was outside smoking a cigarette.
Q. Well, let me finish the question I'm asking. I'm asking you at the time that Mr. Rowland is collecting what ---
A. Retrieving the bag.
Q. --- where is that because you said you could see it.
A. Yeah, when he picked it up he started walking back.

Q. Where is it that he picked it up?
A. Where I just showed you on that map.
Q. The area between the two houses.
A. Right.
Q. And again, that would be up here.
A. And also ---
Q. That would be up here?
A. (Inaudible)
Q. So not in this area here? Not in this area?
A. No, not -- not (inaudible).
Q. What time was all that?
A. It was after three.
Q. Pardon?
A. It was after three, I would say.
Q. After three?
A. Yeah, I was off work early.

MR. SHWACKE: Okay. I think that's all the questions I have.

MR. PATTERSON: Nothing further from the State, Your Honor.

THE COURT: You may step down. Thank you. Call your next witness.

MR. PATTERSON: The State calls Corporal Ellwood.

(Witness sworn)

THE CLERK: Please be seated, state your full name

and spell your last name for the record.

THE WITNESS: My name is Officer Jon Ellwood. My last name is spelled E-L-L-W-O-O-D.

JON ELLWOOD, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Corporal Ellwood, how are you doing today?

A. I'm well, sir.

Q. Where are you currently working?

A. I work for the City of Hanahan Police Department.

Q. And how long have you been employed by Hanahan Police Department?

A. It'll be three years.

Q. Did you work anywhere in law enforcement prior to that?

A. I did.

Q. Where was that?

A. I worked at the jail for the Berkeley County Sheriff's Department for about two, two and a half years.

Q. And what is your current rank?

A. My current rank is Corporal.

Q. And back on March 11, 2013, what was your rank?

A. I was a patrolman. I'm not sure if I was a PFC or

a (inaudible). I don't remember exactly.

Q. What were your general duties back then on March 11, 2013?

A. Back when I was a basic patrolman. I would respond to calls for service, patrol the area, provide a police presence to try to deter crime. Really respond to calls for service.

Q. And do you remember what happened on the evening of March 11, 2013?

A. I do.

Q. Tell me what happened.

A. I was getting dressed for work or getting ready for it. I was already dressed. I was actually in the parking lot getting ready to start my shift. I work the night shift. I heard a call come out for a possible assault in progress. As it happened the address where it was reported taking place was right around the corner from my house so I advised (inaudible) I would assist.

Q. And how quickly did you arrive?

A. I would certainly say less than a minute.

Q. About what time was this?

A. A little bit after five, I believe.

Q. And who did you meet when you got there?

A. When I arrived on the scene, the location was [redacted]

[redacted], I made contact with Ms. Evette Nelson.

Q. And how did she appear to you?

A. Ms. Nelson appeared to be upset. She was visibly shaking. She was speaking so erratically, yelling, a little angry and very emotional, I think might be the best way to describe it.

Q. And did she tell you anything?

A. She did.

Q. What did she tell you?

A. When I first made contact with her I was attempting to ascertain if she needed emergency medical services or anything like that. She initially stated he took off with my car and within seconds of that, trying to ascertain who he was, she advised that he had -- she had knowledge of some amount of drugs in the car and also be possibly carrying a firearm.

Q. What happened next?

A. I immediately advised communications via radio which would also go out to anybody else with access to a radio of the information regarding the firearm and also (inaudible) as well as the drugs that she spoke of.

Q. Did you get a call from Corporal Beaudoin?

A. I did.

Q. What did she tell you?

A. Corporal Beaudoin stated that there was a witness that wanted to speak to an officer regarding something they had observed during the pursuit process.

Q. Did you receive this call while the pursuit was still active?

A. I did.

Q. And where did you respond to?

A. I responded to the street in front of the house at [redacted], which was also in the City of Hanahan.

Q. And who did you talk to?

A. I met with Mr. Loflin.

Q. What did he tell you?

A. Mr. Loflin handed me a -- when I made contact he handed me a clear plastic bag that contained the -- kind of a disc-shaped white substance and several -- I guess you could call it shards -- (inaudible). He observed the pursuit past an area where he could see and he saw a black male driving a blue Crown Victoria and he said he observed the plastic bag being tossed from the window. A short time later he also observed the police car with lights and siren activated which made him believe that he was being pursued by the police.

Q. Corporal Ellwood, I'm going to show you what's

been marked as State's Exhibit 5. It's already been admitted in evidence. Do you recognize that?

A. I do.

Q. How do you recognize it?

A. That is a photograph that I took upon receipt of the clear plastic bag. Through my training and experience as a police officer (inaudible) until I could put on some latex gloves to handle it properly. At that time point it was secured and I took a photograph of it.

Q. Was the bag open? Closed? What did it look like?

A. It was just a clear plastic bag.

Q. Did Mr. Loflin -- did you have him write a statement?

A. I did.

Q. Corporal Ellwood, I'm going to show you what's been marked as State's Exhibit 21 for identification. Do you recognize that?

A. I do.

Q. And how do you recognize it?

A. I recognize it by the tag on the front of it. This is an evidence narcotics bag. This is done in my handwriting. It has my name on it.

Q. And is that what you collected from William Loflin?

A. It is.

Q. And what did you do with it? I know you started explaining a little bit.

A. I received it from Mr. Loflin. I secured it against my windshield with my windshield wiper to put on some gloves. Took a photograph of it. (Inaudible) It's got chemicals in it that are -- they will react a certain way in the presence of cocaine. (Inaudible) At that point the evidence will be secured inside of my patrol car.

Q. About what time did you get this bag from Mr. Loflin?

A. Probably about 5:30.

Q. How long was that -- how long was your arrival at [redacted] from the time this whole incident started?

A. I would say probably 20 minutes.

Q. And it was secured in your vehicle?

A. Yes, sir.

Q. Did it remain there until you got back to the station?

A. Yes, sir.

Q. Would anybody else have had access to it?

A. No, sir.

Q. What did you do with it once you got to the

station?

A. Once I returned to the station at a point when everything kind of calmed down as far as everybody (inaudible) it would have been weighed on a scale and it would have been put in evidence for additional testing and verification of the actual substance. From that point it would then go to an evidence locker upstairs. The evidence lockers are like lockers. (Inaudible) You pull it down, drop it in, you close it and it falls to the bottom and it's padlocked. (Inaudible)

Q. So nobody has access to it except for the evidence custodian after you put it in the locker?

A. That's correct.

Q. And is the chain of custody created when -- when you log it in? Do you do stuff on the computer?

A. When we log it in the chain of custody is primarily done through the evidence technician. There are some parts to the computer that the evidence technician (inaudible).

Q. So there is a record of everybody who touches it through the tag on the evidence?

A. Yes, sir.

Q. Going back to your initial response to the apartment complex, did Evette tell you who was driving

the vehicle?

A. She did.

Q. Who did she say?

A. She referred to him as Barry. During the course of the investigation she provided me Barry -- actually Barry Jerrod Stanley.

Q. Did you have a chance to speak with Deangelo Watson?

A. I did.

Q. And did he write a statement?

A. I don't remember.

MR. PATTERSON: The Court's indulgence.

Q. Did Evette ever say anything about Deangelo Watson being involved?

A. On the original -- during the original incident?

Q. During the original incident.

A. No, sir.

MR. PATTERSON: Nothing further, Your Honor.

THE COURT: Mr. Schwacke?

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. At the incident location for the domestic, Ms. Nelson didn't request any medical assistance.

A. That's correct.

Q. How were you contacted about going to the Spring

Hill address?

A. I was contacted via telephone.

Q. Regular telephone communication?

A. Yes, sir, on my city-issued telephone.

Q. And who was contacting you about it?

A. Corporal Beaudoin.

Q. Do you know how she got information about it?

A. I do not.

Q. Would calls into the department be normally documented in some way?

A. Only thing I can speak to, I know the 911 calls are recorded. I don't have knowledge as far as the other lines. It's very possible but I just don't know the answer to that.

Q. Okay. So you go to [redacted] and you meet with who at that point?

A. Mr. Loflin.

Q. And where do you encounter him?

A. I -- I was actually looking for the address, you know, looking for the house numbers. It's almost to the end of the road where (inaudible).

Q. And were you parked at the 1252 address at that point or did you just park on the side of the road?

A. I was parked on the side of the road. I wasn't in a driveway. Is that what you mean?

Q. Yes, I'm just trying to figure out approximately where you were.

A. I was in -- along the road very close to 1252. I can't -- I don't want to say I was absolutely in front of the house.

Q. And so he approaches you while you're on the side of the road.

A. As I get out of my car and I see people standing there, I'm guessing those are the people that I'm there to talk to. I get out and (inaudible).

Q. And what does he tell you when he approaches you?

A. He said that he -- first he has a bag, a clear plastic bag and he handed it to me and said that he saw the police chase. He saw this bag was thrown out of the vehicle as it passed by where he could see it. After securing it and -- and making sure what we were dealing with was -- was (inaudible) he stated that it was a blue-colored vehicle and he saw the blue light behind it.

Q. Jump back to the drugs for a minute. The drugs passed from whose possession to your possession?

A. Mr. Loflin's to mine.

Q. And that happens right out there at the street?

A. Yes, sir.

Q. And was there any indication from him where he

retrieved it from?
A. He told me while speaking to me that it was -- he told me up to the area near the intersection of Fort and Spring Hill from where I was standing looking up. There's at least one or two houses and the house at the corner in that area which is (inaudible).
Q. You never had him show you actually where he picked it up from?
A. I don't know.
Q. Did you speak with anyone else?
A. Not that I remember.
Q. Did you have any contact with a Mr. Rowland?
A. Not that I recall.
Q. You did get a statement from Mr. Loflin.
A. I did.
Q. And your incident report has that Loflin stated that he had retrieved the clear plastic bag that contained those materials?
A. I would have to look at the report.
Q. Would it refresh your memory for you to review your narrative?
A. Sure.
Q. I can direct your attention to that.
A. I believe it does say that in my report.
Q. It says what?

A. I put in my report Loflin stated he retrieved the clear plastic bag that he witnessed the black male driver of the blue-colored Crown Victoria.

Q. He retrieved it?

A. Yes.

Q. You then go back to meet with Evette after this -- Ms. Nelson?

A. (Inaudible)

Q. And there's some photograph that you obtained?

A. As far as a photograph of Mr. -- of the Defendant?

Q. Yes.

A. There was a photograph that was disseminated by Officer Camp (inaudible)

Q. And did you show that to Officer Dodd?

A. I did at some point. I believe it was later that same night. I showed the photo if you're referring to the photo that I have on my phone that was (inaudible).

MR. SHWACKE: One moment, Your Honor.

THE COURT: Take your time.

MR. SHWACKE: Thank you. That's all the questions I have.

MR. PATTERSON: Nothing further from the State, Your Honor.

THE COURT: You may step down. Thank you. Ladies and gentlemen, I told you we would go until about six.

This is an appropriate time for us to end for the evening. Please remember all of my admonitions. Do not discuss this case with anyone. When you go home if there's somebody there that asks you what you've done today, you may not discuss this case with anyone. Do not research -- do any independent research. Do not read, watch, listen to any news account regarding this case, should there be any. Please report back at 9:15. The bailiff will tell you how to report at 9:15 in the morning.

(Whereupon, the jury was excused for the evening at 5:45 p.m. and the trial of the case adjourned.)

(Whereupon, the trial of the case reconvened on April 8, 2014 and the jury came into open court at approximately 9:27 a.m.)

THE COURT: Anything before we bring in the jury?

MR. PATTERSON: Nothing from the State, Your Honor.

THE COURT: Do you need some time?

MR. SHWACKE: At least two minutes.

THE COURT: Take your time, Mr. Schwacke. I understand. This is not your fault. We need to let the record reflect that all 13 jurors conformed with the Court's instructions. Mr. Patterson, call your next witness.

MR. PATTERSON: Thank you, Your Honor. The State calls Chris Rowland.

THE COURT: Right up here, sir.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Christopher Adam Rowland -- R-O-W-L-A-N-D.

CRISTOPHER ROWLAND, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Mr. Rowland, how are you doing today?

A. All right.

Q. Where do you currently work?

A. Airport for Ellis and Smith.

Q. And how long have you been working there?

A. About five months.

Q. And what type of work is it?

A. Commercial electrician.

Q. How long have you been doing electrician work?

A. Five years.

Q. And in 2004 did you have a conviction for a crime that has a penalty of more than a year?

A. Yeah.

Q. Were you subpoenaed here today by us?
A. (Inaudible)
Q. And do you know the Defendant?
A. No.
Q. Do you have any grudges against the Defendant?
A. No.
Q. Where are you currently living?
A. [redacted], Hanahan.
Q. And how long have you lived there?
A. Going on eight, nine years.
Q. And is that where you were living on March 11, 2013?
A. Yes.
Q. Do you remember that day?
A. Yes.
Q. Can you tell me what happened?
A. I was laying, chilling on the couch. My roommate was out -- out smoking a cigarette on the porch. Heard a bunch of sirens. He came in and told me that some car just flew by my neighbors house, George, and threw a bag out the window and I proceeded to go get it, because in my mind there isn't but one thing that that could be, and that's some type of drugs. And there's kids that live there. All those houses where that occurred, there's nothing but kids there. I mean, and

that would be the last thing I would want in my neighborhood, is a kid passing to die in possession -- or taking drugs, things of that nature, so I brought it back and called the police and they took it over from there.

Q. Mr. Rowland, I'm going to show you what has previously been admitted as State's 10.

MR. PATTERSON: Your Honor, may I approach?

THE COURT: You may.

Q. Mr. Rowland, can you take a look at that for me?

A. Yes.

Q. Do you recognize that?

A. Yes.

Q. How do you recognize that?

A. It's the view off my back porch from my backyard.

MR. PATTERSON: Your Honor, may we publish that?

THE COURT: You may.

Q. If you could just turn around. Can you show me or just give me a general idea of where ---

A. Where I found the bag?

Q. Yeah, where you found it at.

A. Right here.

Q. Okay. And that's about where you picked it up at?

A. Yes.

Q. Mr. Rowland, I'm going to show you what has been

marked as State's Exhibit 22 for identification.

MR. PATTERSON: Your Honor, may I approach?

THE COURT: You may.

Q. Mr. Rowland, please take a look at that. Do you recognize that?

A. Yes, sir.

Q. How do you recognize that?

A. That's the street that is perpendicular or adjacent to my neighbor's house where I found the bag at.

Q. And is that a fair and accurate representation of the way that area would have looked on the day this happened?

A. Yes.

MR. PATTERSON: Your Honor, at this time the State would ask that State's 22 be admitted into evidence.

THE COURT: Any objections?

MR. SHWACKE: No objection.

THE COURT: State's 22 into evidence without objection.

MR. PATTERSON: Permission to publish?

THE COURT: You may.

Q. If you could, give me an idea of how far from the side of the street into the grass area you found it?

A. Right there.

Q. Thank you, sir. Mr. Rowland, I'm going to show you what has been marked as -- it's already been admitted into evidence as State's 5. Do you recognize that?

A. Yes, sir.

Q. How do you recognize that?

A. That is the bag I found on the side of the road that I handed over to the police officer.

Q. And what did you do with it when you found it?

A. I held onto it, sat on the tailgate of my truck, called the law.

Q. Did you hand it over to Mr. Loflin?

A. No. He was sitting next to me. To my memory he never handled it other than he was talking with the police officer. I left.

MR. PATTERSON: The Court's indulgence?

THE COURT: Take your time.

Q. Did you call 911?

A. No, I called the police department.

Q. You didn't call 911. You just called the police department?

A. I have their number in my phone.

Q. Okay. Mr. Rowland, I'm going to show you what's been marked as State's 21. It's, kind of, covered up. If you can -- if you can see in there, do you recognize

what's in that bag?

A. Looks to be what was in that picture. The thing I picked up, the drugs.

Q. And is that the bag that you picked up that day?

A. Yes, sir.

MR. PATTERSON: Nothing further from the State. Please answer any questions Mr. Schwacke has.

THE COURT: Mr. Schwacke, your witness.

MR. SHWACKE: Thank you.

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. How are you doing, Mr. Rowland?

A. All right.

Q. So about what time are we talking about when all this is going on?

A. I believe around five. It was in the evening. Mr. Loflin got back from the first shift a little early.

Q. And so he had just gotten home about five?

A. Around that time.

Q. And Mr. Loflin works with you on that shift?

A. At that time we were pulling two shifts.

Q. So he was going to have to go to work too?

A. Yes.

Q. And you met with an officer?

A. Yes.
Q. Which officer did you meet with?
A. (Inaudible)
Q. Okay. And no doubt in your mind you met with a police officer that night?
A. Yes, sir.
Q. Did they take your name, get your information?
A. Yeah.
Q. How did they take it down?
A. With a pen, piece of paper.
Q. Okay. So you were shown this picture; correct?
A. Yes, sir.
Q. And you indicated that where you found the item was up here?
A. Yes, sir, right here alongside that road.
Q. Right here?
A. Yes, sir.
Q. Where it looks like it's a different color?
A. Yes, sir. No, right here on the side of the shade where the little (inaudible) right there.
Q. I just want to make sure we're pointing to the same spot.
A. All right.
Q. Am I pointing to the spot right there?
A. Down a little.

Q. I'm going to let you ---
A. Right there.
Q. Right there?
A. Yes, sir.
Q. Okay. So on what's been marked as State's Exhibit Number 8 for identification ---
A. Yes, sir.
Q. --- it would not be down in this area?
A. No, sir, it would be right here.
Q. Who all lived with you ---
A. My wife ---
Q. --- at the time?
A. --- my wife and William.
Q. And I'll show you what's been marked as State's Exhibit 11 for identification. That is again ---
A. That's my back porch.
Q. Your back porch.
A. Yes, sir.
Q. And that fairly and accurately depicts the way it looked a year ago?
A. No, sir, the jasmine's done took up this year and bundled up to the post, to the top rail. This tree was not there last year. Usually this hangs down but I'm trying to get it to wrap through the lattice ---
Q. Okay. Now, you ---

A. --- so I tied it up.
Q. You met with an investigator from my office; is that correct?
A. That's correct.
Q. Ms. Freeman?
A. Yes, sir.
Q. And you did not tell her that?
A. No, I didn't tell her that.
Q. Show you what's been marked as State's Exhibit 20 for identification. What is that?
A. My back porch.
Q. And there's actually someone on the back porch?
A. Yes.
Q. Who is that?
A. That's my wife.
Q. And when you described this to the investigator from our office, you indicated that Mr. Loflin was sitting at the table with the umbrella?
A. Yeah.
Q. And that's what he told you?
A. Yeah. Well, I mean, he didn't tell me that now. I assumed that he was on the back porch and he was sitting at the table. Whether he was or not, like I said, I was on the couch.
Q. But you told our investigator ---

A. I told her that that's where I believed he was at, yes, sir.
Q. And you told the jury that initially.
A. That's -- and that's exactly what I just said. As far as I know, that's where he was sitting.
Q. Initially you said that's where he was sitting and now you're saying ---
A. I'm saying the same thing.
Q. --- you don't --- okay. So you went and picked it up off the ground?
A. Yes, sir.
Q. Why did you go do it?
A. It's my home, my neighborhood and I feel more responsible for my neighborhood than William should, so that's why I did it.
Q. You didn't see the item -- how it got there at all?
A. No.
Q. You have no clue how it got there?
A. Other than what William told me, no, sir.
Q. And he was the one, he's testified, he saw that.
A. Yes.
Q. But he didn't go pick it up.
A. Yes.
Q. What time was the next shift? You said you had to

go start a shift at what time?
A. I didn't say the time but usually we went in about 11 o'clock, 12 o'clock at night.
Q. Okay. So when you testified that you didn't stick around when the police came although you said you saw the police ---
A. Yes, I had to go to work. I had to go pick my wife up, get everything done for the day before I had to go to sleep and go to work.
Q. And that was going to be at 11 o'clock at night?
A. Yes. I've got to cook dinner, wash clothes, get ready for work.
Q. You never gave a statement to the police?
A. Other than what -- I mean, I gave them the drugs and told them where I found it. I don't recall writing a statement down, no.
Q. And your name doesn't appear on any Hanahan Police Department reports?
A. I wouldn't know. I don't have any of those.
Q. And you touched the bag?
A. Yes, I had to pick it up.
MR. SHWACKE: One moment, Your Honor.
THE COURT: Take your time.
Q. So what was described to you by Mr. Loflin in terms of being thrown from a car?

A. A car driving at high speed down that road, Fort Drive, and tossed it out the window. That's about all.
Q. So you went looking for anything.
A. A bag. A bag is what he described.
Q. And you saw a Baggie and you thought it was what?
A. Sugar cookies. They were a round sugar cookie. At the time they weren't all broke up.
Q. You mentioned to our investigator that you have friends in the Solicitor's Office?
A. No, I didn't. I said I knew the investigator.
Q. You knew the ---
A. I had met him prior to a case that was involved across the street where I was attacked a couple of years ago.
Q. Okay. So you'd want to help them?
A. Want to help them? It had nothing to do with the Solicitor's Office.

MR. SHWACKE: No further questions.

MR. PATTERSON: Briefly.

THE COURT: Take your time.

REDIRECT EXAMINATION

BY MR. PATTERSON:

Q. Mr. Rowland, when you picked up the bag were there any other bags laying around?
A. No.

MR. PATTERSON: Nothing further, Your Honor.

THE COURT: Mr. Schwacke?

MR. SHWACKE: Nothing, Your Honor.

THE COURT: You may step down and you are free to leave but you're also free to stay with us. Call your next witness.

MR. CONDON: The State calls Corporal Lane Beaudoin.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: My full name is Victoria Beaudoin. Last name is spelled B-E-A-U-D-O-I-N.

VICTORIA BEAUDOIN, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CONDON:

Q. Good morning. Do you go by Lane?

A. Yes.

Q. And who are you employed by?

A. Hanahan Police Department.

Q. And what is your job title there?

A. Currently corporal. I've been taken off the road just helping out where I can.

Q. Because of maternity leave?

A. Yes.
Q. Okay. And what was your job title back on March 11, 2013?
A. That day I was corporal but I was also a shift supervisor.
Q. And what were some of your job duties back then?
A. For that day was to work the road basic patrol and also maintain schedules for the other employees that were working that day.
Q. Did you respond to an incident involving the pursuit of the Defendant Barry Stanley?
A. Yes, sir.
Q. And where did you respond to?
A. I responded to the area of Murray Drive and Fort in reference to a vehicle that had left the scene.
Q. And can you explain to the jury what happened when you responded to that area?
A. When I responded to the area, I was given the description of the vehicle, a blue Crown Vic, and after getting into the area I was told that -- that the vehicle was located in Berkeley Hills by another officer, so I staged to wait for the vehicle.
Q. And while you were staging can you explain what happened after that?
A. I parked my vehicle on Fort near the Redeemer

Catholic School and waited for the vehicle. There's only one way in and one way out, so while I was waiting I saw the vehicle coming from where it was on Redeemer and one of our other officers that was following had his blue lights on.

Q. All right. And so what happened after that?

A. After he went through the stop sign, at the time there was Corporal Lanphere, but now Sergeant Lanphere began to then chase the vehicle with his blue lights on, and then another officer and (inaudible).

Q. So what number car were you in the chase?

A. I was the third

Q. Third car. And what was the Defendant's driving like at that point?

A. It was reckless. He had already driven through one stop sign in front of me and then he went through the traffic light, took a left onto Murray and then continued with high speeds over the line without regard for anybody coming in his direction.

Q. At any point did he hit a vehicle during the chase?

A. Yes.

Q. And what happened after hitting the vehicle?

A. When he hit the vehicle I stopped out with the vehicle to -- to -- noticing that there was damage to

it -- to render aid. At that time I located four to five children (inaudible).

Q. And did you get on the phone with dispatch at that time?

A. Yes.

Q. And did you receive any information from dispatch in regards to possible drugs being located?

A. Yes.

Q. And what information was that?

A. When I called in to dispatch due to the radio being on emergency use for the pursuit only, I called in to notify them of the vehicle that was damaged and to have the highway patrol to come out and assist. That was when the dispatcher told me that another person had called in and said that they had located some type of drugs at [redacted] and I told her that I would get an officer out there as soon as I could.

Q. And did you relay that information to other officers?

A. Yes.

MR. CONDON: No further questions.

THE COURT: Mr. Schwacke?

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. Help me with the name.
A. Bow-din.
Q. Bow-din. But you've also have reports at times under the name Hollombeck?
A. Yes.
Q. And then you said something about you using ---
A. My name is Victoria Lane Beaudoin. Hollombeck was my old name. I've gotten married since.
Q. So at times we see different names on ---
A. I go by both.
Q. Did you do a report for the events of March 11th?
A. No, the responding officer did the report.
Q. Okay. So did you review anything to help you coming here today to testify?
A. No. Memory.
Q. You're doing good. You met with Evette Nelson the next day?
A. Yes.
Q. And had a conversation with her about the events that she had previously reported on the 11th?
A. Yes, sir.
Q. Which essentially she named a person named Deangelo Watson.
A. Uh-huh.
Q. As a result of that conversation with her, you

actually took the step of removing and calling back the arrest warrants you had previously filed the day before for Mr. Stanley.

A. Yes.

Q. And that was based upon the interview with Ms. Nelson?

A. It was based on her interview with him or about that person. I didn't want the wrong person to get arrested until we fully found out the information so changed the name of the person.

Q. And that would have been despite the fact that Officer Dodd had identified a photo of Mr. Stanley.

A. I'm sorry?

Q. Mr. Dodd had identified a photo of Mr. Stanley the day before.

A. I was not aware of that.

Q. The next day you're still withdrawing the warrants.

A. I had withdrawn until we had enough to know whether it was him or the other guy.

Q. And you never went to the area where they found the drug items?

A. No, sir, I stayed with the vehicle that he had hit.

Q. And all you knew was that dispatch had told you a

call had been received?

A. Uh-huh.

Q. You don't know from whom?

A. I don't remember the last name, no, sir.

Q. And no recording was made of that call?

A. No, sir, it was -- I'm not sure if he had called on our recorded line, but the phone call I was on was through my work cell phone.

MR. SHWACKE: Thank you.

MR. CONDON: Just a couple more questions.

REDIRECT EXAMINATION

BY MR. CONDON:

Q. Is it a big decision to charge somebody with a crime?

A. Yes, sir.

Q. Did y'all want to make sure you had the right person charged?

A. Yes, sir.

RECROSS-EXAMINATION

BY MR. SCHWACKE:

Q. Arrests are made all the time based on an officer's identification.

A. It is.

THE COURT: You may step down. Feel free to stay with us. Thank you. Call your next witness.

MR. CONDON: The State calls Pam Nelson.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Pam Nelson -- N-E-L-S-O-N.

PAM NELSON, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CONDON:

Q. Good morning, Officer Nelson. Who are you employed by?

A. Hanahan Police Department.

Q. And what was your job title back on March 11th, 2013?

A. Detective.

Q. And what are some of your job duties as a detective?

A. I was in charge of (inaudible) sexual assaults on children, child abuse, physical and sexual, domestic violence, elder abuse, murders, attempted murders.

Q. And what was your involvement in the investigation of this case?

A. I had went over to the witnesses' residence and submitted photo lineups to see if the individuals could pick out photographs.

Q. And was this on March 14th?
A. It was.
Q. Did you take any statements from any witnesses?
A. I did.
Q. And who did you take statements from?
A. I took one statement from Tanya Deane, one statement from Preston Kornahrens and one statement from Greg Rider.
Q. And did you learn that they all lived together? That was the wife and the child?
A. Yes.
Q. And did you give the eyewitness Greg Rider an opportunity to identify the suspect in a photo lineup?
A. Yes.
Q. I'm going to show you what's been already admitted into evidence as State's Exhibit Number 17. Do you recognize that?
A. Yes.
Q. How do you recognize that?
A. It has my handwriting on it, as shown by Detective Pam Nelson on 3/14 of '13, and I also advised Mr. Rider if he could identify (inaudible) and then date and circle the photograph.
Q. And did the eyewitness, Greg Rider, did he tell you he would be able to identify the person involved --

-

A. Yes.

Q. --- on that day? Did he say that he had a -- was it your understanding that he had a good view of the person involved?

A. Yes.

Q. And when you showed him that photo lineup, did you suggest any picture that he should select?

A. No.

Q. Did you in any way suggest who it should be?

A. No

Q. And did Greg Rider make a selection?

A. Yes, he did.

Q. And who did he select?

A. He selected number one which was Barry Stanley.

Q. And was he certain of that selection?

A. Yes.

Q. Did he indicate any doubt?

A. No.

Q. And again, who was the person he selected?

A. Barry Stanley.

MR. CONDON: No further questions.

THE COURT: Mr. Schwacke?

MR. SHWACKE: No questions, Your Honor, subject to our previous objection.

THE COURT: You may step down. You may stay with us but I think you are also free to leave. Call your next witness.

MR. PATTERSON: The State calls Lieutenant Fowler.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Michael Everett Fowler -- F-O-W-L-E-R.

MICHAEL EVERETT FOWLER, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Lieutenant Fowler, how are you doing today?

A. Yes, sir.

Q. Where do you currently work?

A. I'm employed by the City of Hanahan Police Department.

Q. And how long have you been with Hanahan?

A. Twenty-three years, seven months.

Q. And what's your current position with the police department?

A. I am the support services division commander.

Q. And what are your current duties?

A. My duties, I am responsible for records,

investigations, evidence, purchasing, fleet, budget preparation, media responsibilities. Basically I'm in charge of everything except (inaudible).

Q. And is it fair to say those were the same duties you had on March 11th, 2013?

A. Yes.

Q. I'm going to show you what has been marked for identification as State's 21.

MR. PATTERSON: Your Honor, may I approach?

THE COURT: You may.

Q. This is State's 21 marked for identification. Do you recognize that?

A. I do.

Q. How do you recognize that?

A. This is a bag we use to package evidence with our evidence ticket on it.

Q. And is your signature on that?

A. My signature? No.

Q. Is your handwriting on that?

A. Yes.

Q. Where did you obtain it from?

A. I obtained it from the temporary wall locker where evidence is placed.

Q. And is that a secure location?

A. It is.

Q. Do you have a key for that?
A. I do.
Q. And where did you take it?
A. When I remove the evidence from the temporary wall locker, I take it down to the property room and log it into the evidence room.
Q. Does it say when you retrieved it on there?
A. March 13th, 2013 at 4:20 in the afternoon.
Q. When you obtained it was it sealed?
A. It was.
Q. Did it appear to have been tampered with?
A. No.
Q. And what do you do with it once you get it into the evidence room?
A. When I take it down to the evidence room, I enter it into the evidence tracking software and it prints out a barcode label. I then put it in the appropriate bin relevant to where it needs to go for testing, or if it doesn't need testing I place it in the appropriate officer's evidence container.
Q. And does it remain in that room until it's transported for testing?
A. Yes.
Q. And is that a secure location?
A. It is.

MR. PATTERSON: Nothing further from the State at this time.

THE COURT: Mr. Schwacke?

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. Lieutenant Fowler, so could you explain this wall that you just mentioned?

A. Upstairs in the administrative section of the police department there are 13 temporary wall lockers that are keyed individually. The officer will take the evidence, place it in the wall locker, remove the key, drop that key into an old post office mailbox which is locked and I have the only key. I will then retrieve the key from the mailbox, remove the evidence from the wall locker and transport it down to the permanent property room.

Q. So in this case Officer Ellwood would be the one who presents it into the wall unit?

A. Yes, sir.

Q. And how do you know what time that happens?

A. It's written on the evidence ticket.

Q. And the evidence ticket is a handwritten document?

A. Yes, sir, it's the -- the sticker that's applied to the bag of evidence.

Q. So in this case it's attached to that bag?

A. Yes, sir.
Q. And is this -- which document are we talking about where he actually wrote on it? This orange sticker?
A. Yes, sir. Entered into evidence at 11:30.
Q. Got 11:30?
A. 10:30. 2230. 2230. 10:30.
Q. Okay. And then I have a document that was given to me like this. Is that ---
A. That's what put out by the evidence tracking software.
Q. The software you were talking about?
A. Yes, sir.
Q. And so in that instance it says seizing officer, John Ellwood. It says review officer, Travis Lanphere.
A. At the time Sergeant Lanphere was the one that was involved in the pursuit. I believe that he was going to be the case officer and ultimately it was decided by the Chief of Police that Officer Ellwood would handle the case.
Q. Okay. So then it says on location, it's got a date and a time.
A. Yes.
Q. What is that?
A. On location means it's in the property room.
Q. So that means you've taken the step to remove it

from the wall into the property room?

A. Yes, sir.

Q. And that has a time on it as well?

A. Yes, sir.

Q. That looks like, if I'm reading this right, it's on location on the 13th of March at 4:57 p.m.

A. (Inaudible)

Q. Then it has an entry that says sent to laboratory.

A. Yes.

Q. So tell me what the system is kicking out there.

A. Well, from the time I take it from the wall locker I don't always have the opportunity to immediately enter it into the evidence tracking software. I secure it in the property room, sometimes the wall locker in a more secure location, but because evidence is not the only responsibility I have, I don't always have time to sit down and immediately log it into the system.

Once I log it into the system that's the time stamp that shows on location and then when I released the evidence to Detective Durant to take it to the Charleston Police Lab that's where it's documented sent to laboratory.

Q. And that date and time was what?

A. It was sent to the laboratory on April 1st, 2013. It was logged out at 10:24 in the morning.

Q. And is there a log -- I guess, do you create a report when it's returned to the system?
A. It's logged back on location May 10th at 4:32 in the afternoon.
Q. You said May 10th?
A. Yes.
Q. At what time?
A. It says 4:32 in the afternoon is when I logged it back into the system.
Q. I'm going to show you again what's marked State's Exhibit 21 for identification. Is there another time that item gets checked out from Hanahan?
A. Yes, it was -- on April 1st it was given to Durant to take to the laboratory.
Q. That was in 2013.
A. 2013.
Q. At the 10:25 time?
A. Correct.
Q. After it's -- when does that indicate it was returned back to Hanahan?
A. The evidence ticket says 4/2 -- 4/2/14.
Q. So there's some activity with that on April the 2nd of 2014?
A. It appears to be, yes.
Q. Do you recognize the handwriting?

A. That is my handwriting.

Q. Does it indicate who it was checked out to and then does it show a return after that?

A. It was brought back into the evidence room 4/20/14.

Q. And that's got your signatures on it?

A. Yes, sir.

MR. SHWACKE: One moment, Your Honor. I think that's all the questions I have.

MR. PATTERSON: Nothing further from the State, Your Honor.

THE COURT: You may step down. Feel free to stay with us but you're also free to leave. Thank you. Call your next witness.

MR. PATTERSON: The State calls Lieutenant Turner.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Spell my last name?

THE CLERK: Uh-huh.

THE WITNESS: Dennis Ray Turner. Turner is T-U-R-N-E-R.

MR. PATTERSON: Court's indulgence.

THE COURT: Take your time.

DENNIS TURNER, after being duly sworn, testified

as follows:

DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Lieutenant Turner, how are you doing today?

A. Pretty good, sir.

Q. Where do you currently work?

A. The Hanahan Police Department.

Q. And how long have you been there?

A. Sixteen years this July.

Q. And what's your current position with Hanahan?

A. It's operations lieutenant which basically means I supervise all of the patrol, including patrol division, school resource officers, canine, traffic, and then I have some ancillary (inaudible).

Q. And what were your duties -- were those the same type of duties you would have had on March 13th, 2013?

A. Yes, sir.

Q. And how did you become involved in this case?

A. Basically Detective Durant had obtained a search warrant to process the vehicle that was involved in the chase and he asked for some help, so I went with him to help him process the car.

Q. What was the purpose of the search warrant, when you say process the car?

A. Basically to examine the car for any items inside

the car that would help lead to the identification of the driver. Also any forensic evidence that would be found in the car, such as latent fingerprints, DNA, those type of things.

Q. Lieutenant Turner, I'm going to show you what has already been admitted into evidence as State's 1, 2, 3 and 4. Do you recognize these?

A. Yes, sir.

Q. And how do you recognize them?

A. These are the photographs of the vehicle the search warrant was executed on.

Q. And is that a fair and accurate representation of what the vehicle looked like at that time?

A. Yes, sir.

Q. Did you process the car for fingerprints?

A. Yes, sir.

Q. Do you have experience lifting latent fingerprints?

A. Yes, sir.

Q. How many times roughly have you lifted fingerprints?

A. I couldn't even begin to count. It's a lot. In 16 years, a lot.

Q. And was anybody with you at the time you processed the car?

A. Yes, sir, Detective Durant was.

Q. Lieutenant Turner, I'm going to show you what has been marked for identification as State's 14.

MR. PATTERSON: Your Honor, may I approach?

THE COURT: You may.

Q. Please take a look at those.

THE COURT: What were the numbers, Mr. Patterson?

MR. PATTERSON: Numbers 14 and 15.

A. Yes, sir, I recognize them.

Q. And how do you recognize those?

A. These were the latent fingerprints that I recovered from the vehicle. My name is written on the back of the card which indicates who recovered the fingerprints.

Q. And those are the fingerprints -- that's the fingerprints you recovered?

A. Yes, sir.

MR. PATTERSON: Your Honor, at this time the State would ask to admit fingerprint -- State's 14 and 15 into evidence.

MR. SCHWACKE: Without objection.

THE COURT: State's 14 and 15 into evidence without objection.

MR. PATTERSON: Permission to publish?

THE COURT: You may.

Q. Lieutenant Turner, where did you obtain these particular fingerprints from?

A. The rearview mirror inside the car.

Q. Can you describe the method that you used to obtain these particular fingerprints?

A. What I did is first I put on rubber gloves before I open up the fingerprint powder for two reasons. One is to make sure I don't get it on my hands, because once it gets on your hands it gets all over, all over you, and then also not to contaminate (inaudible) I use. It's white powder. Essentially you take (inaudible) I use a brush that looks like a miniature feather duster. Put a little bit of powder on the brush and start lightly going over the surface or object that I want to obtain them, in this case the rearview mirror, and you'll see the latent fingerprint.

It'll start to appear and once you get it dark enough, the next thing I use is called lift tape. It's clear -- it's clear tape. Slowly put it over the fingerprint and once you -- once you're sure the air bubbles are out and the print's been attached to the tape, you slowly remove it and put it on what you just showed that's called a backing card. It's, like, a three by five index card. Just put it on there and then once it's on there, you turn the card over, fill

out the date and a small sketch of it and other information asked for on the back of the card.

Q. Once you obtained the fingerprints, what did you do with them?

A. I gave them to Detective Durant.

Q. And before turning them over to Detective Durant, were the fingerprints ever out of your custody?

A. No, they were with me until I gave them to him.

Q. During the vehicle search did you make note of the position of the driver's seat?

A. Yes, sir.

Q. And what was significant about that?

A. I based it off of the -- I'm roughly five-nine, at the time 230 pounds, and I could easily sit in the driver's seat and I could -- if I had to, I could have driven the car without any issue, without having to move the seat backward or forward.

Q. And why did you think that was important to note?

A. Well, because I know they had earlier identified a suspect that was real short, I think, five feet, five foot two, somewhere around there, and so I noticed right away that the position of the seat, someone that tall wouldn't be able to reach the pedals. Based on the height ---

Q. This short guy you're talking about, who is that?

A. I believe his last name might have been Mr. Watson.

Q. And so he's the short guy you're talking about?

A. Yes, sir, I think that was his name.

Q. The position of the seat in the car wouldn't have matched somebody that short?

A. No, but I -- like I said, my height and weight, I could have without a problem.

Q. And is your height and weight closer to that of the Defendant's?

A. Yes, sir.

MR. PATTERSON: Nothing further, Your Honor.

THE COURT: Mr. Schwacke?

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. You weren't involved in the chase?

A. No, sir.

Q. So you have no idea if that seat got moved back?

A. No, sir.

MR. SHWACKE: That's all the questions I have.

MR. PATTERSON: Nothing further from the State.

THE COURT: You may step down. Feel free to stay with us but you're also free to leave. Thank you. Call your next witness.

MR. CONDON: The State calls Detective Fred

Durant.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record

THE WITNESS: My name is Frederick Joseph Durant. My last name is spelled D-U-R-A-N-T.

FREDERICK JOSEPH DURANT, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CONDON:

Q. Good morning, detective. Who are you employed by?

A. Hanahan Police Department.

Q. And what is your job title with Hanahan?

A. Detective.

Q. And what are some of your job duties as detective?

A. I investigate property crimes. Also along with Sergeant Brooks and Detective Camp, we will take latent prints, firearms and drugs from the evidence room.

Q. And were you involved in an incident regarding the Defendant Barry Stanley on March 11, 2013?

A. I was.

Q. And did you join a pursuit in progress?

A. I did.

Q. And can you explain to the jury what happened?

A. On March 11 I was actually on my way home when I

heard a call being transmitted over the radio. The vehicle chase was actually coming towards my direction. I was on Railroad Avenue and the chase was actually coming up Murray Drive going towards Hanahan Road into North Charleston.

As I turned my vehicle around and approached the intersection at Railroad and Murray Drive, the chase had already passed me, but as I reached that intersection, Lieutenant Fowler passed me. His blue lights were on, siren, and I joined in behind him. We traveled on Rivers Avenue, made our way onto Interstate 26 and the vehicle chase ended on Maple Street.

While I was traveling -- while I was en route to that direction, they gave a description of the guy. They said it was a black male, stocky build. They said he could possibly be hiding under a house. Once I arrived at Maple Street, it was directly in front of [redacted] but I patrolled the area. A perimeter was set up. I patrolled surrounding streets. I met with witnesses and neighbors.

I also met with the homeowner at 56 Maple Street. There was a little bit of resistance at first, but eventually he gave me consent to search his home. Sergeant Lanphere and I went inside and we searched -- searched the area. He wasn't located. We also

searched the garage area and the back of the house and he wasn't located there as well. We searched under the house and he wasn't there. Shortly after Lieutenant Fowler called the chase and after that the vehicle was secured. The vehicle was secured. I looked at the vehicle a little bit before -- you know, before it was actually towed from the scene.

From what I observed, I saw some prints that were clearly visible. It was real -- a lot of people were out there, a lot of neighbors, witnesses. The media was out there. I suggested that the vehicle be secured and be towed to a secured location so it could be processed.

Q. And was the vehicle secured?

A. Yes, it was in a vehicle (inaudible).

Q. All right. So y'all weren't able to locate the Defendant driving the vehicle at that time?

A. We did not.

Q. And did you along with Officer Turner, did y'all attempt to lift any prints from the car?

A. After a search warrant was obtained, yes.

Q. I'm going to show you what's been marked as State's Exhibit 14 and 15. It's already been entered into evidence. Do you recognize that?

A. I do.

Q. And are those the fingerprints that were lifted from the car that day?

A. Yes.

Q. And once they were lifted, did you do anything with the prints?

A. After the prints were lifted, I took them over to North Charleston where we get our AFIS examination done. I met with Sergeant White and I gave him the prints for his examination.

Q. And can you describe where those prints were lifted from?

A. The exact location, I'm not sure. It was -- Lieutenant Turner was actually lifting the prints from the vehicle. While he was lifting the prints, I was searching the car. From what I observed, the front portion was actually processed for latent prints between the driver and the passenger seat, the driver's side window, the side mirror, the rearview mirror. I know he took (inaudible) the dash. That was processed.

We looked in the dash -- the dash compartment in the car. It was mainly the front portion of the vehicle that was being processed and obviously I was in the back to see whatever could be located in the back of the vehicle.

Q. You stated that y'all obtained a search warrant

for the vehicle. What was the results of your search warrant?

A. Photographs were taken, latent prints were lifted. I also took a matchbook, two condoms and some paperwork, some documentation.

Q. And what was your involvement in the photo lineup?

A. I contacted Charleston County and I requested a photo lineup from Mr. Allen. They provided that photo lineup and I got it to Sergeant Nelson.

Q. I'm going to show you what's been entered into evidence as State's Exhibit 17. Was that the photo lineup that you were provided?

A. Yes.

Q. I'm going to show you State's Exhibit 21. Do you recognize that?

A. I do.

Q. Is that the bag of crack cocaine that was taken from the crime scene?

A. Yes.

Q. And can you briefly describe how evidence is stored at the City of Hanahan Police Department?

A. Once an officer collects evidence, they put it in an evidence locker. It's locked with a key. The key is then placed in a lock box. Only certain personnel at Hanahan has access to it. That would be the chief,

Lieutenant Turner and Lieutenant Fowler. They have access to that lock box. Lieutenant Fowler will take the evidence from -- he'll go in that lock box. He'll take the evidence out and he'll take it to the evidence room.

After it's stored he collects all the -- he inputs into the evidence computer. He'll then release it to me or one of the other detectives and we'll take it to wherever it needs to go to. In this case I took it to -- I took it to the Charleston City Police at MUSC where they have a lab there and they tested it -- tested the drugs.

Q. So you took that bag of drugs from the Hanahan locker room and took it to the Charleston Crime Lab? Is that what your testimony is?

A. Yes.

Q. And after the testing was complete, did you pick up the bag from the Charleston crime lab?

A. I did.

Q. And what did you do with it?

A. I brought it back to Hanahan Police Department and secured it back in the evidence locker.

Q. And did you take the bag of drugs from evidence to Dean Kokinda of the Berkeley County Sheriff's Office?

A. I did.

Q. And what was the purpose of that?
A. Process for latent prints on the bag.
Q. Do you recall what day that was?
A. I believe it was April 2nd, 2014.
Q. At any point did you pick up the bag from Dean Kokinda and then return it to evidence at the Hanahan Police Department?
A. I did.
Q. Did you bring the drugs to Court today?
A. I did.

MR. CONDON: No further questions.

THE COURT: Mr. Schwacke?

MR. SHWACKE: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. Detective Durant, do you know the date that you executed the search warrant on the vehicle?
A. March 13, 2013.
Q. And the purpose of that search warrant was to obtain evidence in this case?
A. Yes.
Q. That would include fingerprints.
A. Yes.
Q. Because you know they're important in a case to make an identification.

A. Yes.
Q. That was done back on March 13th, 2013?
A. Right.
Q. And I think you gave an item -- or listed the items that you obtained from that search warrant that you felt were relevant to this case.
A. Right.
Q. And the fingerprints aside, the items that were actually seized as a part of that included a matchbox, miscellaneous papers and two condoms?
A. Yes, sir.
Q. And those were the only items that you felt relevant to this case?
A. Those were the items that I took from the vehicle.
Q. Correct.
A. Yes.
Q. And you would have taken any other items that were important to a drug case.
A. Those were the only items that I thought were relevant at the time.
Q. Right. So no Baggies?
A. I did not take any Baggies from the vehicle.
Q. No scales?
A. No.
Q. Nothing that would be used to consume drugs?

A. No, didn't take that.
Q. Didn't see it.
A. The only thing I took from the vehicle was documents, a matchbook and two condoms.
Q. So if it was important, it was taken. You had all the time in the world to go through the car and nothing that was drug-related, Baggies, scales.
A. If I observed a scale ---
Q. Grinders.
A. If I observed it I would have probably taken it.
Q. None of those things were taken?
A. No, sir.
Q. And then you indicated that you later delivered the bag that contains the crack cocaine to whom?
A. Charleston City Police. They have a lab at MUSC Hospital.
Q. That was for the analysis?
A. Yes.
Q. More recently you have taken that item to the Berkeley County Sheriff's Office?
A. Yes.
Q. And that was done when?
A. That was done April 2nd.
Q. Just last week?
A. Yes, sir.

MR. SHWACKE: One moment, Your Honor.

THE COURT: Take your time.

MR. SHWACKE: Thank you. That's all the questions I have.

MR. CONDON: One quick question.

REDIRECT EXAMINATION

BY MR. CONDON:

Q. Just to clarify, that long list of items that Mr. Schwacke described, the grinder and all those drug items, you did not see that in the vehicle?

A. If it was in the vehicle it would have been taken. I didn't take a grinder or a scale or any of those items.

MR. CONDON: No further questions.

MR. SHWACKE: Nothing further.

THE COURT: You may step down. Feel free to stay with us but you're also free to leave. Thank you. This is a good time for a midmorning break. Do not begin your deliberations. Do not discuss this case amongst yourselves. Please rise for the jury.

(Whereupon, the jury exited the courtroom at 10:27 a.m.)

(Off the record)

THE COURT: Anything before we bring in the jury?

MR. SHWACKE: No, Your Honor.

THE COURT: Mr. Patterson?

MR. PATTERSON: Nothing from the State, Your Honor.

THE COURT: Let's bring them in. How many more witnesses do you have, Mr. Patterson?

MR. PATTERSON: Seven.

THE COURT: Who is your next witness?

MR. PATTERSON: The State calls Susan Payne.

(Whereupon, the jury came into open court at 10:59 a.m.)

THE COURT: Thank you. Please be seated. Call your next witness.

MR. PATTERSON: The State calls Susan Payne.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Susan Payne -- P-A-Y-N-E.

SUSAN PAYNE, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Hi, Ms. Payne. How are you doing this morning?

A. Good. How are you?

Q. Good. Where are you currently employed?

A. I work for the City of Charleston Police

Department.

Q. And how long have you been employed by Charleston?

A. About nine years.

Q. And what's your current job title?

A. I'm currently (inaudible) administrator and I'm the technician for the forensic services division.

Q. And what are your typical duties?

A. I pick up evidence from the station. I receive evidence from outside agencies or it comes in our lab. And I'm also responsible for (inaudible).

Q. I'm going to show you what has been marked as State's Exhibit 21. Do you recognize that?

A. Yes, sir.

Q. How do you recognize that?

A. (Inaudible)

Q. And when did you receive it?

A. I received it on April 1st of 2013 at 11:20.

Q. And who did you receive it from?

A. Officer Frederick Durant.

Q. And was the exhibit sealed when you received it?

A. Yes, sir.

Q. Did it appear to have been tampered with?

A. No, sir.

Q. What did you do with it once you received it?

A. I entered it into our database once it was

received and placed it in our safe.

Q. And how secure is that location?

A. It's secure. The lock (inaudible).

Q. And is that where the exhibit remained until it was tested?

A. Yes

Q. Let me show you the chain of custody report that I believe your office produced. It says there's a exhibit -- evidence package and then an item one. What do those two things describe? What is the evidence package?

A. The evidence package (inaudible). The item is the actual drugs inside the package.

Q. So evidence package just describes the outside.

A. Yeah, that I'm touching right now.

Q. And item one describes ---

A. The -- what's inside the package.

MR. PATTERSON: Thank you, Ms. Payne. Please answer any questions Mr. Schwacke has.

MR. SHWACKE: No questions.

THE COURT: You may step down. Call your next witness.

MR. PATTERSON: The State calls Ashley Earl.

(Witness sworn)

THE CLERK: Please be seated, state your full name

and spell your last name for the record.

THE WITNESS: Ashley Carr Earl -- E-A-R-L.

ASHLEY EARL, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Hi, Ms. Earl. How are you doing this morning?

A. I'm good. How are you?

Q. Doing well. Ms. Earl, where are you currently employed?

A. The City of Charleston Police Department.

Q. And how long have you been employed with the police department?

A. I've been there since November 2012.

Q. And what's your current job title?

A. Associate crime analyst.

Q. And what's your educational background?

A. I have a B.S. in Biology from Winthrop University.

Q. And what are your duties now currently?

A. Now, I am (inaudible) and I also perform quality checks (inaudible).

Q. Was that the same type of position you were in back on April 2nd, 2013.

A. I was a trainee then. I was training to become (inaudible).

Q. At this time I'm going to show you what has been marked for identification as State's Exhibit 21. Do you recognize that?
A. Yes.
Q. How do you recognize that?
A. It's the case that I performed under observation.
Q. And when did you receive that exhibit?
A. On April 2nd, 2013, and I received it from Renee at 1:20.
Q. And was the exhibit sealed when you received it?
A. Yes.
Q. Did it appear to have been tampered with?
A. No.
Q. And what did you do with it once you received it?
A. I -- I opened it up and performed case work under observation of Renee.
Q. And so everything you did was observed by your supervisor?
A. Yes.
Q. What did you do with the evidence when you were finished with it?
A. It put it back into the original container and resealed it.
Q. Did you hand it back to Renee?
A. Yes, then it was transferred back to Renee.

MR. PATTERSON: Thank you, Ms. Earl. Please answer any questions Mr. Schwacke might have.

THE COURT: Mr. Schwacke?

MR. SHWACKE: No questions.

THE COURT: You may step down. Call your next witness.

MR. PATTERSON: The State calls Renee Hilton.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: I'm Renee Hilton -- H-I-L-T-O-N.

THE COURT: Mr. Patterson?

RENEE HILTON, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Hi, Ms. Hilton. How are you doing?

A. Good. How are you?

Q. Doing well. Ms. Hilton, where are you currently employed?

A. The City of Charleston Police Department.

Q. And how long have you been employed by the police department?

A. Just over three years.

Q. And what is your current job title?

A. I'm the laboratory manager.
Q. And what are your typical duties?
A. I oversee the daily workings of the lab, to include looking after personnel as well as (inaudible) analysis and controlled substance analysis.
Q. So you actually perform controlled substance analysis?
A. Yes.
Q. What type of academic background qualifies you for this position?
A. I have a Bachelor's in Chemistry from the University of South Carolina.
Q. And what types of specific training have you received in the area of drug recognition and analysis?
A. I completed the City of Charleston's in-house training program, as well as completed several online courses and in-person drug analysis courses.
Q. And as part of your job do you continue to attend training in your field to keep up with recent advances and technology?
A. When there's funding, yes. When we don't have the money we read articles, peer articles, journal articles that, kind of, keep us up to date with the newer technology that's coming up.
Q. Are you a member of any professional

organizations?

A. Yes.

Q. What are those?

A. I am a member of CLIC which is the Clandestine Investigating Lab Chemists (sic). It's an online forum that will discuss cases back and forth and drugs.

Q. And in your current position, how many times a week do you analyze substances to determine whether or not the substance is or contains a controlled substance?

A. Probably between 30 and 40 times a week.

Q. And how many times in a given week do you analyze cocaine base, otherwise known as crack cocaine?

A. Probably between 10 to 15.

Q. Have you ever been qualified as an expert in this field in court before?

A. Yes.

Q. How many times?

A. Thirty.

MR. PATTERSON: Your Honor, at this time the State moves that Ms. Hilton be qualified as an expert in the field of chemistry and analysis of controlled substances.

MR. SHWACKE: No objection.

THE COURT: Mr. Schwacke?

MR. SHWACKE: No objection.

THE COURT: Ladies and gentlemen, when a person testifies he must testify as to either what he heard or saw or smelled or something of that nature. There is an exception in that if someone is qualified because of their education and experience, they are permitted to give their opinion in certain areas if the Court qualifies them as an expert.

This witness will be qualified in the area of chemistry and analysis of controlled substances to give opinion testimony in those areas. That does not mean that you must accept the opinion. It is simply evidence for you to use in any way you choose. Mr. Patterson?

MR. PATTERSON: Thank you, Your Honor.

Q. Ms. Hilton, I'm going to show you what has been marked for identification as State's Exhibit 21. Do you recognize this?

A. Yes.

Q. How do you recognize that?

A. There is a sticker on it with my initials as well as a seal that has my initials on it

Q. And do you remember when you first received this exhibit?

A. April 2nd of 2013.

Q. And where did you receive it from?
A. I removed it from our laboratory safe.
Q. And how does that process work?
A. Our evidence technician would receive the evidence from whoever is submitting it and she would verify it and record it in our electronic system and then put it in the safe, which I then removed when I was ready for it.
Q. And was the exhibit sealed when you received it?
A. Yes.
Q. Did it appear to have been tampered with?
A. No.
Q. Did you have anybody training under you at the time?
A. I did.
Q. Who was that?
A. Ashley Earl.
Q. And how did she assist you in this process?
A. She did the analysis while I watched her and verified that everything that she did was correct and what I would have done myself.
Q. Do you wear gloves while handling the evidence?
A. No.
Q. How was the substance weighed?
A. I -- a weigh boat was put on our balance and

tared, and then the substance was removed from the packaging and put in the weigh boat and recorded the weight on our balance.

Q. And do you recall what the weight of this substance was?

A. 28.84 grams.

Q. What did you do next after weighing it?

A. The next thing we probably would have performed a wet color test.

Q. What is that?

A. It is a liquid that we put on the substance and depending on the reaction, usually a color reaction, we can kind of get a presumptive indication of what the substance might be.

Q. Did you prepare a drug report ---

A. Yes.

Q. --- in this case? It looks like there were some other tests performed. What are those? Can you explain those to the jury?

A. The other testing was FTIR which is Fourier transform infrared spectroscopy. That -- the substance was placed on a -- just a contraption that shoots a laser at it and depending on how the compounds and molecule within that substance react, it'll give me what we call a fingerprint and it's data that I look at

and determine by that fingerprint what the substance could be. And then following that a GCMS analysis, which is gas chromatogram mass spectrometry, was performed, which then the substance was put in a solvent and put on an instrument and depending on the data from that, I was able to determine what the substance is as well as all the other data with the FTIR and the color test.

Q. And from these tests were you able to form an expert opinion as to what the substance marked as State's Exhibit 21 is?

A. Yes.

Q. And what was that?

A. Cocaine base.

Q. And is cocaine base a controlled substance in South Carolina?

A. Yes.

MR. PATTERSON: Your Honor, at this time the State would ask that State's Exhibit 21 be admitted into evidence.

THE COURT: Any objection?

MR. SHWACKE: No objection.

THE COURT: State's 21 into evidence without objection.

MR. PATTERSON: Permission to publish?

THE COURT: You may.

MR. PATTERSON: I believe that's all the State has, Ms. Hilton. Please answer any questions Mr. Schwacke might have.

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. Good morning.

A. Good morning.

Q. You've been with the city lab for three years?

A. Yes, sir.

Q. And how long has the City of Charleston been operating a lab?

A. I believe since the '80s.

Q. And so I'm guessing you're in charge of it now. Someone was there before you?

A. Yes, sir.

Q. So in terms of in-house training, you at some point were trained by someone other than yourself?

A. Yes, sir.

Q. And looks like y'all are in the process now of having Ashley Earl also qualified to be able to do this type of work without supervision?

A. Currently she is now but at the time that this case happened, she was training under me.

Q. So with this particular item, State's Exhibit

Number 21, there weren't two sets of tests done on it; she did it; you observed it.

A. Yes.

Q. And you didn't then go back and just do your own process?

A. No, I just -- I looked over what she -- she had done as well as watching her perform the color test and looking at all of the data that she performed.

Q. Do you ever just stop at one test or do you do all three?

A. It -- it honestly depends on the quality that we get from the results. We are required to do multiple tests. We require two confirmatory tests to actually call something something.

Q. Exactly what is a confirmatory test?

A. SWGDRUG is ---

Q. Say that again. I'm sorry.

A. SWGDRUG -- S-W-G-D-R-U-G.

Q. S-W-G ---

A. D-R-U-G.

Q. --- D-R-U-G. Is that a ---

A. It's a -- it's hard to -- kind of our guidelines that we go by, and within those it says that the best way to confirm something as controlled is to perform multiple tests, two of which are confirmatory so

there's two -- instead of it being presumptive when you're not fully sure of what the answer is, the confirmatory have data that really supports my conclusion.

Q. Is SWGDRUG like an accrediting agency?

A. No, it's not an accrediting agency. We are accredited by ASCLD Lab.

Q. By?

A. ASCLD lab.

Q. I'm sorry. Can you spell that one for me?

A. A-S-C-L-A-B (sic).

Q. A-D.

A. A-B.

Q. A-B

A. Yeah

Q. Lab. Okay. ASC Lab (sic). And they're a national organization?

A. Yes.

Q. And how long has the City of Charleston lab been accredited?

A. Since 1998, I believe.

Q. And are there particular things that are required of the Charleston lab to maintain its accreditation?

A. Yes.

Q. Like what, for instance?

A. We have to keep quality records to make sure that our instruments are writing properly. Tests are done even before they're put into use. If they don't pass the required control or the quality control that we set to it, we can't use that instrument until we figure out what's wrong with it, and then perform the correct quality control test to make sure that it's properly running.

Q. So does ASC lab also make recommendations to you if you have outdated equipment that you need to update?

A. They could but normally they won't. Unless the instruments are not performing properly, then there would be no reason for them to tell us to not use those items.

Q. Who determines that the instruments are being done?

A. The instruments have, like, a set of -- I guess in the instructions, like, what should be performed and what -- how it should work and be maintained, but we set the guidelines in our policies and procedures that if an instrument doesn't meet a certain guideline, that we can't use it.

Q. And so the tests in this instance included the color test?

A. Uh-huh.

Q. And then the FTIR and then the GC/MS?
A. Uh-huh.
Q. And I was trying to keep up but I think I fell behind, so on the color test what exactly is involved in that?
A. It's a wet color test, so it's a chemical that we'll put on the substance and depending on how it reacts, it can give us a presumptive indication of what the substance could be.
Q. Could be?
A. Yes.
Q. You would not rely on that test alone?
A. Right. It's not one of my -- not in this particular case.
Q. Okay. Why not in this particular case?
A. With the FTIR we have in our policies we have to have high enough quality match when it's compared to a standard to be able to call it cocaine base, and in this particular instance the FTIR match was not -- it was an 88 percent quality match, not -- and we require 90 percent and so then I had to go further with the GCMS.
Q. So when you say 88 percent quality, the item has got 12 percent filler or what are we talking about?
A. Right. It could -- it could have -- it could have

filler in it. It could -- the match with our standard that we had already ran that we knew was cocaine base, the percentage and the fingerprint that was matched to it was not 100 percent and that could be due to fillers or just other additives that were added into it. I'm not 100 percent sure.

Q. So again, color test is a wet chemical looking for a reaction. What is the most common test?

A. With -- we use cobalt glass and stainless chloride and with those reaction -- with the cobalt it'll turn blue and then when you add the stainless chloride, it'll precipitate out so it'll, kind of, separate and by that reaction we could tell that it was probably cocaine base, but we require further testing.

Q. And then the FTIR?

A. That was our next test that we put -- you put the substance in a -- it's a diamond ATR but it's just a section on the instrument that shoots a laser at the substance and depending on how the laser hit it and the molecules, kind of, fell back down because they'll get excited by the laser and then they'll fall down and form a fingerprint, is what we kind of call it. So there will be peaks and peak labeling with numbers and that has to match one of our standards.

Q. So is that involving microscopy or how are you

seeing these things happen?
A. It prints out on a computer. The data prints out on a computer and then that's where we compare it to a known standard.
Q. Okay. And then the GC/MS. You said that was a solvent?
A. Right. You put the substance in a solvent and then it's injected on an instrument and through the process within the instrument the sample -- another -- another piece of data is shown on a computer which is then compared to reference materials in libraries and standards to confirm that the substance is within what we are (inaudible).
Q. You've heard of field tests. Is that a -- is that a color test? What is that?
A. Yes. Field tests are color tests.
Q. And you said that's, kind of, the least -- I don't want to put words in your mouth but out of the three tests, that's the one that you would have the least confidence in giving you a fully accurate answer?
A. Right.
Q. So a positive field test doesn't indicate really anything in your professional opinion as -- other than something that might need further tests?
A. Right.

Q. Again, on the FTIR test it came out as 88 percent -- I don't want to say purity but ---

A. It matched 80 percent to my known standard.

MR. SCHWACKE: Just a moment.

THE COURT: Take your time.

MR. SCHWACKE: Thank you. That's all the questions I have.

REDIRECT EXAMINATION

BY MR. PATTERSON:

Q. There was another test performed after that test, the 80 percent one, and at that point what percentage did you get to, like, for certainty according to your --

A. The quality match on it had a 99 percent quality match for the cocaine base.

MR. PATTERSON: Thank you. No further questions.

MR. SHWACKE: No other questions.

THE COURT: You may step down. Call your next witness.

MR. PATTERSON: At this time I believe we might have some matters to take up outside the ---

(Whereupon, a bench conference was held off the record in the presence of the jury, but out of the hearing of the jury.)

THE COURT: Call your next witness. Pursuant, and

just for the record, Mr. Schwacke, I did allow you to articulate all this outside the presence of the jury.

MR. SHWACKE: Thank you, Your Honor.

THE COURT: Note your objection to this witness. Mr. Patterson?

MR. PATTERSON: The State calls Officer Norton.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: My name is Michael P. Norton -- N-O-R-T-O-N.

THE COURT: Mr. Patterson?

MR. PATTERSON: Thank you, Your Honor.

MICHAEL P. NORTON, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Officer Norton, how are you doing today?

A. Pretty good, sir. Yourself?

Q. Doing well. Officer Norton, where do you currently work?

A. At the Hanahan Police Department, currently assigned to Charleston County metro narcotics unit.

Q. And how long have you been with Hanahan?

A. I've been with Hanahan a little over two years.

Q. And did you work anywhere in law enforcement prior to that?

A. Yes, I worked at (inaudible) Police Department up in Maine and after that (inaudible) police department.

Q. And what was the total of that law enforcement experience?

A. I spent four years up in Maine and about a year in (inaudible).

Q. And you talked about being part of the narcotics unit with Charleston County Metro. How long have you been with the narcotics unit?

A. About nine months.

Q. And what's your educational background?

A. I have a high school diploma and college background.

Q. Where did you get your college degree?

A. (Inaudible)

Q. And in addition to the criminal justice academy, have you attended any additional narcotics training?

A. I have, sir.

Q. And tell me a little bit about that.

A. I've done some occasional classes and went to a school in Georgia for undercover narcotics work.

Q. And prior to joining narcotics about how many drug arrests in your career have you made?

A. Probably about 50.

Q. And since joining narcotics how many drug investigations have you been a part of?

A. At least 30.

Q. And have you had the opportunity to work with confidential informants?

A. I have, sir.

Q. Have you had the opportunity to talk with drug users?

A. Yes.

Q. How about the opportunity to interview or talk with drug dealers?

A. Yes, sir.

MR. PATTERSON: Your Honor, at this time the State would ask that Officer Norton be qualified as an expert in narcotics and narcotic recognition.

MR. SHWACKE: Objection. May we approach?

THE COURT: You may.

(Whereupon, a bench conference was held off the record in the presence of the jury, but out of the hearing of the jury.)

THE COURT: Your objection is sustained. Please continue.

MR. SHWACKE: Thank you, Your Honor.

THE COURT: Thank you.

Q. Officer Norton, based on your training and experience, can you give me an idea of how crack cocaine is made?

A. It can be made numerous ways. One of the more common ways I've seen in my experience is in the microwave. It's one of the easier ways. Usually in a microwave-safe dish with some water, some powdered cocaine and usually a base baking soda and then cook it in the microwave.

MR. PATTERSON: Thank you, Officer Norton. Please answer any questions Mr. Schwacke might have.

THE COURT: Mr. Schwacke?

MR. SHWACKE: No questions.

THE COURT: You may step down. Feel free to stay with us, but I think you're free to leave. Thank you. Mr. Patterson?

MR. PATTERSON: The State calls Lieutenant Dean Kokinda.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Dean Robert Kokinda. Spelling of the last name -- K-O-K-I-N-D-A.

THE COURT: Mr. Patterson?

DEAN KOKINDA, after being duly sworn, testified as

follows:

DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Lieutenant Kokinda, how are you doing this morning?

A. Fine.

Q. Lieutenant Kokinda, where do you currently work?

A. I'm with the Berkeley County Sheriff's Office.

Q. And how long have you been employed with the Berkeley County Sheriff's Office?

A. Almost 25 years.

Q. And what's your current job title?

A. I'm a lieutenant over the forensic services division.

Q. And what are your current duties?

A. I process crime scenes as directed, keep the evidence inventory, fingerprint analysis and drug analysis.

Q. How long have you been working at fingerprint analysis?

A. Since 1993.

Q. And what specialized education and training have you received to become a fingerprint examiner?

A. I've had basic fingerprinting with the Federal Bureau of Investigation; latent fingerprint with the

Federal Bureau of Investigation; and a forensic ridgeology course (inaudible) the Royal Canadian Mounted Police.

Q. And approximately how many fingerprints have you examined?

A. Thousands. I usually have 300 examinations a month.

Q. And are you a member of any professional organizations?

A. The International Association for Identification. I've held vice president, president, chairman of the board of that organization.

Q. And have you received any certifications in the field of fingerprints?

A. No. The certification is going through the International Association for Identification. I haven't done that.

Q. Have you attended any continuing education classes in the field of fingerprints?

A. Numerous, usually through the International Association for Identification.

Q. And what type of technical equipment is available for you to use for this type of fingerprint analysis?

A. You use a magnifying glass and (inaudible). I use a scan -- I use the computer where I scan in the latent

fingerprint and known fingerprint and magnify it where I can see it and also mark it.

Q. Have you had the occasion to identify persons by comparing latent fingerprints and/or palm prints with their own inked fingerprints or palm prints?

A. Yes, I have numerous times.

Q. And roughly how many would you say, over the course of your career?

A. Thousands.

Q. Have you had occasion to testify as an expert in court regarding identifications of persons based on fingerprint and palm print comparison?

A. Numerous times in this court and once in federal court.

MR. PATTERSON: Your Honor, at this time the State would ask that Lieutenant Kokinda be qualified as an expert in the field of fingerprint analysis.

MR. SHWACKE: Without objection.

THE COURT: He will be so qualified.

Q. Lieutenant Kokinda, can you explain for me what an inked print is?

A. Sure. An inked fingerprint is what we call a known standard and it's just the images on a template card using the first joint to the tip rolled in a controlled fashion, trying to get as much of the ridge

detail as possible.

Q. And what exactly is a latent print?

A. Latent print is an image that's left behind from these ridges that are on your -- the bottom of your hands and also on the bottom of your feet. Those ridges contain pores which is in sweat and when you touch something it's a lot like a rubber stamp. You put a rubber stamp in an ink pad and you stamp it and you've got your image. Fingerprints are the same way. You've got images of these ridges left behind on the surface. Latent fingerprints, latent means invisible and they're usually not seen unless you enhance them with anything like a powder or a chemical.

Q. And what's the different between a latent and a patent print?

A. Again, a latent fingerprint is invisible. You don't see it until you enhance it. Patent is a visible print where you have a contaminant on the ridges, like paint or blood. You've got a visible print.

Q. And are there different distinguishing characteristics of a fingerprint?

A. Well, within the ridges you've got three levels of detail. The first level of detail is the ridge flow or the pattern on the print and those patterns are classified into four kinds of patterns, or three

general patterns, arches, loops and whorls, and within those arches, loops and whorls you have a set of classifications. The second level of detail is your ridge pattern, so that's the actual path of each ridge and that's where the identification starts. Within that path that ridge might flow, it might stop, it might split, so the ridge flow -- we can eliminate people but we can't identify. The ridge path, we can start the identification process. The third level of detail is ridge shape and that's because these ridges are pores and they're drawn out of the skin and fused together. This is not a straight line. You know, they're narrow at some places and wide in other places so a lot of that depends on the clarity of the latent fingerprint.

Q. And how is it possible for people to leave fingerprints?

A. Again, you know, you've got these ridges and they do sweat, so when you touch something you're leaving residue on it, and with a latent fingerprint there's a lot of different environmental factors, surface factors, and just the mechanics of actually grabbing something. I can grab a door knob, I've left my finger on there. When I turn that door knob my wrist turns so now instead of just having a slight impression, I've

twisted it and a lot of times that ruins it for the identification process.

Q. What types of surfaces are conducive for fingerprint examination? I'll get back to that. What kinds of surfaces are conducive to leaving fingerprints?

A. Well, you can leave a fingerprint pretty much on most surfaces except water. Some surfaces are more conducive. Smooth, non-porous surfaces leave a really good fingerprint. Paper is very good because the oil is actually absorbed into the paper and then the environmental factors don't affect it as much, so your fingerprint will last longer on paper. The rougher the surface the less likely you're going to be able to make identification, because you're dealing with these small ridges that are within your finger and if the surface is uneven then you're missing areas that could be points of identification.

Q. So are some surfaces not conducive to leaving fingerprints?

A. Some are better than others. That's, I guess, the best answer to that.

Q. It's possible for a person to touch a surface and not leave a fingerprint?

A. Identifiable fingerprint, yeah, and that's, kind

of, the common miscommunication that people have with fingerprints. We say on a report, you know, no fingerprints were found. Well, it's not true that no fingerprints were found. It's that the fingerprints that were there weren't identifiable. I sit at this witness stand right here. I may not have touched anything but if I touch something, I may leave an identifiable fingerprint behind or I may just leave a smudge that I know somebody touched there, but it's not identifiable.

Q. And how are fingerprints -- I believe you already discussed this a little bit, but what are the ways you compare and identify the fingerprints? Is that going back to the whorls? How does that work?

A. It goes into the three levels of detail. You have a latent fingerprint or an unknown fingerprint side by side with your known standard. You start at that first level of detail, the ridge flow. You know, do these rides, kind of, flow the same way between the latent and the known? Once you have, you know, flow between the two that are the same, then you start going to the next level, ridge pattern, and you will actually follow each individual ridge between the latent and the known and make sure that each individual ridge ending or verification between the known and the unknown

correspond to each other and are in agreement, not only in the general area but between the ridges.

Q. And are fingerprints and palm prints specific to each individual?

A. The individual -- nobody has the same fingerprints, even identical twins who will share the same DNA. Their fingerprints will be different.

Q. So it's not possible for two people to have the same fingerprint?

A. It hasn't been found so far.

Q. I'm going to show you what has been admitted into evidence as State's Exhibit 21. Do you recognize that?

A. Yes, I do

Q. How do you recognize that?

A. Last Thursday Detective Durant from the Hanahan Police Department brought this to me to process for latent fingerprints.

Q. And what time was that?

A. It was in the afternoon.

Q. And do you remember what date last Thursday was?

A. The 3rd.

Q. Lieutenant Kokinda, did you prepare a report for this examination?

A. Yes, I did.

Q. What is the date on there?

A. Actually it's April the 2nd. I apologize.
Q. Was it sealed when you received it?
A. Yes, it was. I broke the seal and then when I got done processing it, I resealed it and initialed it.
Q. And did you examine the exhibit for latent or patent prints?
A. Yes, I processed it using cyanoacrylate which is Super Glue fumes.
Q. And how does that work?
A. What you take is it's a -- it's Super Glue but it's a little thinner Super Glue. We heat it to actually go from a liquid state to a gaseous state in a closed environment and the idea behind it is the fumes will stick to any residue stuck on the object that we're trying to process.
Q. And what were the results of your examination?
A. Some ridge detail was developed on the plastic bag that contained the white powder substance, or white rock substance, but the detail wasn't sufficient enough to make an identification.
Q. So you weren't able to identify any latent or patent fingerprints for comparison?
A. That's correct.
Q. What can affect -- again, I think you went into this a little bit, but what could have affected the

ability to obtain fingerprints on this particular item?
A. There are a lot of different variables, especially with latent fingerprints. You've got the type of surface, smooth, non-porous surfaces leave very good fingerprints behind. Flexible surfaces, you know, tend not to because in the grabbing of it, it's moving around. You know, your finger itself is pliable so any time the mechanics of manipulating the hand affects it. Environmental factors, humidity.

Right now, you know, the pollen, it kills us this time of year trying to even locate or recover any latent fingerprints because the pollen will settle down onto it, you know, the oil buildup behind will absorb the oil and there's nothing left behind.

MR. PATTERSON: The Court's indulgence. Nothing further. Please answer any questions Mr. Schwacke might have.

THE COURT: Mr. Schwacke.

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. Hey, how are you doing?

A. Good.

Q. I want to talk about fingerprints with you a little bit, but I want to go into other activities and things that you do within your department.

A. Okay.
Q. Now, until last Wednesday you didn't know anything about this case; correct?
A. That's correct. And I don't really know nothing about the case other than what the evidence that was presented to me.
Q. What you were asked to do?
A. Right.
Q. With the Berkeley County Sheriff's Office you testified that you do a number of things and a lot of that is crime scene investigation?
A. That's correct.
Q. And so fingerprinting would be a part of that?
A. Yes.
Q. But you also are involved in things like ballistics?
A. The collection of the evidence.
Q. Collection of the evidence.
A. I don't do ballistic analysis but the collection of the evidence, yes.
Q. So photography?
A. That's correct.
Q. Anything to try to preserve the evidence in the case that you're working on for your agency?
A. Correct.

Q. And that would include you at various times doing DNA swabs?
A. Yes.
Q. And so you have experience in that.
A. In the collection of DNA?
Q. Correct.
A. Yes.
Q. And how many times have you done that in your career with law enforcement?
A. Probably a thousand. I think we actually started using DNA when I first started this. Actually started using it when I first started crime scene investigation.
Q. So you have some experience and expertise in that as well?
A. In the collection of it?
Q. Correct.
A. Yes.
Q. You've been qualified as an expert in that area as well?
A. In crime scene investigation, crime scene processing.
MR. SHWACKE: Your Honor, I guess I'm going to expand his area of expertise. I would move him to be qualified as a crime scene investigation expert.

THE COURT: Any objection?

MR. PATTERSON: Object only to relevance.

THE COURT: Do you wish to voir dire him on that area?

MR. PATTERSON: No, I believe that he could be qualified to that. I'm just objecting the relevance of it.

THE COURT: I'll note your objection. He will be so qualified.

MR. SHWACKE: Thank you, Your Honor.

Q. So you've testified with regard to the leaving of a fingerprint that you're going to have to develop because it's not patent or obvious.

A. Correct.

Q. So when you're looking for any latent prints, you indicated that one of the ways it's possible to leave a fingerprint for later detection includes sweat and oils from your hand.

A. That's the substance that's left behind, yes, that's correct.

Q. So that is something that in the DNA realm would be called touch DNA.

A. That means dead skin cells that actually fall off the skin.

Q. All right. So there's two different ways, if I

were to touch this, that there could be DNA evidence left behind for collection by a crime scene investigator?

A. It's possible.

Q. And you weren't asked to do that on this document, this item 21.

A. No.

Q. And again, you were just asked to do this last Wednesday?

A. Yes

Q. And it's not your department's case?

A. No, it's Hanahan Police Department.

MR. SHWACKE: Thank you. That's all the questions I have.

MR. PATTERSON: Nothing further from the State.

THE COURT: You may step down. Call your next witness.

MR. CONDON: The State calls Sergeant Wyant.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Scott Cameron Wyant -- W-Y-A-N-T.

SCOTT WYANT, after being duly sworn, testified as follows:

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DIRECT EXAMINATION

BY MR. CONDON:

Q. Good morning. Who do you work for?

A. The City of North Charleston Police Department.

Q. And did you obtain fingerprints from Detective Durant on March 13th, 2014?

A. Yes, I did.

Q. I'm going to show you what's been marked as State's Exhibit 14 and 15. Do you recognize those fingerprints?

A. These are the prints turned over to me by Detective Durant.

Q. And what did you do with those fingerprints?

A. They were given to crime scene technician Hallman who's in my unit. He does all of the -- most of the fingerprint examinations for our unit.

Q. While in your possession were these fingerprints altered or changed?

A. No, they were not.

MR. CONDON: Nothing further.

MR. SHWACKE: No questions.

THE COURT: You may step down. Thank you. Call your next witness.

MR. CONDON: Can we approach a second?

THE COURT: You may. Ladies and gentlemen, I went

to a seminar last week and they said that you could -- I was told we need to move every hour, so feel free to stand up. We're going to take a little stretch break and we'll just take a stretch break, Mr. Schwacke. The attorneys will take a little stretch break as well so feel free to move.

(Whereupon, a bench conference was held off the record in the presence of the jury, but out of the hearing of the jury.)

MR. CONDON: Al Hallman.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Al Hallman -- H-A-L-L-M-A-N.

AL HALLMAN, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CONDON:

Q. Good morning, Mr. Hallman.

A. Good morning.

Q. Who are you employed by?

A. The City of North Charleston Police Department.

Q. And what title or position do you hold with North Charleston?

A. Currently I am a crime scene investigator.

Q. And can you, kind of, tell the jury about your education, background and experience?

A. Yes, I recently retired from North Charleston after 25 years being a police officer. During those 25 years, I did 17 of them as a crime scene investigator and half of that as a crime scene supervisor. I've been through numerous basic and advanced schools and seminars that deal with forensic science. To name a few, I attended the FBI's version of basic and advanced fingerprint identification. I've been through a class called advanced ridgeology; a class of complex latent prints; crime scene reconstruction; shooting incident reconstruction; blood stain pattern analysis; and there's several other repetitive type fingerprint courses that I've been through. I also have a diploma through the American Institute of Applied Sciences in forensic science.

Q. And have you had an occasion to identify persons by comparing latent fingerprints or palm prints with their own ink fingerprints or palm prints?

A. I have.

Q. About how many times have you done that?

A. Probably hundreds of thousands.

Q. Okay.

A. To give an example, last year alone I did 22,000

side-by-side comparisons, just the last year alone.

Q. Quite a few.

A. Yeah.

Q. And have you been qualified as an expert in fingerprint comparison before?

A. I have.

Q. And about how many times?

A. Hundreds during my career.

MR. CONDON: Your Honor, the State would move that examiner Al Hallman be declared as an expert in the field of fingerprint comparison and analysis.

THE COURT: Any objection?

MR. SHWACKE: No objection.

THE COURT: He will be so qualified.

Q. I don't want to be repetitive here because Examiner Kokinda went through a lot of the fingerprint basics, so I'm going to jump right to it. I'm going to show you -- it's up here. It's been entered into evidence as State's Exhibits 14 and 15. Do you recognize those fingerprints?

A. I do.

Q. And how do you recognize them?

A. These are two latent print cards or white backing cards, we call them, bearing latent print lifts and they've got my initials, and one is labeled as L2 which

is latent card two and it's got the date of 3/13/13 on it and then L3, 3/13/13, and my initials.

Q. And are those the fingerprints you examined in this case

A. They are.

Q. I'm going to show you what's been marked as State's Exhibit Number 16 for identification purposes. Do you recognize that?

A. Yes, sir

Q. And how do you recognize that?

A. This is the 10-print inked fingerprint card of Barry Jerrod Stanley.

MR. CONDON: The State would ask that Exhibit 16 be moved into evidence.

MR. SHWACKE: One moment, Your Honor.

THE COURT: Is there any objection?

MR. SHWACKE: No objection.

THE COURT: Mr. Condon?

Q. In this case did you have a chance to make a comparison of the fingerprints lifted from the vehicle with that of the known prints of the Defendant?

A. Yes, I did.

Q. And can you explain how you went about that and your result?

A. Yes, as I stated earlier about side-by-side

comparisons, how I do that is I'll take the unknown latent print that has been lifted and presented to me and then I'll take the known ink impressions which we know came from one person and one person only, and then I will set the latent print down and begin with it and go back and forth to the 10-print card until I find a pattern similarity, which the patterns is your level one detail, which is loops, whorls and arches.

You know, once I find the pattern that they're relatively the same, then we go into what's called level two detail which is the actual minutiae or points of identification within a print and for those points we deal with what's called bifurcations which is where one ridge will split into two different ridges. We have trifurcations, tri meaning three. One ridge breaks off into three. And we have ending ridges and dots. Ending ridge is simply a ridge that stops. That end is considered a point of identification and then dots which is just little pieces of ridges that are points of identification as well.

Then I start going, as I say, from the latent to the inked print identifying points of identification and relative similarity to the ink print that I'm looking at. Once I've established that the points are in relative conformity and they are exactly the same in

direction and flow, that's when I consider it as an identification. The reason it's an identification is because the chances of two people, living or dead, having the same exact fingerprint is one in 10 to the 46th power. That's 10 with 46 zeroes behind it. Basically it's impossible.

Q. And what was the results of your examination in this case?

A. The prints on the interior rearview mirror, I'd have to refer to my report, but I know they were identified to the right thumb of Barry Stanley.

Q. I'm going to show you what's been marked as State's Exhibit 23 for identification purposes. Do you recognize these documents?

A. I do. The first document is my fingerprint analysis sheet, the report that we do. The second one is just a worksheet that I wrote down notes on regarding the prints that I examined and on card L2, latent 2.2 was positive with the number one right thumb of Barry Jerrod Stanley, and on card three, latent number 3.1 was also positive to the right thumb of Barry Jerrod Stanley.

MR. CONDON: Your Honor, the State asks that Exhibit 23 be admitted into evidence.

THE COURT: Any objection?

MR. SHWACKE: No objection.

THE COURT: State's 23 into evidence without objection.

Q. Just to clarify one more time, the two prints from the mirror, can you explain that? They were matched up to who?

A. Barry Jerrod Stanley. They were -- 2.2 and 3.1 were both the right thumb ---

Q. Right thumbprints?

A. --- of Stanley. Yes.

Q. And what other prints were compared from the car and did you have any other matches?

A. Yes, there were a total of five cards presented to me for examination. On card number one which was lifted from the outside or exterior driver's door, four prints were identified to a Ms. Evette Monique Nelson and that was the only other prints that were identified during this case.

MR. CONDON: Just for the record the State has admitted -- I just want to make sure we've admitted all these exhibits into evidence. State's Exhibit 14, 15, 16, 23.

THE COURT: Yes. Is that correct? Is that what you have?

COURT REPORTER: That's correct, yes.

THE COURT: That's correct.

MR. CONDON: No further questions.

THE COURT: Mr. Schwacke?

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. Officer -- I guess you're a civilian now; right?

A. I am a civilian, yes, sir.

Q. So you can't say officer. One of the drawbacks to fingerprint analysis is you can't testify as to when it was left there.

A. Absolutely not. There is no time stamp.

Q. And there are a number of factors that can affect how long a fingerprint can be around ---

A. Yes.

Q. --- and still be able to be lifted.

A. Yes

Q. And it wouldn't surprise you for a person who is the operator of the car or the owner of the car to have their prints inside.

A. No, that would not surprise me at all.

Q. And you weren't asked to do any other fingerprint evaluation.

A. No, sir, just the ones listed on this sheet here.

Q. And you indicated that you did that when?

A. I believe that was March 13th of -- yeah, March

13th of 2013.

MR. SHWACKE: Thank you. That's all the questions I have.

THE COURT: Redirect?

MR. CONDON: No redirect, Your Honor.

THE COURT: You may step down.

THE WITNESS: Thank you, Your Honor.

THE COURT: Call your next witness.

MR. CONDON: Court's indulgence.

THE COURT: Take your time.

MR. CONDON: The State has no further witnesses.

THE COURT: State rests?

MR. CONDON: The State rests.

THE COURT: Ladies and gentlemen, we've reached an appropriate time for us to take our lunch break. Do not begin your deliberations. Do not discuss this case amongst yourselves. Please remember all of my admonitions. Please take your notepads with you. We'll lock those up during lunch. Please be back at 1:45. Please have a wonderful lunch. See you at 1:45. Please rise for the jury.

(Whereupon, the jury exited the courtroom at 12:08 p.m.)

THE COURT: Thank you. Be seated. Any motions, Mr. Schwacke?

MR. SHWACKE: Your Honor, on behalf of Mr. Stanley, I would move for a directed verdict of not guilty; that the evidence at best is speculative as to his involvement in these; that the amount of evidence that the State has presented is insufficient to establish his guilt beyond a reasonable doubt; and that it does not meet the level of evidence to survive the motion for directed verdict.

Specifically with regard to the trafficking conviction, we would submit the State has not proven the possession and control of the drugs by Mr. Stanley and as a result of that, that particular charge -- they've never -- they've not shown either actual or constructive possession of the drug and because of that we make our motion for a directed verdict.

THE COURT: Mr. Patterson?

MR. PATTERSON: Thank you, Your Honor. May it please the Court?

THE COURT: Yes.

MR. PATTERSON: The State's position is that we have met all of our burdens in this case concerning the elements of these crimes. Addressing the trafficking, there is evidence. Eyewitness testimony puts this Defendant in the car. There is fingerprint evidence that puts this Defendant in the car. There is

testimony from an eyewitness that he saw a bag get tossed out of the window of that vehicle. There is testimony that only one person was driving that vehicle. The bag that was tossed out was recovered within a very short time frame. The police were there, the testimony was, within 30 minutes. They recovered that and that bag did test positive for cocaine base at an amount of 28.84 grams which is above the threshold for trafficking and comports with the indictment, so there is certainly evidence, some of it direct, some of it circumstantial, that puts him in the car, throwing the bag out and essentially that amounts to a drop case really, which is actually possession, if the jury believes the evidence that we've presented, that he was in possession of the drugs and threw them out the window, which is actual possession.

In reference to the failure to stop for a blue light, in that instance as we began we had an eyewitness placing him in the vehicle leaving the scene. We have fingerprints of him in the vehicle. He was signaled by a marked patrol unit with sirens and lights and even on the video you can see him using his PA system. It's a 12-mile chase. He never stopped. The route was discussed by Sergeant Lanphere. All of those are roads and highways in the State of South

Carolina. So, Your Honor, the State believes that there is certainly enough evidence to put this to the jury on all charges.

THE COURT: Mr. Schwacke?

MR. SHWACKE: Nothing further, Your Honor.

THE COURT: When ruling on a motion for directed verdict I am concerned with the existence or non-existence of evidence, not to the weight, and I must view the evidence and all reasonable inferences in a light most favorable to the State. Mr. Stanley is charged with one count of trafficking in cocaine base 28 grams or more but less than 100 and one count of failure to stop for a blue light.

The State must prove beyond a reasonable doubt that Mr. Stanley was driving the motor vehicle, that he was driving the motor vehicle on the road, street or highway and that he was signaled to stop by law enforcement and officers by means of a siren or flashing lights and that Mr. Stanley did not stop. Mr. Rider testified that on the day of the incident he saw the Defendant driving the blue Crown Vic. He testified that he saw the Defendant driving the vehicle approximately 10 or 15 seconds before the police arrived at the apartment complex. He further indicated that they must have passed him when they were coming in

and that's because they had arrived after the phone call was made.

Officer Dodd testified that he was in pursuit of the Defendant in the Crown Victoria, that he signaled for the Defendant to pull over. The Defendant did not pull over and he further testified as to what the car looked like. He had a marked unit with the Hanahan Police Department. He testified that the Defendant was the individual he saw driving the Crown Vic.

Officer Lanphere testified that at the time he was in pursuit of the Crown Vic on I26 eastbound and reached up to 90 miles per hour. He testified he was driving a fully equipped Chevy Tahoe with operational blue lights that he was using to signal the Defendant to stop, and he kept going. Lieutenant Turner and Detective Durant testified that there were fingerprints found in the vehicle.

As to the trafficking in cocaine, the State must prove that Mr. Stanley either sold, manufactured or purchased and brought into the State 10 grams or more of cocaine base or that (inaudible) actual possession or attempting to have actual constructive possession of 10 grams or more of cocaine base. There were several witnesses that testified. Ms. Nelson told the officers the day of the incident that he had taken the vehicle

and had drugs and possibly a gun in his possession. Officer Dodd testified that he did lose sight of the vehicle but he said the location corresponded in his pursuit to where the drugs were later located.

Mr. Loflin testified that he saw the Defendant driving the Crown Victoria in his neighborhood and testified that he saw an object being thrown out of the window when the vehicle was rounding the corner. He stated the officer was well behind the Defendant's vehicle and he asked Mr. Rowland to go pick up the object. Mr. Rowland testified that he retrieved the object and that he called the police and waited for them to respond to his residence and gave them the object that was thrown out of the vehicle.

Corporal Ellwood testified that he responded to the residence and he obtained the Baggie and took the Baggie and the contents to be analyzed and the individuals from the Charleston police lab indicated that Ms. Hilton observed and supervised Ashley Earl perform the drug analysis and that the contents weighed 28.84 grams and the substance was found to be cocaine base or crack cocaine.

Based upon the evidence that has been presented (inaudible). Any further motions?

MR. PATTERSON: Nothing from the State. Sorry. I

apologize.

MR. SHWACKE: No, Your Honor.

THE COURT: Mr. Stanley, please rise. I need to place you under oath.

MR. SHWACKE: If I could have just one moment?

THE COURT: You may. I just need to place you under oath that you're going to promise to tell the whole truth and nothing but the truth, so help you God. Is that what you're going to do?

THE DEFENDANT: No, ma'am. I mean, no, I'm not testifying.

THE COURT: Well, I've got to advise you of your rights.

THE DEFENDANT: Okay.

THE COURT: And that's what I'm going to do right now, but I'm going to be asking you some questions and I don't have to do this with Mr. Schwacke or Mr. Shelton because they're officers of the Court. They're already sworn to uphold the integrity of this courtroom, so I don't have to place them under oath.

But when lay witness, just as if you were going to take the stand, and so everyone that came in here, we placed them under oath. That's all I'm doing, just to make sure that what you tell me is the truth. Are you going to tell me the truth here today?

THE DEFENDANT: Yes, ma'am.

THE COURT: All right. At this time I'm going to explain to you certain of your rights. If you do not understand anything that I say or need me to explain anything in further detail, please let me know. Can you do that, Mr. Stanley?

THE DEFENDANT: Yes, ma'am.

THE COURT: Thank you. We've reached the stage of the trial where you may present your defense. You have the right to claim the protections given to you by the Constitution of the United States. The Fifth Amendment states in part that no person shall be compelled in any criminal case to be a witness against himself. That means that you cannot be required to testify. You do have the right to testify on your behalf; however no one can make you testify. This is a personal right and no one can waive this right except for you.

If you decide to testify you will be subject to the same (inaudible) as other witnesses and you may be examined and cross-examined on any relevant issue in this case. In addition, if you have any convictions involving dishonesty or false statements or for crimes punishable by imprisonment for more than one year and I determine that the probative value of admitting that evidence outweighs its prejudicial effect to you, the

Solicitor will be able to introduce your record to attack your credibility.

Mr. Patterson, there are convictions that you plan to introduce.

MR. PATTERSON: That's correct, Your Honor.

THE COURT: Thank you. If you decide to testify the decision on your part must be freely and voluntarily and intelligently made with the knowledge of the protections given to you by the Fifth Amendment and the consequence of any decision to testify.

If you decide not to testify I will instruct the jury that they cannot give the fact that you did not testify any consideration whatsoever and that there is to be absolutely no prejudice to you because you did not testify.

It is left entirely up to you whether or not you testify. You may talk with your attorneys or your friends or family members or anyone else, but the final decision is left entirely up to you. Do you understand what I've explained?

THE DEFENDANT: Yes, ma'am.

THE COURT: Do you have any questions about what I've explained to you?

THE DEFENDANT: No, ma'am.

THE COURT: Have you discussed with your lawyer

whether or not you should testify?

THE DEFENDANT: Yes, ma'am.

THE COURT: Have you made a decision whether or not you're going to testify?

THE DEFENDANT: Yes, ma'am.

THE COURT: And what is that decision?

THE DEFENDANT: No, ma'am.

THE COURT: You will not testify; is that correct?

THE DEFENDANT: Yes.

THE COURT: All right. Thank you. And, Mr. Stanley, I will include in the charge that the jury is not to consider the fact that you did not testify in any manner whatsoever. Thank you. You may have a seat.

Mr. Schwacke, is there any additional witnesses that you want to add?

MR. SHWACKE: No, Your Honor.

THE COURT: So the defense rests?

MR. SHWACKE: We will rest.

THE COURT: And so we have reached an appropriate time also for us -- do you have any lesser-includeds that you will be requesting?

MR. PATTERSON: I'm not aware of any.

THE COURT: I always ask.

MR. PATTERSON: I'm 99 percent sure. I'm still

thinking we're going to be over the 20 grams. I don't believe there's a lesser-included.

THE COURT: So you're not requesting any lesser-includeds?

MR. PATTERSON: No, Your Honor.

THE COURT: Any charges, any special charges that you think I may not have included, Mr. Schwacke?

MR. SHWACKE: Just earlier, the status conference on Monday morning, we asked for the Logan charge dealing with circumstantial evidence.

THE COURT: That is typically the one that I will -- the one that I have. Is that sufficient for you, Mr. Schwacke? The one that I have been using?

MR. SHWACKE: Well, the case allows us to ask for the language that says the Court shall -- that language along with the long reasonable doubt charge, so my client is asking for the actual one laid out in Logan along with ---

THE COURT: You and I have had a conversation right after Logan came out and I believe we were in trial ---

MR. SHWACKE: I know.

THE COURT: --- I'm just wanting to make sure you are asking -- you want the wording ---

MR. SHWACKE: From -- from it, yes.

THE COURT: Word by word, not the one that I've been using.

MR. SHWACKE: Yes, ma'am.

THE COURT: Okay. Any other?

MR. SHWACKE: No, ma'am.

THE COURT: I would be including identification. Anything else?

MR. PATTERSON: The State would just ask for clarification as to your charge for trafficking, how you phrase it so that we understand what we can discuss in our closing. Our indictment says trafficking 28 to 100 grams; however, trafficking really is 10 grams or more, so for purpose of closing, will your jury instruction say trafficking 10 grams or more and then give the jury a list of weights to identify as to what the weight was?

THE COURT: Mr. Schwacke, what's -- let me hear from you on that.

MR. SHWACKE: Your Honor, the only testimony as to weight has been 28.8 grams so I'm thinking it becomes confusing to them if they hear numbers that they don't need to hear, because otherwise you could go on to 100 and 200 and up to 400 grams. I just don't -- I think you're supposed to charge on only where there's factual basis for it and the only factual basis is for the 28

grams.

THE COURT: This is where with the weights (inaudible) but I understand what Mr. Patterson is asking for. What's your preference, Mr. Patterson? The statute indicates that it's 10 grams or more just as the definition of trafficking, that that becomes the threshold weight. You have indicted for 28 to 100 and the testimony, I believe, was 28.84.

MR. PATTERSON: That's correct. The State's preference would be to go by the statute. Ten grams or more is trafficking. The weight is an issue for the jury.

THE COURT: Mr. Schwacke, I'll be happy to hear from you.

MR. SHWACKE: Our discussion over here is whether he sort of proposed a special verdict form like they have asked if they find him guilty of the trafficking, what weight do they find. I'm not sure if that's what they're really asking.

MR. PATTERSON: Just that we be able to read the statute as it is, that trafficking is 10 grams or more. You know, as you get higher weight it becomes a sentencing issue.

THE COURT: Sentencing issue. I'm inclined to charge the statute which is 10 or more and leave it at

that but then I haven't heard any other testimony other than -- sometimes in cases such as this there's some -- it was retrieved and then by the time it got weighed there was some, but I haven't heard any conflicting testimony so I think that it's appropriate just to be under the charge 10 or more since I haven't heard any contradictory weight issue and it is what the State has charged. So what I will do is indicate that he was charged with trafficking 10 to 28 and read the statute and then (inaudible). Thank you.

MR. PATTERSON: Thank you, Your Honor.

THE COURT: Anything else?

MR. PATTERSON: Nothing from the State.

THE COURT: 1:45. Thank you. We're at ease.

(Off the record until 1:45 p.m.)

THE COURT: On the forms, any objection from the State?

MR. PATTERSON: I'm sorry. Can you say it again?

THE COURT: Any objection regarding the verdict forms?

MR. PATTERSON: No objections from the State.

MR. SHWACKE: None from the ---

THE COURT: Any objection -- I have emailed a copy of my charge to Mr. Patterson and Mr. Schwacke. I understand you haven't been to your office.

MR. SHWACKE: I am familiar with what your charge is. No objection.

THE COURT: My biggest concern was that you reviewed how I was going to proceed with the trafficking charge. Any objection, Mr. Patterson?

MR. PATTERSON: No objections, Your Honor.

MR. SHWACKE: You're going to allow me to read that?

THE COURT: Do you need any additional time?

MR. SHWACKE: No, ma'am.

THE COURT: I'll let you look at the whole charge, Mr. Schwacke. All right? Anything before we bring in ---

MR. PATTERSON: One final clarification.

THE COURT: Yes.

MR. PATTERSON: On the charge -- just to make sure I understand correctly. It's going to be presented per the statute at 10 grams but then below that there is the caveat of the 28 to 100? I just want to make sure that I have it correct.

THE COURT: Mr. Patterson, would you make a copy of that charge?

MR. PATTERSON: I have it on my -- my email but I didn't have a chance to print it out.

THE COURT: One of the reasons why I don't give

copies of my charges is because people tend to flip through them as I'm reading them. So Mr. Schwacke, you will need to rest in front of the jury and renew your motions.

MR. SHWACKE: I'm making those same motions now, so for the record we can just put them on?

THE COURT: And you will be giving the last close; right?

MR. SHWACKE: That's correct.

THE COURT: Mr. Patterson, are you giving the close?

MR. PATTERSON: I'll be giving the close, Your Honor.

THE COURT: And are you ready because Mr. Schwacke is going to close -- rest in front of the jury and then I'll give them the instruction that they've heard all this evidence, now they're going to hear closing arguments and you will go and Mr. Schwacke will go and then I'll instruct the jury. Anything else?

MR. PATTERSON: Nothing further from the State.

THE COURT: Anything else, Mr. Schwacke?

MR. SHWACKE: No, Your Honor.

THE COURT: Let's bring in the jury.

(Whereupon, the jury entered open court at 1:52 p.m.)

THE COURT: Thank you. Please be seated. Did every member of the jury comply with the Court's instructions? If you did not comply with my instructions, please state. Thank you. All of the jurors have complied with my instructions. Mr. Schwacke?

MR. SHWACKE: Thank you. The defense rests and would renew all motions previously made.

THE COURT: Thank you. Ladies and gentlemen, you have now heard all the testimony that you will hear in this case and received into evidence all the exhibits that will be made part of the record in this case. The next stage of the trial is closing arguments. You will be hearing closing arguments on behalf of the State and the Defendant.

After that I will instruct you on the law applicable to this case. Just as I indicated to you, what was contained in opening statements is not to be considered evidence, neither is what is contained in closing arguments. Please give your strict attention to Mr. Patterson.

MR. PATTERSON: Thank you, Your Honor. May it please the Court.

CLOSING ARGUMENT ON BEHALF OF THE STATE

MR. PATTERSON: A reckless disregard for the law.

When we started this case, I told you that's what the Defendant showed when he took the police on a 12-mile pursuit from Hanahan to downtown Charleston, and what he showed when he tossed a bag of 28.84 grams of cocaine base out of the window of his vehicle.

You heard a lot of testimony, so I'm going to take time right now to go through the testimony that you've heard and how it proves our case. Evette Nelson, you're going to get to judge her credibility. Your job as the fact-finder is to judge her story and her credibility. That day she told officers that Barry Stanley assaulted her and took her car. She wrote a statement that day about her and the Defendant fighting over keeping drugs in her house. She showed Detective Camp a picture of the Defendant on her phone and described him as the person who assaulted her and took her car.

Did she lie to the police? Yes, she did but there is absolutely no evidence indicating that some other individual, Deangelo Watson, was involved. She told you it looked like a grits festival in her microwave. She told you there was no evidence of a box of grits in the kitchen. Officer Norton told you that crack is most commonly cooked in a microwave. She told you there was a strange smell in the apartment. You get to

judge her credibility. Is she scared of the Defendant? You get to make these determinations, but it's important that in that moment on that day when this occurred, she only identified one individual as being involved and that was the Defendant Barry Stanley.

Tanya Deane, she's a neighbor. She's one of the people that Evette ran to trying to find help. She knows who Barry Stanley is. She's seen him in the apartment complex. She was there when Evette came to her for help. Evette told her that Barry Stanley was coming to kill her. Evette never told her it was anybody other than Barry Stanley.

Mr. Greg Rider, Tanya Deane's husband, he's an eyewitness to this event. He 100 percent, positively identified the Defendant Barry Stanley as the man driving that vehicle. He had met Barry Stanley prior to this incident. He knew who he was and he knew who he was looking at when he saw the Defendant in that vehicle. He told you he saw the Defendant for a good 10 seconds while he was in that vehicle, sitting in the driver's seat. He picked the Defendant out of a photo lineup. He told you that no one else was in that car.

The police arrived within 10 to 15 seconds, is what he described, as the Defendant fled the scene. He's also the first person that Evette comes to because

he's playing basketball outside. She comes running outside and he described her as appearing to be afraid for her life, and she told him that it was Barry Stanley who assaulted her.

Detective Camp, you heard from Detective Camp. She responds to the scene and Evette tells her that Barry Stanley assaulted her and that he's the person who fled in her vehicle and took her car. There's never any mention to Detective Camp, who's there to help, of any other person. Told Detective Camp there was an argument about drugs in the house. Evette appeared afraid, physically shaking, fearful. Evette provided her with a picture of this Defendant from her phone. Detective Camp took a picture of that photo and sent it out to other officers involved in this case.

Officer Dodd, Officer Dodd was leaving his house to use his vehicle for personal use, is the way he described it. He describes seeing that vehicle and the Defendant tried to strike his car in an attempt to escape. He starts to pursue the Defendant. He says the description of the person driving that car and that vehicle matched the description of the suspect information that gets put out by Detective Camp. He even identified the Defendant as the person in the vehicle based on the photo that Detective Camp had

sent. He said that the person in that vehicle was the person in that photo and the person in that photo was Barry Stanley. He chases him on the same route the drugs are found on in that neighborhood. The Defendant does not stop for his police car, for his lights and his siren. The place where the drugs were thrown out is around the corner where Detective Dodd told you he slowed down to try and negotiate that sharp curve. He tells you there's nobody else in that vehicle.

Sergeant Lanphere, you saw the video. That's a long chase. The Defendant clearly wanted to escape and he was extremely reckless in doing that. Told you he saw the Defendant reach up with his right hand to adjust the rearview mirror of that vehicle. Defendant's right thumbprints are found on the rearview mirror. He pursued the Defendant for almost 12 miles all the way onto Interstate 26 at speeds of up to 90 miles an hour. He told you no one else was in that vehicle.

Corporal Ellwood, Corporal Ellwood responded to the scene. He gets there within one minute. Evette is visibly shaken, she's afraid. She tells him that the Defendant Barry Stanley possibly has drugs -- or has drugs in the car and possibly has a gun in the car. Information is given to him that a witness has located

drugs during the pursuit. He responds within 30 minutes to [redacted], collects those drugs from William Loflin. He secures them in his vehicle.

The drug chain, it's our duty to establish a chain of custody for these drugs. Detective Ellwood told you he collected the drugs and he submitted them to evidence. Lieutenant Fowler stored them in evidence. Detective Durant took that evidence for testing. The drugs are stored and tested by the ladies at the Charleston Police Department crime lab. Those drugs tested positive for cocaine base or crack cocaine at a weight of 28.84 grams. That's what Renee Hilton testified to.

William Loflin, he has no reason to lie. He isn't even from Charleston. He's from Great Falls. He was here on a contract. He identifies the vehicle as a blue Crown Victoria with big rims. He sees and hears the lights, the sirens. He's sitting on the back porch smoking a cigarette. He gets up to see what's going on. He tells you an officer is chasing this Crown Victoria with blue lights and sirens. He tells you that that Crown Victoria loses the officer around that sharp turn. He sees the Defendant looking over his shoulder to see where that officer is, trying to get him to where he could toss that bag out. Sees the

Defendant throw a bag out of the window. Mr. Loflin, not living in that neighborhood, only being there for contracting, being there temporarily, asked his roommate, Mr. Rowland, to go pick up the drugs and when Mr. Rowland shows it to him, he says I know it's crack.

Mr. Rowland calls 911 or calls -- calls the police department. Chris Rowland, he's sitting on his couch. He doesn't see this but Mr. Loflin comes in and says hey, Chris, this guy being chased by the police, he threw something out of the window. Chris goes and picks it up. He told you that. He calls the police department. He waits in his driveway for them to respond. He told you he was concerned about kids in the neighborhood finding it.

Lieutenant Kokinda, he tested the bag containing the drugs for fingerprints and no fingerprints were developed. We know that Mr. Rowland touched the bag, because he picked it up. We know that Mr. Loflin touched the bag, because he handed it to Corporal Ellwood and the ladies from the lab, they don't use gloves so they touched the bag and their prints weren't on the bag, but that doesn't mean they didn't touch the bag. Lieutenant Kokinda told you why sometimes prints are unable to be developed.

Lieutenant Turner, he lifted these fingerprints

from the rearview mirror of that vehicle. Those fingerprints match the Defendant, his right thumb. He told you that he took note of the position of the driver's seat and that it was in such a position there was no way that a person of Mr. Watson's size could have been the one driving that vehicle.

Mr. Hallman, fingerprint analyst who identified the fingerprints that were collected from the rearview mirror. He discussed his expertise and told you that those prints were a match for the Defendant, in his expert opinion, and they're exactly where Sergeant Lanphere saw him adjust the mirror.

Today the State is tasked with proving our case beyond a reasonable doubt and we accept that burden. What does that mean, a reasonable doubt? It does not mean beyond all doubt. There are very few things in this world that we know for an absolute certainty. The law does not require proof that overcomes every possible doubt, but if the facts of this case leave you firmly convinced of the Defendant's guilt then you have to find him guilty.

So what are the charges in this case? Failure to stop for a blue light, what does that mean? The statute is in absence of mitigating circumstances it is unlawful for a motor vehicle driver while driving on a

road, street or highway of the State to fail to stop when signaled by a law enforcement officer or law enforcement vehicle by means of siren or flashing light; an intent to increase the speed of vehicle or in other manner avoid the pursuing law enforcement vehicle when signaled by a siren or flashing light is prima facie evidence of a violation of this section. Failure to see the flashing light or hear the siren does not excuse the failure to stop when the distance between the vehicles and other road conditions are such that it would be reasonable for a driver to hear or see the signals from the law enforcement vehicle.

What does that mean? The State will show the Defendant was driving the motor vehicle. Well, the Crown Victoria is the motor vehicle and the Defendant was driving. How do we know the Defendant was driving? Was the Defendant driving the car? Yes. Greg Rider positively identifies him as the person driving that vehicle. The Defendant's fingerprints are located on the rearview mirror. Sergeant Lanphere observed the Defendant adjust the rearview mirror. Officer Dodd was provided a picture of the Defendant and testified the Defendant was the person driving that car.

Was he driving on a road, street or highway in South Carolina? Yes. Officer Dodd testified about his

pursuit of the Defendant. Sergeant Lanphere testified about the entire route of the pursuit. We saw a map and all of the streets that the Defendant utilized in his flight from police: Fort Drive, Murray Drive, Rivers Avenue, Redeemer Avenue, 26, Rutledge, Maple. Was he signaled by a law enforcement? Yes. You saw the video, the whole time, lights and sirens. Sergeant Lanphere tried to use his PA to get him to stop. Did he stop? No, he did not.

Trafficking in cocaine base, in South Carolina a person who knowingly sells, manufactures, delivers, purchases or brings into this State or who provides financial assistance or otherwise aids, abets, attempts or conspires to sell, manufacture, deliver, purchase or bring into this State or who is knowingly in actual or constructive possession or who knowingly attempts to become in actual or constructive possession of 10 grams or more of cocaine base.

Again, a mouthful but it's simple. The State has to prove three things: the substance was, in fact, cocaine base, a controlled substance in the State of South Carolina; the Defendant had possession of the cocaine base; and the amount was more than 10 grams.

Is it cocaine base? How much is it? Yes, the substance found in the plastic bag was lab-tested

positive as 28.84 grams of cocaine base. How do we know? Renee Hilton told you. She's the crime analyst. She testified she performed three separate tests on the substance and all the tests confirmed the substance was, in fact, cocaine base. She testified that the crack was weighed at the lab and weighed 28.84 grams.

Possession, there are two kinds of possession: actual and constructive. Actual possession is when a person has actual, physical custody of the item. Well, I submit to you that actual possession in this case has been proved when the Defendant threw the bag of drugs out of the car. Mr. Loflin testified that he saw the Defendant driving the vehicle throw something out of the window that was recovered and it was tested. It was cocaine base.

Constructive possession is when a person has dominion and control -- dominion or control either over the item or the premises where it is located. Possession may be inferred from the circumstances. The evidence in this case only shows one thing: the Defendant was in actual possession of those drugs. When he took the bag and threw it out the window, that's actual possession and if you believe Greg Rider, Officer Dodd, fingerprint evidence, William Loflin, if you believe their testimony, then the Defendant is

guilty of possession of these drugs and the State would ask that you find the Defendant guilty of failing to stop for a blue light or siren and trafficking in cocaine base. Thank you.

THE COURT: Mr. Schwacke?

CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

MR. SHWACKE: Good afternoon. I told you yesterday when I first spoke to you that I was going to be brief. One point that I wanted to make with you is evidence in the case sometimes is what you -- always what you hear from the witness. It's either an exhibit that's introduced from there or it's testimony of the witness. I told you I wanted you to be patient and listen intently, but I also told you sometimes the evidence that matters at the end is the evidence you didn't hear and that's what I want to talk with you about this afternoon.

I'm going to go through here. You know, any case has to start with the first witness and that was Evette Nelson who has given statement after statement after statement. By the time she finished testifying before you yesterday, that was the fourth version of the case that she's given to anybody whether it's law enforcement or whether it was you. And just like the State has suggested she's a liar, I submit to you you

can't believe what she has to say and that cuts both ways. That hurts them and it hurts my client, but I want to talk about that a little bit because there are things that the State wants you to believe based on the testimony, but they still want to use it.

For instance, they want you to believe that my client is a drug dealer, that when he left that house he had a bunch of drugs. Now, ladies and gentlemen, there were search warrants that were served and there were search warrants that were served and no evidence of drugs, no evidence of paraphernalia, anything you use drugs with, no evidence of any large amounts of money that was made from the sale of drugs, no evidence of packaging material such as Baggies, not in the car, not in the house.

Now, the State wants you to say hey, there were grits inside the microwave and there's no evidence of grits. You know, that cuts both ways too because Detective Norton testified that the way you cook cocaine, crack cocaine is in a microwave where you mix it with baking powder. There is no evidence of baking powder in that house either and if they had it, it would be right here. So they're trying to mislead you. They're trying to edge you in a direction that you shouldn't take because it comes first from the mouth of

Evette Nelson.

Mr. Rider testified that he saw my client go back into the apartment and come back and he was concerned about whether he was going to take the child and he came back empty-handed, so he didn't take anything. No gun, no evidence of a gun, no bullets, no ammunition, nothing for a gun, apartment or car. Again, that starts with Evette because she's the one who said that. Mr. Rider didn't know she'd said that.

Officer Dodd is the one who initiates the pursuit and his testimony is at no point along the course of the route did he see anything get thrown from the vehicle either. The only person that's going to be here for you to consider that testimony from is Mr. Loflin. I'm going to get to him. Officer Dodd estimated the speed that was involved in their chase was between 40 and 45 miles per hour.

Now, ladies and gentlemen, starting about third grade you start learning units of measurement. One of the things that we learn is that in a mile there are 5,280 feet. Other things we learn, there is 60 minutes in an hour, 60 seconds in a minute, so that would be some other numbers here in a second. At 40 miles per hour by the time that you have completed that, you would have gone 211,200 feet. That's how far you go at

40 miles an hour. So when you divide that -- because I told you before there's 60 minutes in an hour and there's 60 seconds in a minute. When you convert this over to find out how fast that you're going a second, you'll find that you're going 58.6 feet per second. We went around on this with Mr. Loflin yesterday and we ended up deciding (inaudible). Sixty feet, one second.

He wants you to believe he's able to see people turning around, looking, doing this, and then he wanted to explain hey, these photographs with these bushes, well, you know, maybe I was over here a little bit or I sat down and I pivoted and I saw something different. But he left the fact the speed was about 40 miles per hour. He left the fact that he had only a window of feet and what that tells you is 1,001 and the State wants you to depend on his testimony because he's the only one who saw or says he saw.

Now, this isn't -- this is just a demonstrative thing but it was used in the trial so it's not going to be back there with you, but you will recall the testimony of Officer Dodd who returned to the scene. You will recall the testimony of Mr. Loflin and you will recall the testimony of Mr. Rowland and every one picked out a different spot on where those drugs were found. Mr. Rowland and Mr. Loflin can't even agree who

found it, picked it up, brought it back and gave it to the police.

Officer Ellwood who was out there that day, who collected the drugs and brought it back to the department, never heard of Mr. Rowland; not mentioned in his report; in fact says Loflin was the one who gave it to me. Who is this mystery person Mr. Rowland and why did he just miraculously appear with no reference in any police report about the same time the State decided to try to lift fingerprints off the drugs? You heard testimony. You heard them tell you when they took the fingerprints from the car to go be examined and then lastly when they realized how weak their case is, because it all hinges on (inaudible). Try to get someone to come in here and tell people (inaudible), so they didn't.

The other thing they didn't do -- you heard Dean Kokinda's testimony. Hey, any time you touch something you're going to leave a fingerprint potentially. It might not be legible. It might not be readable but that's a process of leaving sweat out of your pores and your fingerprint ridges. That is the stuff of DNA. All they had to do instead of waiting another year was to have sent that off to answer your questions. Instead they want you to (inaudible) one second of the

car going by down the road 40 miles per hour.

I submit to you that Mr. Loflin is not somebody you should believe either. Multiple forgery convictions in 2002. Didn't stop. Had another forgery conviction in 2007. Didn't stop. Had a petit larceny and then shoplifting in 2009. And you saw him on the stand and it's your job as judges to determine the believability and credibility of witnesses. His story changed and it changed right in front of your eyes from that very witness, where things were and what he saw, where he was sitting, where he was, who did what. The police sent somebody totally different who came in here and testified found (inaudible).

The State tried to push into evidence part of the actual possession of the bag, tried to convince you you should buy into it. They want you to believe because, you know, this is a quantity or drugs that's (inaudible). But where is the beef on this? Where is it? A search of the house, search of the car, no scale, no other drugs, no packaging materials, no Baggies, no gun, no ammunition, no baking powder. I submit to you, ladies and gentlemen, the State has not proved its case and they realize it because they went and later tried to get you additional evidence before you.

So as regards the trafficking charge, Mr. Loflin is not credible. You can't buy into his word based on his record alone but also by the way he appeared to you on that stand. You must find my client not guilty.

THE COURT: Ladies and gentlemen, I normally do not send back a copy of my charge. You've got a Foreperson and you are responsible for writing the verdict in this case. At least pay close attention because as I stated I will not send back a copy of my charge.

I remind you that during this trial, you and I have certain duties to perform. As the trial Judge it is my responsibility to preside over the trial of this case and I have the duty to rule on the admissibility of the evidence offered during this trial. You will consider only the evidence before you. If there was any testimony ordered stricken from the record, you must disregard that testimony. You are to consider only the testimony that you've heard from the witness stand as well as the exhibits that have been made part of the record in this case.

I have the additional duty to charge you the law applicable to this case. As the presiding Judge I am the sole judge of the law of this case. It is your duty as jurors to accept the law and apply the law

exactly as stated to you now. If you have any idea as to what the law is or what the law ought to be and it does not agree with what I'm about to tell you, you must abandon your own idea because you are sworn to accept the law and apply the law exactly as I state it to you now.

In every case tried in this Court before a jury, the jury becomes the sole and exclusive judges of the fact. A trial judge may not make any comment regarding the facts of this case. Do not think from anything that I have said or done throughout the conduct of this trial that I have any opinion about the -- excuse me -- opinion about the facts in this case. The law does not allow me to have an opinion about the facts in this case. This is solely a matter for you to determine.

The indictments in this case charge Mr. Stanley with one count of trafficking in cocaine base, 28 grams or more but less than 100 grams, and one count of failure to stop for a blue light. I remind you that the fact that Mr. Stanley was arrested, charged and indicted in this case is not evidence in this case, nor does it create any presumption or inference of guilt. An indictment is simply the formal written instrument which contains the charge made against the Defendant. It is the formal document by which this case is brought

into Court.

The indictments in this case allege several different offenses against Mr. Stanley. The charges are: indictment number one, 2014-GS-08-0027, failing to stop for a blue light; indictment number two, 2014-GS-08-0028, trafficking in cocaine base 28 grams or more but less than 100 grams. Each indictment charges a separate and distinct offense. You must decide each offense separately on the evidence and the law applicable to it uninfluenced by your decision as to the other indictment.

Mr. Stanley may be acquitted or convicted on any or all of the offenses charged. Ms. Foreperson, you will be asked to present your verdict (inaudible). Mr. Stanley has pled not guilty to these indictments. A person charged with committing a criminal offense in South Carolina is never required to prove himself innocent. I charge you it is an important rule of the law that a Defendant in a criminal charge, no matter what the seriousness of the charge may be, will always be presumed to be innocent of the crime for which the indictment was issued unless guilt has been proven by the evidence satisfying you beyond a reasonable doubt.

The presumption does not end when you begin your deliberations but it accompanies the Defendant

throughout the trial until you reach a verdict of guilt based upon the evidence satisfying the standard of guilt beyond a reasonable doubt. The presumption of innocence is not mere legal theory. It is the substantial right to which every defendant is entitled until you are satisfied of the evidence of the Defendant's guilt beyond a reasonable doubt.

The State has the burden of proving Mr. Stanley guilty beyond a reasonable doubt. Some of you may have served as jurors before in civil cases where you were told that it was only necessary to prove that a fact is more likely true than not true, so that you apply a greater weight over a preponderance of the evidence. Proof beyond a reasonable doubt is proof that leaves you firmly convinced or Mr. Stanley's guilt. There are very few things in this world that we do know to absolute certainty and in criminal cases, the law does not require proof that overcomes every possible doubt. If, based upon your consideration of the evidence, you are firmly convinced that Mr. Stanley is guilty of the crime charged, you must find Mr. Stanley guilty. If, on the other hand, you think there is a real possibility that Mr. Stanley is not guilty, you must give Mr. Stanley the benefit of the doubt and find him not guilty.

There a two types of evidence that are generally presented throughout the trial: direct evidence and circumstantial evidence. Direct evidence directly proves the existence of a fact that does not require deduction. Circumstantial evidence is proof of a chain of acts and circumstances indicating the existence of a fact. Crimes may be proven by circumstantial evidence. The law makes no distinction between the weight or value to be given either direct or circumstantial evidence; however, to the extent the State relies on circumstantial evidence, all of the circumstances must be consistent with each other and when taken together point conclusively to the guilt of Mr. Stanley beyond a reasonable doubt.

If the circumstances merely portray Mr. Stanley as being suspicious the proof must fail. The State has the burden of proving Mr. Stanley guilty beyond a reasonable doubt. This burden rests with the State regardless of whether the State relies on direct evidence, circumstantial evidence or a combination of the two.

It's necessary that you must determine the credibility of the witnesses who have testified in this case. Credibility simply means believability. It becomes your duty as jurors to analyze the evidence and

determine which evidence is true. In determining believability of the witnesses who have testified in this case, you may believe one witness over several witnesses, or several witnesses over one witness. You may believe part of the testimony of one witness and reject the remaining part of the testimony of that same witness. You may believe the testimony of a witness in its entirety or reject the testimony of a witness in its entirety.

You may consider whether the witness has admitted to you any interest, bias, prejudice in the case and you may also consider the appearance and manner of the witness while on the witness stand. A person who has a past criminal record is competent to testify during a trial. A past record does not affect the ability of that witness to testify. The past record may be only considered by you if at all in determining the witness's believability. Remember, you are the sole judges of the facts in this case and of the believability of any and all of the witnesses.

There has been evidence presented that a witness has made prior statements which are not consistent with the witness's prior testimony. You may use this evidence to decide whether to believe the witness. You may also use evidence of the earlier contradictory

statements to determine the truth of the statements. It is up to you to decide whether to believe the earlier statements or to believe the testimony given at trial. If a witness is shown to have knowingly testified untruthfully concerning any material matter, you may consider this in determining whether to trust the witness's testimony as to other matters. You may reject all the testimony of that witness or believe it all or in part and give it the weight you feel it deserves.

The rules of evidence ordinarily do not permit witnesses to testify to opinions or to conclusions. An exception to this rule exists for witnesses we call expert witnesses. A witness who by education and experience has become expert in some art, science, profession may state an opinion as to relevant and material matters in this case in which the witness claims to be an expert and may also state the reasons for that opinion. You should consider any expert opinion received as evidence in this case like any other evidence, giving it the weight that you think it deserves. If you decide that the opinion of an expert witness is not based on sufficient education or experience, or if you conclude that the reasons given in support of the opinion are not sound, or that the

opinion is outweighed by other evidence, you may disregard the opinion entirely. An expert witness's testimony is to be given no greater weight than that of other witnesses simply because the witness is an expert. Further, you are not required to accept an expert's opinion simply because it is not contradicted.

At issue in this case is the identification of Mr. Stanley as the person who committed the crime charged. The State has the burden of proving identity beyond a reasonable doubt. You must be satisfied beyond a reasonable doubt of the accuracy of the identification of Mr. Stanley before you may convict Mr. Stanley. Identification testimony is an expression of belief or impression by a witness and you must determine the accuracy of any identification of Mr. Stanley. You must consider the believability of each identification witness in the same way as any other witness. You may consider whether the witness has an adequate opportunity to observe the offender at the time of the offense. This will be affected by things such as how long or short a time was available, how far or close the witness was, the lighting conditions and whether the witness had a chance to see and know the person.

Once again, I instruct you the burden of proof on the State extends to every element of the crime charged

and it specifically includes the burden of proving beyond a reasonable doubt the identity of Mr. Stanley as the person who committed the crime. If, after examining the testimony, you have a reasonable doubt as to the accuracy of the identification, you must find Mr. Stanley not guilty.

In order to establish criminal liability, criminal intent is required. For example, the mental state required to be proven by the State for a particular crime might be purpose, intent, knowledge, recklessness or criminal negligence. Criminal intent must be proven by the State beyond a reasonable doubt. Criminal intent is always a matter that must be determined by the jury from the circumstances surrounding the situation. There is no way to prove intent to a medical certainty because there is no way to tell with exact certainty what the person had in mind. The law says criminal intent may be inferred from circumstances that were shown to have existed. This is how you make the determination whether or not the element requiring intent was present. It is not necessary to establish intent by direct and positive evidence, but intent may be established by inference in the same way as any other fact by taking into consideration the acts of the parties and all the facts and circumstances of the

case. Criminal intent is a mental state. It is a conscious wrongdoing. It is up to you to determine what the Defendant intended to do based upon the circumstances shown to have existed.

I instruct you and emphasize that the fact that Mr. Stanley did not testify is not a factor to be considered by you in any way in your deliberation. It must not be considered by you in any manner whatsoever. A Defendant has the Constitutional right to remain silent and the assertion of this right must not be considered by you in your deliberations. I repeat, under your oath you are to draw no conclusion whatsoever from the fact that Mr. Stanley did not testify. The fact that he did not testify may not even be discussed in the jury room. The burden of proof, as I have stated to you, is on the State and Mr. Stanley is not required to prove his innocence. The burden of proof remains on the State to prove guilt beyond a reasonable doubt.

Mr. Stanley is charged with failure to stop for a blue light. In order to prove this crime, the State must prove beyond a reasonable doubt that Mr. Stanley was driving a motor vehicle; that Mr. Stanley was driving the motor vehicle on a road, street or highway of this State; that Mr. Stanley was signaled to stop by

a law enforcement -- excuse me -- by a law enforcement vehicle by means of a siren or a flashing light; and that Mr. Stanley did not stop. In determining whether or not there are mitigating circumstances which would justify Mr. Stanley's failure to stop for a blue light, you may consider actual road conditions, actual roadside conditions or other conditions such as lighting and weather, officer, driver and/or passenger safety and any other circumstances you believe to reasonably mitigate the violation.

An official signal requiring a motorist to stop may be a siren or flashing lights, but both are not required. An attempt to increase the speed of a vehicle or in some other manner avoid the pursuing law enforcement vehicle when signaled by a siren or flashing light may be considered as evidence of failure to stop for a blue light; however, it is merely an evidentiary fact to be taken into consideration by you, along with all the other evidence in this case and to be given the weight that you think it deserves.

Mr. Stanley is charged with trafficking in cocaine base. The State must prove beyond a reasonable doubt that Mr. Stanley knowingly sold, manufactured, cultivated, delivered, purchased or brought into the State, provided financial assistance or otherwise

aided, abetted, attempted or conspired to sell, manufacture, cultivate, deliver, purchase or bring into the State, was knowingly in actual or constructive possession, knowingly attempted to become in actual or constructive possession of cocaine base.

Actual possession means that the cocaine base was in the actual physical custody of Mr. Stanley. Constructive possession means that Mr. Stanley had the dominion and control or the right to exercise dominion and control over either the cocaine base itself or the property on which the cocaine base was found. Mere presence at the scene where the drugs were found is not enough to prove possession. The Defendant's knowledge and possession may be inferred when the substance is found on the property under the Defendant's control; however, this inference is simply an evidentiary fact to be taken into consideration by you along with the other evidence in this case and to be given the weight that you think it deserves. The State must also prove beyond a reasonable doubt that the amount of cocaine base was 28 grams or more but less than 100 grams.

Ladies and gentlemen, I'm now going to let you deliberate. Madam Foreperson, once again it is your responsibility to complete both verdict forms. There is one for each of the charges. In your Court of

General Sessions for the 9th Judicial Circuit Case Number 2014-GS-08-00027 -- and again, there is no significance to the fact that I read this verdict form to you -- we the jury find the Defendant Barry Jerrod Stanley not guilty of failure to stop for a blue light, or we the jury find the Defendant Barry Jerrod Stanley guilty of failure to stop for a blue light.

Madam Foreperson, you will sign the verdict form indicating that you have reached a unanimous decision. That means all 12 of you must agree. Once you have reached a unanimous decision, you will sign it and alert the bailiff that you have completed your deliberation on those verdict forms.

Case Number 2014-GS-080028, we the jury find the Defendant Barry Jerrod Stanley not guilty of trafficking in cocaine base 28 grams to 100 grams, or we the jury find the Defendant Barry Jerrod Stanley guilty of trafficking in cocaine base 28 grams to 100 grams.

Again, you will sign the verdict form indicating that you have reached a unanimous verdict, meaning all 12 of you must agree. Once those are completed, once again, you indicate to the bailiff that you have completed both verdict forms and you have reached a verdict and we will see you back in the courtroom.

Madam Foreperson, one of the questions that always comes up is will you read the verdict, will you publish the verdict. You will not. You will hand the verdict to my bailiff and I will make sure that the verdict will be published. You do not have any public speaking role as a result of your appointment as Foreperson.

Ladies and gentlemen, is there any member of the panel who feels that they would not be able, for whatever reason, to retire and begin deliberating at this time? If so, please signify at this time. Thank you. All 12 jurors have indicated that they are able to begin their deliberations. With the one caveat, this is the last time that I will say this to you: Do not begin your deliberations at this time. Do not begin discussing this case. We're going to be gathering the evidence and the verdict forms to send back to you. Once we have done that the bailiff will indicate to you that you may then begin your deliberations. So please go back to your room, take your comfort break and begin getting ready for your deliberations.

To my alternate, you have completed at this time your service to this case. Same admonishment to you: Do not begin your deliberations. Do not discuss this case with anyone until I release you. Thank you.

Please rise for the jury.

(Whereupon, the jury exited the courtroom at 2:43 p.m.)

THE COURT: Any objection, correction, addition to the charges from the State?

MR. PATTERSON: No objections, Your Honor.

MR. SHWACKE: No, Your Honor.

THE COURT: All right. All the evidence and the verdict form will go back to the jury.

(Whereupon the jury began to deliberate at 2:46 p.m.)

THE COURT: The note indicates that we have reached a verdict on one count and we are unable to reach a verdict on the second count so I will bring them in and give them the Allen charge and then send them back. Any objection?

MR. PATTERSON: No objection.

MR. SHWACKE: No objection.

THE COURT: Let's bring the jury in.

(Whereupon, the jury came into open Court at 4:57 p.m.)

THE COURT: Thank you. Please be seated. Ladies and gentlemen, I have received your note and so I am going to give you what is called the Allen charge. You have stated that you have been unable to agree on a

verdict in this case and as I instructed you earlier, the verdict of the jury must be unanimous on each indictment.

When a matter is in dispute it isn't always easy for even two people to agree, so when 12 people must agree it becomes increasingly more difficult. In most cases absolute certainty cannot be reached or expected. However, you have a duty to make every reasonable effort to reach a unanimous verdict.

In doing this you should consult with each other, express your own views and listen to the opinions of your fellow jurors. Tell each other how you feel and why you feel that way and discuss your differences with open minds. Although the verdict of the jury must be unanimous, every one of you has the right to your own opinion. The verdict you agree to must be your own verdict, the result of your own convictions and you should not give up any firmly held beliefs merely to be in agreement with your fellow jurors.

The majority should consider the minority's opinion and the minority should consider the majority's opinion. You should carefully consider and respect the opinions of each other and re-evaluate your position for reasonableness, correctness and impartiality. You must lay aside all outside matters and re-examine the

questions before you based upon the law and the evidence in this case.

If you do not agree on a verdict in this case I must declare a mistrial. In that case it does not mean that anybody wins. It just means that at some future time I will try this case with some other jury sitting exactly where you are. The same participants will come in and the same lawyers will ask basically the same questions and get basically the same answers and we'll go through this whole process again.

You were selected in the same manner and from the same source as any future jury will be and there is no reason for me to believe that this case will ever be submitted to 12 more intelligent, impartial and conscientious jurors than sit in front of me today. I ask you to return to your deliberations with the hope that you can arrive at a verdict within a reasonable time.

Madam Foreperson, it is five o'clock and as I indicated to you previously, we typically end around five o'clock, so if y'all think that after considering my new instructions if y'all would like to retire for the evening and come back in the morning, we'll entertain that request as well. But please go back and based upon my instructions to you, my Allen charge to

you, go back and consider and let me know how you wish to proceed. If you wish to remain for the evening, we will begin making arrangements to order dinner for you, so those are all issues that you can consider at this time. All right. Thank you. Please rise for the jury.

(Whereupon, the jury exited the courtroom at 5:10 p.m.)

THE COURT: You may be seated. Any objection to my charge?

MR. PATTERSON: No objection from the State.

MR. SHWACKE: None, Your Honor.

THE COURT: Okay. We'll be at ease.

(Whereupon, there was a pause in the proceedings.)

THE COURT: Let's bring them in.

(Whereupon, the jury entered open court at 5:08 p.m.)

THE COURT: Please be seated. I have received your note that you wish to continue your deliberations tomorrow; is that correct, Madam Foreperson?

THE FOREPERSON: Yes.

THE COURT: Please remember all of my admonitions. Do not discuss this case with anyone in any fashion. Please do not continue your deliberations. I know that's going to be difficult now that you have spent

the better part of the afternoon thinking about this case, but please go home and rest. Do not do any outside investigations. Do not go by the scene where any of these events are alleged to have taken place.

Please be back downstairs at nine a.m., and I will see you in the morning. Thank you. Please rise for the jury.

(Whereupon, the jury was excused for the evening at 5:10 p.m. and the trial of the case adjourned.)

(Whereupon, the trial of the case reconvened on April 9, 2014 and the jury continued to deliberate at 9:09 a.m.)

(Whereupon, the jury reached a verdict at 10:48 a.m.)

THE COURT: Mr. Schwacke, anything before we bring in the jury?

MR. SHWACKE: Well, Your Honor, I am assuming at some point you're going to ask them whether they obeyed your instructions ---

THE COURT: Correct.

MR. SHWACKE: --- because we didn't do that this morning before they began to deliberate.

THE COURT: Yes.

(Whereupon, the jury came into open court at approximately 10:56 a.m.)

THE COURT: Thank you. Please be seated. Good morning, ladies and gentlemen. I have not seen you yet this morning, but I understand that you have reached a verdict. Before you hand the form to the bailiff, I just want to make sure, did all 12 of you comply with my instructions over the evening hours? If you did, please raise your right hand. All of the jurors have complied with my instructions. Madam Foreperson, you may please hand the verdict forms to the bailiff. Thank you.

THE CLERK: The State of South Carolina versus Barry Jerrod Stanley, Indictment 2014-GS-08-00027, we the jury find the Defendant Barry Jerrod Stanley guilty of failure to stop for a blue light, signed by the Foreperson.

State of South Carolina versus Barry Jerrod Stanley, Case Number 2014-GS-08-00028, we the jury find the Defendant Barry Jerrod Stanley guilty of trafficking cocaine base, signed by the Foreperson, Ms. Kay -- Shenesey -- sorry.

If this is your verdict would you signify by raising your right hand? Thank you.

THE COURT: The record will reflect that all 12 jurors raised their hand.

MR. SHWACKE: Your Honor, we would ask they be

polled.

THE COURT: All right. Using the jury numbers we will have polling of the jury.

THE CLERK: Juror number 145, is this your verdict?

JUROR NUMBER 145: Yes.

THE CLERK: Is this still your verdict?

JUROR NUMBER 145: Yes.

THE CLERK: Juror number 13, is this your verdict?

JUROR NUMBER 13: Yes.

THE CLERK: Is this still your verdict?

JUROR NUMBER 13: Yes.

THE CLERK: Juror number 17, is this your verdict?

JUROR NUMBER 17: Yes.

THE CLERK: Is this still your verdict?

JUROR NUMBER 17: Yes.

THE CLERK: Juror number 18, is this your verdict?

JUROR NUMBER 18: Yes.

THE CLERK: Is this still your verdict?

JUROR NUMBER 18: Yes.

THE CLERK: Juror number 178, is this your verdict?

JUROR NUMBER 178: Yes.

THE CLERK: Is this still your verdict?

JUROR NUMBER 178: Yes.

THE CLERK: Juror number 23, is this your verdict?
JUROR NUMBER 23: Yes.
THE CLERK: Is this still your verdict?
JUROR NUMBER 23: Yes.
THE CLERK: Juror number 72, is this your verdict?
JUROR NUMBER 72: Yes.
THE CLERK: Is this still your verdict?
JUROR NUMBER 72: Yes.
THE CLERK: Thank you. Juror number 166, is this your verdict?
JUROR NUMBER 166: Yes.
THE CLERK: Is this still your verdict?
JUROR NUMBER 166: Yes.
THE CLERK: Juror number 63, is this your verdict?
JUROR NUMBER 63: Yes.
THE CLERK: Is this still your verdict?
JUROR NUMBER 63: Yes.
THE CLERK: Juror number 91, is this your verdict?
JUROR NUMBER 91: Yes.
THE CLERK: Is this still your verdict?
JUROR NUMBER 91: Yes.
THE CLERK: Juror number 10, is this your verdict?
JUROR NUMBER 10: Yes.
THE CLERK: Is this still your verdict?
JUROR NUMBER 10: Yes.

THE CLERK: Juror number 88, is this your verdict?

JUROR NUMBER 88: Yes.

THE CLERK: Is this still your verdict?

JUROR NUMBER 88: Yes.

THE CLERK: Judge, the jury has been polled. The verdict stands.

THE COURT: Thank you. Anything further required from the jury?

MR. SCHWACKE: Not at this time, Your Honor.

THE COURT: From the State?

MR. PATTERSON: Nothing from the State, Your Honor.

THE COURT: Ladies and gentlemen, this completes your service to this case. If you'll go back to your jury room, I'll be there in just a few moments to excuse you. I need to check on a few things to determine when you'll need to report back and then, Madam Foreperson, I have a task for you to sign documents. So please go back to your jury room. Thank you. Please rise for the jury.

(Whereupon, the jury exited the courtroom.)

THE COURT: Thank you. Be seated. Outside the presence of the jury, Mr. Schwacke?

MR. SHWACKE: Your Honor, I would renew all motions previously made. I don't know that we put on

the record specifically that I renewed my motions after we rested because we moved right into -- into our closings, but at this time I would renew all motions for new trial based upon the same circumstances, facts and legal arguments made at the close of the State's case and upon resting, at this time, Your Honor, that there's insufficient evidence to support the verdict.

THE COURT: Any response?

MR. PATTERSON: The State's response is the same as our first response. We rely on that response.

THE COURT: Any response to their response, Mr. Schwacke?

MR. SHWACKE: No, Your Honor.

THE COURT: I have heard nothing -- no indication that I would -- that there is any reason or any additional evidence or any legal argument that would cause me to change my initial ruling, so I stand by my initial ruling so are we ready to go forward on sentencing?

MR. PATTERSON: The State is prepared to move forward with sentencing.

THE COURT: Do you have your sheets?

MR. PATTERSON: I do, Your Honor. Sentencing sheets, I need -- I'm sorry. I thought you meant mine.

THE COURT: Thank you. This is a trafficking

third offense, Mr. Schwacke? Trafficking third?

MR. PATTERSON: It is a third offense, Your Honor.

THE COURT: Do you agree that your client has ---

MR. SHWACKE: They have provided me with sentencing sheets and copies of the indictments that would reflect a prior conviction that was in December of 2007; another drug offense from January 2005; another conviction from April 2001.

THE COURT: Do you have the sheets, Solicitor?

MR. PATTERSON: Yes, Your Honor.

THE COURT: Anything further from the State?

MR. PATTERSON: I have certified copies of the prior convictions. I'll furnish copies of those.

THE COURT: Mr. Schwacke has indicated that he's seen those. Anything further?

MR. PATTERSON: Nothing further from the State.

THE COURT: Anything further, Mr. Schwacke?

MR. SHWACKE: Your Honor, with regard to sentencing, Mr. Stanley has been in continuous custody for 387 days on these charges. Present in the courtroom and throughout the trial, his mother is here today. His mother was in attendance yesterday. He has a daughter who is 10 years old. I do not know if he wishes to address Your Honor with regards to sentencing. I do believe his mother does.

THE COURT: I'll be happy to hear from her. Failure to stop for a blue light, first or second?

MR. SHWACKE: I believe it's a first.

MR. PATTERSON: I believe it's a first offense.

THE COURT: Thank you. Right there is fine. Please state your full name for the record and spell your last name.

MS. STANLEY: My name is Jolene Stanley -- S-T-A-N-L-E-Y. Barry is my youngest. He has a 10-year-old daughter. I keep her sometimes when he's not around. I'm disabled. I have two sons. Barry doesn't have a father. Well, he had a father. He died. I'm the only one that took care of him. He's not a bad person. He's not a bad person at all. He helps me. He helps his daughter. He buys her clothes and he helps her with her homework and if he's gone for a long time, I don't know. I'm 53 years old and I'll try my best to help my children and my grandchildren, but if he's gone I don't know. I'll still be there because I'm going to stay until he comes back home. Sometimes when you have children you try to do the right thing by them. I also know that at one point in life they'll grow up and then they make their own decisions. Sometimes if they would just only listen, if they would sometimes just only listen to what their mom and daddy got to say there

wouldn't be all this. All I know now is I'm going to have to go back home and tell his daughter and that's going to hurt her like it's hurting me right now. That's all.

THE COURT: Thank you, Ms. Stanley.

MS. STANLEY: Thank you.

THE COURT: Solicitor, this is a minimum mandatory of 25 up to 30; is that correct?

MR. PATTERSON: That's correct, Your Honor.

THE COURT: And a $50,000 fine?

MR. PATTERSON: That's correct, Your Honor.

MR. SHWACKE: It would be an 85 percent sentencing so for that reason we would ask that you (inaudible).

THE COURT: And have you -- I understand he's also pending some charges?

MR. SHWACKE: There are some Berkeley charges that we're not trying with this case.

THE COURT: Did those occur before or after this?

MR. PATTERSON: They're all connected to this offense, or this same incident. There was a charge in connection with this offense for the Defendant's driving. He attempted to strike one of the officers. That was not tried as part of this case.

THE COURT: So there's another trafficking. When did that occur? There's a trafficking pending?

MR. PATTERSON: No, there's an armed robbery pending in Charleston.

THE COURT: Did that occur while he was under bond?

MR. PATTERSON: This occurred while he was out on bond for the armed robbery event.

THE COURT: And another pending failure to stop for a blue light ---

MR. PATTERSON: In Charleston.

THE COURT: --- in Charleston. Mr. Stanley, anything you wish to tell me?

THE DEFENDANT: I ask can you please have mercy on me, ma'am? Honestly, I don't agree with the verdict. I ask that you please have mercy on me.

THE COURT: My options are fairly limited, Mr. Stanley. I must sentence you for a minimum of 25 years up to 30 years and on the failure to stop for a blue light, it's 90 days up to three years. Do you understand those are the possible punishments?

The trafficking, because it is your third offense, is considered a violent and a serious charge. Do you understand what those two classifications mean for you?

THE DEFENDANT: Yes, ma'am.

THE COURT: And do you understand you have the right to appeal this sentence?

THE DEFENDANT: Yes, ma'am.

THE COURT: I know Mr. Schwacke also probably told you not to say anything because you have the right to appeal this case, but is there anything before I impose sentence upon you?

THE DEFENDANT: Would you please have mercy and take my family into consideration?

THE COURT: Thank you, Mr. Stanley. Anything further, Mr. Schwacke?

MR. SHWACKE: No, Your Honor.

THE COURT: Anything further from the State?

MR. PATTERSON: Nothing further from the State, Your Honor.

THE COURT: It is the order of the Court on Indictment 2014-GS-08-00027 that you be committed to the State Department of Corrections for a term of three years, giving credit for 387 days. It is the order of the Court on Indictment 2014-GS-08-00028 that you be committed to the State Department of Corrections for a term of 30 years and pay a fine of $50,000, giving credit for 387 days. Those indictments are to run consecutive. Good luck to you, sir.

(Whereupon, the trial of the case was concluded.)

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

CERTIFICATE

Be it known that I, the undersigned Reba C. Hayes, CVR, official court reporter for the State of South Carolina, transcribed the foregoing transcript of 322 typewritten pages which represents a true, accurate and complete transcription of the testimony so given and the evidence introduced at the time and place aforesaid to the best of my skill and ability;

That I am not related to nor an employee of any of the parties hereto, nor a relative or employee of any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action.

Witness my hand this 20th day of August, 2014.

Reba C. Hayes

REBA C. HAYES, CVR
(Original signature in Blue Ink)

Berkeley County Courthouse
RANDOM STRIKE SHEET

JUDGE NAME : Kristi Lea Harrington
TRIAL TYPE : General Session
PANEL ID : 2014GS080027/28
COURTROOM E

DESCRIPTION : State of SC vs. Barry Stanley

Sorted by: Random Nbr
Trial

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
~~1 Matthews, Steven L~~	~~109~~	~~W~~	~~M~~	( )	( )	(X1)	Court excused
✓ (2) Borgmann, Jonathan D	13	W	M	( )	( )	( )	
~~STX3~~ Grover, Davielle J	66	B	F	(X1)	( )	( )	
✓ (4) Brown, Travis M	17		M	( )	( )	( )	
✓ (3) Brubaker, Michael A	18	W	M	( )	( )	( )	
✓ (4) Woodfield, Teresa E	178	B	F	( )	( )	( )	
✓ (5) Cochran, Kelly M	23	W	F	( )	( )	( )	
✓ (6) Harris, Theresa M	72	W	F	( )	( )	( )	
~~ΔX6~~ Ryker, Luke D	139	W	M	( )	(X1)	( )	
✓ (11) Wages, Naomi W	166	B	F	( )	( )	( )	
✓ (8) Goodwin, Patrick K	63	W	M	( )	( )	( )	
~~(12)~~ Davis, Robert G	35	W	M	( )	(X2)	( )	
~~ΔX13~~ Doty, M Teresa	43	W	F	( )	(X3)	( )	
✓ (14) Jones, Katherine G	91	W	F	( )	( )	( )	
✓ (10) Bellamy, Frances G	10	W	F	( )	( )	( )	
✓ (16) Johnson, Deborah A	88	B	F	( )	( )	( )	
✓ (17) Shenesey, Kay L	145	W	F	( )	( )	( )	
✓ (18) Mcmakin, Ryan O	111	W	M	( )	( )	( )	
19 Myers, Wilson	120	B	M	( )	( )	( )	
20 Grainger, Patrice G	64	W	F	( )	( )	( )	
21 Knapp, Shannon S	96	W	F	( )	( )	( )	
22 Binnarr, Elizabeth A	11	W	F	( )	( )	( )	
23 Sappol, Katherine	142	W	F	( )	( )	( )	
24 Taylor, Diane R	159	W	F	( )	( )	( )	

Berkeley County Courthouse
RANDOM STRIKE SHEET

JUDGE NAME : Kristi Lea Harrington
TRIAL TYPE : General Session
PANEL ID : 2014GS080027/28
COURTROOM E

DESCRIPTION : State of SC vs. Barry Stanley

Sorted by: Random Nbr
Trial

	NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
25	Lawless, Rosemarie Z	100	W	F	( )	( )	( )	
26	Langit, James A	98	A	M	( )	( )	( )	

Total Number of Jurors: 26

** END OF REPORT **

Berkeley County Courthouse
RANDOM STRIKE SHEET

JUDGE NAME : Kristi Lea Harrington
TRIAL TYPE : General Session
PANEL ID : 2014GS080027/28
COURTROOM E

DESCRIPTION : State of SC vs. Barry Stanley

Sorted by: Random Nbr
Trial

	NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
1	Borgmann, Jonathan D	13	W	M	( )	( )	( )	
2	Brown, Travis M	17		M	( )	( )	( )	
3	Brubaker, Michael A	18	W	M	( )	( )	( )	
4	Woodfield, Teresa E	178	B	F	( )	( )	( )	
5	Cochran, Kelly M	23	W	F	( )	( )	( )	
6	Harris, Theresa M	72	W	F	( )	( )	( )	
7	Wages, Naomi W	166	B	F	( )	( )	( )	
8	Goodwin, Patrick K	63	W	M	( )	( )	( )	
9	Jones, Katherine G	91	W	F	( )	( )	( )	
10	Bellamy, Frances G	10	W	F	( )	( )	( )	
11	Johnson, Deborah A	88	B	F	( )	( )	( )	
12	Shenesey, Kay L	145	W	F	( )	( )	( )	
13	Mcmakin, Ryan O	111	W	M	( )	( )	( )	

Total Number of Jurors: 13

** END OF REPORT **

STATE OF SOUTH CAROLINA)
COUNTY OF Berkeley)
STATE VS.)
Barry Jerrod Stanley)
AKA:)
Race: BLACK Sex: M Age: 30)
DOB: [redacted] SS#: [redacted])
Address: [redacted])
City,State,Zip: [redacted])
DL#: SID#: SC01311950)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS0800028
A/W#: 2013A0820300293
Date of Offense: 3/11/2013
S.C. Code § : 44-53-0375(C)(2)~~(a)~~ (c)
CDR Code #: ~~0392~~ 349

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Trafficking in Cocaine Base/Meth, 28 to 100 grams, ~~1st offense~~ 3rd offense
in violation of § 44-53-0375(C)(2)~~(a)~~(c) of the S.C. Code of Laws, bearing CDR Code # ~~0392~~ 349
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: _____ 78437 _____ _____ _____
Patterson, Michael E. SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is commited to the ☑ **State Department of Corrections,** ☐ **County Detention Center,**
for a determinate term of 30 ~~days/months/years~~ or ☐ under the **Youthful Offender Act** not to exceed _____ years ~~and/or~~ to pay a fine of $ 50,000.00; provided that upon the service of _____ days/months/years and/or payment of $ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☑ CONSECUTIVE to sentence on: 2014-GS-08-0027
☑ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 387 days
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship,transport,possess,or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
Recipient: _____

*Fine:		$ 50,000
§ 14-1-206 (Assessments 107.5 %)		$ 53,750.00
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 47.9 (Public Def/Prob)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§ 14-1-213 (Drug Court Surcharge)	$150	$ 150.00
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
Proviso 90.5 (SCCJA Surcharge)	$5	$ 5.00
3% to County (if paid in installments)		$ 3,120.90
TOTAL		$ 107,150.90

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires $500 be paid to Clerk during probation.

~~Clerk of Court~~/ Deputy Clerk L. Hill
Court Reporter: Melissa Singletary
Presiding Judge Kristi Lamar
Judge Code: 2151
Sentence Date: 4/9/14

SCCA/217 (03/2011)

THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF BERKELEY	)	CASE NO: 2014-GS-08-00028
	)	
STATE OF SOUTH CAROLINA	)	
	)	
v.	)	
	)	**VERDICT FORM**
BARRY JERROD STANLEY,	)	
_____	)	

VERDICT

1. We, the Jury, find the Defendant Barry Jerrod Stanley NOT GUILTY of Trafficking of Cocaine Base, 28 grams to 100 grams.____

OR

2. We, the Jury, find the Defendant Barry Jerrod Stanley GUILTY of Trafficking of Cocaine Base, 28 grams to 100 grams.✓

I certify that this decision is the unanimous decision of the Jury.

Kay Shemesey, Foreperson.
April 8, 2014.

VCD2013-03-00731

WITNESSES

Hanahan Police Department

AGENCY CASE NUMBER

2013006828

ARREST WARRANT NUMBER

2013A0820300293

DATE OF ARREST

March 18, 2013

ACTION OF GRAND JURY

True Bill

Thomas Martin Jr.
Foreperson of Grand Jury
Date: 2-11-14

VERDICT Guilty

4/9/14
Foreperson of Petit Jury *Date:*

INDICT

DOCKET NO. 2014GS0800028

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

February Term 2014

THE STATE

Vs

BARRY JERROD STANLEY
DOB: [redacted]
B/M

Indictment for

Trafficking Cocaine Base 28g-100g

JH
FILED
14 FEB 11 PM 12:59
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

JH

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

INDICTMENT

At a Court of General Sessions, convened on February 11, 2014 the Grand Jurors of Berkeley County present upon their oath:

Trafficking Cocaine Base 28g-100g

That Barry Jerrod Stanley did in Berkeley County, South Carolina, on or about March 11, 2013, knowingly sell, manufacture, deliver, purchase, or bring into this State; or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State; or did possess or attempt to possess a controlled substance or a controlled substance analogue, to wit: Cocaine Base, in excess of 28 grams; in violation of 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 case made and provided.

MICHAEL E. PATTERSON
ASSISTANT SOLICITOR

Form Approved by S.C. Attorney General
April 21, 2003
SCCA 618

ARREST WARRANT

2013A0820300293

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
HANAHAN

THE STATE

against

STANLEY, BARRY JEROD
Address: [redacted]
Phone [redacted] SSN: [redacted]
Sex: M Race: B Height: 506 Weight: 165
DL State: SC DL#: [redacted]
DOB: [redacted] Agency ORI #: SC0080600
Prosecuting Agency: HANAHAN POLICE
Prosecuting Officer: JONATHAN ELLWOOD
Offense: TRAFFICKING COCAINE BASE -
Offense Code:
Code/Ordinance Sec. 44-53-375

This warrant is **CERTIFIED FOR SERVICE** in the ☐ County/ ☐ Municipality of _____. The Accused is to be arrested and brought before me to be dealt with according to law.

_____ (L.S.)
Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant Barry J. Stanley on 3-19-13.

_____
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

JUDGE D. MARK STOKES
1255 YEAMANS HALL ROAD
HANAHAN SC 29410

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
HANAHAN

AFFIDAVIT

Personally appeared before me the affiant DETECTIVE WADDELL who being duly sworn deposes and says that defendant STANLEY, BARRY JEROD did within this county and state on 03/11/2013 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of HANAHAN) in the following particulars:

DESCRIPTION OF OFFENSE:
TRAFFICKING COCAINE BASE - 44-53-375

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:
SEE ATTACHED AFFIDAVIT.

FILED
13 MAR 19 AM 11:57
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

_____
Signature of Affiant

Affiant's Address 1255 YEAMANS HALL ROAD
HANAHAN SC 29410
Affiant's Telephone 843-576-5262

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
HANAHAN

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on 03/11/2013 defendant STANLEY, BARRY JEROD did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of HANAHAN) as set forth below:

DESCRIPTION OF OFFENSE:
TRAFFICKING COCAINE BASE - 44-53-375

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution , or as soon thereafter as is practicable.

Sworn to and subscribed before me on Mar 15, 2013

_____ (L.S.)
Signature of Issuing Judge

Judge Code: 887 62745

Judge's Address 1255 YEAMANS HALL ROAD
HANAHAN SC 29410
Judge's Telephone 843-576-5262
Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

BAIL set by

Judge [signature]

on 3/7/13

Type and Amount: $5,000.00 Surety

Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____

on _____

Defense Attorney: _____

Decision: _____

FILED
13 MAR 19 AM 11:57
MARY P. BROWN
CLERK OF COURT
PICKENS COUNTY, S.C.

DISPOSITION before

Judge _____

on _____

by _____

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

_____ _____

_____ _____

_____ _____

WITNESSES

Name: _____
Address: _____
_____
Telephone: _____

Name: _____
Address: _____
_____
Telephone: _____

Name: _____
Address: _____
_____
Telephone: _____

Name: _____
Address: _____
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Telephone: _____

Name: _____
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Name: _____
Address: _____
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Telephone: _____

Name: _____
Address: _____
_____
Telephone: _____

Name: _____
Address: _____
_____
Telephone: _____

CODEFENDANTS

_____

_____

2013A0820300293

HANAHAN POLICE DEPARTMENT
WARRANT AFFIDAVIT

DEFENDANT	Barry Jerod Stanley						
ADDRESS	[redacted]						
DL STATE	SC	**DL NUMBER**	[redacted]				
PHONE	Unk	**SSN**	[redacted]			**DOB**	[redacted]
RACE	B	**SEX**	**M**	**HEIGHT**	506	**WEIGHT**	165
CASE NUMBER	2013-006828						
PROSECUTING OFFICER	Pfc. Ellwood			**AFFIANT**	Detective Waddell		

DESCRIPTION OF OFFENSE

TRAFFICKING IN COCAINE BASE (>28 Grams)
SECTION 44-53-375

That on or about March 11, 2013 white on or near Fort Drive, within the City of Hanahan, County of Berkeley and State of South Carolina the defendant **BARRY JEROD STANLEY**, did violate section 44-53-375 of the South Carolina Code of Laws of 1976 as amended, **TRAFFICKING COCAINE BASE (>28 grams)**, in that he did willfully, unlawfully and feloniously have in his possession and under his control and dominion a plastic bag containing approximately 39 gross grams of an off-white, rock-like substance that field tested presumptive for cocaine base. This is based on an official criminal investigation conducted by Pfc. Ellwood and Detective Waddell, along with observations and sworn, written testimony by a cooperating witness, who are witnesses to prove the same. All against the peace and dignity of the State of South Carolina.

Sworn to and subscribed before me
March 15, 2013

Municipal Judge of Hanahan

AFFIANT

MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.
13 MAR 19 AM 11:57
FILED

PRELIMINARY EXAMINATION RECORD

FILED
13 MAY 14 AM 11:50
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.
KWM

Defendant: Barry Jerrod Stanley

Officer/Complainant: Jonathan Ellwood
Hanahan Police Department

Charge(s):

1. 2013A0820300293		Drugs / Trafficking in ice, crank or crack - 28 g or more, but less than 100 g - 1st offense
2.		
3.		
4.		

	Bound Over to General Sessions	Dismissed No Probable Cause	Dismissed by Complainant	Waived
1.	☑	☐	☐	☐
2.	☐	☐	☐	☐
3.	☐	☐	☐	☐
4.	☐	☐	☐	☐

THE ABOVE CAME TO BE HEARD FOR PRELIMINARY EXAMINATION
(REMARKS) _____

~~March 27, 2013~~ 5/10/13

Examining Magistrate

P2

KWM

CLL
FILED
2015 FEB 19 PM 4:05
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY

MARY P. BROWN
CLERK OF COURT
General Sessions Court
Post Office Box 219
MONCKS CORNER, SOUTH CAROLINA 29461-0219
843-719-4400 843-567-3136 843-723-3800
Fax: 843-719-4511

DATE: 2/19/15

TO: Angela SC Dept of Indigent Def

FROM: Berkeley County Clerk of Court

RE: Baccy Stanley Indictment

The above referenced document(s) is being returned for the following reason(s):

(1) ___ Order needs to be sent to Berkeley County General Sessions Administrative Judge for signature.

(2) ___ Copy - must file original

(3) ___ Requires original signature

(4) ___ Contact Court Administration for transcript at the following address: 1015 Sumter Street, Columbia, SC 29201

(5) ✓ Attached is requested information.

(6) ___ We do not do criminal records check.

(7) ___ Other _____

SIGNED: CLL

KWM

FILED
14 APR 11 PM 3:08
CLERK OF COURT
BERKELEY COUNTY, S.C.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of General Sessions

Kristi L. Harrington, Circuit Court Judge

Case No. 2014-GS-08-00027/28

The State, Respondent,

v.

Barry Jerrod Stanley, Appellant.

NOTICE OF APPEAL.

Barry Jerrod Stanley appeals his conviction and sentence in this case. The sentence was imposed by the Honorable Kristi L. Harrington on the 9th day of April, 2014. This appeal is taken as to the verdict and the sentence, and this appeal is taken pursuant to the statues made and provided in the applicable provisions of the South Carolina Code of Laws, 1976, as amended.

David P. Schwacke
219 North Highway 52, Suite E
Moncks Corner, South Carolina 29461
(843) 899-2777
Attorney for Appellant

Other Counsel of Record:
Michael E. Patterson
Assistant Solicitor
300 B California Ave.
Moncks Corner, South Carolina 29461
(843) 719-4529

cc: PP

KWM

STATE OF SOUTH CAROLINA)
COUNTY OF Berkeley)
STATE VS.)
Barry Jerrod Stanley)
AKA:)
Race: BLACK Sex: M Age: 30)
DOB: SCE#:)
Address:)
City,State,Zip: [redacted])
DL#: SID#: SC01311950)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS0800028
A/W#: 2013A0820300293
Date of Offense: 3/11/2013
S.C. Code §: 44-53-0375(C)(2)~~(a)~~ (c)
CDR Code #: ~~0392~~ 349

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS TO: Trafficking in Cocaine Base/Meth, 28 to 100 grams, ~~1st offense~~ 3rd offense

in violation of § 44-53-0375(C)(2)~~(a)~~(c) of the S.C. Code of Laws, bearing CDR Code # ~~0392~~ 349
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation. ☒ Negotiated Sentence. ☐ Recommendation by the State.

ATTEST: _____ 78437 _____ _____ _____
Patterson, Michael E. SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is commited to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 30 ~~days/months~~/years ~~and/or~~ or ☐ under the Youthful Offender Act not to exceed _____ years ~~and/or~~ to pay a fine of $ 50,000.00; provided that upon the service of _____ days/months/years and/or payment of $ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 2014-GS-08-0027
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 387 days
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship,transport,possess,or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
Recipient: _____

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

*Fine:		$ 50,000
§ 14-1-206 (Assessments 107.5 %)		$ 53,750.00
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 47.9 (Public Def Prob)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§ 14-1-213 (Drug Court Surcharge)	$150	$ 150.00
§ 56-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
Proviso 90.5 (SCCJA Surcharge)	$5	$ 5.00
3% to County (if paid in installments)		$ 3,120.90
TOTAL		$ 107,150.90

☐ Appointed PD or appointed other counsel, § 47.12 requires $500 be paid to Clerk during probation.

~~Clerk of Court~~ Deputy Clerk L. Hill
Court Reporter: Melissa Singletary
Presiding Judge: Kristi Lamar
Judge Code: 215
Sentence Date: 4/9/14

SCCA 217 (03 2011)

THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF BERKELEY	)	CASE NO: 2014-GS-08-00028
	)	
STATE OF SOUTH CAROLINA	)	
	)	
v.	)	
	)	**VERDICT FORM**
BARRY JERROD STANLEY.	)	
	)	

VERDICT

1. We, the Jury, find the Defendant Barry Jerrod Stanley NOT GUILTY of Trafficking of Cocaine Base, 28 grams to 100 grams.____

OR

2. We, the Jury, find the Defendant Barry Jerrod Stanley GUILTY of Trafficking of Cocaine Base, 28 grams to 100 grams.__✓__

I certify that this decision is the unanimous decision of the Jury.

_____, Foreperson.

April 8, 2014.

STATE OF SOUTH CAROLINA)
COUNTY OF Berkeley)
STATE VS.)
Barry Jerrod Stanley)
AKA:)
Race: BLACK Sex: M Age: 30)
DOB:)
Address:)
City,State,Zip: [redacted])
DL#: SID#: SC01311950)
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS0800027
A/W#: 2013A0820300292
Date of Offense: 3/11/2013
S.C. Code § : 56-05-0750(B)(1)
CDR Code #: 0065

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS TO: Failure to stop for a blue light, no injury or death, 1st offense

in violation of § 56-05-0750(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0065
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation. ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: M E Patterson Jr. 78437 _____ _____ _____
Patterson, Michael E. SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is commited to the ☒ **State Department of Corrections.** ☐ **County Detention Center,**
for a determinate term of 3 ~~days/months/years~~ or ☐ under the **Youthful Offender Act** not to exceed ____ years and/or to pay a fine of $ ____; provided that upon the service of ____ days/months/years and/or payment of $ ____; plus costs and assessments as applicable*; the balance is suspended with **probation** for ____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☑ CONSECUTIVE to sentence on: 2014-GS-08-0028
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 387 days
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship,transport,possess,or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 47.9 (Public Def Prob)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
Proviso 90.5 (SCCJA Surcharge)	$5	$ 5.00
3% to County (if paid in installments)		$ .90
TOTAL		$ 30.90

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal. consecutive weekly monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

☐ Appointed PD or appointed other counsel. § 47.12 requires $500 be paid to Clerk during probation.

~~Clerk of Court~~ Deputy Clerk L. Hill
Court Reporter: Melissa Singletary
Presiding Judge Judy Harwell
Judge Code: 215
Sentence Date: 4/9/14

SCCA 217 (03 2011)

THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF BERKELEY	)	CASE NO: 2014-GS-08-00027
	)	
STATE OF SOUTH CAROLINA	)	
	)	
v.	)	
	)	**VERDICT FORM**
BARRY JERROD STANLEY.	)	
	)	

VERDICT

1. We, the Jury, find the Defendant Barry Jerrod Stanley NOT GUILTY of Failure to Stop for a Blue Light.____

OR

We, the Jury, find the Defendant Barry Jerrod Stanley GUILTY of Failure to Stop for a Blue Light.__1__

I certify that this decision is the unanimous decision of the Jury.

Foreperson.

April 8, 2014.

OFFICE OF THE SOLICITOR
NINTH JUDICIAL CIRCUIT

INDICTMENT/WARRANT STATUS CHANGE FORM
(One Defendant and One Warrant/Indictment per Form)

Name: **Barry Jerrod Stanley** Indictment #:

Race: B Sex: M Case Number: **2013-03-00731**

SSN:

Date of Birth: ? Warrant Number: **2013A0820300296**

CLERK OF COURT BERKELEY COUNTY, S.C.
14 APR -9 PM 1:28

Disposition (Check One) **Reason (Optional):**

4A ☒ Dismissed Reason: Guilty at trial of other charges

4B ☐ Nolle Prosequi Reason:

7 ☐ Remanded Charge:

Municipal Court:

Magistrate Court: Judge:

8B ☐ No Bill

9 ☐ Failure to Appear Date Bench Warrant Issued:

Trial/Plea Docket Week: Case Pre-filed with Grand Jury.

Authorized by: Michael E. Patterson Jr. Date: 4/9/14
Michael E. Patterson

CLERK OF COURT'S DATE/TIME STAMP:	RECEIVED BY:
	DATE:

Defense Attorney: Schwacke, David P.

...sol

OFFICE OF THE SOLICITOR
NINTH JUDICIAL CIRCUIT

INDICTMENT/WARRANT STATUS CHANGE FORM
(One Defendant and One Warrant/Indictment per Form)

Name: **Barry Jerrod Stanley** Indictment #:

Race: B Sex: M Case Number: **2013-03-00731**

SSN:

Date of Birth: Warrant Number: **2013A0820300297**

Disposition (Check One) **Reason (Optional):**

4A ☒ Dismissed Reason: Guilty at trial of other charges

4B ☐ Nolle Prosequi Reason:

7 ☐ Remanded Charge:

Municipal Court:

Magistrate Court: Judge:

8B ☐ No Bill

9 ☐ Failure to Appear Date Bench Warrant Issued:

Trial/Plea Docket Week: Case Pre-filed with Grand Jury.

Authorized by: Michael E. Patterson Date: 4/9/14

CLERK OF COURT'S DATE/TIME STAMP:	RECEIVED BY:
	DATE:

Defense Attorney: Schwacke, David P.

14 APR -9 PM 4:28
BERKELEY COUNTY, S.C.
CLERK OF COURT
FILED

-c:sol

OFFICE OF THE SOLICITOR
NINTH JUDICIAL CIRCUIT

INDICTMENT/WARRANT STATUS CHANGE FORM
(One Defendant and One Warrant/Indictment per Form)

Name: **Barry Jerrod Stanley** Indictment #:

Race: **B** Sex: **M** Case Number: **2013-03-00731**

SSN:

Date of Birth: ___ Warrant Number: **2013A0820300295**

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4B ☐ Nolle Prosequi Reason: _____

7 ☐ Remanded Charge: _____

Municipal Court:

Magistrate Court: Judge: _____

8B ☐ No Bill

9 ☐ Failure to Appear Date Bench Warrant Issued: _____

Trial/Plea Docket Week: _____ Case Pre-filed with _____ Grand Jury.

Authorized by: Michael E. Patterson Jr. Date: 4/9/14
Michael E. Patterson

CLERK OF COURT'S DATE/TIME STAMP:	RECEIVED BY: _____
	DATE: _____

Defense Attorney: Schwacke, David P.

BERKELEY COUNTY, S.C.
CLERK OF COURT
14 APR -3 PM 2:28

Court Reporter on bottom of Disposition

CLK FILED 2014 JUL 25 AM 10:49 MARY P. BROWN CLERK OF COURT BERKELEY COUNTY

MARY P. BROWN
CLERK OF COURT
General Sessions Court
Post Office Box 219
MONCKS CORNER, SOUTH CAROLINA 29461-0219
843-719-4400 843-567-3136 843-723-3800
Fax: 843-719-4511

DATE: 7/25/14

TO: Barry Stanley

FROM: Berkeley County Clerk of Court

RE: Info Request

The above referenced document(s) is being returned for the following reason(s):

(1) ___ Order needs to be sent to Berkeley County General Sessions Administrative Judge for signature.

(2) ___ Copy - must file original

(3) ___ Requires original signature

(4) ___ Contact Court Administration for transcript at the following address: 1015 Sumter Street, Columbia, SC 29201

(5) ___ Attached is requested information.

(6) ___ We do not do criminal records check.

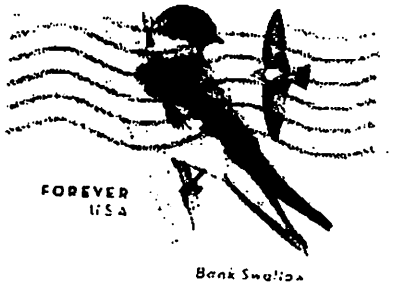
(7) ✓ Other Rule 5 and 6 Contact Solicitors Office

SIGNED: CLS

2013A0820300293 - 292

Barry Stanley #274236
Lieber Corr. Inst. CB-14
P.O. Box 205
Ridgeville, S.C. 29472

CHARLESTON SC 294
24 JUL 2014 PM 3 T



RECEIVED
2014 JUL 25 AM 10:06
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY S.C.

RECEIVED
JUL 24 2014
MAILROOM
LIEBER CI

Tms

Mary P. Brown
Clerk of Court, Berkley County
P.O. Box 219
Moncks Corner, S.C. 29461-0219

29461+0219

THE DEPARTMENT OF CORRECTIONS HAS NOT
CENSORED THIS ITEM; THEREFORE, THE DEPARTMENT
DOES NOT ASSUME RESPONSIBILITY FOR ITS CONTENTS.

LIEBER CORRECTIONAL INSTITUTION
S.C. DEPARTMENT OF CORRECTIONS

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Court Reporter on bottom of Disposition

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2014 JUL 25 AM 10:49
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY

MARY P. BROWN
CLERK OF COURT
General Sessions Court
Post Office Box 219
MONCKS CORNER, SOUTH CAROLINA 29461-0219
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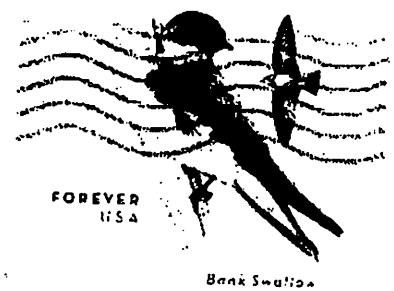
(7) ✓ Other Rules 5 and 6 Contact Solicitors Office

SIGNED: C. L. S.

2013A0820300293 - 292

Barry Stanley #274236
Lieber Corr. Inst. CB-14
P.O. Box 205
Ridgeville, S.C. 29472

CHARLESTON SC 294
24 JUL 2014 PM 3 T



RECEIVED
2014 JUL 25 AM 10:06
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY S.C.

RECEIVED
JUL 24 2014
MAILROOM
LIEBER CI

TMS

Mary P. Brown
Clerk of Court, Berkley County
P.O. Box 219
Moncks Corner, S.C. 29461-0219

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S.C. DEPARTMENT OF CORRECTIONS

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MR. BARRY Stanley #274236
LIEBER CORR. INST. CB-14
Post OFFice Box 205
Ridgeville, S.C. 29472

July 23, 2014

FILED
2014 JUL 25 AM 10:49
MARY P. BROWN
CLERK OF COURT
BERKELY COUNTY

CLA

Berkely County clerk of Court
ATTN: MS. MARY P. BROWN, Clerk
Post OFFice Box 219
Moncks Corner, S.C. 29461-0219

DEAR HONORABLE BROWN:

May you please Be so kind By HONORing & Filling THIS Request. On April 9, 2014 IN Berkely County, I went to trial And was Found guilty On the CHARGES OF "Failure to stop FOR Blue Lights - 14-GS-0800027 And TRAFFicking COCAine BASE 14-GS-0800028".

I WAS given THIRTY THREE (33) YEARS By the HONORABLE KRISTI LEA HARRINGTON. On THAT NOTE, I am kindly ASking you to please FORWARD me a COPY OF THESE Below Documents.

1. Sentencing Sheets
2. Indictments
3. WARRANTS
4. CRiminal CASE History
5. AFFiDAVit
6. Commitment ORDERS
7. TRANSmittal ORDERS
8. JURY NOTES
9. Magistrate Judge CHECK List SHEET
10. COURT Reporter NAME & ADDRESS
11. Rule 5, SCRCP DiSCLOSURE
12. Rule 6, SCRCP CHAIN OF CUSTODY

ANY MOTIONS, DOCUMENTS, NOTES, OR PAPERS YOU HAVE IN YOUR CARE AND/OR CONTROL. I HUMBLY THANK YOU VERY MUCH IN ADVANCE FOR YOUR TIME, ASSISTANCE, ETC.

Respectfully Submitted
s/ Barry Stanley

CMTI330D SCDC OFFENDER MANAGEMENT SYSTEM 01/09/17
OMCOMITA RELEASE DATE SCREEN C056427
SCDC# > 274236 LOC: **LIEBER**
STANLEY, BARRY JEROD SCDC CLASSIFICATION..: **VIOLENT**
OFFENDER TYPE...: **ADULT-STRAIGHT SENTENCE** SEXUAL REGISTRY..: **N**
SEXUAL PREDATOR..: **NOT APP**
DNA STATUS.....: **COMPLETED**
GPS REQUIREMENT..: **N**
PREA DECISION....:
PREA VICTIM.....: PREA PERP..:
CURRENT SENTENCE: **033-00-000** CONSECUTIVE SENTENCE ..: **Y**
033-00-000 CURRENT SENT START DATE: **03/18/2013**
PROJECTED COMPLETION DATES
MAXOUT DATE .....: **06/21/2042** CURRENT EWC .: **NOT CURRENTLY EARNING EWC**
YOA SIX YEAR DATE: **/ /** CURRENT EEC .: **NOT CURRENTLY EARNING EEC**
INITIAL PAROLE DATE: **09/04/2040** NEXT PAROLE HEARING DATE: **09/04/2040**

TOTAL GT DAYS EARNED .....: **000066** LABOR CREW/WORK PROG DATE: **99/99/9999**
TOTAL EARNED WORK CREDITS ..: **000000** LABOR CREW DISQ REASON:
TOTAL EDUCATION CREDITS ....: **000000** **CATEGORY 4 OR 5 OFFENSE**
TOTAL EXTRA EARNED CREDITS .: **000** SUPERVISED REENTRY DATE..: **00/00/00**
TOTAL SERVICE TIME EARNED ..: **001392** ISS.....:

PFKEYS: 5:HISTORY OF DATE CHANGES

South Carolina Department of Corrections

Classification Summary Reports

Date: Monday, January 9, 2017

Classification Summary Reports

Inmate Number
274236
Submit

SCDC ID	Name	Sex/Race	Status
00274236	STANLEY, BARRY JEROD	M B	INCARCERATED
Y 00274236	STANLEY, BARRY	M B	YOA PAROLE - CONDITIONAL

Classification Summary Report for STANLEY, BARRY JEROD :

Create PDF

CLASSIFICATION SUMMARY REPORT DATED 01/09/2017

SCDC# 00274236 STANLEY, BARRY JEROD FBI# 373737NB3

OFFENDER TYPE: ADULT-STRAIGHT SENTENCE

INSTITUTION: LIEBER

SECURITY/CUST: 3 MININMUM IN

CURR INCARC SENT: 33 YRS 0 MOS 0 DAYS

VICTIM WITNESS: [redacted] SEPREQ:N

MED CLASS: [redacted] NO MED PROB/NO WORK RESTR

INST RESTRICT: NO RESTRICTION

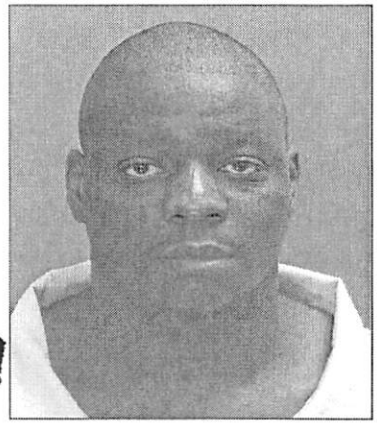
MENTAL CLASS: NMH (NO MENTAL HEALTH TRE

CURRENT PROGRAM: NO CURRENT PROGRAM

SEX REGISTRY: N

DNA: C

AGE: 33



RESIDENT STABILITY: NA

DORMROOMBUNK_CODE: CB 0009 B

PROJ MAXOUT DATE: 06/21/2042

PROJ PAROLE DATE: 09/04/2040

EWC JOB: NO CURRENT JOB

ASSIGNMENT: GENERAL DETAIL UNEMP

EWC LEVEL: 0 EEC LEVEL:

EDUC PGM: NO CURR EDUC PROGRAM

PREVIOUS NUMBERS:

Y00274236

SENTENCE SENTENCE

CURRENT OFFENSES	YRS	MOS	DYS	COUNTY	START	V/NV	CAT	INDICT
FAIL TO STOP FOR OFFICER	3	0	0	BERKELEY	03/18/2013	N	2	14GS0800027
TRAFFICKING IN COCAINE	30	0	0	BERKELEY	03/18/2013	V	4	14GS0800028

	SENTENCE					SENTENCE		
COMPLETED OFFENSES	YRS	MOS	DYS	COUNTY	START	V/NV	CAT	INDICT
MANU/DIST CRACK-2ND OFF	5	0	0	CHARLESTON	04/25/2007	N	3	07GS10-9797
ASSAULT & BATTERY	0	0	30	CHARLESTON	12/26/2004	N	3	05GS10-0485
RESISTING OFFICER	0	4	0	CHARLESTON	09/27/2004	N	3	05GS10-0178
CRACK POSSESS	3	0	0	CHARLESTON	08/26/2004	N	2	05GS10-0177
ASSL&BATTERY-HIGH&AGG NAT	3	0	0	CHARLESTON	08/26/2004	N	3	05GS10-1024

PRIOR COMMITMENTS OVER 90 DAYS:

01/25/2005 RESISTING OFFICER

		SENTENCE					SENTENCE		
PREVIOUS OFFENSES	PREVSCDCID	YRS	MOS	DYS	COUNTY	START	V/NV	CAT	INDICT
CRACK POSSESS	Y00274236	4	0	0	CHARLESTON	10/17/2000	N	2	01GS10-2417+

DETAINERS (HOLD,WANTED,NOTIFY):

	HOLD	SINKLER BONDING COMPANY	CATEG:
LEAVING SCENE OF ACCIDENT	WANTED	PRESIDING JUDGE	CATEG:2

ESCAPES:

NO ESCAPE HISTORY

CRIMINAL CHARGES:

NO CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

NO ASSAULTIVE DISCIPLINARY HISTORY

PREVIOUS ASSAULTIVE DISCIPLINARIES:

NO PREVIOUS ASSAULTIVE DISCIPLINARY HISTORY

NON-ASSAULTIVE DISCIPLINARIES:

11/20/2016	INCITING/CREATING A DISTURBANCE	DISMISSED	MAJOR DISC. HEARING
03/23/2016	POSS. OR/ATTEMPT TO POSSESS CELL PHONE	CONVICTED	MAJOR DISC. HEARING
07/19/2015	POSS. OR/ATTEMPT TO POSSESS CELL PHONE	CONVICTED	MAJOR DISC. HEARING
04/30/2015	EXHIBITIONISM AND PUBLIC MASTURBATION	CONVICTED	MAJOR DISC. HEARING
06/21/2011	POSSESSION OF CONTRABAND	DISMISSED	CHARGES DROPPED/INSUFF. E
06/21/2011	VIOLATIONS WRITE/POST INST RULES	DISMISSED	CHARGES DROPPED/INSUFF. E
06/21/2011	VIOLATIONS WRITE/POST INST RULES	DISMISSED	CHARGES DROPPED/INSUFF. E
11/27/2010	INTERFERING WITH COUNT	CLOSED	OTHER ACTION TAKEN/INFORM
03/05/2010	OUT OF PLACE	CLOSED	OTHER ACTION TAKEN/INFORM
12/23/2009	OUT OF PLACE	CLOSED	OTHER ACTION TAKEN/INFORM
05/24/2009	OUT OF PLACE	CLOSED	OTHER ACTION TAKEN/INFORM
04/29/2009	INTERFERING WITH DUTIES OF ANY PERSON	CONVICTED	ADMINISTRATIVE RESOLUTION
02/13/2008	INTERFERING WITH COUNT	CONVICTED	ADMINISTRATIVE RESOLUTION
01/07/2006	REFUSING OR FAILING OBEY ORDERS	CLOSED	OTHER ACTION TAKEN/INFORM
09/09/2005	SEXUAL MISCONDUCT	CONVICTED	MAJOR DISC. HEARING
06/20/2005	SEXUAL MISCONDUCT	DISMISSED	MAJOR DISC. HEARING
06/17/2005	USE OBSCENE,VULGAR,PROFANE LANG/GESTURES	CLOSED	OTHER ACTION TAKEN/INFORM
03/01/2002	THREATENING TO INFLICT HARM,ON INMATE	CONVICTED	MAJOR DISC. HEARING

12/05/2001	SEXUAL MISCONDUCT	CONVICTED	MAJOR DISC. HEARING
12/02/2001	REFUSING OR FAILING OBEY ORDERS	CLOSED	OTHER ACTION TAKEN/INFORM
08/27/2001	SEXUAL MISCONDUCT	CONVICTED	MAJOR DISC. HEARING

PREVIOUS NON-ASSAULTIVE DISCIPLINARIES:

NO PREVIOUS NON-ASSAULTIVE DISCIPLINARIES HISTORY

HISTORY OF MOVEMENTS:

05/15/2014	LIEBER	INCARCERATED	ADMINISTRATIVE
04/11/2014	KIRKLAND	INCARCERATED	NEW ADMISSION
04/23/2012	UNK	RELEASE	PROB/CS/EPA COMPLETE
07/01/2011	CHARLESTON CO	COMMUNITY SUPERVISION	RELEASED TO PROBATION
04/29/2011	COASTAL	WORK-RELEASE	WORK PROGRAM
03/31/2011	COASTAL	INCARCERATED	LABOR CREW
03/31/2011	COASTAL	INCARCERATED	ADMINISTRATIVE
03/31/2011	MACDOUGALL	INCARCERATED	MEDICAL
12/09/2010	COASTAL	INCARCERATED	LABOR CREW
12/09/2010	COASTAL	INCARCERATED	ADMINISTRATIVE
12/09/2010	MACDOUGALL	INCARCERATED	MEDICAL
08/18/2010	COASTAL	INCARCERATED	LABOR CREW
08/18/2010	COASTAL	INCARCERATED	ADMINISTRATIVE
08/18/2010	MACDOUGALL	INCARCERATED	MEDICAL
03/24/2009	COASTAL	INCARCERATED	ADMINISTRATIVE
03/24/2009	MACDOUGALL	INCARCERATED	MEDICAL
02/26/2009	COASTAL	INCARCERATED	ADMINISTRATIVE
02/26/2009	MACDOUGALL	INCARCERATED	MEDICAL
12/10/2008	COASTAL	INCARCERATED	ADMINISTRATIVE
12/10/2008	MACDOUGALL	INCARCERATED	MEDICAL
11/18/2008	COASTAL	INCARCERATED	ADMINISTRATIVE
11/18/2008	MACDOUGALL	INCARCERATED	MEDICAL
11/04/2008	COASTAL	INCARCERATED	LABOR CREW
07/24/2008	MANNING	INCARCERATED	ADMINISTRATIVE
07/24/2008	KIRKLAND	INCARCERATED	MEDICAL
06/25/2008	MANNING	INCARCERATED	ADMINISTRATIVE
01/31/2008	LIEBER	INCARCERATED	ADMINISTRATIVE
12/19/2007	KIRKLAND	INCARCERATED	R&E PROCESSING
12/19/2007	LIEBER	INCARCERATED	NEW ADMISSION
06/01/2006	UNK	RELEASE	EXPIRATION OF SENTENCE
07/27/2005	ALLENDALE	INCARCERATED	ADMINISTRATIVE
07/27/2005	RIDGELAND	INCARCERATED	COURT/PAROLE HEARING VIA
02/16/2005	ALLENDALE	INCARCERATED	ADMINISTRATIVE
01/27/2005	KIRKLAND	INCARCERATED	R&E PROCESSING
01/27/2005	LIEBER	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL
LABOR CREW/WORK PROGRAM	04/01/2011	07/01/2011	RELEASED/PAROLED	2F5
LABOR CREW/WORK PROGRAM	12/10/2010	03/31/2011	INSTIT TRANSFER	2F5
LABOR CREW/WORK PROGRAM	08/19/2010	12/09/2010	INSTIT TRANSFER	2F5
LABOR CREW/WORK PROGRAM	11/07/2008	08/18/2010	INSTIT TRANSFER	2F5
LAUNDRY ROOM ATTENDANT	07/02/2008	11/04/2008	INSTIT TRANSFER	2F5
CUSTODIAN HELPER	03/17/2006	06/01/2006	RELEASED/PAROLED	2F5

CUSTODIAN HELPER	12/12/2005	03/16/2006	MI ELIGIBLE FOR LEVEL 2	3F5
GENERAL WORKER	07/11/2005	09/12/2005	PLACED IN ST/SP CUSTODY	2F5
FOOD SERVICE AIDE	02/18/2005	06/20/2005	PLACED IN ST/SP CUSTODY	2F5
FOOD SERVICE AIDE	02/17/2005	02/17/2005	MI ELIGIBLE FOR LEVEL 2	3F5

HISTORY OF EARNED EDUCATION CREDITS:

EEC DESCRIPTION	START DATE	END DATE	TERMINATION REASON
BONUS 4-7 HRS/WK	08/19/2010	12/09/2010	INSTIT TRANSFER
BONUS 4-7 HRS/WK	02/19/2009	08/18/2010	INSTIT TRANSFER
BONUS 12-14 HR/WK	03/01/2005	06/20/2005	PLACED IN ST/SP CUSTODY
LVL 3 - FULL TIME(NO EWC)	02/07/2002	07/15/2002	RELEASED/PAROLED
LVL 3 - FULL TIME(NO EWC)	05/25/2001	09/02/2001	MEDICAL
LVL 3 - FULL TIME(NO EWC)	05/18/2001	05/24/2001	MI ELIGIBLE FOR LEVEL 2

********** END OF REPORT **********

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South Carolina Department of Corrections

Classification Summary Reports

Date: Monday, January 9, 2017

Classification Summary Reports

Inmate Number
274236
Submit

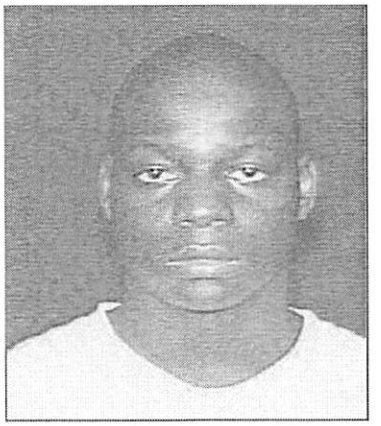
SCDC ID	Name	Sex/Race	Status
00274236	STANLEY, BARRY JEROD	M B	INCARCERATED
Y 00274236	STANLEY, BARRY	M B	YOA PAROLE - CONDITIONAL

Classification Summary Report for STANLEY, BARRY :

Create PDF

CLASSIFICATION SUMMARY REPORT DATED 01/09/2017

SCDC# Y00274236 STANLEY, BARRY FBI# 373737NB3



OFFENDER TYPE: YOA5C-INDETERMINATE SENTE

INSTITUTION: CHARLESTON CO

SECURITY/CUST: 2 MININMUM IN

CURR INCARC SENT: 4 YRS 0 MOS 0 DAYS

VICTIM WITNESS: [redacted] SEPREQ:N

MED CLASS: [redacted]

INST RESTRICT: 24 HOUR NURSING COVERAGE

MENTAL CLASS: NMH (NO MENTAL HEALTH TRE

CURRENT PROGRAM: NO CURRENT PROGRAM

SEX REGISTRY: N

DNA: N

AGE: 33

RESIDENT STABILITY:

DORMROOMBUNK_CODE: 0000

PROJ MAXOUT DATE: 10/17/2004

PROJ PAROLE DATE: 10/17/2004

EWC JOB: NO CURRENT JOB

ASSIGNMENT: EDUC DEPT. ACADEMIC

EWC LEVEL: 0 EEC LEVEL:

EDUC PGM: NO CURR EDUC PROGRAM

PREVIOUS NUMBERS:

NO PREVIOUS NUMBERS

CURRENT OFFENSES	SENTENCE YRS	MOS	DYS	COUNTY	START	SENTENCE V/NV	CAT	INDICT

CRACK POSSESS	4	0	0	CHARLESTON	10/17/2000	N	2	01GS10-2417+

COMPLETED OFFENSES

NO COMPLETED OFFENSES

PRIOR COMMITMENTS OVER 90 DAYS:

INMATE HAS NO PRIORS

OFFENSES UNDER PREVIOUS NUMBER:

NO PREVIOUS OFFENSES

DETAINERS (HOLD,WANTED,NOTIFY):

NO DETAINERS

ESCAPES:

NO ESCAPE HISTORY

CRIMINAL CHARGES:

NO CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

NO ASSAULTIVE DISCIPLINARY HISTORY

PREVIOUS ASSAULTIVE DISCIPLINARIES:

NO PREVIOUS ASSAULTIVE DISCIPLINARY HISTORY

NON-ASSAULTIVE DISCIPLINARIES:

03/01/2002	THREATENING TO INFLICT HARM,ON INMATE	CONVICTED	MAJOR DISC. HEARING
12/05/2001	SEXUAL MISCONDUCT	CONVICTED	MAJOR DISC. HEARING
12/02/2001	REFUSING OR FAILING OBEY ORDERS	CLOSED	OTHER ACTION TAKEN/INFORM
08/27/2001	SEXUAL MISCONDUCT	CONVICTED	MAJOR DISC. HEARING

PREVIOUS NON-ASSAULTIVE DISCIPLINARIES:

NO PREVIOUS NON-ASSAULTIVE DISCIPLINARIES HISTORY

HISTORY OF MOVEMENTS:

07/15/2002	CHARLESTON CO	YOA PAROLE - CONDITIONAL	PAROLE BOARD ACTION
03/01/2002	TURBEVILLE	INCARCERATED	ADMINISTRATIVE
03/01/2002	CHARLESTON CO	AUTH ABSENCE (AWL)	TO FUNERAL
05/09/2001	TURBEVILLE	INCARCERATED	MEDICAL
05/04/2001	WATEREE RIVER	INCARCERATED	ADMINISTRATIVE
04/16/2001	KIRKLAND	INCARCERATED	R&E PROCESSING
04/16/2001	LIEBER	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

NO HISTORY OF EARNED WORK CREDIT ASSIGNMENTS

HISTORY OF EARNED EDUCATION CREDITS:

EEC DESCRIPTION	START DATE	END DATE	TERMINATION REASON
LVL 3 - FULL TIME(NO EWC)	02/07/2002	07/15/2002	RELEASED/PAROLED
LVL 2 - FULL TIME(NO EWC)	05/25/2001	09/02/2001	MEDICAL

********** END OF REPORT **********

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Source : SummaryReport.jsp

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STATE OF SOUTH CAROLINA)
COUNTY OF Berkeley)
STATE VS.)
Barry Jerrod Stanley)
AKA:)
Race: BLACK Sex: M Age: 30)
DOB: [redacted] SS#: [redacted])
Address: [redacted])
City,State,Zip: [redacted])
DL#: SID#: SC01311950)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS0800027
A/W#: 2013A0820300292
Date of Offense: 3/11/2013
S.C. Code § : 56-05-0750(B)(1)
CDR Code #: 0065

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Failure to stop for a blue light, no injury or death, 1st offense

in violation of § 56-05-0750(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0065
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: _____ 78437 _____ _____ _____
Patterson, Michael E. SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is commited to the ☑ **State Department of Corrections,** ☐ **County Detention Center,**
for a determinate term of 3 ~~days/months/years~~ or ☐ under the **Youthful Offender Act** not to exceed ____ years
and/or to pay a fine of $ ____; provided that upon the service of ____ days/months/years and/or payment
of $ ____; plus costs and assessments as applicable*; the balance is suspended with **probation** for ____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☑ CONSECUTIVE to sentence on: 2014-GS-08-0028
☑ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 387 days
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship,transport,possess,or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
_____
Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 47.9 (Public Def/Prob)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
Proviso 90.5 (SCCJA Surcharge)	$5	$ 5.00
3% to County (if paid in installments)		$ .90
TOTAL		$ 30.90

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires $500 be paid to Clerk during probation.

~~Clerk of Court~~/ Deputy Clerk L. Hill
Court Reporter: Melissa Singletary
SCCA/217 (03/2011)

Presiding Judge [signature]
Judge Code: 215
Sentence Date: 4/9/14

LHH

STATE OF SOUTH CAROLINA)
COUNTY OF Berkeley)
STATE VS.)
Barry Jerrod Stanley)
AKA:)
Race: BLACK Sex: M Age: 30)
DOB: [redacted] SS#: [redacted])
Address: [redacted])
City,State,Zip: [redacted])
DL#: SID#: SC01311950)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS0800028
A/W#: 2013A0820300293
Date of Offense: 3/11/2013
S.C. Code § : 44-53-0375(C)(2)~~(a)~~ (c)
CDR Code #: ~~0392~~ 349

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Trafficking in Cocaine Base/Meth, 28 to 100 grams, ~~1st offense~~ 3rd offense
in violation of § 44-53-0375(C)(2)~~(a)~~(c) of the S.C. Code of Laws, bearing CDR Code # ~~0392~~ 349
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: _____ 78437 _____ _____ _____
Patterson, Michael E. SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is commited to the ☑ **State Department of Corrections,** ☐ **County Detention Center,**
for a determinate term of 30 ~~days/months~~/years or ☐ under the **Youthful Offender Act** not to exceed _____ years
and/~~or~~ to pay a fine of $ 50,000.00; provided that upon the service of _____ days/months/years and/or payment
of $ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by ~~reference~~.
☒ CONCURRENT or ☑ CONSECUTIVE to sentence on: 2014-GS-08-0027
☑ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 387 days
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship,transport,possess,or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐**RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
_____
Recipient: _____

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

*Fine:		$ 50,000
§ 14-1-206 (Assessments 107.5 %)		$ 53,750.00
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.
§14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 47.9 (Public Def/Prob)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§ 14-1-213 (Drug Court Surcharge)	$150	$ 150.00
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
Proviso 90.5 (SCCJA Surcharge)	$5	$ 5.00
3% to County (if paid in installments)		$ 3,120.90
TOTAL		$ 107,150.90

☐ Appointed PD or appointed other counsel, § 47.12 requires $500 be paid to Clerk during probation.

~~Clerk of Court~~/ Deputy Clerk L. Hill
Court Reporter: Melissa Singletary
Presiding Judge Kristi Lamar
Judge Code: 215
Sentence Date: 4/9/14

SCCA/217 (03/2011)

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM BERKELEY COUNTY

Kristi Lea Harrington, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BARRY JERROD STANLEY,

APPELLANT

APPELLATE CASE NO. 2014-000767

RECORD ON APPEAL

TIFFANY L. BUTLER
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

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Attorney General

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101 Meeting St., Ste. 400
Charleston, SC 29401-2214
fax (843) 740-5858
(843) 958-1900

Attorneys for Respondent

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STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

The State of South Carolina	)	Case Number:
	)	2014-GS-08-00027
Plaintiff,	)	2014-GS-08-00028
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
Barry Jerrod Stanley,	)	
	)	
Defendant,	)	ORIGINAL
	)	

April 7 - 9, 2014
Moncks Corner, South Carolina

BEFORE:

The Honorable Kristi Harrington

APPEARANCES:

Michael Patterson, Assistant Solicitor
Charles Condon, Assistant Solicitor
Attorneys for the State of South Carolina

David Schwacke, Esquire
Chad Shelton, Esquire
Attorneys for the Defendant

Melissa Singletary
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THE COURT: Is the State ready to proceed?

MR. PATTERSON: The State is ready to proceed.

THE CLERK: Ladies and gentlemen of the jury, as I call your name please come forth and bring your personal belongings with you. If I say seat the juror please have a seat in the jury box. If I say excuse the juror, please return to your original seating and please follow the instructions of the bailiffs. Juror 109, Steven Matthews. What says the State?

MR. PATTERSON: Your Honor, may we approach?

THE COURT: You may. Mr. Matthews, this has nothing to do with you. You just stand right there. I know it's kind of tough being the first one.

(Whereupon, a bench conference was held off the record in the presence of the jury panel, but out of the hearing of the jury panel.)

THE COURT: Mr. Matthews, would you approach please?

(Whereupon, the bench conference continued off the record in the presence of the jury panel, but out of the hearing of the jury panel.)

THE COURT: Thank you.

THE CLERK: Juror Number 13, Jonathan Borgmann. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror. Juror 66, Davielle Grover. What says the State?

MR. PATTERSON: Please excuse the juror.

THE CLERK: Excuse the juror. Juror 17, Travis Brown. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror please. Juror 18, Michael Brubaker. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror. Juror 178, Teresa Woodfield. What says the State?

MR. PATTERSON: Court's indulgence.

THE COURT: Take your time.

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror. Juror 23, Kelly Cochran. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror. Juror 72, Theresa Harris. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror. Juror 139, Luke Ryker. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant.

MR. SCHWACKE: Please excuse the juror in the trial of this case.

THE CLERK: Excuse the juror. Juror 166, Naomi Wages. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror. Juror 63, Patrick Goodwin. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror. Juror 35, Robert Davis. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please excuse the juror in the trial of this case.

THE CLERK: Excuse the juror. Juror 43, Teresa Doty. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please excuse her in the trial of this case.

THE CLERK: Excuse the juror. Juror 91, Katherine Jones. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror. Juror number 10, Frances Bellamy. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror. Juror 88, Deborah Johnson. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror. Juror 145, Kay Shenesey. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror. Juror 111, Ryan McMakin. What says the State?

MR. PATTERSON: Please seat the juror.

THE CLERK: What says the Defendant?

MR. SCHWACKE: Please seat the juror.

THE CLERK: Seat the juror.

THE COURT: Any motions or matters pertaining to the jury as selected from the State?

MR. PATTERSON: Nothing from the State, Your Honor.

MR. SCHWACKE: Nothing from the defense.

THE COURT: All right. Ladies and gentlemen, you were selected as the jury to try this case. We are going to be selecting another jury so I'm going to go ahead and let you go to lunch. Please report back and Ms. Evelyn is going to tell you how to do that. Be back at 2:30 and we're going to begin. So please be back at 2:30. Thank you, Ms. Evelyn. You may take the jurors back.

(Whereupon, the jury exited the courtroom at 11:42

a.m.)

(Off the record from 11:42 a.m. until 2:30 p.m.)

MR. PATTERSON: The State just had some 609/403 motions regarding our witness convictions, just in an effort to determine ---

THE COURT: Which witness?

MR. PATTERSON: Evette Nelson, William Loflin, Chris Rowland, Tanya Deane, Greg Rider and Deangelo Watson.

THE COURT: And you're wanting to approve them all right now?

MR. PATTERSON: We can proceed with the Biggers if you prefer to do that first.

THE COURT: Anything else?

MR. SCHWACKE: The only other matters, there's a -- we've been informed by the State that they expect to attempt to elicit testimony from two of their witnesses concerning some matters that we would have objection to. We don't need to address that now because I'm not specifically sure they're even calling them. They're still modifying that but there will be -- as those witnesses are called by the State, we may wish to approach the bench and talk to you.

THE COURT: All right. Let me hear from you on Biggers.

MR. PATTERSON: Do you want us to call our first witness or ---

THE COURT: What's -- Mr. Schwacke, what's the nature of your challenge? As I understand it is a six-pack?

MR. SCHWACKE: It's a six-photo array, Your Honor, that was presented to three witnesses and that would include Ms. Tanya Deane, Mr. Greg Rider and to Preston Kornahrens. It was a six-pack photograph array that was prepared by someone at the Charleston County Detention Center and then provided to -- shown by Officer Nelson to those three witnesses. There are matters concerning the presentation as well as the array itself.

THE COURT: Thank you. Call your first witness.

MR. PATTERSON: The State calls Tanya Deane. Your Honor, I made these exhibits as State's Exhibits. Should I also mark them as Court's Exhibits for the purposes of this hearing or can I leave it ---

THE COURT: Just mark them once.

MR. PATTERSON: Okay.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Tanya Adriana Deane -- D-E-A-N-E.

TANYA DEANE, after being duly sworn, testified as follows:

PROFFERED DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Good afternoon, Ms. Deane. Where do you live?

A. 6240 Old Point Road, Unit A2, in Hanahan, South Carolina.

Q. And what is your relation to Greg Rider and Preston Kornahrens?

A. That is my husband and our son.

Q. And do you know Evette Nelson?

A. Yes.

Q. How do you know her?

A. She was our neighbor at -- in Unit A8 right there. We're all in the same building.

Q. And do you know the Defendant Barry Stanley?

A. Yes.

Q. And how do you know him?

A. I was introduced to him by Evette.

Q. And about how many times have you seen him around the apartment complex?

A. Lots of times, eight, nine, 10 times.

Q. Is it fair to say that you knew his face and could recognize him?

A. Yes.

Q. And where was Evette Nelson's apartment and Barry Stanley's in relation to yours?
A. The exact same position but just at the other end of the building.
Q. And did you see the Defendant Barry Stanley in the apartment complex prior to the incident that morning?
A. Yes.
Q. And where did you see him?
A. I mean, I saw him -- seen him on the property. You mean that same day?
Q. That same day.
A. No, sir.
Q. You didn't see him that same day?
A. No.
Q. And did you witness an incident involving the Defendant Barry Stanley on March 11, 2013?
A. No.
Q. In regards to Evette Nelson?
A. Oh, did I witness him?
Q. Can you just explain the incident that you witnessed that day?
A. Oh, yeah. I'm sorry.
Q. That's okay.
A. My husband came to the door and told me to call 911, that Evette Nelson had come running out to the

basketball court where my husband and our son were playing basketball with a neighbor, and told me to immediately call 911, that Evette was in trouble, that Jay -- there was an incident with she and Jay and please let her in. And so I called 911 and she came running into the condo, slammed the door and said that he was going to kill her -- that Jay was going to kill her. So while I was on the phone with the police they told me to stay inside with Evette, and I asked her where the children were and she said they were still down at the condo and then my husband ran into the condo, got Evette and took her out to the police that were waiting outside.

Q. And based on -- Barry Stanley, does he also go by Jay, to your knowledge?

A. Yes.

Q. And so based on the statements made by Evette to you, is that how you knew that he was involved?

A. Yes.

Q. And so after you called the police, what happened?

A. After I -- well, I was still on the phone with the police when my husband ran in the door. Evette was still in there with me. She was very shaken up, very distraught, panicked, and that's when Greg came to the door. I believe the officer -- the officer was

standing right outside of our door and they took Evette outside, I guess, to question her and to -- to handle it outside the door.

Q. And did the police come back a couple of days later?

A. Yes.

Q. Do you know what day that was?

A. I think it was a couple of days later, the 13th, 14th?

Q. 14th maybe?

A. I'm not sure of the exact date. The 14th.

Q. And what happened at that point?

A. The officer -- I believe it was Officer Nelson came to our house and she asked if I would look at some photos and I told her sure, so she opened up the book, asked if I recognized anyone on there and I pointed out my neighbor Jay.

Q. Did she show you two photo lineups?

A. Yes.

Q. I'm going to show you what's been marked as State's Exhibit 18 and 19. Do you recognize these lineups?

A. Yes, sir.

Q. And how do you recognize those lineups?

A. These are the ones that were shown to me.

Q. And did the officer at any time suggest to you who you should select?
A. No, sir.
Q. Did she point at anybody?
A. No, sir.
Q. Were you shown these separately from Greg Rider?
A. Yes, sir.
Q. And who did you select?
A. Jay.
Q. And what number is that?
A. That would be number one.
Q. And how certain were you about the selection?
A. One hundred percent.
Q. And in the second lineup up there, I believe it's State's Exhibit 19, did you recognize anyone in that lineup?
A. No, sir.
Q. Do you recognize the person in the courtroom today that you identified?
A. Yes, sir.
Q. Can you point him out?
A. (Witness does as requested.)
Q. Can you say his name please?
A. Barry -- Jay.
Q. Stanley?

MR. PATTERSON: I just ask that the exhibits be admitted for purposes of this hearing only.

THE COURT: Admitted.

PROFFERED CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. Ms. Deane, when you were shown the photographic array that's been marked as State's Exhibit Number 18, what, if anything, were you told about that?

A. The photos were just put in front of me and all I was asked was to point out if I recognized anyone.

Q. And you obviously recognized number one because that's the one you circled and initialed?

A. Yes, sir.

Q. And that has a date on it?

A. Yes, the 14th of March.

Q. Okay. And the incident that you just testified to that involved Evette where she came into your house, that had actually happened three days earlier on the 11th?

A. Yes, sir.

Q. And you're the one who called 911?

A. Yes, sir.

Q. And did you ever go outside of your apartment unit?

A. Not until after everything was settled down.

(TANYA DEANE-PROFFERED CROSS BY MR. SCHWACKE)

Q. So would it be fair to call you an ear witness to what happened that day, because you didn't see -- you never went outside and saw an individual that day; correct?

A. Do you mean concerning ---

Q. This incident.

A. No, I -- no, sir.

Q. The only person that you actually saw to tell you about it was Evette.

A. Right.

Q. Plus your husband ---

A. Yes.

Q. --- and your son? So that day you didn't see ---

A. No, sir.

Q. --- Mr. Stanley?

A. No.

Q. And this is the photo array that you were shown?

A. Yes, sir.

Q. And you were also shown Number 19 as well?

A. Yes, sir.

Q. But on that particular day, on the 11th when this happened ---

A. Uh-huh.

Q. --- you didn't see any -- you didn't see the person at all who you were being told was involved?

A. No, sir.

MR. SCHWACKE: One moment, Your Honor.

Q. How long have you lived in that apartment complex?

A. Eight years.

Q. And how long has Evette lived there?

A. Just months, I would say. I'm not even sure of the exact date, but months.

Q. Is she still there now?

A No, sir.

Q. Did she move out shortly after this?

A. Yes, sir.

Q. So is it months? Is it weeks? Do you know exactly how long they had lived there?

A. Not weeks. I would say months, two months, somewhere around there. Sorry. We weren't real close neighbors. I don't know exactly.

MR. SCHWACKE: That's fine. Thank you. No further questions.

MR. PATTERSON: No redirect, Your Honor.

THE COURT: You may step down. Call your next witness.

MR. PATTERSON: The State calls Greg Rider.

THE COURT: Mr. Rider, please come forward to be sworn.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: My name is Greg Rider -- R-I-D-E-R.

GREG RIDER, after having been duly sworn, testified as follows:

PROFFERED DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Good afternoon, Greg. Where do you live?

A. 6240 Old Point Road, Apartment A2.

Q. Do you know Evette Nelson?

A. Yes, Evette Nelson, she -- her and her two sons and another gentleman, we met some time ago.

Q. Is the other gentleman, is that Barry Stanley?

A. Yes, sir.

Q. And did you have a chance to meet him?

A. I introduced myself when they were moving in and, you know, hey, how are you doing.

Q. So you shook his hand and you got to meet him?

A. Pretty much, yes.

Q. Are you pretty familiar with him? If you saw him would you recognize him?

A. Yes, sir. I saw him every day for a month or two.

Q. So it's fair to say that you knew him and his face?

A. Excuse me?

Q. Is it fair to say that you knew him and his face?
A. Yes, sir.
Q. Okay. And did you witness an incident involving the Defendant Barry Stanley on March 11, 2013?
A. Yes, sir.
Q. And can you, kind of, describe for the Judge what happened on that day?
A. Well, my son and myself and a friend of ours who lives in the same complex, we were out shooting baskets late in the afternoon and then as I said, I knew Evette because she was friendly and, you know, she was always running around chasing after her two-year-old basically. Plus we live right next to the laundry, so she was there doing laundry, so we knew Evette and we were out playing basketball and then she came running up to us, screaming frantically, saying Paul, please call the police, he's going to hurt me, he's going to kill me, call the police.

You know, I calmed her down and I said okay. My son and I were there. I said who's going to call - who's going to hurt you. She said he's going to hurt me, he's going to hurt me, Barry's going to hurt me. And then right about that time he drove his vehicle right through the basketball court real slow and she started running to the other unit. I said hang on,

Evette. He's not going to do anything while we have three men here and then he ran off. Okay.

So then at that point I took Evette to my house, which is in the same building, and at that time I said to my wife, Tanya, call the police and I went outside at that time just to make sure that he didn't come back. She was very frantic, very afraid. So then all of a sudden I saw him come back into the complex and he stopped his vehicle in front of his unit. He left the car running, the door was open, he went into his unit and then came right back out and I was afraid he was going to take the children. All right.

So after he got back in the car he drove right up to my condo where I could see him, you know, from almost me to you, and he just looked at me. At that point I was a little -- I got a little hesitant, you know, because I didn't know what was going to happen. I didn't know this gentleman and I held up my phone. I had two women in my house that were frightened and I said they're coming -- all right -- meaning the police. He knew what I meant by that and he sped on out of there and less than -- I would say less than 10 seconds after he left our complex, the police came right in at that time and I said you just missed him. You had to -- you had to see him, you know, driving away. And at

that time I heard sirens everywhere, so that's what I saw.

Q. So on the day of the incident, did you get a clear look at the person who was involved?

A. Yes, I saw him numerous times for -- that day -- the day we -- like I said, we were up this close, me to you, and I saw him clearly. He was in his dark blue vehicle, you know, the car he always drove.

Q. And was it raining that day? What was the weather like outside?

A. Well, we were out shooting baskets so ---

Q. So it was clear?

A. It was very clear.

Q. And it was still light?

A. Yes, it was probably about four or five o'clock, I guess, after school. My son was home after school so.

Q. About how long did you get a chance to view the suspect during the incident?

A. I would say everything took seconds, you know, realistically, but it seems like forever when you're in that kind of situation. Things get a little surreal but I would have to say we looked at each other probably about 10 seconds until I held up my phone, and at that point he got out of there quickly.

Q. So after that day did you ever have a chance --

did a police officer come by at any time?
A. Yes, a police officer -- I think Officer Nelson came by.
Q. Was that a few days later on March 14th?
A. I don't know the date but it was a few days later.
Q. I'm going to show you what's been marked as State's Exhibit 17. Do you recognize that document?
A. I recognize this one, yes.
Q. How do you recognize that?
A. It has my initials on there.
Q. And was that photo lineup provided to you on that day?
A. Yes, sir.
Q. What instructions were given to you when you were shown the photo lineup?
A. Officer Nelson just placed this down and said do you recognize the gentleman -- I don't know how she put it, but I think she said Barry and I said that's him right there and I circled it.
Q. Did she ask you who was involved in the incident or did she ---
A. Well, I never saw it. Evette was saying that he was beating her and everything else, you know. I never witnessed anything like that but I witnessed her running away from him frantically.

Q. And who did you select on that lineup?
A. Number one.
Q. And you weren't instructed to pick anybody, were you?
A. No, sir.
Q. Did she point out anyone to pick?
A. No, she did not. She just placed this sheet right in front of me, asked -- asked me if I recognized the gentleman.
Q. And how certain are you of your selection?
A. I saw him every day for a month or two, so that's him.
Q. Is he present in the courtroom today?
A. Yes, he's sitting right there.
Q. Do you have any doubt about your identification?
A. No, sir.
Q. Was anyone else present when you made it? I mean, did you see your wife make her selection? Was that made in front of you or did y'all do it separately?
A. I don't recall. Officer Nelson only came one time to do this so I think we all did it at the same time basically.
Q. But you were in separate locations; correct?
A. Well, our house is pretty small, but yeah. She was focusing on me when she was talking to me and then

she was focusing on Tanya when she was talking to Tanya.

Q. You don't recall the exact details of how ---

A. No, sir.

Q. Just one more question. The officer arrived early and you were still at work that day; right? Do you recall?

A. Repeat the question?

Q. If I showed you your statement, would that help you refresh your recollection of the events on that day? Like, when you arrived back on that day, March 14th, when Officer Nelson was there, you came there later; correct?

A. Yeah, probably was there later. Yeah, so she might have already dealt with Tanya.

MR. PATTERSON: No further questions.

THE COURT: Mr. Schwacke?

MR. SHWACKE: Thank you, Your Honor.

PROFFERED CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. Mr. Rider, you did a voluntary statement to the Hanahan Police Department?

A. Yes, sir.

Q. But you had your wife write that for you?

A. Yes, sir.

Q. Is there a reason?
A. I think you wanted to read it; right?
Q. Are we talking about handwriting legibility?
A. Yeah, probably, you know, I'm not a very good speller.
Q. Well, I just want to make sure you had the opportunity to review it before it got turned in?
A. No, actually I scribbled it down and then I said here, honey, correct it as far as the spelling, and she's got beautiful handwriting so.
Q. How long have y'all lived in that apartment complex?
A. Seven years maybe.
Q. And ---
A. We know everybody in the complex.
Q. How many black families are in there?
A. Half dozen maybe.
Q. And how long had Evette lived in the complex?
A. I would say a month, maybe a month and a half ---
Q. Because ---
A. --- not long.
Q. --- in the statement you refer to her as your new neighbor.
A. Yes.
Q. So at the time you were shown the lineup, the

photo lineup -- and this is what was presented to you; correct?

A. Yes, sir.

Q. Those are your initials and you dated this on the 14th?

A. Yes, sir.

Q. When Officer Nelson presented that to you, what did she -- what did she ask you?

A. She asked if I could identify the gentleman who everyone was talking about in this -- this complaint.

Q. Well, did she use the name Barry?

A. Possible.

Q. Because I thought when you testified earlier you said can you identify the gentleman Barry?

A. Exactly. And this is a year later.

Q. Right. I understand.

A. There was no mistake who the gentleman was. We were all talking about the same gentleman and it was the gentleman who lived with Evette.

MR. SHWACKE: One moment, Your Honor. Thank you. That's all the questions I have.

THE COURT: Any redirect?

MR. PATTERSON: No redirect, Your Honor.

THE COURT: Please step down. Thank you, sir. Call your next witness.

MR. CONDON: The State calls Pam Nelson.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Pam Nelson -- N-E-L-S-O-N.

PAM NELSON, after being duly sworn, testified as follows:

PROFFERED DIRECT EXAMINATION

BY MR. CONDON:

Q. Good afternoon, Officer Nelson. Who do you work for?

A. Hanahan Police Department.

Q. And what's your title and some of your job duties?

A. Sergeant right now. At the time that this incident happened, I was a detective. Do you want job duties now or back then?

Q. Just back then as a detective.

A. Back then I investigated crimes against the person, child abuse, sexual -- all sexual assaults, domestic violence, elder abuse, murder, assault and batteries.

Q. All kind of stuff?

A. Uh-huh.

Q. And what was your involvement on the investigation of the Barry Stanley case?

A. The involvement -- I presented a photo lineup to three individuals to see if they could identify Mr. Stanley.

Q. And when was that done?

A. That was done on March 14th, 2013.

Q. Can you explain how that -- how the procedure worked?

A. As far as how the photo lineup was obtained?

Q. That's correct.

A. The photo lineup was -- Detective Durant had sent a message to Charleston County Detention Center. They prepared the photo lineups and it was emailed back to him, and then he handed them to me and I took them over to the residence.

Q. Is that standard procedure to have the detention center prepare the photo lineups like that?

A. Yes.

Q. And can you describe when you met with the different witnesses at the home and how -- what instructions you gave to them?

A. On March 14th I first met with Ms. Tanya Deane and asked her if she could identify this person that had came over that was -- had caused the disturbance on the previous date, on March 11th. So she was shown the photo lineup of two different individuals, two

different photo lineups, one with Mr. Stanley in it and one with Mr. Watson in it. And then whenever her son came home I asked him the same. I took him into -- they have a little kitchen area that was away from where Ms. Deane was located and I asked him, and then whenever Mr. Rider came home I also had him in the kitchen away from the son and Ms. Deane and asked him away from those other individuals.

Q. At any time did you suggest to any of them who to select?

A. No.

Q. Did you point anybody out?

A. No, handed them the paper.

Q. Did you reference the Defendant by his name?

A. No.

Q. I'm going to show you what's marked as State's Exhibit 17 and 19 -- excuse me -- State's Exhibit 18 and 19. Are these the lineups that you showed to Tanya Deane?

A. Yes.

Q. And who did she select on those lineups?

A. She selected number one on the State's Exhibit 18.

Q. And who is that?

A. That's Barry Stanley.

Q. And how certain was she of that selection?

A. She said she's positive.
Q. I'm going to also get you to look at State's Exhibit 17.
A. Yes.
Q. And did you show that photo lineup to Greg Rider?
A. I did.
Q. And who did he select?
A. Number one, Mr. Barry Stanley.
Q. And how certain was he?
A. Positive.
Q. And did you show the other lineup as well with Deangelo Watson to Mr. Rider?
A. I don't recall showing that one to Mr. Rider.
Q. And how certain was he with the selection?
A. Positive.
Q. Did they indicate any doubt about who they selected to you?
A. No.
Q. Did they indicate that they knew him prior to the incident?
A. Yes.
Q. And the lineup you showed to Preston Kornahrens, who did he select on that?
A. He selected number one. He said that he couldn't be 100 percent positive but he was 99 percent positive.

Due to that I didn't have him circle it. I told him he needed to be absolutely positive.

MR. CONDON: No further questions.

THE COURT: Mr. Condon, maybe I missed it. What's the significance of having Deangelo Watson in the lineup?

MR. CONDON: Well, as you'll hear one of the witnesses, Evette Nelson, she later came to the police station ---

THE COURT: Are we going to get into that in just a moment?

MR. CONDON: Not in this hearing. I can quickly tell you.

THE COURT: Yes, please.

MR. CONDON: So her involvement was Evette Nelson who is the girlfriend of the Defendant, she came in and gave a second statement at his request -- that's our position -- changing the person she identified to Deangelo Watson, so that was his involvement.

THE COURT: I believe that's significant to know. Is he in -- Mr. Watson in those lineups?

THE WITNESS: Not in these because they didn't circle those.

MR. CONDON: There's two lineups, Your Honor.

MR. PATTERSON: He's in a separate six-array

photo. There's no identification ---

THE COURT: Did you do them at the same time?

THE WITNESS: Yes, ma'am.

THE COURT: Okay.

MR. CONDON: Nothing further.

THE COURT: Thank you.

PROFFERED CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. So the photo arrays were provided to you by detective?

A. Durant.

Q. Durant. The lineups are -- we're talking about State's Exhibit Number 17 which was presented to Mr. Rider and State's Exhibit Number 18 which was presented to Ms. Deane; correct?

A. Yes.

Q. And the exact same photographs in the exact same order appear on both of those lineups.

A. Yes.

Q. And that would be true of the lineups shown to their -- to Ms. Deane's son as well?

A. Yes, we just made photocopies of it.

Q. And that was provided to your department?

A. Yes, from the Charleston County Detention Center.

Q. So in looking at those photographs, would you

agree with me that the photos in position number one and number six on both State's Exhibits 17 and 18 have the darker background?

A. Yeah, the background is different on several of these.

Q. Okay. And would you agree with me that the complexion of the skin of persons shown in positions two, three, four and five are lighter than positions one and six?

A. Yeah. Number two is a little bit darker than three, four and five, but they all basically have the same features. They've all gotten short, cropped hair, that kind of thing.

Q. When you showed the array to Ms. Deane -- we're talking about 18 -- what exactly did you ask her?

A. I believe my words just would have been can you identify the person that was causing the disturbance on March 11th. I don't remember the exact wording.

Q. Even though she never saw the individual doing that on the 11th?

A. Right. I handed her ---

Q. Right?

A. I handed her the two lineups.

Q. To Ms. Deane?

A. Correct.

Q. And Ms. Deane never saw the perpetrator of what was being phoned in to the police.
A. Right. Ms. Deane, I believe, was the caller who was calling the police and Evette then came over to the residence. They stayed inside the residence.
Q. She saw Evette. She saw her husband. She saw her son. But she never saw the individual that the police were being reported to come and deal with?
A. Correct.
Q. So my question again is what did you ask her to do in identifying -- who was she supposed to be picking out and why?
A. I could look back at my notes on my report, but I believe it was who was causing the disturbance, who was outside at the time.
Q. And so all she knows is what she would have heard from somebody else in terms of that?
A. I believe so, yes.
MR. SCHWACKE: That's all the questions I have.
THE COURT: Mr. Condon?
MR. CONDON: Just one quick question.

PROFFERED REDIRECT EXAMINATION

BY MR. CONDON:
Q. What's the race of all the individuals in the photo lineup?

A. They're all black males.

THE COURT: Mr. Schwacke?

MR. SHWACKE: I think that's obvious, Your Honor, so no further questions.

THE COURT: All right. You may step down. Call your next witness.

MR. CONDON: One second, Your Honor. Just briefly the State calls Detective Durant.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: My name is Frederick Joseph Durant. My last name is spelled D-U-R-A-N-T.

FRED DURANT, after being duly sworn, testified as follows:

PROFFERED DIRECT EXAMINATION

BY MR. CONDON:

Q. Good afternoon, detective. In regards to the Barry Stanley case, did you request a photo lineup?

A. I did.

Q. Who did you request it from?

A. Charleston County. Charleston County.

Q. And is the person you requested it from, are they trained and qualified in the preparation of a photo lineup?

A. They are.
Q. And once you got the photo lineup, what did you do with it?
A. I gave it to Sergeant Nelson.
Q. And just briefly look at the State's Exhibits up here. Does that look like an accurate reflection of the photo lineups that you provided to Officer Nelson?
A. It does.

MR. CONDON: Nothing further.

THE COURT: Mr. Schwacke?

MR. SHWACKE: No questions.

THE COURT: Thank you. You may step down.

MR. CONDON: That's it, Your Honor.

MR. SCHWACKE: Your Honor, we don't have any testimony to provide at this time. However I would make a motion that the -- I'm kind of in an odd position here because I believe the State may have been able to show why the witnesses could identify him for reasons apart from the lineup, but at this time based upon the presentation of the lineup, what they were told, how it was identified, I don't believe that the State should be allowed at trial to introduce any testimony regarding actual lineup and its presentation finding although I still believe that they've established the basis by which the witnesses could in

Court make an identification, so it's an odd request and I am not trying to try their case for them but I would ---

THE COURT: I'm perplexed as to why y'all need a lineup. What -- evidently I'm missing a piece of the facts that -- if they can identify him why use the lineup?

MR. CONDON: I think it just confirms specifically to Greg Rider that Mr. Stanley was the person that he saw in the vehicle that day.

MR. PATTERSON: And I think he still gets to that point based upon his knowledge ---

THE COURT: Maybe again because y'all have known these facts for a while. Is there a time or is there a question that Mr. -- that he's not going to be in the vehicle?

MR. PATTERSON: At the end of the pursuit -- there's a vehicle pursuit -- Mr. Stanley flees from his vehicle and they do not capture him that day and Evette Nelson gives one statement -- her very first statement naming this Defendant and then our position would be that she was intimidated to give a second statement.

THE COURT: Yes, there's a time that he's not in the vehicle when he's apprehended.

MR. PATTERSON: That's correct.

THE COURT: All right. Let me hear from you, Mr. Patterson. I'm sorry. Mr. Condon?

MR. CONDON: Your Honor, I think identification is a key issue in this case and therefore the photo lineups are relevant to establish that. And also I don't think the photo lineups are unduly suggestive and based on the testimony provided in light of the facts that they did know him and they're absolutely certainly it was him.

THE COURT: Mr. Schwacke, anything further?

MR. SHWACKE: Your Honor, just again, regarding Mr. Rider, he's in a boat by himself because Ms. Deane is identifying, I guess, by her memory as to who this man is, but not based upon seeing him at all that day of the domestic violence call, chase, none of those items. She never saw who that individual is so clearly if she wants to say she knows him that's one thing, but to say he was the one involved in it, that's just not possible because she admitted she didn't see him.

Mr. Rider has given ample reasons to say why he can recognize him but we believe that the photo lineup that he was shown, under the circumstances, is an improper lineup based upon a number of factors including the darkness of background, complexion of skin, and the fact that she -- and he testified to this

-- can you identify the gentleman and then Stanley. I mean, that was his testimony so we're trying to exclude any of the evidence of the actual photo array identifications. I think this thing still has a way through Mr. Rider for him to make identification based on their view of the case.

THE COURT: Clearly both witnesses testified that they knew him independently of this -- of this lineup, so then we're, kind of, almost reading it in reverse. But you are asking me, first of all, to exclude all the lineup -- the two lineups, 18 and 19, from Ms. Deane because she was not a witness to anything. She was, as you termed it, an ear witness.

MR. SCHWACKE: Ear witness and she never saw anybody to identify. She couldn't identify somebody -- I mean, she could identify somebody that she's been told has been involved in something, but that day she didn't witness anything to be able to make an identification from. So that's with regard to her testimony. They still have surviving the testimony of Mr. Rider and his son based upon their independent knowledge, their having met him, seen him in the apartment complex for the past -- he indicated -- month and a half.

THE COURT: The questions I've heard that I

remember are her statement that she was asked on 18, do you recognize anyone. Not that there was anyone who was involved in the incident, which is different, I think, and a distinction that is of importance. I'll be happy to hear from you.

MR. SCHWACKE: I believe she did say that, Your Honor, that she was asked to identify the person in the incident. And the only way she could do that is through hearsay, what she was told by other people, so ---

THE COURT: So you're really asking me to put it in on different grounds other than whether or not it was unduly suggestive or ---

MR. SCHWACKE: I'm still saying that as well, Your Honor. It's a multitask approach here but we feel like with regard to Mr. Rider any testimony dealing with the photo lineup identification would be improperly bolstering what he's already able to testify to without the lineup, that the lineup is tainted, that there again are issues of complexion and background and those things. It doesn't prevent the State from getting their identification in. It does eliminate what we feel is an improper photo array.

THE COURT: Mr. Condon, I just want to hear from you as to the identification as to the ear witness. Do

you understand what I mean by that?

MR. CONDON: Yes, Your Honor. The State's position is that, you know, obviously excited utterances by the victim and she knew the background of the victim who lived with the Defendant, so we believe that's relevant because she -- you know, based on that it was fair for her to conclude that was the person involved, because while it was ongoing she came into the home and stated that, and we believe that Mr. Schwacke's points are a great cross-examination for their side but we believe that the photo lineup should come in.

THE COURT: But what did she pick him out for of the lineup? That's the question. She didn't pick him out as the perpetrator. She picked him out as the person that she was told was the perpetrator.

MR. CONDON: That's correct.

THE COURT: And is that not a distinction that I need to make?

MR. CONDON: Your Honor, the State believes that, you know, it still comes in as an identification but it's obviously not as strong as other identification, but we still believe it's identification.

THE COURT: Anything further, Mr. Schwacke?

MR. SHWACKE: No, Your Honor.

THE COURT: Okay. I'm going to address -- because I think Mr. Rider is the easy one. It follows the traditional analysis. I do not find that there was -- that the lineup was unduly suggestive as to Detective Nelson and Mr. Schwacke brought up the fact that the dark background or the light background.

It does appear that there are two that are lighter than the other four, but I do not find that that in and of itself makes the picking of the Defendant unduly suggestive. I must decide whether the out of Court identification was so reliable that there is substantial likelihood that misidentification existed. The witness testified that he had the ability to view Mr. Stanley at the time of the incident. He also indicated that at the time of the incident in question he was very close, saw him in the car, saw him numerous times, it was light outside and he indicated that he was very certain that it was the person that he knew to be living with Evette in the car and that is the person that he initialed as number one on State's 17.

As to Ms. Deane, she did testify that she knew the Defendant, had seen him multiple times. She herself has lived in the apartment complex over -- about eight years and had known Evette and was able to recognize the Defendant Mr. Stanley as the individual who was in

number one in State's 18. She initialed it on 3/14/13 for the purposes of this hearing. I don't -- do not find that the identification process was unduly suggestive. I find that she does have the -- there is -- was no substantial likelihood of irreparable misidentification, but I do not find that she -- there was anything -- she did not have an opportunity to view the perpetrator at the time of the crime, so the State's 18 and 19 which is the lineup will be -- I'm granting your request to exclude the lineup.

She is able to testify as to her - that she knows Mr. Stanley, how she knows Mr. Stanley, but the purpose in my view is her opportunity to view the perpetrator, I think, may be confusing to the jury and made your exception to my previous ruling, grant your motion as to Ms. Deane's identification. Anything else? We've gone a little bit over.

MR. PATTERSON: The only thing, again, I have this conviction, clarifying which convictions are going to come in.

THE COURT: Can we do this quickly? Can y'all work on those? Who are your first three witnesses? Let's do it that way.

MR. PATTERSON: Our first three are going to be Evette Nelson, Greg Rider and Tanya Deane.

THE COURT: Okay. So as to Ms. Nelson, what does she have?

MR. PATTERSON: She has a 2011 shoplifting and then in relation to this charge, she has an unlawful conduct to a child and also an obstruction of justice.

THE COURT: Conviction?

MR. PATTERSON: Yes.

THE COURT: And the State's position?

MR. PATTERSON: The State's position is that the shoplifting and the obstruction would come in, but that the unlawful conduct would be more prejudicial than probative.

THE COURT: What does the unlawful conduct carry?

MR. PATTERSON: Zero to 10.

THE COURT: Mr. Schwacke?

MR. SHWACKE: Your Honor, I would argue that the shoplifting together with the unlawful and obstruction of justice all apply. Obviously it carries more than a year so it passes that test.

THE COURT: I agree. All three will come in.

MR. PATTERSON: Your Honor, in reference to the unlawful conduct, will we be able to elicit testimony as to the incident stemming from the unlawful conduct?

THE COURT: What is the incident stemming?

MR. PATTERSON: There is this one, basically there

is -- there's crack cocaine tested -- field tested in the microwave and it would be our position that this Defendant was the person cooking that crack cocaine in the microwave.

THE COURT: Mr. Schwacke?

MR. SHWACKE: Your Honor, we're going to have to get to that because I first don't believe they can prove that there was cocaine in the microwave and that would be a matter that we have to address when we reach it. The obstruction of justice charge is going to put them in the same boat because it's her giving the false statement in this case, so ---

THE COURT: But the unlawful conduct, I haven't heard all the facts, but it's going to be the same crack cocaine that is the trafficking quantity?

MR. SCHWACKE: No, Your Honor. The allegation that they make is that Mr. Stanley has cooked crack in that microwave and then she in turn cooked food for the kids and that's how they end up testing positive hair follicle ---

THE COURT: But it would be the same drugs that are the drugs here today; right?

MR. SCHWACKE: The same type of drug.

THE COURT: I'm sorry.

MR. SHWACKE: It's not the same.

MR. PATTERSON: Same type of drugs.

THE COURT: That is what I meant.

MR. CONDON: The children did test positive for cocaine.

THE COURT: She pled guilty?

MR. CONDON: She did but if that comes in, we just feel like she should be allowed to explain her -- you know, her side of the story to that.

MR. SCHWACKE: I'm not aware of any rule that allows you to explain what your prior convictions are because anyone that would ever testify being faced with the option of being impeached by them would come up with explanations that they want to testify about. That's not the rule so I would object.

THE COURT: All right. Do you have -- is there some rule that will allow her to explain?

MR. CONDON: I think there's no rule that prevents it.

THE COURT: What about Mr. Rider?

MR. CONDON: I don't believe that Mr. Rider has any convictions that are more -- one, I don't think he has any convictions. Let me check his -- he has -- I don't think he has a record. Yes.

THE COURT: I thought you said he did?

MR. CONDON: No, he does not.

MR. SCHWACKE: He doesn't.

MR. CONDON: Sorry. He had a non-conviction for a fraud check.

THE COURT: And then so who's your next one?

MR. CONDON: Tanya Deane and she has a DUI from 1989 which I think is excluded because it's less than a year and also outside the 10-year time frame.

MR. SHWACKE: I agree.

THE COURT: Who else?

MR. CONDON: Mr. Loflin, he has a 2002 forgery but the forgery carried, I believe, a three-year probation which I think puts that within the 10-year time frame.

THE COURT: Who is this? I'm sorry?

MR. CONDON: William Loflin.

THE COURT: All right. And who is he to this? What is he going to testify about?

MR. CONDON: He is the witness to the vehicle pursuit and he observed the Defendant throw the drugs out of his car window.

MR. SHWACKE: Allegedly.

MR. CONDON: Okay. Allegedly.

THE COURT: That's what he's going to testify to?

MR. CONDON: That's what he would testify to. So I think based ---

MR. SHWACKE: He also has a petit larceny in 2007

MR. CONDON: And the 2009 shoplifting and he ---

THE COURT: Petit larceny and shoplifting will come in.

MR. CONDON: And he has a 2007 forgery and a 2007 possession of crack; however again our position on the possession of crack charge will be that it's more prejudicial than probative.

THE COURT: Well, it's a felony; correct?

MR. CONDON: It -- well, it's a misdemeanor, zero to three.

THE COURT: So the drug is not evidence of truthfulness, so the drug won't come in, then so the only issue is the 2002 forgery.

MR. CONDON: That's correct, Your Honor.

MR. SHWACKE: Five years suspended upon three years balance suspended probation two years. There's 53 counts.

THE COURT: Sixty-three counts?

MR. SHWACKE: Fifty-three counts.

THE COURT: What did he plead to?

MR. SHWACKE: (Inaudible)

MR. CONDON: The rap sheet makes it look like that. He told me that he only pled to one. They dismissed the others but on his rap sheet there's, like - there's a ton of, you know, there's probably -- like

Mr. Schwacke said, 53 that say conviction but the way he describes it is that it was just one.

MR. SCHWACKE: So he's still operating under the sentence within a 10-year period. This incident happened approximately a year ago.

THE COURT: Under the rule it comes in. Tell me why it shouldn't or are you just asking for clarification?

MR. CONDON: I was just asking for clarification.

THE COURT: Under the rule it comes in.

MR. CONDON: Okay.

THE COURT: So the drug is the only thing that does not.

MR. CONDON: And in terms of discussing the multiple count forgery, do we have to ask him if it was multiple counts or can he say he was convicted of forgery?

THE COURT: What does the rap sheet say? He's going to say it's one count; right?

MR. CONDON: That's his description of it.

THE COURT: I mean, to him -- I mean, that's where you get -- it gets, kind of, tricky.

MR. CONDON: Right.

THE COURT: Maybe to him that's the truth so, Mr. Schwacke, if he says I was convicted, assuming Mr.

Patterson's going to do something along the lines of you were convicted of forgery in 2002, is that sufficient or do you --- he may not ---

MR. SHWACKE: I believe -- Your Honor wants to limit it to multiple accounts. I understand that but I certainly don't want the jury to think he's just got one forgery conviction.

THE COURT: What does the record show?

MR. CONDON: The record shows multiple counts and I would agree that it would be a fair resolution to ask him if he had multiple counts of forgery convictions in 2002.

THE COURT: Is that sufficient for you? I mean, if you have the certified convictions we'll count them all. But I think we're getting far afield of what we're intending to do. Clearly by the time we go through his rap sheet and his convictions it's clear that he has evidence of other crimes.

MR. SHWACKE: The only thing that I would want to make certain -- you've asked me if I could live with that. I can live with multiple counts in 2002 but then he has some additional forgeries ---

THE COURT: I think we're clear -- I'm hoping we're clear. It's just there seems to be -- there's -- he says -- he says that in 2002 it was one count. I

just want to make sure that whatever -- that y'all have some understanding of what it is in case he says it's one count.

MR. SHWACKE: I'm going to ask about the multiple counts.

THE COURT: I just want you to have -- so if we -- the point is ---

MR. CONDON: I think his understanding -- the way he explained it was yes, I pled to forgery but they told me they were dismissing the others and that may not have been what actually happened.

THE COURT: He needs to be aware if he was convicted of 53 counts or whatever it is ---

MR. CONDON: Right.

THE COURT: --- that Mr. Schwacke is going to say you were actually convicted of 53 counts of forgery or you're just going to go ahead and put it out there.

MR. CONDON: Right. I would be fine saying multiple convictions.

THE COURT: My point is we don't need to be spending a whole lot of time, and it is -- it's more than one. It can either be multiple or it can be 53 counts but y'all need to make sure that there's documentation.

MR. CONDON: With the rule of sequestration can I

discuss -- can I make him aware of what he's -- what convictions we're going to be asking him about?

THE COURT: I think I's appropriate, Mr. Schwacke. It's appropriate to say we had a pretrial conference and the Judge is allowing me -- allowing it to be inquired about your past convictions and it includes this, this and this.

MR. SHWACKE: Your Honor, my understanding of sequestration is really to avoid people trying to duplicate testimony by hearing and coming in and adopting this testimony.

THE COURT: So the answer is yes, you may talk to him.

MR. CONDON: Just briefly while we're on the subject, can I instruct Ms. Deane not to testify about the photo lineup as well?

THE COURT: Yes.

MR. CONDON: Thank you.

THE COURT: All right.

MR. PATTERSON: Mr. Rowland, Christopher Rowland, has a 2003 -- on the rap sheet it says marijuana, but he was given credit for three days time served and I believe that falls outside of the 10-year window and it would be more prejudicial than probative even if it didn't.

THE COURT: Mr. Schwacke?

MR. SHWACKE: It shows the date of the arrest on that particular offense as December 23rd, 2003 which with the court date as being March 15th, 2004, so the offense date of this falling in between those two dates nudges it within the 10-year period, depending on what date you look at, whether it's the date of arrest or the date of the court date. And I don't know. It looks like there might be some out-of-states too.

MR. PATTERSON: He has some charges from 2000 in Georgia, but the only conviction appears to be a criminal trespass which is from April of 2000 and it's not -- it's outside of the 10-year window since it happened 14 years ago. He also has a DUI from 2000 but again it's outside of the 10-year window.

THE COURT: Okay. So when was his release date?

MR. PATTERSON: For which charge?

THE COURT: The one in question.

MR. PATTERSON: It -- his court date is March 15th, 2004, but he was given credit for three days time served so it would be our position that three days would still be March 18th which puts it just outside of the 10-year window.

MR. SHWACKE: But not for the --- March the 11th, 2013.

THE COURT: So at that point it would be nine years.

MR. SHWACKE: Yes, ma'am.

MR. PATTERSON: That is correct. Marijuana.

THE COURT: Here in Berkeley or Charleston?

MR. PATTERSON: Dorchester.

THE COURT: And who is he?

MR. PATTERSON: He was the gentleman living with William Loflin who observes the Defendant throwing the drugs out of the car and Mr. Loflin says hey, Chris, you've got to come out here. I just saw this guy toss something out. Will you go see what it is? And Mr. Rowland says okay. He goes and picks it up.

THE COURT: Mr. Schwacke?

MR. SHWACKE: Your Honor, I --

THE COURT: The question that he will be asked is you were convicted of an offense carrying more than one year.

MR. SHWACKE: That's fine.

THE COURT: In 2000-whatever it was. 2004.

MR. SHWACKE: Yes, ma'am. Thank you.

THE COURT: Have you found anything to allow her to discuss the ---

MR. PATTERSON: I have not. Not her. We have one more individual, Deangelo Watson.

THE COURT: Okay.

MR. PATTERSON: He has a possession of a controlled substance from 2009 and while that is -- it carries six months to a year. Or no, it carries up to six months so we believe that falls outside -- it's not a conviction with a year or more but it does fall within the 10-year time frame, but we believe that it would be more prejudicial than probative. It's something he pled to in transfer court.

THE COURT: I don't think it's -- it's outside the rule. Thank you.

MR. PATTERSON: And in reference to Ms. Nelson, I don't have anything that specifically says she's allowed to elaborate.

THE COURT: I'll give you over the lunch 45 minutes to find that for me.

MR. SHWACKE: And, Your Honor, just to cover my bases regarding Deangelo Watson, we asked the State to verify disposition of the case. He was charged with possession and intent to distribute approximately two weeks after this incident. It's my understanding that three individuals pled guilty to it and everyone else's charges, including Mr. Watson, were dismissed because the other individuals pled guilty and admitted the drugs and that I've been assured that there was no

consideration regards to his testimony in this case for that to happen.

THE COURT: Is that correct?

MR. PATTERSON: That's correct and until Mr. Schwacke brought it to our attention I didn't realize that he had been arrested on that charge and that that charge had been nolle prossed, so there were no conversations between the State and Mr. Watson about that issue.

THE COURT: All right. Anything further?

MR. PATTERSON: Nothing further from the State, Your Honor.

MR. SHWACKE: Nothing that needs to be addressed at this time. As witnesses come up we may need to.

THE COURT: All right. 2:30.

(Off the record for lunch.)

THE COURT: Anything before we bring in the jury?

MR. PATTERSON: Nothing from the State, Your Honor.

MR. SCHWACKE: No, Your Honor.

THE COURT: Do you have any case law for me?

MR. PATTERSON: I do but I think we've made it -- I think we've made a determination just to go with what was originally decided in reference to this.

THE COURT: Thank you. Let's bring in the jury.

(Whereupon, the jury came into open Court at approximately 2:38 p.m.)

THE COURT: Thank you. Please be seated. Ladies and gentlemen, I hope everyone had a wonderful lunch. Ms. Shenesey, you have been selected as the Foreperson in this case, which means you are the jury's spokesperson here in Court, so if at any time any of you need any additional breaks or have any questions or concerns, please let your Foreperson know. She will alert the bailiff and we'll handle the matter immediately.

Ladies and gentlemen, you've also been given notepads which means you may take notes throughout the progress of this trial. Please remember some of us are much better note-takers than others. One juror's notes are no more correct or accurate than another juror's notes. You will have those notes to go back with you during your deliberation. During the evening hour and during the lunch breaks we will collect your notepads and lock them up.

You may also have noticed when you came in this time that members of the audience and the attorneys and the parties involved were standing. This is out of respect for your new position as judges of the facts, so please come in, take your seat and they will all

remain standing until all 13 of you are seated. We must now administer an oath to try this case. Madam Clerk?

THE CLERK: Ladies and gentlemen of the jury, please stand and raise your right hands to be sworn.

(The oath was administered to the jury by the Clerk.)

THE CLERK: Please take your seats.

THE COURT: Was there any member of the jury panel who did not take that oath? If so please stand. Thank you. All 13 members were sworn.

Ladies and gentlemen, the case that we are about to try is the case of the State versus Barry Jerrod Stanley. Mr. Stanley is charged with an indictment filed in this Court for the crime of trafficking cocaine base, 28 grams or more, though less than 100 grams, and failure to stop for a blue light. I will explain the elements of those charges to you later.

What I say now is intended to serve as an introduction to the trial of this case. These remarks are not a charge on the law in this case. I will instruct you on the law after the commencement of this case, throughout the trial and at the end of the trial before you retire to reach your verdict. This is simply an explanation of the procedure that we have to

follow so that you will be better able to understand what is happening before you.

Your purpose is to find and determine the facts. You are the sole judges of the facts in this case and if at any time I make any comment regarding the facts, you must disregard it. You are to determine the facts from the testimony you hear as well as the other evidence that is introduced in Court. It is up to you to determine the inferences that you feel may be properly drawn from the evidence. It is important that you perform your duty and determine the facts diligently and conscientiously because ordinarily there is no way to correct an erroneous determination of the facts by a jury.

On the other hand the same law that makes you the judges of the facts makes me the judge of the law. The law as given by this Court is the only law that you may consider. You must accept it and follow it even though you may disagree with it. I cannot tell you what I think the facts are and you cannot disagree with me about what the law is or what the law ought to be. Your job is to take the law as I give it to you and apply it to the facts that you find in the testimony of the witnesses from the witness stand as well as the other evidence that is introduced.

After doing that you will render your verdict, a true and solemn verdict under the oath that you just took. Until I tell you that you may begin to deliberate, you may not discuss this case with anyone. That includes your fellow jurors, your friends, your family members or anyone else. Ladies and gentlemen, that includes face-to-face discussions, of course, but it also includes any texting, blogging, emailing, anything of that nature concerning this case. Simply put you may not discuss this case in any form with anyone until I tell you to do so.

You must decide this case based solely on the evidence that is presented to you in this courtroom. This means that during the trial you may not conduct any independent research regarding this case, the facts of the case, the evidence that is presented or any of the people or organizations involved in this case.

You do not read, watch, listen to any news accounts regarding this case, should there be any. Do not try to find out any information from any source outside of the courtroom. Ladies and gentlemen, again if you become aware of another juror's violation of these instructions you must inform the Court immediately.

It is important that you keep an open mind and not

decide any issue in this case until all of the evidence has been presented, the parties have made their closing arguments, and I have instructed you on the law applicable to this case. It is your solemn responsibility to determine the guilt or innocence of the Defendant and your verdict must be based solely on the evidence as it is presented to you in this courtroom.

In just a moment the Solicitor will make what's called an opening statement in which the Solicitor will explain to you the issues of this case. The attorney for the Defendant may also make an opening statement although he is not required to do so at this time. Please remember what the attorneys tell you in their opening statements as well as the closing arguments is not evidence in this case. It is merely their contention as to what the evidence has shown. The evidence in this case will be presented to you by the testimony of sworn witnesses from the witness stand as well as any exhibits that may be introduced into evidence.

From time to time you may hear one of the attorneys ask to approach the bench or I may find it necessary to excuse you from the courtroom for a short while. If I have the attorneys approach the bench,

please do not try to read our lips or overhear us. Do not think if I excuse you from the courtroom we're trying to hide anything from you. The reason for this is sometimes it is necessary for me to make a comment regarding the facts in order to issue a ruling on the law and as I just explained to you, the law does not allow me to have an opinion about the facts of this case, so I will excuse you for a short while so that in no way anything that I say or do throughout the progress of this trial will influence you on your opinion of the facts.

In determining what the true facts are in this case you must decide whether or not the testimony you hear is believable. It is my responsibility to determine whether certain testimony is admissible, but once the testimony is admitted whether or not you believe it is solely for you to determine. In deciding whether to believe a witness you have the right to consider the interest of the witness, the bias of the witness, the prejudice of the witness, the opportunity for the witness to have seen and heard the things about which the witness testifies, as well as the way the witness acts on the witness stand.

You have a right to consider anything you feel will help you evaluate the testimony of the witnesses.

That means it's your duty to pay close attention. Do not let your thoughts wander but give strict attention so that at the end of the testimony after you have heard the arguments of counsel and I have instructed you on the law applicable to this case, you will be in a position to determine what the true facts are, apply the law to those facts and render a true and just verdict. Please give your strict attention ---

MR. PATTERSON: Thank you, Your Honor.

THE COURT: --- to Mr. Patterson.

OPENING STATEMENT ON BEHALF OF THE STATE:

MR. PATTERSON: A reckless disregard for the law -- a reckless disregard for the law, that's what the Defendant showed on March 11th, 2013, when he got into a fight with his girlfriend and he fled from police. He fled from police in a vehicle and in that vehicle he took police on a 12-mile chase from Hanahan all the way into downtown Charleston. During that police pursuit the Defendant threw a bag out of his window and that bag contained a little over 28 grams of cocaine base, otherwise known as crack cocaine.

Now, the police didn't catch him that day but you're going to hear a lot of testimony during this trial and I want you to pay close attention, because you're going to hear from the girlfriend, Evette

Nelson. She's going to tell you her story. She's going to tell you why she called 911. You're going to hear from neighbors who knew the Defendant. You're going to hear from one of the neighbors who saw the Defendant in that vehicle leaving that apartment complex.

You're going to hear testimony from an eyewitness who saw the drugs get thrown out of the car in the neighborhood. You're going to hear from law enforcement. Law enforcement is going to tell you all about the investigation. You're going to hear from law enforcement about fingerprinting the vehicle. You're going to hear from a fingerprint expert and how there were fingerprints of the Defendant found in that vehicle. You're going to hear from law enforcement about the fingerprinting of the bag.

There's going to be a lot of testimony and I want you to pay close attention, because at the end of this trial the State is going to ask you to find this Defendant, Barry Stanley, guilty of trafficking cocaine base and guilty of failing to stop for a blue light or siren.

Now, briefly I'm going to just describe what trafficking in cocaine base is and what failing to stop for a blue light is. Trafficking sounds very

complicated but in reality it's very simple. If anything I say conflicts with what the Judge might say, in reality to find the Defendant guilty of trafficking all the State has to prove is that he was in possession of those drugs, that the drugs were a controlled substance in this state, that they were cocaine base, and that those drugs weighed more than 28 grams or less than 100 grams, and that's it.

For failing to stop for a blue light, we have to prove that this Defendant, while being signaled by blue lights and sirens, did not stop and that there was no good reason for him not to stop, otherwise there were no mitigating circumstances as to why he didn't stop. So while you're going to hear a lot of testimony and there's going to be a lot of detail and that detail is important, when it boils right down to it, it's very simple and at the end the State is going to ask you to find this Defendant guilty of trafficking cocaine base and failing to stop for a blue light. Thank you.

THE COURT: Mr. Schwacke.

MR. SHWACKE: Thank you, Your Honor.

OPENING STATEMENT ON BEHALF OF THE DEFENDANT

MR. SHWACKE: We get to go last and the Judge has already told you in her opening comments to you that what we say as attorneys isn't evidence, so I'm not

going to stand in the way of getting testimony underway. Suffice to say the State has told you what they need to prove. We're going to dispute that at the end of the trial whether they have, so it's important that you pay attention during your time as jurors, not only to what is said from the witness stand but what you don't hear and unfortunately that might not be something that becomes clear until the very end of the trial. So I ask for your attention, that you pay attention not only to the testimony or the existence but you start to ask yourself, hey, there's something missing here. I'm convinced at the end of the trial you'll find that factor that's missing.

THE COURT: Call your first witness.

MR. PATTERSON: Thank you, Your Honor. The State calls Evette Nelson.

(Witness sworn)

THE CLERK: Please be seated and state your full name and spell your last name for the record.

THE WITNESS: Evette -- N-E-L-S-O-N.

EVETTE NELSON, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Evette, how are you doing today?

A. Okay.
Q. Are you working currently?
A. Yes.
Q. And how long have you been working?
A. (Inaudible)
Q. I'm sorry?
A. At the job I have now?
Q. Uh-huh.
A. For five months.
Q. Five months? And what type of work is it?
A. I'm a cashier.
Q. And Evette, you have some criminal convictions; right?
A. Uh-huh.
THE COURT: Is that a yes? I'm going to need you to answer yes or no. She's got to write down everything that you say. She can't put uh-huh and so it has to be yes or no.
THE WITNESS: Okay.
THE COURT: Thank you.
THE WITNESS: You're welcome.
Q. Do you have a conviction for shoplifting in 2011?
A. Yes, sir.
Q. And a conviction for obstruction of justice in 2013?

A. Yes, sir.
Q. And also a conviction for unlawful conduct to a child in 2013?
A. Yes, sir.
Q. Where were you living on -- well, before we get to that, are you here to tell the truth today?
A. Yes.
Q. Where were you living on March 11, 2013? Do you remember the address?
A. 6420.
Q. Would it help if I show you your statement to refresh your recollection?
MR. PATTERSON: Your Honor, may I approach?
THE COURT: You may.
Q. What is that address?
A. 6240 Old Point Road, Apartment 8A, Hanahan, South Carolina.
Q. Are you a little bit nervous today?
MR. SHWACKE: Your Honor, may I see the ---
THE COURT: Yes.
MR. PATTERSON: I apologize.
Q. Do you remember what happened that day?
A. Uh-huh.
Q. Is that a yes?
A. Yeah.

Q. Where were you coming from when you got home that day?
A. I was picking my kids up from daycare.
Q. And did you notice any type of smell when you were walking into your apartment?
A. It was a strong smell outside.
Q. And was that unusual?
A. Not -- I mean, no, not really.
Q. What did the Defendant tell you that smell was?
A. That he was smoking.
Q. What was he smoking?
A. (Inaudible)
Q. And were you happy about that?
A. No.
Q. What did the kitchen look like?
A. Dirty.
Q. And did you notice anything about the microwave?
A. (Inaudible)
Q. What did it look like?
A. Like a person just don't know how to clean the kitchen.
Q. What would you describe the microwave as looking like?
A. A grits festival.
Q. Say that again?

A. A grits festival.
Q. So was it messy?
A. Yeah, he say he just got through ---
Q. Did you see any ---
A. --- eating some grits.
Q. Did you see any -- a box of grits?
A. I didn't. I don't eat boxed grits.
Q. Did -- were you angry about that, the way it looked?
A. Yeah, because I wish he would just clean up the mess.
Q. Have you ever seen him with drugs in your house?
A. No.
Q. Did he have drugs in the house that day?
A. No.
MR. PATTERSON: Your Honor, may I approach?
THE COURT: You may.
MR. SHWACKE: Your Honor, just for the record could we put on the time or the date of this particular item she's refreshing her memory with?
Q. Evette, when did you write this statement?
A. March 11, 2013.
Q. So that was the day this incident occurred?
A. Yes.
Q. And what does that say you were mad at the

Defendant about?

A. When I got home he told me -- he told me what he did. I can't read it.

Q. Just read that section.

A. Might as well because I wouldn't allow him to keep drugs in my house.

Q. So what made you think he had drugs in the house that day?

A. Because he said he was smoking.

Q. Did you see him placing anything in a bag?

A. (No response)

MR. PATTERSON: Your Honor, may I approach?

THE COURT: You may.

Q. This is another statement you wrote. When did you write this statement?

A. March 14th, 2013.

Q. If you could read this last portion down here onto the second page.

A. And then I saw -- and then I saw the crack.

Q. And on the next page?

A. Put in a bag.

Q. Now, did you get into an argument that day with the Defendant?

A. Yes.

Q. And what happened as a result of that argument?

A. We ended up fighting.
Q. And did you escape from the apartment?
A. Yes.
Q. And was that because you were afraid for your safety?
A. Yes.
Q. And what did you do when you ran outside?
A. Looked for anyone who would be able to help me.
Q. And who did you find?
A. The neighbors that was outside.
Q. And who called the police?
A. At that time I wasn't sure who actually did it. I didn't know if it was the wife or the husband, but I know one of them did it.
Q. And did the Defendant take your car that day?
A. I was inside the neighbor's house when that was going on.
Q. Was your car there when you got back?
A. No.
Q. Who do you think took it?
A. Mr. Stanley.
Q. Evette, I'm going to show you what's been marked for identification as State's Exhibits 1, 2, 3 and 4.
MR. PATTERSON: Your Honor, may I approach?
THE COURT: You may.

Q. Evette, take a look at these exhibits. Do you recognize those?
A. (No response)
Q. Do you recognize that vehicle?
A. (Inaudible)
Q. Is that a yes?
A. Uh-huh. Yes.
Q. How are you able to recognize that vehicle?
A. That's my car.
Q. Is that a fair and accurate representation of the way it looked?
A. Uh-huh.
Q. Is that a yes?
A. Yes.

MR. PATTERSON: Your Honor, at this time I'd like to -- the State would ask that State's 1, 2, 3 and 4 be admitted into evidence.

MR. SHWACKE: No objection.

THE COURT: State's 1, 2, 3 and 4 into evidence without objection.

MR. PATTERSON: Permission to publish?

THE COURT: You may.

Q. Is this the vehicle the Defendant left the apartment complex in?
A. (Inaudible)

Q. I'm sorry?
A. Yes.
Q. And did officers respond to talk with you?
A. Yeah, the officers was talking to me.
Q. And did you tell them who took your car?
A. Yes.
Q. And who did you tell them took it?
A. Barry Stanley.
Q. And he is in the courtroom today?
A. Yes.
Q. Can you point him out for me?
A. Uh-huh.
Q. What's he wearing?
A. A button-up.
Q. And did you tell the officers who met with you the Defendant had anything in the car with him?
A. I don't remember talking to them.
MR. PATTERSON: Your Honor, may I treat my witness as hostile? May I start asking leading questions?
MR. SHWACKE: May we approach?
THE COURT: Yes.
(Whereupon, a bench conference was held off the record in the presence of the jury, but out of the hearing of the jury.)
Q. Evette, did you tell officers that there might

have been drugs and guns in the car ---

A. Huh-uh.

Q. --- when they met with you? Do you not remember or is that a no?

A. (Inaudible)

Q. While officers were at your house, did you have any contact with the Defendant on the phone?

A. Only thing I remember is the officer, she was asking me questions and taking pictures.

Q. When the pursuit ended did he tell you where he was?

A. Not that I can recall because the officer at the time, she was asking me were we in the house and she was asking me where -- when I was fighting, where, you know, I got hit and everything and she just wanted to take pictures.

Q. So she took pictures of you for getting hit?

A. Uh-huh.

Q. Did you provide a written statement that day to police?

A. Yes.

Q. And in that statement who did you identify as the person that you got into a fight with?

A. That day actually?

Q. Uh-huh.

A. Barry Stanley.
Q. Did you make another statement to police?
A. Yes.
Q. When did you make that statement?
A. I'm not sure of the day. Probably the day of the 12th.
MR. PATTERSON: Your Honor, may I approach?
THE COURT: You may.
Q. Can you tell me the date of that?
A. March 12th.
Q. Was that the very next day?
A. Yes.
Q. What did you tell them in that statement?
A. When?
Q. No, what did you tell them?
A. On March 11, 2013 I made a false statement that Barry Stanley was mad and took my vehicle. I was just mad at him because we just not too long broke up and he gave me a STD and I was very hurt by that. Deangelo Watson is the guy who really put his hands on me and slapped me in the face, punching me in the face and kicking me to make sure that I wasn't the only ---
Q. Did ---
A. --- but I ---
Q. I'm sorry. I didn't mean to cut you off. Keep

going.
A. --- but I was able to get away and we called the police and that's when -- that's when he pursued the police.
Q. Is Deangelo Watson actually the person who did those things?
A. (No audible response)
Q. Is that a no?
A. I mean, it seems like he was there. So when I ran out of the house I left my kids in the house and ran to the neighbors.
MR. PATTERSON: Your Honor, may I approach?
THE COURT: You may.
Q. Please read this last statement for me. When did that statement take place?
A. March 14, 2013. On March 11 ---
Q. So that was two days after your second statement?
A. Yes, this was when the DA came and got me.
Q. What does that statement say?
A. The last one?
Q. Uh-huh.
A. On March 11 the statement that I told about Barry was true on the 11th of March. I went to my class and dropped off the kids at the Sunshine Home and then all of that. He called me around my lunch hour and was mad

because I didn't call him in time. Anyway when I got home around 3:30 or 4 o'clock I walked into my front door and I smelled an unusual smell and asked him what is that smell and he said oh, I was just smoking a cabbie, so when I went to look at the kids -- to -- I guess that's look -- the kids -- no, cook the kids some noodles I saw the white tiny spots in the microwave and he told me that he was cooking himself some grits and sausage.

Q. What does the end say after cooking grits and sausage?

A. And that's when I saw -- and that's when I saw the crack. I can't tell what that says.

Q. That's okay. Just read the second page.

A. That's when I saw the crack that he was putting in a bag.

Q. Thank you.

MR. PATTERSON: Court's indulgence.

THE COURT: Take your time.

Q. Evette, when you changed your story is that because you were afraid of the Defendant?

A. I was more worried about my kids than anything.

Q. Did you tell police you changed your story because you felt intimidated?

A. All I know is I just was more -- (inaudible).

Q. Did you tell police while they were on scene that he called you from Maple Street? He was hiding under a house? You don't remember that conversation?

A. Only thing I kept telling the police that day that I needed to go get my kids at the time from the neighbors and that's it because the neighbors had my kids and I was just -- I'm a single parent. All I did was just worried about my kids.

MR. PATTERSON: Court's indulgence.

Q. Did you plead guilty to the obstruction of justice for lying about your second statement?

A. They didn't tell me why I was getting obstruction of justice. They just told me that I was being charged for obstruction of justice and two counts of unlawful conduct towards a child.

MR. PATTERSON: Nothing further.

THE COURT: Mr. Schwacke?

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. Evette, you have two children?

A. Yes, sir.

Q. What are their ages?

A. Three and two.

Q. And you used to have a relationship with Mr. Stanley?

A. Yes.
Q. How long have y'all known each other?
A. Two.
Q. Sorry?
A. I believe about two years.
Q. Two years. And you mentioned another person named Deangelo Watson?
A. Yes, sir.
Q. Do you know him?
A. Yes.
Q. The State has shown you three different statements.
A. Yes, sir.
Q. There was one that's dated the 11th of March.
A. Uh-huh.
Q. One that's dated the 12th of March.
A. Uh-huh.
Q. And one that's dated the 14th of March.
A. Uh-huh.
Q. And each one of those was to a separate police officer; is that right?
A. Uh-huh.
Q. So the first one was to an Officer Ellwood, or do you remember?
A. I ---

Q. Don't remember? The second one was to Officer Beaudoin? Don't remember? Officer Waddell?
A. I remember him.
Q. And was he the last one?
A. He was -- yeah, I believe he was the last one because he -- I remember him. I remember him, like, he was the big scary guy.
Q. Big scary guy? What do you mean?
A. Because I remember him saying that he would take my kids from me if I didn't tell them where Mr. Stanley was, and I told him I didn't know where Mr. Stanley was at the time and he was, like, I can help you as much as I can if you'll tell me where Mr. Stanley is, and I told him I don't know where Mr. Stanley is. I have no contact with Mr. Stanley. So when he came to my house on the 14th that was when he was supposed to be looking for a cell phone. He said do you know where the cell phone device is. They took my cell phone.
Q. They found two cell phones in your apartment; right?
A. I don't know nothing about no second cell phone. All I know is that I was about to leave the apartment because I went back to the apartment to go get some clothing for me and my kids and some food and when I was about to leave, waiting on my stepmom to come, Ms.

Mary Ann Cookson, they snatched the door open and I had the cell phone in my hand to talk to my mom and that's when he threw me in handcuffs and he was, like, if you won't tell us where Stanley is at I promise you I'm going to call DSS and I'm going to get your kids taken away from you.

And I really thought he was, like, BSing and I was, like, yeah, whatever. And when he actually got on the phone and started calling DSS, I went berserk so I -- why are you calling DSS on my kids? I didn't do anything wrong.

Q. So did you have stored phone numbers in your telephone -- cell phone?

A. Stored numbers? Yeah.

Q. Do you know who the name Angelo in your phone?

A. Yeah.

Q. Who's that?

A. That's Deangelo.

Q. Deangelo who?

A. Watson.

Q. So you knew each other?

A. Oh, yes.

Q. How long have you known him?

A. I've known Angelo for, like, years, like, a couple of years.

Q. You and I have never met.
A. No, sir.
Q. I've never talked to you before.
A. No, sir.
Q. And again, you've already admitted to the State you've pled guilty to unlawful conduct towards a child and ---
A. And you want the truth? That was the deal that was given to me. It was either that or 30 years in jail, as I was told by my lawyer, so I took my probation because I was more -- like I say, I'm more worried about my kids than I worry about anything else in life.
Q. When is the last time you've seen your statements?
A. I saw my statements today isn't a week. Today is Monday so I saw my statements, like, about three or four days ago.
Q. Where was that?
A. In my house.
Q. Somebody from the Solicitor's Office?
MR. SHWACKE: One moment, Judge.
Q. When the State was asking questions, you made a comment about Deangelo being there. What do you mean by that?
A. He was over at the apartment.

Q. I'm sorry?
A. He was over at the apartment so he would have been there.
Q. Now, the Crown Vic, is that your car?
A. Yeah.
Q. You actually own it?
A. Yes, sir.
Q. And you indicated you and Mr. Stanley have known each other for a while.
A. Yes, sir.
Q. Does he have permission to use your car?
A. At all times.
Q. So he's used it before?
A. Yeah.

MR. SHWACKE: That's all the questions I have.

THE COURT: Mr. Patterson:

MR. PATTERSON: Just briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. PATTERSON:

Q. Evette, who was in your house that day when ---
A. My kids, Angelo, Mr. Stanley, my sister. Oh, are you talking about when this all happened?
Q. Yes.
A. Angelo was there, Stanley was there, I was there, my kids was there and I want to say my sister, she left

before all this went down because she came by. She wanted some pills.

Q. Did the officer see Angelo there?

A. At the time there wasn't nobody there but just my kids in the house, when the officers came in. One of my sons was outside with the neighbor and my 11-month-old at the time, I believe I left him inside.

Q. Who did you say assaulted you to your neighbors?

A. My boyfriend.

Q. Who is that?

A. Stanley.

MR. PATTERSON: Nothing further at this time, Your Honor.

THE COURT: Mr. Schwacke?

RECROSS-EXAMINATION

BY MR. SCHWACKE:

Q. And you were the victim in that assault case?

A. Sir?

Q. You would be the victim in the assault case?

A. Yes, sir.

Q. Has that ever gone to Court?

A. No, sir.

MR. SHWACKE: That's all the questions I have.

THE COURT: Thank you. You may step down. Call your next witness.

MR. PATTERSON: Your Honor, may we approach?

(Whereupon, a bench conference was held off the record in the presence of the jury, but out of the hearing of the jury.)

MR. PATTERSON: The State calls Tanya Deane.

THE COURT: Ma'am, please come forward and be sworn.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Tanya Adriana Deane, and the last name is D-E-A-N-E.

TANYA DEANE, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Good afternoon, Ms. Deane. Where do you live?

A. 6240 Old Point Road, Unit A2, Hanahan, South Carolina.

Q. And what is your relation to Greg Rider and Preston Kornahrens?

A. Greg is my husband and Preston is our son.

Q. And do you know Evette Nelson?

A. Yes, sir.

Q. And how do you know her?

A. She was a neighbor.
Q. At the apartment complex?
A. Yes, sir.
Q. And how did you first meet her?
A. Met her on property I believe when she was doing laundry in the laundry room right across from where we live.
Q. And did you meet the Defendant Barry Stanley?
A. Yes.
Q. And when did you meet him?
A. She had introduced me to him, again, when she was doing laundry.
Q. And are you able to easily recognize both of them?
A. Yes, sir.
Q. So you've met them numerous times. Where is their apartment in relation to your apartment?
A. Theirs is -- ours is right across from the laundry room in the back corner and theirs is in the exact same spot but yet at the other side of the same building, so we're in the same building.
Q. And were you involved in an incident involving Evette Nelson and Barry Stanley on March 11, 2013?
A. Yes, sir.
Q. And what happened on that day?
A. That afternoon my husband and our son were out

playing basketball, I was in the house cleaning, and all of the sudden Greg came to the door and asked me to call 911. Evette was in trouble. And he told me to let her in when she came down and to take care of her and call the police.

So he went out and the next thing Evette came to my door, ran inside, slammed the door and she was just hysterical saying that Barry was going to kill her, he was after her and would I please help her, please help her. And I was on the phone with the police calling 911.

Q. And did she mention any third party, a Deangelo Watson?

A. No.

Q. It was just -- the only thing she talked about was Barry Stanley?

A. Right. Yes, sir.

Q. And did she appear fearful of him?

A. Absolutely.

Q. And what happened to her children during the incident?

A. The children were -- when I asked her where the children were, if they were okay, she said that they were down in her condo, so at that point we were just staying inside, as the police told me on the phone to

stay inside until they got there.
Q. And did you call the police?
A. Yes, sir.
Q. And why did you call them?
A. Well, my husband told me what all was going on and when Evette came in and told me that she was afraid for her life and for the children, I immediately had already called them to try and help her.
Q. And did you give a statement in this case?
A. I did.
Q. Did you ever see the Defendant Barry Stanley driving a vehicle?
A. Yes.
Q. What vehicle did you normally see him driving?
A. It was a -- well, it was only one vehicle I ever saw him in, was a dark Crown Victoria type older car, two-door or four-door. But it was a dark, dark blue color. He was the only one I ever saw drive it and work on it out in the parking lot.
Q. Do you know whose vehicle that actually is?
A. I believe Evette told me it was hers.
Q. Approximately how many times did you see the Defendant Barry Stanley driving that vehicle?
A. Probably around seven times while they were there.
MR. PATTERSON: No further questions.

THE COURT: Mr. Schwacke?

MR. SHWACKE: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. Ms. Deane, the day of this incident ---

A. Yes, sir.

Q. --- the only person that you saw with regard to the incident was Evette.

A. Evette and her children.

Q. Correct. You didn't see any -- you didn't see Mr. Stanley at all?

A. No, sir.

Q. You were inside your house.

A. Taking care of Evette.

Q. And the only things you saw were the people that came into your house?

A. Yes, sir.

Q. Which would have included your husband and Evette.

A. Yes, sir.

Q. And how long had you known Evette?

A. I believe that they lived there, I want to say, like, three or four months, somewhere -- it wasn't a very long period of time.

Q. Did you notice any injuries on Evette?

A. No, sir.

MR. SHWACKE: That's all I have.

MR. PATTERSON: No more questions, Your Honor.

THE COURT: You may step down. Call your next witness.

MR. CONDON: The State calls Greg Rider.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Greg Rider -- R-I-D-E-R.

GREG RIDER, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CONDON:

Q. Where do you live?

A. 6240 Old Point Road, Apartment A2.

Q. And who do you live there with?

A. Tanya -- Tanya Deane.

Q. And who else?

A. And Preston also.

Q. Where do you work?

A. I'm self-employed.

Q. And do you know Evette Nelson?

A. Yes, we do.

Q. And how do you know her?

A. She moved into our building and we've been there

for seven years, so we kind of know everybody in the neighborhood. We try to watch out for everybody, so we kind of befriended her the day that she moved in and we saw her -- you know, I saw her probably every other day.

Q. And do you know the Defendant Barry Stanley?

A. Yes, he was -- he lived there with her along with the two boys and him.

Q. And did you have a chance to meet him?

A. I introduced myself and told him that if he needs anything, you know, just come on by if he has any questions or anything, stuff like that.

Q. So you know him by face and name?

A. Yes, sir.

Q. So you would easily be able to recognize him if you saw him?

A. Yes, sir.

Q. And did you witness an incident involving the Defendant Barry Stanley on March 11, 2013?

A. Yeah, myself, my son and a friend of ours who lives in the complex as well, we were playing basketball right in the little parking lot there and Evette came running out of her unit, frantic, telling us call the police, call the police, he's beating me, he's going to kill me and, you know, she ran right to

us. And we calmed her down and I said okay, Evette. None of us had phones on because we were shooting hoops. Anyway, so right about that time he came out of -- out of his unit, got in his car and ---

Q. Who is he? Let me stop you.

A. Barry. He got in his car and drove right through the basketball court there, real slow. Evette backed up all the way to the other building. I said honey, she's -- he's not going to hurt you. There's three men here. He went on out of the gate and at that point I took Evette and I brought her to my unit and I told my wife to call the police, there's something going on here. All right.

And I had my son go into my -- my unit as well so he'd be with Tanya and Evette, and I went outside just to make sure that he, you know, didn't come back because she was still frantic, afraid that he was going to bust the door down, you know, so I -- I don't know this man. I don't want to risk anything. So I took my phone with me and I went out waiting for the police and at that point I saw him drive back in the complex.

He stopped in front of his unit. He got out of his car. The car was running. He left the door open to his car, went into his unit and at that point I was thinking oh, God, is he going to take the kids. You

know, I got a little frightened for their sake, you know, but he came right back out and got in his car and he drove all the way up to where I was and stopped his vehicle and we, you know, kind of, looked at each other and I held up my phone and I said they're coming, you know, meaning the police are coming. At that point he left the complex and not more than probably 15 seconds later the police arrived.

Q. And on that date did you see another black male with him?

A. No, I didn't see anyone.

Q. Did you see another black male in the car besides him?

A. No, he was alone.

Q. No doubt in your mind about that?

A. He was alone.

Q. And what was Evette's demeanor when she came down?

A. She was frantic. She was scared.

Q. And can you describe the car that you saw flee the scene?

A. It's dark blue, all wheels. It's got huge wheels on it, huge silver rims. Looked like an older model, painted real nice, real dark blue color, like an old police car.

Q. And have you ever seen the Defendant Barry Stanley

driving that vehicle?
A. I have only seen him drive that vehicle. I've never seen Evette driving that vehicle.
Q. Do you know whose car it is?
A. Evette told me it was her car.
Q. So on that day you got a pretty clear look at the person who was ---
A. Twice. He drove through the basketball court, you know, right next to us and drove right up to my unit and then stopped for, you know, like five seconds.
Q. And is the person that you saw driving in that Crown Victoria -- or excuse me -- the car that you described -- is he present in the courtroom today?
A. Yes, sir, he's sitting right there.
Q. Could you point him out and describe him?
A. He's wearing a tan shirt. This black gentleman right here next to the ---
Q. And what's his name?
A. Two things. I thought -- I thought he was introduced to me as Barry and then my wife called him Jay, so I don't know.
Q. That's his nickname maybe? Jay? So is that Barry Stanley?
A. That looks like Barry Stanley.
Q. And that's the person you saw driving the car that

day?
A. He was driving Evette's car.
Q. Any doubt in your mind?
A. No, sir.
MR. CONDON: Please let the record reflect that the witness has identified the Defendant.
THE COURT: Any objection, Mr. Schwacke?
MR. SHWACKE: No objection.
Q. And at any point in time did officers come back by a couple of days later?
A. Yes, Officer Nelson came back by and showed me a picture of six or so people and asked me if I recognized anybody. You know, before she could even speak I pointed it out to her.
Q. I'm going to show you what's been identified as State's Exhibit Number 17. Do you recognize that document?
A. That's my scribble.
Q. And what is that?
A. I circled this picture and dated it and put my initials.
Q. Is that a true version of the photo lineup you were provided that day?
A. Sure is.
MR. CONDON: The State asks that State's Exhibit

17 be moved into evidence.

MR. SHWACKE: No objection.

THE COURT: State's 17 into evidence without objection.

MR. CONDON: And permission to publish?

THE COURT: You may.

Q. And when you were shown that lineup who did you identify on there?

A. Number one looks like him.

Q. And who is that?

A. That's Barry.

Q. Was there any doubt in your mind?

A. No, sir.

MR. CONDON: No further questions.

THE COURT: Mr. Schwacke?

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. You went inside your apartment at some point when this first happened?

A. We -- just to get Evette inside, you know, and explain to my wife what was happening.

Q. So if there had been another black male there who left, you wouldn't have known it during that time frame?

A. If there was another black male where?

Q. At the apartment, Evette's apartment.
A. Well, there was no strange vehicle there.
Q. I'm just saying is there a period of time that you would not have been able to see anyone come or go from Evette's apartment.
A. Yes, probably 15 seconds.
Q. Did you see any injuries to Evette
A. No, I asked her but, you know ---
Q. You didn't see?
A. --- I didn't see her bleeding or anything like that, no, but she was scared. That's for sure.
MR. SHWACKE: That's all the questions I have.
MR. CONDON: One quick question to clarify.

REDIRECT EXAMINATION

BY MR. CONDON:
Q. So what was the time frame where you did not have a view of the parking lot, who was coming out of the apartment?
A. Ten or 15 seconds, if that.
MR. CONDON: No further questions.
THE COURT: Mr. Schwacke?
MR. SHWACKE: No further questions.
THE COURT: You may step down. Thank you. Call your next witness.
MR. CONDON: The State calls Detective Camp.

THE COURT: Please come forward and be sworn

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: My name is Detective Amanda Camp -- C-A-M-P.

AMANDA CAMP, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR CONDON:

Q. Good afternoon, Detective Camp. Who are you employed by?

A. City of Hanahan.

Q. And what is your job title?

A. I'm a detective.

Q. Now, can you describe for the jury some of your duties as a detective?

A. As a detective I investigate crimes against persons, property crimes.

Q. Do you handle a lot of domestic violence cases?

A. I do handle them.

Q. And did you respond to an incident involving the Defendant Barry Stanley on March 11, 2013?

A. I did.

Q. And what was the nature of the call?

A. It was a domestic dispute in progress.
Q. And when you arrived on scene, what information did you receive about what was going on?
A. I received -- a bystander waved me down and informed me that the suspect had left in a Crown Vic.
Q. And did you relay that information?
A. I did.
Q. Who did you relay that to?
A. I relayed it to control and it went out to everyone on the radio.
Q. At any time did you meet with the -- with Evette Nelson?
A. I did.
Q. And what was her demeanor like?
A. She was very upset. She was breathing heavy and talking very quickly.
Q. Did she appear to be fearful?
A. Yes.
Q. And who did she tell you was involved
A. Barry Stanley.
Q. Did she mention a Deangelo Watson at that time?
A. No, sir.
Q. Did she mention anybody else involved?
A. No, sir.
Q. And, in fact, did she provide you a picture of the

person who was involved?
A. She did.
Q. Let me show you what's been previously marked for ID purposes as State's Exhibit 6. Do you recognize that picture?
A. I do.
Q. And how do you recognize that picture?
A. That's the picture I took off of her cell phone.
Q. Is that a true and accurate copy of the picture?
A. It is.
MR. CONDON: The State asks that Exhibit 6 be admitted into evidence.
MR. SHWACKE: Without objection.
THE COURT: State's 6 admitted without objection.
MR. CONDON: And permission to publish?
THE COURT: Yes.
Q. And can you just describe what that is?
A. It's a picture that she stated was of Barry Stanley.
Q. The gentleman that attacked her?
A. Yes.
Q. And that fled the scene?
A. Yes.
Q. And what did you do with this picture? Did you relay it to anybody?

A. I did. I relayed it to the units that were pursuing him.
Q. Did Evette Nelson at the time appear to be fearful of Barry Stanley?
A. She did.
Q. Did she inform you what the argument was over that day?
A. She did.
Q. What was that?
A. She stated that they were arguing because she didn't want him keeping drugs in the house with her two small children.
Q. While you were on scene was any additional information relayed by Ms. Nelson about the whereabouts of the Defendant Barry Stanley?
A. Yes.
Q. What did she tell you?
A. She stated -- she stated that he was hiding under a house.
Q. Do you know where?
A. She did not know where.
Q. And did you take a statement from Evette Nelson at that time?
A. I did.
MR. CONDON: No further questions.

THE COURT: Mr. Schwacke?

MR. SHWACKE: Thank you.

CROSS-EXAMINATION

BY MR SCHWACKE:

Q. How did you distribute this picture?

A. (Inaudible)

Q. So is there some widespread system at the Hanahan Police Department that you can automatically send that to all units?

A. I sent it via text message to the units whose phone numbers I had and they sent it out to others.

Q. And that picture was taken from a cell phone; correct?

A. Yes.

Q. It's a cell phone picture taken of a cell phone picture?

A. Yes

Q. And did any officers make any identification from that? Are you aware of that?

A. I'm not aware.

Q. Specifically Officer Dodd? You're not aware of that?

A. (Inaudible)

Q. And do you know who the bystander was that you first came in contact with?

A. I do not.
Q. You do not? Was it someone you may have seen today waiting to come in and testify?
A. No.
Q. So you were doing the investigation as a criminal domestic violence charge?
A. Yes.
Q. And you noted in your report that you did not observe any major injuries to Evette.
A. There was a small cut.
Q. On her left shin? But then she showed you marks on her chest but you determined that those were not recent and she -- she mentioned something to you when you first arrived, didn't she, about I don't bruise easily?
A. Yes.
Q. That was a comment she made to you?
A. Yes.
Q. You mentioned in the report that you did not observe any bruising or redness on her face where she claimed to have been punched.
A. Yes.
Q. And then she also claimed that Mr. Stanley had had her by the throat?
A. I'd have to look it up.

Q. But there was no marks there. She didn't require any medical care?
A. No.
Q. And the only signs of disturbance you noted in your report were that there were two picture frames which had been knocked askance on a table but not off the table.
A. Yes.
Q. And that's your total involvement in the case?
A. Yes.
Q. So you took the one statement?
A. Yes, I took the statement and the photo.
MR. SHWACKE: Thank you. That's all the questions I have.
MR. CONDON: Just briefly.

REDIRECT EXAMINATION

BY MR. CONDON:
Q. Who did Evette Nelson tell you was involved in the CDV incident?
A. Barry Stanley.
Q. And who did she tell you fled the scene in the car?
A. Barry Stanley.
Q. And did she make any mention of Deangelo?
A. No.

MR. SHWACKE: Your Honor, I think he's asked those questions on his original direct.

THE COURT: Overruled. Mr. Schwacke, any recross?

MR. SHWACKE: No, Your Honor.

THE COURT: You may step down. Thank you. Call your next witness.

MR. CONDON: Officer Dodd.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Officer Travis Dodd -- D-O-D-D.

TRAVIS DODD, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CONDON:

Q. Good afternoon, Officer Dodd.

A. Afternoon.

Q. Who are you employed by?

A. The City of Hanahan.

Q. And what is your job title

A. Currently I'm the school resource officer at Hanahan High School.

Q. And did you respond to an incident involving the Defendant Barry Stanley?

A. Yes, sir, I did.

Q. And can you describe exactly what happened?
A. On that day I was using my vehicle for personal use and I heard a lot of radio traffic and I asked Corporal Lanphere if I could help with anything, at which time he described that they were responding to a domestic assault at the apartment complex nearby.
Q. And what description were you given of the suspect.
A. I was told that a black male driving a dark-colored Crown Vic had left the area.
Q. At any time did you witness someone matching that description?
A. Yes, sir, I did.
Q. And where were you when you witnessed that?
A. On Fort Drive.
Q. And can you explain to the jury what happened with that?
A. Yeah, I observed the vehicle. Fort Drive kind of has a small -- small incline as you're coming down towards the back of the neighborhood and at the time I was coming in the opposite direction going back towards the area they were, and I observed the vehicle coming up through that -- through that street at a high rate of speed and I activated my blue lights to try to get that traffic stop.

Q. And did the Defendant stop at that point?
A. No, sir, he did not.
Q. And what happened?
A. At the time I activated my blue lights I'd already slowed down in my lane of travel and, like I said, attempted to make a traffic stop. The Defendant swerved his vehicle towards my vehicle, nearly striking the front end of my patrol car.
Q. Did you get a look at the person driving the car?
A. I -- yes, sir, I got a brief look.
Q. And what did he look like?
A. He was a -- he matched the description of a black male driving a dark Crown Vic.
Q. And so what happened after he swerved and tried to hit you?
A. I was able to avoid the collision by swerving out of the way into a neighbor's yard, at which time I turned my vehicle around, activated my siren and began to pursue; notified dispatch that I was in pursuit of the vehicle.
Q. And where did you pursue him through, what area?
A. Through that neighborhood, down Fort Drive to Redeemer Road and then Redeemer Road back out to Fort Drive.
Q. And what is that neighborhood called?

A. That's Berkeley Hills four and five.
Q. And what observations did you make of his driving at that time?
A. During the time the driver was driving erratically throughout the neighborhood at a high rate of speed.
Q. And how long were you in lead pursuit?
A. Just the time in that neighborhood, maybe just a matter of minutes.
Q. And so who assumed lead pursuit after that?
A. Corporal Lanphere did.
Q. And did you stop the pursuit at any time?
A. Yes, sir.
Q. And what happened after you stopped the pursuit?
A. After I ended the pursuit I notified Corporal Lanphere who arrived at around the middle of the pursuit and I returned back to the City to assist if they had any other calls pending for service.
Q. Did you receive any calls about narcotics being thrown out of the Defendant's vehicle?
A. Yes, I did.
Q. And where did you respond to?
A. [redacted]
Q. And were any drugs recovered at that address?
A. Yes, sir, there was.
Q. And what county is that in?

A. That's in Berkeley County.
Q. And who had called police?
A. Mr. Loflin.
Q. And what did you learn when you arrived there?
A. When I showed up on scene Corporal -- excuse me -- Officer Ellwood was already there and we were all speaking with Mr. Loflin. He said that ---

MR. SHWACKE: Objection, hearsay.

THE COURT: Any exception?

MR. CONDON: Yes, Your Honor. We're offering it for effect on the officer's investigation.

THE COURT: Overruled. You may continue.

Q. You can continue.
A. I was on the scene. Mr. Loflin had stated that as the pursuit had passed by Spring Hill Road ---

MR. SHWACKE: Your Honor, again, I have to object.

THE COURT: Rephrase your question, Mr. Condon.

Q. Officer Dodd, what did you learn during your investigation?
A. I learned that as the pursuit passed by Spring Hill Road, that an amount of narcotics was seen coming out of the vehicle that was located at the intersection of Spring Hill Road and Fort Drive.
Q. And what vehicle?
A. The Defendant's vehicle, the dark-colored Crown

Vic.

Q. And did you get out on the scene and look for any other drugs around?

A. Yes, sir, I did.

Q. Did you find any?

A. No, sir, nothing else was found.

Q. And was a statement taken from the eyewitness, Loflin?

A. Yes, sir, it was.

Q. And can you describe to the jury the area where the crack was located? Was there a sidewalk there? Can you kind of describe the area?

A. No, the neighborhood is ---

MR. SHWACKE: Your Honor, I'm --

(Whereupon, a bench conference was held off the record in the presence of the jury, but out of the hearing of the jury.)

Q. Did the call come with the location of where the drug was found? Was that along the route that you had chased the Defendant?

A. Yes, sir, it was.

Q. And did you ever see the Defendant throw anything out of his vehicle?

A. No, sir, I did not.

Q. And the approximate area where the drugs were

recovered, did you lose sight of the Defendant?
A. I did.
Q. And why is that?
A. The neighborhood has some sharp turns in it and I'm very familiar with that neighborhood, and because I know the fact that there's children playing in the neighborhood I decreased my speed just to avoid anybody else being involved, me striking somebody or anybody running out in the road, causing an issue. I backed off and I lost him. I lost the view of the driver's window.
Q. So there was a sharp turn?
A. Correct.
Q. And do you actually live in that neighborhood?
A. I do.
Q. So you know it pretty well?
A. Yes, sir.
MR. CONDON: Your Honor, may I get the easel?
THE COURT: You may.
MR. CONDON: Prop this up here. Is it okay if the witness steps down?
THE COURT: You may. Just speak loudly.
Q. Let me show you what's been marked as State's Exhibit 8. Do you recognize that?
A. Yes, sir.

Q. Did the chase go along any of these roads here?
A. Yes, this was the main road. Fort Drive is this area.
Q. Can you, kind of, trace, so the jury can understand ---
A. Yeah.
Q. --- where all this occurred?
A. Chase actually started a little bit off the map, and we came down Fort Drive, came around here, past this intersection, which is Spring Hill Road, and then he came around. Fort Drive continues around until it comes a little bit past this intersection, this area here, to where it becomes Redeemer Road and then comes back around this way and Redeemer circles back around to Fort Drive.
Q. Where is the area where the drugs were located?
A. Right here in this area here.
Q. Is this the sharp turn you referenced?
A. Yes, this is the turn.
Q. And you chased the Defendant through this area?
A. Yes.
Q. Did you have a camera in your car at the time?
A. No, sir, I did not.
Q. Is that because you're a school resource officer?
A. Yes, sir.

Q. What was the time frame that the call about the drugs came in, in reference -- in regards to you were pursuing the Defendant?
A. It was shortly after we passed the intersection. I couldn't give you the approximate time because the radio traffic had been closed for emergency transmissions only, so I'm not sure exactly.
Q. So fairly shortly after you had passed ---
A. Yes, sir.
Q. --- that location you got a call coming in about the drugs?
A. Yes, sir.

MR. CONDON: No further questions.

THE COURT: Mr. Schwacke?

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. You actually live on Fort Road; right?
A. Yes, sir, Fort Drive.
Q. Fort Drive. And you're, kind of, around somewhere up here?
A. No, sir, the -- where I live is actually more (inaudible).
Q. Up here?
A. Yes, sir.
Q. And so yours starts, sort of, a downward slope

towards the intersection where the Redeemer Church is?
A. Yes and no. The -- the downward slope starts a little bit further down, but ---
Q. But you're at the top of the hill there?
A. Correct.
Q. And you drive what kind of vehicle?
A. A Crown Vic.
Q. What kind of markings does it have on it?
A. It's marked Hanahan Police.
Q. So it's black and white?
A. No, sir, it's all white.
Q. All white. And has school resource officer on it?
A. Yes, sir, it does underneath the Hanahan Police -- underneath the Hanahan Police lettering.
Q. So you have to, at some point, turn around on the vehicle?
A. Yes, sir.
Q. And at what speed is that Crown Vic that you're pursuing -- how fast is it going?
A. At the time I turned around or when I first saw him?
Q. Well, over the course -- let's say when you first saw him.
A. When I first saw him probably between 40 and 45 miles an hour.

Q. Forty to forty-five miles an hour?
A. Yes, sir.
Q. And then when you turned on your blue lights and siren?
A. When I turned on the siren and began pursuit, speeds increased throughout the neighborhood, I would say, probably between 50 and 60 miles an hour.
Q. And what kind of -- how close were you able to get up on the Crown Vic?
A. When I -- after I turned around I stayed a good bit behind him.
Q. What is a good bit?
A. Probably about two or three houses.
Q. What about -- what kind of distance are we talking about there?
A. I'm not sure. I can't estimate without measuring. Two or three yards.
Q. Those houses don't have necessarily big yards?
A. No, sir, they're common yards.
Q. And you didn't see anything thrown from the vehicle?
A. No, sir.
Q. Were you ever shown a picture that you were asked to identify?
A. Yes, sir, I was.

Q. Is it that one that's sitting right there next to you?
A. Yes, sir, that is.
Q. So that would be State's Exhibit Number 6?
A. Yes, sir, that's correct
Q. And when were you asked to look at that?
A. It was shortly after the pursuit. I'm not exactly sure how long.
Q. So on March 11?
A. Yes, sir.
Q. Who showed you the picture?
A. I don't remember.
Q. Did you receive it by your cell phone or did you -- did someone ask you to see it?
A. I don't remember.
Q. And you made an identification based upon that picture?
A. Yes, sir.
Q. And that is the person you say was driving?
A. Yes, sir.
Q. That's the person you witnessed?
A. Yes, sir.
Q. And you did not participate in the chase once it gets taken up by two other -- or essentially three other units, did you?

A. No, sir, I did not.
Q. You went out later to look for the drugs?
A. Yes, sir.
Q. And who else was out there with you?
A. Officer Ellwood.
Q. Who got there first?
A. Officer Ellwood.
Q. And who did y'all talk to?
A. Mr. Loflin.
Q. Anybody else?
A. Not that I identified, no, sir.
Q. See anybody?
A. Not that I remember. There was people out there but I don't remember. I didn't speak to anybody else, no, sir.
Q. Again could you come down here?
A. Sure.
Q. Here we have Fort Drive.
A. Yes, sir.
Q. You live right there.
A. Correct.
Q. This would lead us down to Redeemer Road.
A. Correct.
Q. And that ultimately will loop back around.
A. Yes, sir.

Q. The place where y'all were searching for additional drugs was in this area?
A. Yes, sir, right here, right around the stop sign.
Q. Here?
A. Correct.
Q. And you're sure it's up here by the stop sign?
A. Yes, sir, it was right -- right here around this intersection is where we were looking.
Q. And that's your understanding of where the drugs were found?
A. Yes, sir.
Q. In this area right here?
A. Correct.

MR. SHWACKE: Thank you. That's all the questions I have.

REDIRECT EXAMINATION

BY MR. CONDON:

Q. Officer Dodd, just to clarify real quickly, you've got State's Exhibit 6 up there.
A. Yes, sir.
Q. Is that the person you saw driving the car?
A. Yes, sir, I -- yes, sir, it was.

MR. CONDON: Permission to publish to the jury.

THE COURT: You may.

MR. CONDON: No further questions.

MR. SHWACKE: No other questions.

THE COURT: You may step down. You may stay with us or you can leave. Thank you. Call your next witness or do y'all need a break? We're going to take a short break. If anyone cannot stay until six p.m., if you'll let the bailiff know, but I anticipate we'll stay until six p.m. Do not begin your deliberations. Do not discuss this case amongst yourselves. Please leave your notepads in the chair. Please rise.

(Whereupon, the jury exited the courtroom at 4:10 p.m.)

(Off the record)

(Whereupon, the jury came into open court.).

THE COURT: Thank you. Be seated. Call your next witness.

MR. CONDON: The State calls Sergeant Travis Lanphere.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Travis Lanphere -- spelled L-A-N-P-H-E-R-E.

TRAVIS LANPHERE, after being duly sworn, testified as follows:

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DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Sergeant Lanphere, how are you doing today?

A. Doing well. How are you?

Q. Very well. Sergeant Lanphere, where do you currently work?

A. I work for the City of Hanahan Police Department.

Q. And how long have you been employed by Hanahan?

A. Since June 1st of 2006.

Q. And did you work anywhere else in law enforcement prior to working for Hanahan?

A. I did.

Q. And where did you work?

A. I worked for the Charleston County Detention Center.

Q. How long was that?

A. Six months, and then I worked for Madison County Sheriff's Office in Madison County, Georgia, for a year and a half.

Q. What is your current rank at the Hanahan Police Department?

A. My rank is Sergeant.

Q. And what was your rank on March 11th, 2013?

A. At that time I was a Corporal.

Q. And what were your duties back then on March 11,

2013?

A. As well as being assistant supervisor on night shift, I was also at the time the city's only canine handler.

Q. And do you remember the events of March 11, 2013?

A. Yes, I do.

Q. Tell me what happened.

A. Shortly after five p.m. in the afternoon, I was observing traffic. Heard a call come out for a criminal domestic violence with an active assault. Started heading in the direction of where the call -- where we were sent to as advised by -- heard over the radio by Officer Camp that the male suspect had left in a blue Ford Crown Victoria. Shortly after that Officer Dodd came across the radio, wanted to know what we were looking for. I explained it to him just as briefly as I could. I gave him as much information as needed.

Shortly after that he informed us over the radio that he was in vehicle pursuit with the suspect, at which time I came into the area which was a -- a one-way-in, one-way-out kind of road. There were multiple streets but the main streets are the only way to get in and get out, and I set up my vehicle near Redeemer in that area. Suspect vehicle came down Redeemer where I observed it and that's when I took over pursuit.

Q. Would it be helpful to use the map?
A. Yes, sir.
Q. Sergeant Lanphere, I'm going to show you what has been marked as State's Exhibit 9 for demonstrative purposes.
MR. PATTERSON: Your Honor, may I approach?
THE COURT: You may.
MR. PATTERSON: May he step down?
THE COURT: He may.
Q. If you could describe, using this map, exactly where you were and where you joined the pursuit.
A. Can I use this ruler?
Q. Yeah, of course.
A. That way my arm is not blocking it. This is before it starts. This is going to be there, where I was saying it's one way in and one way out. Here's where I was sitting, right in this area. Pursuit started over here with PFC Dodd, came all the way through the back of the neighborhood. I set up right here at this intersection on Fort and Redeemer. Suspect vehicle came off of Redeemer which is coming down the hill. I saw the suspect vehicle make a right-hand turn onto Fort, where I intercepted and took over. We came out of Fort, took a left onto Murray and Murray Drive sweeps around. It's a gradual left-hand turn.

We continued at speeds anywhere from, like, 40 to 50 miles an hour. Crossed over the railroad tracks that separate the City of Hanahan and North Charleston, Hanahan Road. From Hanahan Road we came up to Rivers Avenue. At Rivers Avenue there was heavy traffic. Suspect vehicle went off the side of the road. I guess it's -- it's a center divide but when it comes to a traffic light there's going to be a grassy little area beside the roadway. Drove over that. I drove over that. We took a left on Rivers Avenue. Came down Rivers heading towards Remount and there was -- I don't remember the name of the road, but at one of the intersections right on Rivers Avenue suspect vehicle struck a vehicle that was waiting at the intersection for a red light.

Cleared that intersection, came up to Remount Road. At Remount Road he took a right. Came back up towards the loop to get onto I26 heading eastbound. We got on I26 eastbound. That's where speeds increased up to about 90 miles an hour. Went all the way down I26 eastbound through -- weaving in and out of traffic, past multiple cars, all the way down to Rutledge Avenue going into downtown.

When we got off on Rutledge I was advised over the radio to back off from pursuit and to allow North

Charleston units who had caught up to us to take over as lead. They took over lead pursuit. They took a left onto Maple Street. Maybe -- maybe a tenth of a mile down Maple Street suspect stops, exits the vehicle and is on foot. By the time that had happened I was rounding the corner. Came to a stop. I'd asked officers if they had the suspect apprehended. They did not, so at that time I deployed. My partner at the time was named Shadow and we began to do our canine work.

Q. Thank you, Sergeant Lanphere. Sergeant Lanphere, was the patrol vehicle you were driving, was that a marked patrol vehicle?

A. Yes, it was. It was a fully marked Chevy Tahoe.

Q. And was it equipped with blue lights and a siren?

A. Yes, sir, it was.

Q. Were those operational at the time you were in the pursuit?

A. They were.

Q. And were you signaling him to stop?

A. I was.

Q. Sergeant Lanphere, I'm going to show you what has already been admitted as State's 1, 2, 3 and 4. Please take a look at those. Do you recognize those?

A. I do.

Q. How do you recognize them?
A. Recognize them because that's the suspect (inaudible) while I was chasing him.
Q. Is there any damage to that vehicle?
A. There is.
Q. What does that indicate to you?
A. To the front passenger side on the quarter panel and the headlight area, appears there's some sort of collision that took place with that vehicle.
Q. Did that collision take place while you were pursuing him?
A It did.
Q. What did he strike?
A. Struck a van. It was a van.
Q. Did you put that out on the radio?
A. I did.
Q. Did another officer get out to handle that?
A. I believe it was Corporal Beaudoin.
Q. Did you apprehend the Defendant at the end of that pursuit?
A. I did not.
Q. Sergeant Lanphere, I'm going to show you what has been marked as State's Exhibit 7 for identification.
MR. PATTERSON: Your Honor, may I approach?
THE COURT: You may.

Q. Do you recognize this?
A. I do.
Q. How do you recognize it?
A. It's a copy from the dash-cam video from my pursuit from my vehicle.
Q. And have you viewed this video?
A. I have.
Q. Are those your initials on the CD?
A. They are.
Q. Has anything been altered, modified or deleted?
A. No.
Q. Is that a fair and accurate representation of the vehicle pursuit you were a part of?
A. It is.

MR. PATTERSON: Your Honor, at this time the State would ask that State's 7 be admitted into evidence.

MR. SHWACKE: No objection.

THE COURT: State's 7 admitted without objection.

MR. PATTERSON: Permission to publish?

THE COURT: You may.

(Whereupon, the video was played in open court.)

Q. Sergeant Lanphere, at that point where we ended that video, is that when you lost contact with the driver of that vehicle?
A. That is correct.

Q. Did you observe how many people were in that vehicle?
A. Only one.
Q. And did you observe him touch anything in the car?
A. Yeah, when we were getting onto I26 subject reached up and touched the center mirror with his right hand and then put a Bluetooth -- Bluetooth device in the mirror.
Q. Are you familiar with any connections the Defendant might have to downtown?
A. Not that I recall.
Q. Is there any reason -- throughout the investigation did you figure out any reason why he might have bailed out at 56 Maple Street?
MR. SHWACKE: Objection, Your Honor. May we approach?
THE COURT: You may.
(Whereupon, a bench conference was held off the record in the presence of the jury, but out of the hearing of the jury.)
THE COURT: Sustained.
MR. PATTERSON: Thank you, Sergeant Lanphere. Nothing further, Your Honor.
MR. SHWACKE: I don't have any questions.
THE COURT: You may step down. You're free to

stay with us. You're also free to go. Call your next witness.

MR. PATTERSON: Your Honor, the State calls William Loflin.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: William Kenneth Loflin -- L-O-F-L-I-N.

WILLIAM LOFLIN, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Mr. Loflin, how are you doing today?

A. I'm doing all right.

Q. Mr. Loflin, where do you currently work?

A. Right now I'm unemployed but I'm an electrician.

Q. Do you do contract work?

A. I do. I'm doing a house now.

Q. And what type of electrician are you?

A. I'm a journeyman.

Q. And is that a skill that you have to achieve? How does that work?

A. Yeah, you have to go to school, technical college.

Q. What's the rank? Like journeyman, master?

A. Probably second from -- or third from master electrician.
Q. And how long have you been doing that type of work?
A. About nine years.
Q. Mr. Loflin, you have some criminal convictions; is that correct?
A. Yes, I do.
Q. You have -- in 2002 you have multiple convictions for forgery?
A. Correct.
Q. And in 2007 you also have a conviction for forgery?
A. Yeah.
Q. And in 2007 you have a conviction for petit larceny?
A. Yeah.
Q. And in 2009 you have a conviction for shoplifting?
A. Yeah.
Q. But today are you going to tell the truth today?
A. Yes, I will.
Q. Were you subpoenaed here by our office?
A. Yes, I was.
Q. And do you know the Defendant?
A. No.

Q. Do you have any grudges against the Defendant?
A. (Inaudible)
Q. Where do you currently live?
A. I live in Great Falls, South Carolina.
Q. And how long have you lived in Great Falls?
A. Thirty-five years.
Q. But you weren't living there on March 11, 2013?
A. No, I had a job to do in Charleston off George Street.
Q. So where were you living in March of 2011 -- or -- excuse me -- March 11, 2013?
A. At [redacted] Drive.
Q. And that was in Hanahan?
A. Right.
Q. And who were you staying with?
A. Chris Rowland. He's an electrician too.
Q. Do you remember what happened that day?
A. That day we got off early, about 2:30, three o'clock, and I'm a smoker and we don't smoke in the house, so I went on the back porch to smoke a cigarette and our neighborhood is one way in, one way out, and I hear sirens through the neighborhood. You know, a quiet neighborhood, kids riding bicycles, no commotion whatsoever.

I was sitting there. I hear sirens so I stood up,

kind of walked into the backyard a little bit to see what's going on. It's on the back street. Tried to catch a glimpse. I see a Crown Vic come flying by, cut the corner, the siren is behind him. Cut the corner and he's looking over his shoulder the whole time.

I seen him throw something out. Don't know what it was at the time. He takes off and the officer cuts the corner after him, trying to catch up with him but they didn't see him throw out the bag.

MR. PATTERSON: Your Honor, may I approach?

THE COURT: You May.

Q. Mr. Loflin, I'm going to show you what's been marked as State's Exhibit 8 for demonstrative purposes.

MR. PATTERSON: Is it all right if he steps down?

THE COURT: He is very soft spoken. You're going to have to speak loudly. Can you do that for me?

THE WITNESS: Yeah, I can.

THE COURT: Okay.

Q. Step down if you would and give us a visual of where you were and what you saw.

A. I was standing here at this residence here. Well, I started to hear sirens come down through here. As he cuts this corner he's looking over his shoulder the whole time, throws out a bag in this area right here which I see directly across here. About the time he

gets here the officer's cutting the corner. I don't know which way he went from there. I don't know which way they turned but then, like I said, he threw something out and that's when I hollered at my roommate, Chris ---

Q. Before we go any further what did you do when you saw him throw the bag out?

A. Well, I noticed it wasn't a piece of trash because it, kind of, went up too quick and come down too quick. Since I was, you know, renting a room from my roommate Chris, and he knows everybody in the neighborhood, I got him to go retrieve the bag, or whatever it was. It looked like a Pepsi bottle to me.

I'm not going -- I watch TV. I said not going to go. I said Chris, come here. What is it? I said walk through there and grab that clear-looking thing. What is it? I said I don't know. Just grab it. Some guy threw it out of the car running from the law. So he walked around the front, comes back holding it, looking at it. Asked me what it is. Asked me was it sugar cookies. I said no, that's not sugar cookies. It was crack cocaine.

Q. And did you call the police?

A. Yes, right then. I told him to go ahead and call the police right then. That's when the neighbor walked

up across the street at the same time, so we had him as a witness that it all happened. So they heard sirens come through the neighborhood too.

Q. Mr. Rowland (sic), I'm going to show you what has been pre-marked as State's 10, 11 and 20 for identification.

MR. SHWACKE: No objection.

MR. PATTERSON: Your Honor, may I approach?

THE COURT: You may.

Q. Will you take a look at these?

A. Yeah.

Q. Do you recognize those?

A. I sure do.

Q. How do you recognize them?

A. Backyard of Mr. Rowland.

Q. And is that a fair and accurate representation of the way it looked on March 11?

A. It is but this one picture. Like I said I heard sirens and I stepped down the walkway to walk into the backyard to catch a glimpse of what was going on, so that's what I was looking at at the time.

Q. Have there been any additions, deletions or modifications to those as you remember it?

A. No, because, like I said, it was just angles. If you're standing on the back porch that's what you see

and I stepped off the back porch and that's what I seen.

MR. PATTERSON: Your Honor, at this time the State would ask that State's 10, 11 and 20 be admitted into evidence.

MR. SHWACKE: No objection.

THE COURT: State's 10, 11 and 20 into evidence without objection.

MR. PATTERSON: Permission to publish?

THE COURT: You may.

Q. So is this the view you would have had ---

A. Yes.

Q. --- when you were watching the vehicle pursuit?

A. Yeah.

Q. And were you able to see the vehicle?

A. I actually seen the vehicle on the back street coming around speeding. Then right about here I seen the police officer.

Q. What did the vehicle look like, if you remember?

A. A blue Crown Vic (inaudible).

MR. PATTERSON: Your Honor, the Court's indulgence?

THE COURT: Take your time.

Q. Mr. Loflin, I'm going to show you what has been premarked for identification as State's Exhibit 5.

Please take a look at that. Do you recognize that?
A. That's what we found.
Q. How do you recognize that?
A. The shape of an actual cookie. It looks like a bottle or a beer can.
Q. Is that a fair and accurate representation of the bag that Mr. Rowland handed to you that day?
A. Yes, sir.
MR. PATTERSON: Your Honor, at this time the State would ask that State's 5 be admitted into evidence.
THE COURT: Any objection?
MR. SHWACKE: No objection.
THE COURT: State's 5 into evidence without objection.
Q. Mr. Loflin, I'm going to show you what's been marked as State's Exhibit 21 for identification. I know there's a lot of markings on there but try and take a good look at that. Do you recognize that?
A. It's kind of hard to tell with the plastic but yeah.
Q. How do you recognize it?
A. The sandwich bag it was in.
Q. Is that a fair and accurate representation of the bag that would have been handed to you by Mr. Rowland?
A. Yes, sir. Looks like it's been handled a lot.

That's how (inaudible).

MR. PATTERSON: Nothing further at this time, Your Honor.

THE COURT: Mr. Schwacke?

MR. SHWACKE:

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. Mr. Loflin, who called the police?

A. Chris Rowland.

Q. You didn't?

A. No, sir, because my area code -- I wouldn't dial 911 because my area is Great Falls.

Q. And you indicated y'all had been at work that day?

A. Work too?

Q. Pardon?

A. Work. Yeah.

Q. And you'd gotten off what time?

A. 2:30, three o'clock. Got off early that day.

Q. Where was the job that you were working on?

A. On George Street. (Inaudible)

Q. Did you have anything to drink after work?

A. No, sir.

Q. So you were living at the residence of Mr. Rowland?

A. Rowland. Yes, I was renting a room from him just

for this job.

Q. I was, kind of, tucked away in that corner so I couldn't really see where you were pointing at. If you could, kind of, come back down here just for a second?

A. This is Mr. George's house. This is Mr. Rowland's house. This is his back porch. There's a small step down, not steps but, like, a ramp. Like I said, I heard a car coming through. I walked into the middle of the yard right about here and seen -- you could see -- standing in the backyard you could see a section through here and a section through here and that's when I seen the car. And as he got around right here he was looking over his shoulder -- over his shoulder.

Q. You could still see that from where you were pointing?

A. Right here? Yes.

Q. You're here.

A. Right.

Q. And you're looking through this house?

A. No, through the backyard of the house.

Q. Okay. So he's already made the corner?

A. Right. He was looking over his shoulder for the officer.

Q. Again, where is he looking over his shoulder?

A. Right through here in this curve.

Q. Okay. And in this curve this house is blocking your view; isn't that correct?
A. Right. Right here. And then he throws it out right here.
Q. So your view at this point is restricted by this house ---
A. Right.
Q. --- and this house and these trees?
A. Right.
Q. Okay. So ---
A. I wouldn't say these trees because of this photo that he has.
Q. You can have a seat. So at this point ---
A. He tossed the bag out.
Q. --- you have a house here and you have the start of a house; correct?
A. The house is actually a little bit further back there over here.
Q. Okay.
A. You can see the house.
Q. Now, you do electrical work; right?
A. Yes, sir.
Q. And part of that is you've got to know your measurements and your distances; correct?
A. Right.

Q. So this exhibit comes with a distance scale; correct? Do you want to come down here? All right. So we have 20 feet, 40 feet, then 80 feet and 120.

A. Right. For every inch you've got 20 feet

Q. Well, actually a little bit more -- right -- because it looks like 120 is four; right? It looks like every inch is 30 by this scale; right?

A. Right.

Q. All right. So at four inches on this scale, or 120 feet, we know the distance between this house and this house, which is the one you're looking through, is less than 120 feet; correct?

A. This shot here ---

Q. The opening that is unobstructed to you ---

A. Right.

Q. --- is less than 120 feet; isn't that right?

A. Can I look at it?

Q. Sure.

A. Right.

Q. I mean, it's, like, half of that; right?

A. Right.

Q. So we're talking about 60 feet.

A. But what I'm saying, the whole time that I seen him from here, he was steadily looking over his shoulder at the officer that was chasing him.

Q. At the point that you say you see a bag get thrown from the car, was in this limited area right here; correct?
A. Right here is where that bag landed.
Q. So 60 feet.
A. In between ---
Q. Based on your own check and measure; right?
A. Right.
Q. Okay.
A. But like I said, that's where I seen it landed and Mr. Rowland will tell you exactly where he picked it up, because he's lived there his whole life. He should be able to mark.
Q. So show me again where you say you saw it land.
A. In between these two houses.
Q. Okay. And again, that's a 60-foot distance.
A. Right.
Q. You can have a seat. So on State's Exhibit Number 20 you can see someone in the picture?
A. Right.
Q. Who is that?
A. That's Inez.
Q. Inez who?
A. (Inaudible) There's the ramp I was talking about. So if I walked down that's going to change all that

measuring.
Q. Not across from house to house. You're going to see the same distance between the two houses because you didn't move the houses.
A. No, but if you move the center of the triangle it's going to move. If you're going to move the point of the triangle it's going to move all that.
Q. And we're going to move it five feet so now we're talking six -- seven?
A. Give or take.
Q. So who touches the bag first?
A. Mr. Rowland.
Q. And he's the one who goes outside and does what?
A. Walks out down his driveway, across the -- down the road to the stop sign. Do you want me to show you on that?
Q. Well, I guess this house on the corner is, I guess, the house that sort of blocks everything; right?
A. Right.
Q. Because he's one in from that?
A. Right. He comes straight down his driveway into the road.
Q. And walks down here.
A. And walks through it and it was beside the bench right there.

Q. And you didn't see him actually pick up the bag.
A. What's that?
Q. You didn't see him pick up an item.
A. I seen him pick up the bag.
Q. You went out there with him?
A. No.
Q. Well, where were you?
A. I was on the back porch watching him pick up the bag.
Q. Again, the back porch of this house watching him pick up a bag ---
A. Let me rephrase that; in the backyard.
Q. Sorry?
A. The backyard.
Q. You weren't on the porch?
A. I wasn't ---
Q. Now you're in the yard?
A. I wasn't on the deck. I was in the grass. Then he picks it up. I walked through the garage and meets him at the front driveway.
Q. Had the police already been called at that point?
A. No, because he didn't know what it was. He thought it was sugar cookies so you can imagine if a kid found that.
Q. Sugar cookies.

A. Yeah.
Q. So let me ask you about that because when you were asked to identify that bag you indicated that you were able to do that because of the cookie.
A. Yeah, I watch Cops.
Q. What does that mean?
A. I mean, they show it a lot on Cops.
Q. They show a lot about Cops too.
A. (Inaudible) I mean, I didn't know what it was until after the officer tested it on the back of the car.
Q. Well, I want to know how you knew it wasn't sugar cookies.
A. I mean, it looked like the bottom of a beer can.
Q. You've seen crack before?
A. I have.
Q. You knew that was crack.
A. Yeah.
Q. How fast were the cars going?
A. Which one?
Q. You saw two?
A. Yeah.
Q. Okay. Let's start ---
A. The Crown Vic ---
Q. --- with the first one.

A. The Crown Vic, I'd say when he cut the corner, about 30 and then he picked it up and gunned it.
Q. At the point you see him go between those two houses, how fast was he going?
A. About 30 at the most and then he disappeared and the officer come around about the same speed and he disappeared. Then I just hear sirens through the neighborhood.
Q. How far behind was the officer from the Crown Vic?
A. Probably, I'd say -- when? Before the curve? Because I caught a glimpse of it on the back street. All I seen was the Crown Vic. He cut the corner.
Q. Do you mean the curve there?
A. Right.
Q. Okay. And how did he cut it? He went up in the yard?
A. No, turning.
Q. He just turned?
A. Fast.
Q. So he made the turn?
A. Yeah, fast.
Q. And how ---
A. Well, I mean, cut it, he was center line.
Q. And again, the speed you have is what?
A. I would estimate between 30 and 40 at the most.

Q. And at that ---
A. It's a sharp curve.
Q. At that point how far behind is the ---
A. Officer?
Q. --- officer.
A. Maybe four car lengths. That one house obstructed the view. That's when he threw out the bag.
Q. So he's four car lengths behind on the curve?
A. Right.
Q. And at the point they passed by where you say the bag comes out, how far behind?
A. What's that again?
Q. How far are they behind at that point?
A. After he threw the bag out? About four car lengths.
Q. Still four car lengths?
A. He's -- he's done made the curve into the straightaway.
Q. So four car lengths would be 60 feet?
A. Give or take.
Q. So again on the map, we're dealing with this and four inches is 120 feet.
A. Right.
Q. And we're talking 60 so half of that so we'll go in two. At this point ---

A. (Inaudible)
Q. I'm asking you -- I'm asking you what the car length difference was. That's what I'm asking you.
A. See, the way I was thinking earlier (inaudible) officer up here. I don't know if he tried to stop him and maybe -- I don't know what happened up here but I was thinking that maybe he tried to stop the guy in the Crown Vic and (inaudible) in the other car. I'm not sure.
Q. We got kind of lucky here because there's a car right here on the map.
A. All right.
Q. So how far are we talking? Use that as one.
A. About like this.
Q. So ---
A. He was right here.
Q. This is where you say you saw the bag, so at that point again, that's before.
A. (Inaudible)
Q. So that would be the Crown Vic here.
A. Correct.
Q. Police car right here?
A. No, police car is here. (Inaudible)
Q. Are you saying now it's more than four car lengths behind?

A. Yes.
Q. That's what you're saying now?
A. Yeah.
Q. Because you're seeing ---
A. Because I usually don't look at an aerial photograph.
Q. But you do measurements every day and you know your distances.
A. Right.
Q. And ---
A. It's just a wire, not chasing cars.
Q. And you know your crack cocaine.
A. Not really. I know not to throw it out the window.
Q. Pardon? So again, you were not -- you were where you could see from ---
A. I was outside smoking a cigarette.
Q. Well, let me finish the question I'm asking. I'm asking you at the time that Mr. Rowland is collecting what ---
A. Retrieving the bag.
Q. --- where is that because you said you could see it.
A. Yeah, when he picked it up he started walking back.

Q. Where is it that he picked it up?
A. Where I just showed you on that map.
Q. The area between the two houses.
A. Right.
Q. And again, that would be up here.
A. And also ---
Q. That would be up here?
A. (Inaudible)
Q. So not in this area here? Not in this area?
A. No, not -- not (inaudible).
Q. What time was all that?
A. It was after three.
Q. Pardon?
A. It was after three, I would say.
Q. After three?
A. Yeah, I was off work early.

MR. SHWACKE: Okay. I think that's all the questions I have.

MR. PATTERSON: Nothing further from the State, Your Honor.

THE COURT: You may step down. Thank you. Call your next witness.

MR. PATTERSON: The State calls Corporal Ellwood.

(Witness sworn)

THE CLERK: Please be seated, state your full name

and spell your last name for the record.

THE WITNESS: My name is Officer Jon Ellwood. My last name is spelled E-L-L-W-O-O-D.

JON ELLWOOD, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Corporal Ellwood, how are you doing today?

A. I'm well, sir.

Q. Where are you currently working?

A. I work for the City of Hanahan Police Department.

Q. And how long have you been employed by Hanahan Police Department?

A. It'll be three years.

Q. Did you work anywhere in law enforcement prior to that?

A. I did.

Q. Where was that?

A. I worked at the jail for the Berkeley County Sheriff's Department for about two, two and a half years.

Q. And what is your current rank?

A. My current rank is Corporal.

Q. And back on March 11, 2013, what was your rank?

A. I was a patrolman. I'm not sure if I was a PFC or

a (inaudible). I don't remember exactly.
Q. What were your general duties back then on March 11, 2013?
A. Back when I was a basic patrolman. I would respond to calls for service, patrol the area, provide a police presence to try to deter crime. Really respond to calls for service.
Q. And do you remember what happened on the evening of March 11, 2013?
A. I do.
Q. Tell me what happened.
A. I was getting dressed for work or getting ready for it. I was already dressed. I was actually in the parking lot getting ready to start my shift. I work the night shift. I heard a call come out for a possible assault in progress. As it happened the address where it was reported taking place was right around the corner from my house so I advised (inaudible) I would assist.
Q. And how quickly did you arrive?
A. I would certainly say less than a minute.
Q. About what time was this?
A. A little bit after five, I believe.
Q. And who did you meet when you got there?
A. When I arrived on the scene, the location was 6240

Old Point Road, I made contact with Ms. Evette Nelson.
Q. And how did she appear to you?
A. Ms. Nelson appeared to be upset. She was visibly shaking. She was speaking so erratically, yelling, a little angry and very emotional, I think might be the best way to describe it.
Q. And did she tell you anything?
A. She did.
Q. What did she tell you?
A. When I first made contact with her I was attempting to ascertain if she needed emergency medical services or anything like that. She initially stated he took off with my car and within seconds of that, trying to ascertain who he was, she advised that he had -- she had knowledge of some amount of drugs in the car and also be possibly carrying a firearm.
Q. What happened next?
A. I immediately advised communications via radio which would also go out to anybody else with access to a radio of the information regarding the firearm and also (inaudible) as well as the drugs that she spoke of.
Q. Did you get a call from Corporal Beaudoin?
A. I did.
Q. What did she tell you?

A. Corporal Beaudoin stated that there was a witness that wanted to speak to an officer regarding something they had observed during the pursuit process.

Q. Did you receive this call while the pursuit was still active?

A. I did.

Q. And where did you respond to?

A. I responded to the street in front of the house at [redacted] Drive, which was also in the City of Hanahan.

Q. And who did you talk to?

A. I met with Mr. Loflin.

Q. What did he tell you?

A. Mr. Loflin handed me a -- when I made contact he handed me a clear plastic bag that contained the -- kind of a disc-shaped white substance and several -- I guess you could call it shards -- (inaudible). He observed the pursuit past an area where he could see and he saw a black male driving a blue Crown Victoria and he said he observed the plastic bag being tossed from the window. A short time later he also observed the police car with lights and siren activated which made him believe that he was being pursued by the police.

Q. Corporal Ellwood, I'm going to show you what's

been marked as State's Exhibit 5. It's already been admitted in evidence. Do you recognize that?

A. I do.

Q. How do you recognize it?

A. That is a photograph that I took upon receipt of the clear plastic bag. Through my training and experience as a police officer (inaudible) until I could put on some latex gloves to handle it properly. At that time point it was secured and I took a photograph of it.

Q. Was the bag open? Closed? What did it look like?

A. It was just a clear plastic bag.

Q. Did Mr. Loflin -- did you have him write a statement?

A. I did.

Q. Corporal Ellwood, I'm going to show you what's been marked as State's Exhibit 21 for identification. Do you recognize that?

A. I do.

Q. And how do you recognize it?

A. I recognize it by the tag on the front of it. This is an evidence narcotics bag. This is done in my handwriting. It has my name on it.

Q. And is that what you collected from William Loflin?

A. It is.
Q. And what did you do with it? I know you started explaining a little bit.
A. I received it from Mr. Loflin. I secured it against my windshield with my windshield wiper to put on some gloves. Took a photograph of it. (Inaudible) It's got chemicals in it that are -- they will react a certain way in the presence of cocaine. (Inaudible) At that point the evidence will be secured inside of my patrol car.
Q. About what time did you get this bag from Mr. Loflin?
A. Probably about 5:30.
Q. How long was that -- how long was your arrival at [redacted] from the time this whole incident started?
A. I would say probably 20 minutes.
Q. And it was secured in your vehicle?
A. Yes, sir.
Q. Did it remain there until you got back to the station?
A. Yes, sir.
Q. Would anybody else have had access to it?
A. No, sir.
Q. What did you do with it once you got to the

station?
A. Once I returned to the station at a point when everything kind of calmed down as far as everybody (inaudible) it would have been weighed on a scale and it would have been put in evidence for additional testing and verification of the actual substance. From that point it would then go to an evidence locker upstairs. The evidence lockers are like lockers. (Inaudible) You pull it down, drop it in, you close it and it falls to the bottom and it's padlocked. (Inaudible)
Q. So nobody has access to it except for the evidence custodian after you put it in the locker?
A. That's correct.
Q. And is the chain of custody created when -- when you log it in? Do you do stuff on the computer?
A. When we log it in the chain of custody is primarily done through the evidence technician. There are some parts to the computer that the evidence technician (inaudible).
Q. So there is a record of everybody who touches it through the tag on the evidence?
A. Yes, sir.
Q. Going back to your initial response to the apartment complex, did Evette tell you who was driving

the vehicle?
A. She did.
Q. Who did she say?
A. She referred to him as Barry. During the course of the investigation she provided me Barry -- actually Barry Jerrod Stanley.
Q. Did you have a chance to speak with Deangelo Watson?
A. I did.
Q. And did he write a statement?
A. I don't remember.
MR. PATTERSON: The Court's indulgence.
Q. Did Evette ever say anything about Deangelo Watson being involved?
A. On the original -- during the original incident?
Q. During the original incident.
A. No, sir.
MR. PATTERSON: Nothing further, Your Honor.
THE COURT: Mr. Schwacke?

CROSS-EXAMINATION

BY MR. SCHWACKE:
Q. At the incident location for the domestic, Ms. Nelson didn't request any medical assistance.
A. That's correct.
Q. How were you contacted about going to the Spring

Hill address?
A. I was contacted via telephone.
Q. Regular telephone communication?
A. Yes, sir, on my city-issued telephone.
Q. And who was contacting you about it?
A. Corporal Beaudoin.
Q. Do you know how she got information about it?
A. I do not.
Q. Would calls into the department be normally documented in some way?
A. Only thing I can speak to, I know the 911 calls are recorded. I don't have knowledge as far as the other lines. It's very possible but I just don't know the answer to that.
Q. Okay. So you go to [redacted] and you meet with who at that point?
A. Mr. Loflin.
Q. And where do you encounter him?
A. I -- I was actually looking for the address, you know, looking for the house numbers. It's almost to the end of the road where (inaudible).
Q. And were you parked at the 1252 address at that point or did you just park on the side of the road?
A. I was parked on the side of the road. I wasn't in a driveway. Is that what you mean?

Q. Yes, I'm just trying to figure out approximately where you were.
A. I was in -- along the road very close to 1252. I can't -- I don't want to say I was absolutely in front of the house.
Q. And so he approaches you while you're on the side of the road.
A. As I get out of my car and I see people standing there, I'm guessing those are the people that I'm there to talk to. I get out and (inaudible).
Q. And what does he tell you when he approaches you?
A. He said that he -- first he has a bag, a clear plastic bag and he handed it to me and said that he saw the police chase. He saw this bag was thrown out of the vehicle as it passed by where he could see it. After securing it and -- and making sure what we were dealing with was -- was (inaudible) he stated that it was a blue-colored vehicle and he saw the blue light behind it.
Q. Jump back to the drugs for a minute. The drugs passed from whose possession to your possession?
A. Mr. Loflin's to mine.
Q. And that happens right out there at the street?
A. Yes, sir.
Q. And was there any indication from him where he

retrieved it from?
A. He told me while speaking to me that it was -- he told me up to the area near the intersection of Fort and Spring Hill from where I was standing looking up. There's at least one or two houses and the house at the corner in that area which is (inaudible).
Q. You never had him show you actually where he picked it up from?
A. I don't know.
Q. Did you speak with anyone else?
A. Not that I remember.
Q. Did you have any contact with a Mr. Rowland?
A. Not that I recall.
Q. You did get a statement from Mr. Loflin.
A. I did.
Q. And your incident report has that Loflin stated that he had retrieved the clear plastic bag that contained those materials?
A. I would have to look at the report.
Q. Would it refresh your memory for you to review your narrative?
A. Sure.
Q. I can direct your attention to that.
A. I believe it does say that in my report.
Q. It says what?

A. I put in my report Loflin stated he retrieved the clear plastic bag that he witnessed the black male driver of the blue-colored Crown Victoria.

Q. He retrieved it?

A. Yes.

Q. You then go back to meet with Evette after this -- Ms. Nelson?

A. (Inaudible)

Q. And there's some photograph that you obtained?

A. As far as a photograph of Mr. -- of the Defendant?

Q. Yes.

A. There was a photograph that was disseminated by Officer Camp (inaudible)

Q. And did you show that to Officer Dodd?

A. I did at some point. I believe it was later that same night. I showed the photo if you're referring to the photo that I have on my phone that was (inaudible).

MR. SHWACKE: One moment, Your Honor.

THE COURT: Take your time.

MR. SHWACKE: Thank you. That's all the questions I have.

MR. PATTERSON: Nothing further from the State, Your Honor.

THE COURT: You may step down. Thank you. Ladies and gentlemen, I told you we would go until about six.

This is an appropriate time for us to end for the evening. Please remember all of my admonitions. Do not discuss this case with anyone. When you go home if there's somebody there that asks you what you've done today, you may not discuss this case with anyone. Do not research -- do any independent research. Do not read, watch, listen to any news account regarding this case, should there be any. Please report back at 9:15. The bailiff will tell you how to report at 9:15 in the morning.

(Whereupon, the jury was excused for the evening at 5:45 p.m. and the trial of the case adjourned.)

(Whereupon, the trial of the case reconvened on April 8, 2014 and the jury came into open court at approximately 9:27 a.m.)

THE COURT: Anything before we bring in the jury?

MR. PATTERSON: Nothing from the State, Your Honor.

THE COURT: Do you need some time?

MR. SHWACKE: At least two minutes.

THE COURT: Take your time, Mr. Schwacke. I understand. This is not your fault. We need to let the record reflect that all 13 jurors conformed with the Court's instructions. Mr. Patterson, call your next witness.

MR. PATTERSON: Thank you, Your Honor. The State calls Chris Rowland.

THE COURT: Right up here, sir.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Christopher Adam Rowland -- R-O-W-L-A-N-D.

CRISTOPHER ROWLAND, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Mr. Rowland, how are you doing today?

A. All right.

Q. Where do you currently work?

A. Airport for Ellis and Smith.

Q. And how long have you been working there?

A. About five months.

Q. And what type of work is it?

A. Commercial electrician.

Q. How long have you been doing electrician work?

A. Five years.

Q. And in 2004 did you have a conviction for a crime that has a penalty of more than a year?

A. Yeah.

Q. Were you subpoenaed here today by us?
A. (Inaudible)
Q. And do you know the Defendant?
A. No.
Q. Do you have any grudges against the Defendant?
A. No.
Q. Where are you currently living?
A. [redacted], Hanahan.
Q. And how long have you lived there?
A. Going on eight, nine years.
Q. And is that where you were living on March 11, 2013?
A. Yes.
Q. Do you remember that day?
A. Yes.
Q. Can you tell me what happened?
A. I was laying, chilling on the couch. My roommate was out -- out smoking a cigarette on the porch. Heard a bunch of sirens. He came in and told me that some car just flew by my neighbors house, George, and threw a bag out the window and I proceeded to go get it, because in my mind there isn't but one thing that that could be, and that's some type of drugs. And there's kids that live there. All those houses where that occurred, there's nothing but kids there. I mean, and

that would be the last thing I would want in my neighborhood, is a kid passing to die in possession -- or taking drugs, things of that nature, so I brought it back and called the police and they took it over from there.

Q. Mr. Rowland, I'm going to show you what has previously been admitted as State's 10.

MR. PATTERSON: Your Honor, may I approach?

THE COURT: You may.

Q. Mr. Rowland, can you take a look at that for me?

A. Yes.

Q. Do you recognize that?

A. Yes.

Q. How do you recognize that?

A. It's the view off my back porch from my backyard.

MR. PATTERSON: Your Honor, may we publish that?

THE COURT: You may.

Q. If you could just turn around. Can you show me or just give me a general idea of where ---

A. Where I found the bag?

Q. Yeah, where you found it at.

A. Right here.

Q. Okay. And that's about where you picked it up at?

A. Yes.

Q. Mr. Rowland, I'm going to show you what has been

marked as State's Exhibit 22 for identification.

MR. PATTERSON: Your Honor, may I approach?

THE COURT: You may.

Q. Mr. Rowland, please take a look at that. Do you recognize that?

A. Yes, sir.

Q. How do you recognize that?

A. That's the street that is perpendicular or adjacent to my neighbor's house where I found the bag at.

Q. And is that a fair and accurate representation of the way that area would have looked on the day this happened?

A. Yes.

MR. PATTERSON: Your Honor, at this time the State would ask that State's 22 be admitted into evidence.

THE COURT: Any objections?

MR. SHWACKE: No objection.

THE COURT: State's 22 into evidence without objection.

MR. PATTERSON: Permission to publish?

THE COURT: You may.

Q. If you could, give me an idea of how far from the side of the street into the grass area you found it?

A. Right there.

Q. Thank you, sir. Mr. Rowland, I'm going to show you what has been marked as -- it's already been admitted into evidence as State's 5. Do you recognize that?

A. Yes, sir.

Q. How do you recognize that?

A. That is the bag I found on the side of the road that I handed over to the police officer.

Q. And what did you do with it when you found it?

A. I held onto it, sat on the tailgate of my truck, called the law.

Q. Did you hand it over to Mr. Loflin?

A. No. He was sitting next to me. To my memory he never handled it other than he was talking with the police officer. I left.

MR. PATTERSON: The Court's indulgence?

THE COURT: Take your time.

Q. Did you call 911?

A. No, I called the police department.

Q. You didn't call 911. You just called the police department?

A. I have their number in my phone.

Q. Okay. Mr. Rowland, I'm going to show you what's been marked as State's 21. It's, kind of, covered up. If you can -- if you can see in there, do you recognize

what's in that bag?

A. Looks to be what was in that picture. The thing I picked up, the drugs.

Q. And is that the bag that you picked up that day?

A. Yes, sir.

MR. PATTERSON: Nothing further from the State. Please answer any questions Mr. Schwacke has.

THE COURT: Mr. Schwacke, your witness.

MR. SHWACKE: Thank you.

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. How are you doing, Mr. Rowland?

A. All right.

Q. So about what time are we talking about when all this is going on?

A. I believe around five. It was in the evening. Mr. Loflin got back from the first shift a little early.

Q. And so he had just gotten home about five?

A. Around that time.

Q. And Mr. Loflin works with you on that shift?

A. At that time we were pulling two shifts.

Q. So he was going to have to go to work too?

A. Yes.

Q. And you met with an officer?

A. Yes.
Q. Which officer did you meet with?
A. (Inaudible)
Q. Okay. And no doubt in your mind you met with a police officer that night?
A. Yes, sir.
Q. Did they take your name, get your information?
A. Yeah.
Q. How did they take it down?
A. With a pen, piece of paper.
Q. Okay. So you were shown this picture; correct?
A. Yes, sir.
Q. And you indicated that where you found the item was up here?
A. Yes, sir, right here alongside that road.
Q. Right here?
A. Yes, sir.
Q. Where it looks like it's a different color?
A. Yes, sir. No, right here on the side of the shade where the little (inaudible) right there.
Q. I just want to make sure we're pointing to the same spot.
A. All right.
Q. Am I pointing to the spot right there?
A. Down a little.

Q. I'm going to let you ---
A. Right there.
Q. Right there?
A. Yes, sir.
Q. Okay. So on what's been marked as State's Exhibit Number 8 for identification ---
A. Yes, sir.
Q. --- it would not be down in this area?
A. No, sir, it would be right here.
Q. Who all lived with you ---
A. My wife ---
Q. --- at the time?
A. --- my wife and William.
Q. And I'll show you what's been marked as State's Exhibit 11 for identification. That is again ---
A. That's my back porch.
Q. Your back porch.
A. Yes, sir.
Q. And that fairly and accurately depicts the way it looked a year ago?
A. No, sir, the jasmine's done took up this year and bundled up to the post, to the top rail. This tree was not there last year. Usually this hangs down but I'm trying to get it to wrap through the lattice ---
Q. Okay. Now, you ---

A. --- so I tied it up.
Q. You met with an investigator from my office; is that correct?
A. That's correct.
Q. Ms. Freeman?
A. Yes, sir.
Q. And you did not tell her that?
A. No, I didn't tell her that.
Q. Show you what's been marked as State's Exhibit 20 for identification. What is that?
A. My back porch.
Q. And there's actually someone on the back porch?
A. Yes.
Q. Who is that?
A. That's my wife.
Q. And when you described this to the investigator from our office, you indicated that Mr. Loflin was sitting at the table with the umbrella?
A. Yeah.
Q. And that's what he told you?
A. Yeah. Well, I mean, he didn't tell me that now. I assumed that he was on the back porch and he was sitting at the table. Whether he was or not, like I said, I was on the couch.
Q. But you told our investigator ---

A. I told her that that's where I believed he was at, yes, sir.
Q. And you told the jury that initially.
A. That's -- and that's exactly what I just said. As far as I know, that's where he was sitting.
Q. Initially you said that's where he was sitting and now you're saying ---
A. I'm saying the same thing.
Q. --- you don't --- okay. So you went and picked it up off the ground?
A. Yes, sir.
Q. Why did you go do it?
A. It's my home, my neighborhood and I feel more responsible for my neighborhood than William should, so that's why I did it.
Q. You didn't see the item -- how it got there at all?
A. No.
Q. You have no clue how it got there?
A. Other than what William told me, no, sir.
Q. And he was the one, he's testified, he saw that.
A. Yes.
Q. But he didn't go pick it up.
A. Yes.
Q. What time was the next shift? You said you had to

go start a shift at what time?
A. I didn't say the time but usually we went in about 11 o'clock, 12 o'clock at night.
Q. Okay. So when you testified that you didn't stick around when the police came although you said you saw the police ---
A. Yes, I had to go to work. I had to go pick my wife up, get everything done for the day before I had to go to sleep and go to work.
Q. And that was going to be at 11 o'clock at night?
A. Yes. I've got to cook dinner, wash clothes, get ready for work.
Q. You never gave a statement to the police?
A. Other than what -- I mean, I gave them the drugs and told them where I found it. I don't recall writing a statement down, no.
Q. And your name doesn't appear on any Hanahan Police Department reports?
A. I wouldn't know. I don't have any of those.
Q. And you touched the bag?
A. Yes, I had to pick it up.
MR. SHWACKE: One moment, Your Honor.
THE COURT: Take your time.
Q. So what was described to you by Mr. Loflin in terms of being thrown from a car?

A. A car driving at high speed down that road, Fort Drive, and tossed it out the window. That's about all.
Q. So you went looking for anything.
A. A bag. A bag is what he described.
Q. And you saw a Baggie and you thought it was what?
A. Sugar cookies. They were a round sugar cookie. At the time they weren't all broke up.
Q. You mentioned to our investigator that you have friends in the Solicitor's Office?
A. No, I didn't. I said I knew the investigator.
Q. You knew the ---
A. I had met him prior to a case that was involved across the street where I was attacked a couple of years ago.
Q. Okay. So you'd want to help them?
A. Want to help them? It had nothing to do with the Solicitor's Office.

MR. SHWACKE: No further questions.

MR. PATTERSON: Briefly.

THE COURT: Take your time.

REDIRECT EXAMINATION

BY MR. PATTERSON:

Q. Mr. Rowland, when you picked up the bag were there any other bags laying around?
A. No.

MR. PATTERSON: Nothing further, Your Honor.

THE COURT: Mr. Schwacke?

MR. SHWACKE: Nothing, Your Honor.

THE COURT: You may step down and you are free to leave but you're also free to stay with us. Call your next witness.

MR. CONDON: The State calls Corporal Lane Beaudoin.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: My full name is Victoria Beaudoin. Last name is spelled B-E-A-U-D-O-I-N.

VICTORIA BEAUDOIN, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CONDON:

Q. Good morning. Do you go by Lane?

A. Yes.

Q. And who are you employed by?

A. Hanahan Police Department.

Q. And what is your job title there?

A. Currently corporal. I've been taken off the road just helping out where I can.

Q. Because of maternity leave?

A. Yes.
Q. Okay. And what was your job title back on March 11, 2013?
A. That day I was corporal but I was also a shift supervisor.
Q. And what were some of your job duties back then?
A. For that day was to work the road basic patrol and also maintain schedules for the other employees that were working that day.
Q. Did you respond to an incident involving the pursuit of the Defendant Barry Stanley?
A. Yes, sir.
Q. And where did you respond to?
A. I responded to the area of Murray Drive and Fort in reference to a vehicle that had left the scene.
Q. And can you explain to the jury what happened when you responded to that area?
A. When I responded to the area, I was given the description of the vehicle, a blue Crown Vic, and after getting into the area I was told that -- that the vehicle was located in Berkeley Hills by another officer, so I staged to wait for the vehicle.
Q. And while you were staging can you explain what happened after that?
A. I parked my vehicle on Fort near the Redeemer

Catholic School and waited for the vehicle. There's only one way in and one way out, so while I was waiting I saw the vehicle coming from where it was on Redeemer and one of our other officers that was following had his blue lights on.

Q. All right. And so what happened after that?

A. After he went through the stop sign, at the time there was Corporal Lanphere, but now Sergeant Lanphere began to then chase the vehicle with his blue lights on, and then another officer and (inaudible).

Q. So what number car were you in the chase?

A. I was the third

Q. Third car. And what was the Defendant's driving like at that point?

A. It was reckless. He had already driven through one stop sign in front of me and then he went through the traffic light, took a left onto Murray and then continued with high speeds over the line without regard for anybody coming in his direction.

Q. At any point did he hit a vehicle during the chase?

A. Yes.

Q. And what happened after hitting the vehicle?

A. When he hit the vehicle I stopped out with the vehicle to -- to -- noticing that there was damage to

it -- to render aid. At that time I located four to five children (inaudible).

Q. And did you get on the phone with dispatch at that time?

A. Yes.

Q. And did you receive any information from dispatch in regards to possible drugs being located?

A. Yes.

Q. And what information was that?

A. When I called in to dispatch due to the radio being on emergency use for the pursuit only, I called in to notify them of the vehicle that was damaged and to have the highway patrol to come out and assist. That was when the dispatcher told me that another person had called in and said that they had located some type of drugs at [redacted] and I told her that I would get an officer out there as soon as I could.

Q. And did you relay that information to other officers?

A. Yes.

MR. CONDON: No further questions.

THE COURT: Mr. Schwacke?

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. Help me with the name.
A. Bow-din.
Q. Bow-din. But you've also have reports at times under the name Hollombeck?
A. Yes.
Q. And then you said something about you using ---
A. My name is Victoria Lane Beaudoin. Hollombeck was my old name. I've gotten married since.
Q. So at times we see different names on ---
A. I go by both.
Q. Did you do a report for the events of March 11th?
A. No, the responding officer did the report.
Q. Okay. So did you review anything to help you coming here today to testify?
A. No. Memory.
Q. You're doing good. You met with Evette Nelson the next day?
A. Yes.
Q. And had a conversation with her about the events that she had previously reported on the 11th?
A. Yes, sir.
Q. Which essentially she named a person named Deangelo Watson.
A. Uh-huh.
Q. As a result of that conversation with her, you

actually took the step of removing and calling back the arrest warrants you had previously filed the day before for Mr. Stanley.

A. Yes.

Q. And that was based upon the interview with Ms. Nelson?

A. It was based on her interview with him or about that person. I didn't want the wrong person to get arrested until we fully found out the information so changed the name of the person.

Q. And that would have been despite the fact that Officer Dodd had identified a photo of Mr. Stanley.

A. I'm sorry?

Q. Mr. Dodd had identified a photo of Mr. Stanley the day before.

A. I was not aware of that.

Q. The next day you're still withdrawing the warrants.

A. I had withdrawn until we had enough to know whether it was him or the other guy.

Q. And you never went to the area where they found the drug items?

A. No, sir, I stayed with the vehicle that he had hit.

Q. And all you knew was that dispatch had told you a

call had been received?
A. Uh-huh.
Q. You don't know from whom?
A. I don't remember the last name, no, sir.
Q. And no recording was made of that call?
A. No, sir, it was -- I'm not sure if he had called on our recorded line, but the phone call I was on was through my work cell phone.

MR. SHWACKE: Thank you.

MR. CONDON: Just a couple more questions.

REDIRECT EXAMINATION

BY MR. CONDON:
Q. Is it a big decision to charge somebody with a crime?
A. Yes, sir.
Q. Did y'all want to make sure you had the right person charged?
A. Yes, sir.

RECROSS-EXAMINATION

BY MR. SCHWACKE:
Q. Arrests are made all the time based on an officer's identification.
A. It is.

THE COURT: You may step down. Feel free to stay with us. Thank you. Call your next witness.

MR. CONDON: The State calls Pam Nelson.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Pam Nelson -- N-E-L-S-O-N.

PAM NELSON, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CONDON:

Q. Good morning, Officer Nelson. Who are you employed by?

A. Hanahan Police Department.

Q. And what was your job title back on March 11th, 2013?

A. Detective.

Q. And what are some of your job duties as a detective?

A. I was in charge of (inaudible) sexual assaults on children, child abuse, physical and sexual, domestic violence, elder abuse, murders, attempted murders.

Q. And what was your involvement in the investigation of this case?

A. I had went over to the witnesses' residence and submitted photo lineups to see if the individuals could pick out photographs.

Q. And was this on March 14th?
A. It was.
Q. Did you take any statements from any witnesses?
A. I did.
Q. And who did you take statements from?
A. I took one statement from Tanya Deane, one statement from Preston Kornahrens and one statement from Greg Rider.
Q. And did you learn that they all lived together? That was the wife and the child?
A. Yes.
Q. And did you give the eyewitness Greg Rider an opportunity to identify the suspect in a photo lineup?
A. Yes.
Q. I'm going to show you what's been already admitted into evidence as State's Exhibit Number 17. Do you recognize that?
A. Yes.
Q. How do you recognize that?
A. It has my handwriting on it, as shown by Detective Pam Nelson on 3/14 of '13, and I also advised Mr. Rider if he could identify (inaudible) and then date and circle the photograph.
Q. And did the eyewitness, Greg Rider, did he tell you he would be able to identify the person involved --

-

A. Yes.

Q. --- on that day? Did he say that he had a -- was it your understanding that he had a good view of the person involved?

A. Yes.

Q. And when you showed him that photo lineup, did you suggest any picture that he should select?

A. No.

Q. Did you in any way suggest who it should be?

A. No

Q. And did Greg Rider make a selection?

A. Yes, he did.

Q. And who did he select?

A. He selected number one which was Barry Stanley.

Q. And was he certain of that selection?

A. Yes.

Q. Did he indicate any doubt?

A. No.

Q. And again, who was the person he selected?

A. Barry Stanley.

MR. CONDON: No further questions.

THE COURT: Mr. Schwacke?

MR. SHWACKE: No questions, Your Honor, subject to our previous objection.

THE COURT: You may step down. You may stay with us but I think you are also free to leave. Call your next witness.

MR. PATTERSON: The State calls Lieutenant Fowler.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Michael Everett Fowler -- F-O-W-L-E-R.

MICHAEL EVERETT FOWLER, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Lieutenant Fowler, how are you doing today?

A. Yes, sir.

Q. Where do you currently work?

A. I'm employed by the City of Hanahan Police Department.

Q. And how long have you been with Hanahan?

A. Twenty-three years, seven months.

Q. And what's your current position with the police department?

A. I am the support services division commander.

Q. And what are your current duties?

A. My duties, I am responsible for records,

investigations, evidence, purchasing, fleet, budget preparation, media responsibilities. Basically I'm in charge of everything except (inaudible).

Q. And is it fair to say those were the same duties you had on March 11th, 2013?

A. Yes.

Q. I'm going to show you what has been marked for identification as State's 21.

MR. PATTERSON: Your Honor, may I approach?

THE COURT: You may.

Q. This is State's 21 marked for identification. Do you recognize that?

A. I do.

Q. How do you recognize that?

A. This is a bag we use to package evidence with our evidence ticket on it.

Q. And is your signature on that?

A. My signature? No.

Q. Is your handwriting on that?

A. Yes.

Q. Where did you obtain it from?

A. I obtained it from the temporary wall locker where evidence is placed.

Q. And is that a secure location?

A. It is.

Q. Do you have a key for that?
A. I do.
Q. And where did you take it?
A. When I remove the evidence from the temporary wall locker, I take it down to the property room and log it into the evidence room.
Q. Does it say when you retrieved it on there?
A. March 13th, 2013 at 4:20 in the afternoon.
Q. When you obtained it was it sealed?
A. It was.
Q. Did it appear to have been tampered with?
A. No.
Q. And what do you do with it once you get it into the evidence room?
A. When I take it down to the evidence room, I enter it into the evidence tracking software and it prints out a barcode label. I then put it in the appropriate bin relevant to where it needs to go for testing, or if it doesn't need testing I place it in the appropriate officer's evidence container.
Q. And does it remain in that room until it's transported for testing?
A. Yes.
Q. And is that a secure location?
A. It is.

MR. PATTERSON: Nothing further from the State at this time.

THE COURT: Mr. Schwacke?

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. Lieutenant Fowler, so could you explain this wall that you just mentioned?

A. Upstairs in the administrative section of the police department there are 13 temporary wall lockers that are keyed individually. The officer will take the evidence, place it in the wall locker, remove the key, drop that key into an old post office mailbox which is locked and I have the only key. I will then retrieve the key from the mailbox, remove the evidence from the wall locker and transport it down to the permanent property room.

Q. So in this case Officer Ellwood would be the one who presents it into the wall unit?

A. Yes, sir.

Q. And how do you know what time that happens?

A. It's written on the evidence ticket.

Q. And the evidence ticket is a handwritten document?

A. Yes, sir, it's the -- the sticker that's applied to the bag of evidence.

Q. So in this case it's attached to that bag?

A. Yes, sir.
Q. And is this -- which document are we talking about where he actually wrote on it? This orange sticker?
A. Yes, sir. Entered into evidence at 11:30.
Q. Got 11:30?
A. 10:30. 2230. 2230. 10:30.
Q. Okay. And then I have a document that was given to me like this. Is that ---
A. That's what put out by the evidence tracking software.
Q. The software you were talking about?
A. Yes, sir.
Q. And so in that instance it says seizing officer, John Ellwood. It says review officer, Travis Lanphere.
A. At the time Sergeant Lanphere was the one that was involved in the pursuit. I believe that he was going to be the case officer and ultimately it was decided by the Chief of Police that Officer Ellwood would handle the case.
Q. Okay. So then it says on location, it's got a date and a time.
A. Yes.
Q. What is that?
A. On location means it's in the property room.
Q. So that means you've taken the step to remove it

from the wall into the property room?
A. Yes, sir.
Q. And that has a time on it as well?
A. Yes, sir.
Q. That looks like, if I'm reading this right, it's on location on the 13th of March at 4:57 p.m.
A. (Inaudible)
Q. Then it has an entry that says sent to laboratory.
A. Yes.
Q. So tell me what the system is kicking out there.
A. Well, from the time I take it from the wall locker I don't always have the opportunity to immediately enter it into the evidence tracking software. I secure it in the property room, sometimes the wall locker in a more secure location, but because evidence is not the only responsibility I have, I don't always have time to sit down and immediately log it into the system.

Once I log it into the system that's the time stamp that shows on location and then when I released the evidence to Detective Durant to take it to the Charleston Police Lab that's where it's documented sent to laboratory.
Q. And that date and time was what?
A. It was sent to the laboratory on April 1st, 2013. It was logged out at 10:24 in the morning.

Q. And is there a log -- I guess, do you create a report when it's returned to the system?
A. It's logged back on location May 10th at 4:32 in the afternoon.
Q. You said May 10th?
A. Yes.
Q. At what time?
A. It says 4:32 in the afternoon is when I logged it back into the system.
Q. I'm going to show you again what's marked State's Exhibit 21 for identification. Is there another time that item gets checked out from Hanahan?
A. Yes, it was -- on April 1st it was given to Durant to take to the laboratory.
Q. That was in 2013.
A. 2013.
Q. At the 10:25 time?
A. Correct.
Q. After it's -- when does that indicate it was returned back to Hanahan?
A. The evidence ticket says 4/2 -- 4/2/14.
Q. So there's some activity with that on April the 2nd of 2014?
A. It appears to be, yes.
Q. Do you recognize the handwriting?

A. That is my handwriting.
Q. Does it indicate who it was checked out to and then does it show a return after that?
A. It was brought back into the evidence room 4/20/14.
Q. And that's got your signatures on it?
A. Yes, sir.
MR. SHWACKE: One moment, Your Honor. I think that's all the questions I have.
MR. PATTERSON: Nothing further from the State, Your Honor.
THE COURT: You may step down. Feel free to stay with us but you're also free to leave. Thank you. Call your next witness.
MR. PATTERSON: The State calls Lieutenant Turner.
(Witness sworn)
THE CLERK: Please be seated, state your full name and spell your last name for the record.
THE WITNESS: Spell my last name?
THE CLERK: Uh-huh.
THE WITNESS: Dennis Ray Turner. Turner is T-U-R-N-E-R.
MR. PATTERSON: Court's indulgence.
THE COURT: Take your time.
DENNIS TURNER, after being duly sworn, testified

as follows:

DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Lieutenant Turner, how are you doing today?

A. Pretty good, sir.

Q. Where do you currently work?

A. The Hanahan Police Department.

Q. And how long have you been there?

A. Sixteen years this July.

Q. And what's your current position with Hanahan?

A. It's operations lieutenant which basically means I supervise all of the patrol, including patrol division, school resource officers, canine, traffic, and then I have some ancillary (inaudible).

Q. And what were your duties -- were those the same type of duties you would have had on March 13th, 2013?

A. Yes, sir.

Q. And how did you become involved in this case?

A. Basically Detective Durant had obtained a search warrant to process the vehicle that was involved in the chase and he asked for some help, so I went with him to help him process the car.

Q. What was the purpose of the search warrant, when you say process the car?

A. Basically to examine the car for any items inside

the car that would help lead to the identification of the driver. Also any forensic evidence that would be found in the car, such as latent fingerprints, DNA, those type of things.

Q. Lieutenant Turner, I'm going to show you what has already been admitted into evidence as State's 1, 2, 3 and 4. Do you recognize these?

A. Yes, sir.

Q. And how do you recognize them?

A. These are the photographs of the vehicle the search warrant was executed on.

Q. And is that a fair and accurate representation of what the vehicle looked like at that time?

A. Yes, sir.

Q. Did you process the car for fingerprints?

A. Yes, sir.

Q. Do you have experience lifting latent fingerprints?

A. Yes, sir.

Q. How many times roughly have you lifted fingerprints?

A. I couldn't even begin to count. It's a lot. In 16 years, a lot.

Q. And was anybody with you at the time you processed the car?

A. Yes, sir, Detective Durant was.
Q. Lieutenant Turner, I'm going to show you what has been marked for identification as State's 14.
MR. PATTERSON: Your Honor, may I approach?
THE COURT: You may.
Q. Please take a look at those.
THE COURT: What were the numbers, Mr. Patterson?
MR. PATTERSON: Numbers 14 and 15.
A. Yes, sir, I recognize them.
Q. And how do you recognize those?
A. These were the latent fingerprints that I recovered from the vehicle. My name is written on the back of the card which indicates who recovered the fingerprints.
Q. And those are the fingerprints -- that's the fingerprints you recovered?
A. Yes, sir.
MR. PATTERSON: Your Honor, at this time the State would ask to admit fingerprint -- State's 14 and 15 into evidence.
MR. SCHWACKE: Without objection.
THE COURT: State's 14 and 15 into evidence without objection.
MR. PATTERSON: Permission to publish?
THE COURT: You may.

Q. Lieutenant Turner, where did you obtain these particular fingerprints from?

A. The rearview mirror inside the car.

Q. Can you describe the method that you used to obtain these particular fingerprints?

A. What I did is first I put on rubber gloves before I open up the fingerprint powder for two reasons. One is to make sure I don't get it on my hands, because once it gets on your hands it gets all over, all over you, and then also not to contaminate (inaudible) I use. It's white powder. Essentially you take (inaudible) I use a brush that looks like a miniature feather duster. Put a little bit of powder on the brush and start lightly going over the surface or object that I want to obtain them, in this case the rearview mirror, and you'll see the latent fingerprint.

It'll start to appear and once you get it dark enough, the next thing I use is called lift tape. It's clear -- it's clear tape. Slowly put it over the fingerprint and once you -- once you're sure the air bubbles are out and the print's been attached to the tape, you slowly remove it and put it on what you just showed that's called a backing card. It's, like, a three by five index card. Just put it on there and then once it's on there, you turn the card over, fill

out the date and a small sketch of it and other information asked for on the back of the card.

Q. Once you obtained the fingerprints, what did you do with them?

A. I gave them to Detective Durant.

Q. And before turning them over to Detective Durant, were the fingerprints ever out of your custody?

A. No, they were with me until I gave them to him.

Q. During the vehicle search did you make note of the position of the driver's seat?

A. Yes, sir.

Q. And what was significant about that?

A. I based it off of the -- I'm roughly five-nine, at the time 230 pounds, and I could easily sit in the driver's seat and I could -- if I had to, I could have driven the car without any issue, without having to move the seat backward or forward.

Q. And why did you think that was important to note?

A. Well, because I know they had earlier identified a suspect that was real short, I think, five feet, five foot two, somewhere around there, and so I noticed right away that the position of the seat, someone that tall wouldn't be able to reach the pedals. Based on the height ---

Q. This short guy you're talking about, who is that?

A. I believe his last name might have been Mr. Watson.

Q. And so he's the short guy you're talking about?

A. Yes, sir, I think that was his name.

Q. The position of the seat in the car wouldn't have matched somebody that short?

A. No, but I -- like I said, my height and weight, I could have without a problem.

Q. And is your height and weight closer to that of the Defendant's?

A. Yes, sir.

MR. PATTERSON: Nothing further, Your Honor.

THE COURT: Mr. Schwacke?

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. You weren't involved in the chase?

A. No, sir.

Q. So you have no idea if that seat got moved back?

A. No, sir.

MR. SHWACKE: That's all the questions I have.

MR. PATTERSON: Nothing further from the State.

THE COURT: You may step down. Feel free to stay with us but you're also free to leave. Thank you. Call your next witness.

MR. CONDON: The State calls Detective Fred

Durant.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record

THE WITNESS: My name is Frederick Joseph Durant. My last name is spelled D-U-R-A-N-T.

FREDERICK JOSEPH DURANT, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CONDON:

Q. Good morning, detective. Who are you employed by?

A. Hanahan Police Department.

Q. And what is your job title with Hanahan?

A. Detective.

Q. And what are some of your job duties as detective?

A. I investigate property crimes. Also along with Sergeant Brooks and Detective Camp, we will take latent prints, firearms and drugs from the evidence room.

Q. And were you involved in an incident regarding the Defendant Barry Stanley on March 11, 2013?

A. I was.

Q. And did you join a pursuit in progress?

A. I did.

Q. And can you explain to the jury what happened?

A. On March 11 I was actually on my way home when I

heard a call being transmitted over the radio. The vehicle chase was actually coming towards my direction. I was on Railroad Avenue and the chase was actually coming up Murray Drive going towards Hanahan Road into North Charleston.

As I turned my vehicle around and approached the intersection at Railroad and Murray Drive, the chase had already passed me, but as I reached that intersection, Lieutenant Fowler passed me. His blue lights were on, siren, and I joined in behind him. We traveled on Rivers Avenue, made our way onto Interstate 26 and the vehicle chase ended on Maple Street.

While I was traveling -- while I was en route to that direction, they gave a description of the guy. They said it was a black male, stocky build. They said he could possibly be hiding under a house. Once I arrived at Maple Street, it was directly in front of 56 Maple but I patrolled the area. A perimeter was set up. I patrolled surrounding streets. I met with witnesses and neighbors.

I also met with the homeowner at 56 Maple Street. There was a little bit of resistance at first, but eventually he gave me consent to search his home. Sergeant Lanphere and I went inside and we searched -- searched the area. He wasn't located. We also

searched the garage area and the back of the house and he wasn't located there as well. We searched under the house and he wasn't there. Shortly after Lieutenant Fowler called the chase and after that the vehicle was secured. The vehicle was secured. I looked at the vehicle a little bit before -- you know, before it was actually towed from the scene.

From what I observed, I saw some prints that were clearly visible. It was real -- a lot of people were out there, a lot of neighbors, witnesses. The media was out there. I suggested that the vehicle be secured and be towed to a secured location so it could be processed.

Q. And was the vehicle secured?

A. Yes, it was in a vehicle (inaudible).

Q. All right. So y'all weren't able to locate the Defendant driving the vehicle at that time?

A. We did not.

Q. And did you along with Officer Turner, did y'all attempt to lift any prints from the car?

A. After a search warrant was obtained, yes.

Q. I'm going to show you what's been marked as State's Exhibit 14 and 15. It's already been entered into evidence. Do you recognize that?

A. I do.

Q. And are those the fingerprints that were lifted from the car that day?
A. Yes.
Q. And once they were lifted, did you do anything with the prints?
A. After the prints were lifted, I took them over to North Charleston where we get our AFIS examination done. I met with Sergeant White and I gave him the prints for his examination.
Q. And can you describe where those prints were lifted from?
A. The exact location, I'm not sure. It was -- Lieutenant Turner was actually lifting the prints from the vehicle. While he was lifting the prints, I was searching the car. From what I observed, the front portion was actually processed for latent prints between the driver and the passenger seat, the driver's side window, the side mirror, the rearview mirror. I know he took (inaudible) the dash. That was processed.

We looked in the dash -- the dash compartment in the car. It was mainly the front portion of the vehicle that was being processed and obviously I was in the back to see whatever could be located in the back of the vehicle.

Q. You stated that y'all obtained a search warrant

for the vehicle. What was the results of your search warrant?

A. Photographs were taken, latent prints were lifted. I also took a matchbook, two condoms and some paperwork, some documentation.

Q. And what was your involvement in the photo lineup?

A. I contacted Charleston County and I requested a photo lineup from Mr. Allen. They provided that photo lineup and I got it to Sergeant Nelson.

Q. I'm going to show you what's been entered into evidence as State's Exhibit 17. Was that the photo lineup that you were provided?

A. Yes.

Q. I'm going to show you State's Exhibit 21. Do you recognize that?

A. I do.

Q. Is that the bag of crack cocaine that was taken from the crime scene?

A. Yes.

Q. And can you briefly describe how evidence is stored at the City of Hanahan Police Department?

A. Once an officer collects evidence, they put it in an evidence locker. It's locked with a key. The key is then placed in a lock box. Only certain personnel at Hanahan has access to it. That would be the chief,

Lieutenant Turner and Lieutenant Fowler. They have access to that lock box. Lieutenant Fowler will take the evidence from -- he'll go in that lock box. He'll take the evidence out and he'll take it to the evidence room.

After it's stored he collects all the -- he inputs into the evidence computer. He'll then release it to me or one of the other detectives and we'll take it to wherever it needs to go to. In this case I took it to -- I took it to the Charleston City Police at MUSC where they have a lab there and they tested it -- tested the drugs.

Q. So you took that bag of drugs from the Hanahan locker room and took it to the Charleston Crime Lab? Is that what your testimony is?

A. Yes.

Q. And after the testing was complete, did you pick up the bag from the Charleston crime lab?

A. I did.

Q. And what did you do with it?

A. I brought it back to Hanahan Police Department and secured it back in the evidence locker.

Q. And did you take the bag of drugs from evidence to Dean Kokinda of the Berkeley County Sheriff's Office?

A. I did.

Q. And what was the purpose of that?
A. Process for latent prints on the bag.
Q. Do you recall what day that was?
A. I believe it was April 2nd, 2014.
Q. At any point did you pick up the bag from Dean Kokinda and then return it to evidence at the Hanahan Police Department?
A. I did.
Q. Did you bring the drugs to Court today?
A. I did.

MR. CONDON: No further questions.

THE COURT: Mr. Schwacke?

MR. SHWACKE: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. Detective Durant, do you know the date that you executed the search warrant on the vehicle?
A. March 13, 2013.
Q. And the purpose of that search warrant was to obtain evidence in this case?
A. Yes.
Q. That would include fingerprints.
A. Yes.
Q. Because you know they're important in a case to make an identification.

A. Yes.
Q. That was done back on March 13th, 2013?
A. Right.
Q. And I think you gave an item -- or listed the items that you obtained from that search warrant that you felt were relevant to this case.
A. Right.
Q. And the fingerprints aside, the items that were actually seized as a part of that included a matchbox, miscellaneous papers and two condoms?
A. Yes, sir.
Q. And those were the only items that you felt relevant to this case?
A. Those were the items that I took from the vehicle.
Q. Correct.
A. Yes.
Q. And you would have taken any other items that were important to a drug case.
A. Those were the only items that I thought were relevant at the time.
Q. Right. So no Baggies?
A. I did not take any Baggies from the vehicle.
Q. No scales?
A. No.
Q. Nothing that would be used to consume drugs?

A. No, didn't take that.
Q. Didn't see it.
A. The only thing I took from the vehicle was documents, a matchbook and two condoms.
Q. So if it was important, it was taken. You had all the time in the world to go through the car and nothing that was drug-related, Baggies, scales.
A. If I observed a scale ---
Q. Grinders.
A. If I observed it I would have probably taken it.
Q. None of those things were taken?
A. No, sir.
Q. And then you indicated that you later delivered the bag that contains the crack cocaine to whom?
A. Charleston City Police. They have a lab at MUSC Hospital.
Q. That was for the analysis?
A. Yes.
Q. More recently you have taken that item to the Berkeley County Sheriff's Office?
A. Yes.
Q. And that was done when?
A. That was done April 2nd.
Q. Just last week?
A. Yes, sir.

MR. SHWACKE: One moment, Your Honor.

THE COURT: Take your time.

MR. SHWACKE: Thank you. That's all the questions I have.

MR. CONDON: One quick question.

REDIRECT EXAMINATION

BY MR. CONDON:

Q. Just to clarify, that long list of items that Mr. Schwacke described, the grinder and all those drug items, you did not see that in the vehicle?

A. If it was in the vehicle it would have been taken. I didn't take a grinder or a scale or any of those items.

MR. CONDON: No further questions.

MR. SHWACKE: Nothing further.

THE COURT: You may step down. Feel free to stay with us but you're also free to leave. Thank you. This is a good time for a midmorning break. Do not begin your deliberations. Do not discuss this case amongst yourselves. Please rise for the jury.

(Whereupon, the jury exited the courtroom at 10:27 a.m.)

(Off the record)

THE COURT: Anything before we bring in the jury?

MR. SHWACKE: No, Your Honor.

THE COURT: Mr. Patterson?

MR. PATTERSON: Nothing from the State, Your Honor.

THE COURT: Let's bring them in. How many more witnesses do you have, Mr. Patterson?

MR. PATTERSON: Seven.

THE COURT: Who is your next witness?

MR. PATTERSON: The State calls Susan Payne.

(Whereupon, the jury came into open court at 10:59 a.m.)

THE COURT: Thank you. Please be seated. Call your next witness.

MR. PATTERSON: The State calls Susan Payne.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Susan Payne -- P-A-Y-N-E.

SUSAN PAYNE, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Hi, Ms. Payne. How are you doing this morning?

A. Good. How are you?

Q. Good. Where are you currently employed?

A. I work for the City of Charleston Police

Department.

Q. And how long have you been employed by Charleston?

A. About nine years.

Q. And what's your current job title?

A. I'm currently (inaudible) administrator and I'm the technician for the forensic services division.

Q. And what are your typical duties?

A. I pick up evidence from the station. I receive evidence from outside agencies or it comes in our lab. And I'm also responsible for (inaudible).

Q. I'm going to show you what has been marked as State's Exhibit 21. Do you recognize that?

A. Yes, sir.

Q. How do you recognize that?

A. (Inaudible)

Q. And when did you receive it?

A. I received it on April 1st of 2013 at 11:20.

Q. And who did you receive it from?

A. Officer Frederick Durant.

Q. And was the exhibit sealed when you received it?

A. Yes, sir.

Q. Did it appear to have been tampered with?

A. No, sir.

Q. What did you do with it once you received it?

A. I entered it into our database once it was

received and placed it in our safe.

Q. And how secure is that location?

A. It's secure. The lock (inaudible).

Q. And is that where the exhibit remained until it was tested?

A. Yes

Q. Let me show you the chain of custody report that I believe your office produced. It says there's a exhibit -- evidence package and then an item one. What do those two things describe? What is the evidence package?

A. The evidence package (inaudible). The item is the actual drugs inside the package.

Q. So evidence package just describes the outside.

A. Yeah, that I'm touching right now.

Q. And item one describes ---

A. The -- what's inside the package.

MR. PATTERSON: Thank you, Ms. Payne. Please answer any questions Mr. Schwacke has.

MR. SHWACKE: No questions.

THE COURT: You may step down. Call your next witness.

MR. PATTERSON: The State calls Ashley Earl.

(Witness sworn)

THE CLERK: Please be seated, state your full name

and spell your last name for the record.

THE WITNESS: Ashley Carr Earl -- E-A-R-L.

ASHLEY EARL, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Hi, Ms. Earl. How are you doing this morning?

A. I'm good. How are you?

Q. Doing well. Ms. Earl, where are you currently employed?

A. The City of Charleston Police Department.

Q. And how long have you been employed with the police department?

A. I've been there since November 2012.

Q. And what's your current job title?

A. Associate crime analyst.

Q. And what's your educational background?

A. I have a B.S. in Biology from Winthrop University.

Q. And what are your duties now currently?

A. Now, I am (inaudible) and I also perform quality checks (inaudible).

Q. Was that the same type of position you were in back on April 2nd, 2013.

A. I was a trainee then. I was training to become (inaudible).

Q. At this time I'm going to show you what has been marked for identification as State's Exhibit 21. Do you recognize that?
A. Yes.
Q. How do you recognize that?
A. It's the case that I performed under observation.
Q. And when did you receive that exhibit?
A. On April 2nd, 2013, and I received it from Renee at 1:20.
Q. And was the exhibit sealed when you received it?
A. Yes.
Q. Did it appear to have been tampered with?
A. No.
Q. And what did you do with it once you received it?
A. I -- I opened it up and performed case work under observation of Renee.
Q. And so everything you did was observed by your supervisor?
A. Yes.
Q. What did you do with the evidence when you were finished with it?
A. It put it back into the original container and resealed it.
Q. Did you hand it back to Renee?
A. Yes, then it was transferred back to Renee.

MR. PATTERSON: Thank you, Ms. Earl. Please answer any questions Mr. Schwacke might have.

THE COURT: Mr. Schwacke?

MR. SHWACKE: No questions.

THE COURT: You may step down. Call your next witness.

MR. PATTERSON: The State calls Renee Hilton.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: I'm Renee Hilton -- H-I-L-T-O-N.

THE COURT: Mr. Patterson?

RENEE HILTON, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Hi, Ms. Hilton. How are you doing?

A. Good. How are you?

Q. Doing well. Ms. Hilton, where are you currently employed?

A. The City of Charleston Police Department.

Q. And how long have you been employed by the police department?

A. Just over three years.

Q. And what is your current job title?

A. I'm the laboratory manager.
Q. And what are your typical duties?
A. I oversee the daily workings of the lab, to include looking after personnel as well as (inaudible) analysis and controlled substance analysis.
Q. So you actually perform controlled substance analysis?
A. Yes.
Q. What type of academic background qualifies you for this position?
A. I have a Bachelor's in Chemistry from the University of South Carolina.
Q. And what types of specific training have you received in the area of drug recognition and analysis?
A. I completed the City of Charleston's in-house training program, as well as completed several online courses and in-person drug analysis courses.
Q. And as part of your job do you continue to attend training in your field to keep up with recent advances and technology?
A. When there's funding, yes. When we don't have the money we read articles, peer articles, journal articles that, kind of, keep us up to date with the newer technology that's coming up.
Q. Are you a member of any professional

organizations?
A. Yes.
Q. What are those?
A. I am a member of CLIC which is the Clandestine Investigating Lab Chemists (sic). It's an online forum that will discuss cases back and forth and drugs.
Q. And in your current position, how many times a week do you analyze substances to determine whether or not the substance is or contains a controlled substance?
A. Probably between 30 and 40 times a week.
Q. And how many times in a given week do you analyze cocaine base, otherwise known as crack cocaine?
A. Probably between 10 to 15.
Q. Have you ever been qualified as an expert in this field in court before?
A. Yes.
Q. How many times?
A. Thirty.
MR. PATTERSON: Your Honor, at this time the State moves that Ms. Hilton be qualified as an expert in the field of chemistry and analysis of controlled substances.
MR. SHWACKE: No objection.
THE COURT: Mr. Schwacke?

MR. SHWACKE: No objection.

THE COURT: Ladies and gentlemen, when a person testifies he must testify as to either what he heard or saw or smelled or something of that nature. There is an exception in that if someone is qualified because of their education and experience, they are permitted to give their opinion in certain areas if the Court qualifies them as an expert.

This witness will be qualified in the area of chemistry and analysis of controlled substances to give opinion testimony in those areas. That does not mean that you must accept the opinion. It is simply evidence for you to use in any way you choose. Mr. Patterson?

MR. PATTERSON: Thank you, Your Honor.

Q. Ms. Hilton, I'm going to show you what has been marked for identification as State's Exhibit 21. Do you recognize this?

A. Yes.

Q. How do you recognize that?

A. There is a sticker on it with my initials as well as a seal that has my initials on it

Q. And do you remember when you first received this exhibit?

A. April 2nd of 2013.

Q. And where did you receive it from?
A. I removed it from our laboratory safe.
Q. And how does that process work?
A. Our evidence technician would receive the evidence from whoever is submitting it and she would verify it and record it in our electronic system and then put it in the safe, which I then removed when I was ready for it.
Q. And was the exhibit sealed when you received it?
A. Yes.
Q. Did it appear to have been tampered with?
A. No.
Q. Did you have anybody training under you at the time?
A. I did.
Q. Who was that?
A. Ashley Earl.
Q. And how did she assist you in this process?
A. She did the analysis while I watched her and verified that everything that she did was correct and what I would have done myself.
Q. Do you wear gloves while handling the evidence?
A. No.
Q. How was the substance weighed?
A. I -- a weigh boat was put on our balance and

tared, and then the substance was removed from the packaging and put in the weigh boat and recorded the weight on our balance.

Q. And do you recall what the weight of this substance was?

A. 28.84 grams.

Q. What did you do next after weighing it?

A. The next thing we probably would have performed a wet color test.

Q. What is that?

A. It is a liquid that we put on the substance and depending on the reaction, usually a color reaction, we can kind of get a presumptive indication of what the substance might be.

Q. Did you prepare a drug report ---

A. Yes.

Q. --- in this case? It looks like there were some other tests performed. What are those? Can you explain those to the jury?

A. The other testing was FTIR which is Fourier transform infrared spectroscopy. That -- the substance was placed on a -- just a contraption that shoots a laser at it and depending on how the compounds and molecule within that substance react, it'll give me what we call a fingerprint and it's data that I look at

and determine by that fingerprint what the substance could be. And then following that a GCMS analysis, which is gas chromatogram mass spectrometry, was performed, which then the substance was put in a solvent and put on an instrument and depending on the data from that, I was able to determine what the substance is as well as all the other data with the FTIR and the color test.

Q. And from these tests were you able to form an expert opinion as to what the substance marked as State's Exhibit 21 is?

A. Yes.

Q. And what was that?

A. Cocaine base.

Q. And is cocaine base a controlled substance in South Carolina?

A. Yes.

MR. PATTERSON: Your Honor, at this time the State would ask that State's Exhibit 21 be admitted into evidence.

THE COURT: Any objection?

MR. SHWACKE: No objection.

THE COURT: State's 21 into evidence without objection.

MR. PATTERSON: Permission to publish?

THE COURT: You may.

MR. PATTERSON: I believe that's all the State has, Ms. Hilton. Please answer any questions Mr. Schwacke might have.

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. Good morning.

A. Good morning.

Q. You've been with the city lab for three years?

A. Yes, sir.

Q. And how long has the City of Charleston been operating a lab?

A. I believe since the '80s.

Q. And so I'm guessing you're in charge of it now. Someone was there before you?

A. Yes, sir.

Q. So in terms of in-house training, you at some point were trained by someone other than yourself?

A. Yes, sir.

Q. And looks like y'all are in the process now of having Ashley Earl also qualified to be able to do this type of work without supervision?

A. Currently she is now but at the time that this case happened, she was training under me.

Q. So with this particular item, State's Exhibit

Number 21, there weren't two sets of tests done on it; she did it; you observed it.

A. Yes.

Q. And you didn't then go back and just do your own process?

A. No, I just -- I looked over what she -- she had done as well as watching her perform the color test and looking at all of the data that she performed.

Q. Do you ever just stop at one test or do you do all three?

A. It -- it honestly depends on the quality that we get from the results. We are required to do multiple tests. We require two confirmatory tests to actually call something something.

Q. Exactly what is a confirmatory test?

A. SWGDRUG is ---

Q. Say that again. I'm sorry.

A. SWGDRUG -- S-W-G-D-R-U-G.

Q. S-W-G ---

A. D-R-U-G.

Q. --- D-R-U-G. Is that a ---

A. It's a -- it's hard to -- kind of our guidelines that we go by, and within those it says that the best way to confirm something as controlled is to perform multiple tests, two of which are confirmatory so

there's two -- instead of it being presumptive when you're not fully sure of what the answer is, the confirmatory have data that really supports my conclusion.

Q. Is SWGDRUG like an accrediting agency?

A. No, it's not an accrediting agency. We are accredited by ASCLD Lab.

Q. By?

A. ASCLD lab.

Q. I'm sorry. Can you spell that one for me?

A. A-S-C-L-A-B (sic).

Q. A-D.

A. A-B.

Q. A-B

A. Yeah

Q. Lab. Okay. ASC Lab (sic). And they're a national organization?

A. Yes.

Q. And how long has the City of Charleston lab been accredited?

A. Since 1998, I believe.

Q. And are there particular things that are required of the Charleston lab to maintain its accreditation?

A. Yes.

Q. Like what, for instance?

A. We have to keep quality records to make sure that our instruments are writing properly. Tests are done even before they're put into use. If they don't pass the required control or the quality control that we set to it, we can't use that instrument until we figure out what's wrong with it, and then perform the correct quality control test to make sure that it's properly running.

Q. So does ASC lab also make recommendations to you if you have outdated equipment that you need to update?

A. They could but normally they won't. Unless the instruments are not performing properly, then there would be no reason for them to tell us to not use those items.

Q. Who determines that the instruments are being done?

A. The instruments have, like, a set of -- I guess in the instructions, like, what should be performed and what -- how it should work and be maintained, but we set the guidelines in our policies and procedures that if an instrument doesn't meet a certain guideline, that we can't use it.

Q. And so the tests in this instance included the color test?

A. Uh-huh.

Q. And then the FTIR and then the GC/MS?
A. Uh-huh.
Q. And I was trying to keep up but I think I fell behind, so on the color test what exactly is involved in that?
A. It's a wet color test, so it's a chemical that we'll put on the substance and depending on how it reacts, it can give us a presumptive indication of what the substance could be.
Q. Could be?
A. Yes.
Q. You would not rely on that test alone?
A. Right. It's not one of my -- not in this particular case.
Q. Okay. Why not in this particular case?
A. With the FTIR we have in our policies we have to have high enough quality match when it's compared to a standard to be able to call it cocaine base, and in this particular instance the FTIR match was not -- it was an 88 percent quality match, not -- and we require 90 percent and so then I had to go further with the GCMS.
Q. So when you say 88 percent quality, the item has got 12 percent filler or what are we talking about?
A. Right. It could -- it could have -- it could have

filler in it. It could -- the match with our standard that we had already ran that we knew was cocaine base, the percentage and the fingerprint that was matched to it was not 100 percent and that could be due to fillers or just other additives that were added into it. I'm not 100 percent sure.

Q. So again, color test is a wet chemical looking for a reaction. What is the most common test?

A. With -- we use cobalt glass and stainless chloride and with those reaction -- with the cobalt it'll turn blue and then when you add the stainless chloride, it'll precipitate out so it'll, kind of, separate and by that reaction we could tell that it was probably cocaine base, but we require further testing.

Q. And then the FTIR?

A. That was our next test that we put -- you put the substance in a -- it's a diamond ATR but it's just a section on the instrument that shoots a laser at the substance and depending on how the laser hit it and the molecules, kind of, fell back down because they'll get excited by the laser and then they'll fall down and form a fingerprint, is what we kind of call it. So there will be peaks and peak labeling with numbers and that has to match one of our standards.

Q. So is that involving microscopy or how are you

seeing these things happen?
A. It prints out on a computer. The data prints out on a computer and then that's where we compare it to a known standard.
Q. Okay. And then the GC/MS. You said that was a solvent?
A. Right. You put the substance in a solvent and then it's injected on an instrument and through the process within the instrument the sample -- another -- another piece of data is shown on a computer which is then compared to reference materials in libraries and standards to confirm that the substance is within what we are (inaudible).
Q. You've heard of field tests. Is that a -- is that a color test? What is that?
A. Yes. Field tests are color tests.
Q. And you said that's, kind of, the least -- I don't want to put words in your mouth but out of the three tests, that's the one that you would have the least confidence in giving you a fully accurate answer?
A. Right.
Q. So a positive field test doesn't indicate really anything in your professional opinion as -- other than something that might need further tests?
A. Right.

Q. Again, on the FTIR test it came out as 88 percent -- I don't want to say purity but ---

A. It matched 80 percent to my known standard.

MR. SCHWACKE: Just a moment.

THE COURT: Take your time.

MR. SCHWACKE: Thank you. That's all the questions I have.

REDIRECT EXAMINATION

BY MR. PATTERSON:

Q. There was another test performed after that test, the 80 percent one, and at that point what percentage did you get to, like, for certainty according to your --

A. The quality match on it had a 99 percent quality match for the cocaine base.

MR. PATTERSON: Thank you. No further questions.

MR. SHWACKE: No other questions.

THE COURT: You may step down. Call your next witness.

MR. PATTERSON: At this time I believe we might have some matters to take up outside the ---

(Whereupon, a bench conference was held off the record in the presence of the jury, but out of the hearing of the jury.)

THE COURT: Call your next witness. Pursuant, and

just for the record, Mr. Schwacke, I did allow you to articulate all this outside the presence of the jury.

MR. SHWACKE: Thank you, Your Honor.

THE COURT: Note your objection to this witness. Mr. Patterson?

MR. PATTERSON: The State calls Officer Norton.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: My name is Michael P. Norton -- N-O-R-T-O-N.

THE COURT: Mr. Patterson?

MR. PATTERSON: Thank you, Your Honor.

MICHAEL P. NORTON, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Officer Norton, how are you doing today?

A. Pretty good, sir. Yourself?

Q. Doing well. Officer Norton, where do you currently work?

A. At the Hanahan Police Department, currently assigned to Charleston County metro narcotics unit.

Q. And how long have you been with Hanahan?

A. I've been with Hanahan a little over two years.

Q. And did you work anywhere in law enforcement prior to that?
A. Yes, I worked at (inaudible) Police Department up in Maine and after that (inaudible) police department.
Q. And what was the total of that law enforcement experience?
A. I spent four years up in Maine and about a year in (inaudible).
Q. And you talked about being part of the narcotics unit with Charleston County Metro. How long have you been with the narcotics unit?
A. About nine months.
Q. And what's your educational background?
A. I have a high school diploma and college background.
Q. Where did you get your college degree?
A. (Inaudible)
Q. And in addition to the criminal justice academy, have you attended any additional narcotics training?
A. I have, sir.
Q. And tell me a little bit about that.
A. I've done some occasional classes and went to a school in Georgia for undercover narcotics work.
Q. And prior to joining narcotics about how many drug arrests in your career have you made?

A. Probably about 50.
Q. And since joining narcotics how many drug investigations have you been a part of?
A. At least 30.
Q. And have you had the opportunity to work with confidential informants?
A. I have, sir.
Q. Have you had the opportunity to talk with drug users?
A. Yes.
Q. How about the opportunity to interview or talk with drug dealers?
A. Yes, sir.

MR. PATTERSON: Your Honor, at this time the State would ask that Officer Norton be qualified as an expert in narcotics and narcotic recognition.

MR. SHWACKE: Objection. May we approach?

THE COURT: You may.

(Whereupon, a bench conference was held off the record in the presence of the jury, but out of the hearing of the jury.)

THE COURT: Your objection is sustained. Please continue.

MR. SHWACKE: Thank you, Your Honor.

THE COURT: Thank you.

Q. Officer Norton, based on your training and experience, can you give me an idea of how crack cocaine is made?

A. It can be made numerous ways. One of the more common ways I've seen in my experience is in the microwave. It's one of the easier ways. Usually in a microwave-safe dish with some water, some powdered cocaine and usually a base baking soda and then cook it in the microwave.

MR. PATTERSON: Thank you, Officer Norton. Please answer any questions Mr. Schwacke might have.

THE COURT: Mr. Schwacke?

MR. SHWACKE: No questions.

THE COURT: You may step down. Feel free to stay with us, but I think you're free to leave. Thank you. Mr. Patterson?

MR. PATTERSON: The State calls Lieutenant Dean Kokinda.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Dean Robert Kokinda. Spelling of the last name -- K-O-K-I-N-D-A.

THE COURT: Mr. Patterson?

DEAN KOKINDA, after being duly sworn, testified as

follows:

DIRECT EXAMINATION

BY MR. PATTERSON:

Q. Lieutenant Kokinda, how are you doing this morning?

A. Fine.

Q. Lieutenant Kokinda, where do you currently work?

A. I'm with the Berkeley County Sheriff's Office.

Q. And how long have you been employed with the Berkeley County Sheriff's Office?

A. Almost 25 years.

Q. And what's your current job title?

A. I'm a lieutenant over the forensic services division.

Q. And what are your current duties?

A. I process crime scenes as directed, keep the evidence inventory, fingerprint analysis and drug analysis.

Q. How long have you been working at fingerprint analysis?

A. Since 1993.

Q. And what specialized education and training have you received to become a fingerprint examiner?

A. I've had basic fingerprinting with the Federal Bureau of Investigation; latent fingerprint with the

Federal Bureau of Investigation; and a forensic ridgeology course (inaudible) the Royal Canadian Mounted Police.

Q. And approximately how many fingerprints have you examined?

A. Thousands. I usually have 300 examinations a month.

Q. And are you a member of any professional organizations?

A. The International Association for Identification. I've held vice president, president, chairman of the board of that organization.

Q. And have you received any certifications in the field of fingerprints?

A. No. The certification is going through the International Association for Identification. I haven't done that.

Q. Have you attended any continuing education classes in the field of fingerprints?

A. Numerous, usually through the International Association for Identification.

Q. And what type of technical equipment is available for you to use for this type of fingerprint analysis?

A. You use a magnifying glass and (inaudible). I use a scan -- I use the computer where I scan in the latent

fingerprint and known fingerprint and magnify it where I can see it and also mark it.

Q. Have you had the occasion to identify persons by comparing latent fingerprints and/or palm prints with their own inked fingerprints or palm prints?

A. Yes, I have numerous times.

Q. And roughly how many would you say, over the course of your career?

A. Thousands.

Q. Have you had occasion to testify as an expert in court regarding identifications of persons based on fingerprint and palm print comparison?

A. Numerous times in this court and once in federal court.

MR. PATTERSON: Your Honor, at this time the State would ask that Lieutenant Kokinda be qualified as an expert in the field of fingerprint analysis.

MR. SHWACKE: Without objection.

THE COURT: He will be so qualified.

Q. Lieutenant Kokinda, can you explain for me what an inked print is?

A. Sure. An inked fingerprint is what we call a known standard and it's just the images on a template card using the first joint to the tip rolled in a controlled fashion, trying to get as much of the ridge

detail as possible.
Q. And what exactly is a latent print?
A. Latent print is an image that's left behind from these ridges that are on your -- the bottom of your hands and also on the bottom of your feet. Those ridges contain pores which is in sweat and when you touch something it's a lot like a rubber stamp. You put a rubber stamp in an ink pad and you stamp it and you've got your image. Fingerprints are the same way. You've got images of these ridges left behind on the surface. Latent fingerprints, latent means invisible and they're usually not seen unless you enhance them with anything like a powder or a chemical.
Q. And what's the different between a latent and a patent print?
A. Again, a latent fingerprint is invisible. You don't see it until you enhance it. Patent is a visible print where you have a contaminant on the ridges, like paint or blood. You've got a visible print.
Q. And are there different distinguishing characteristics of a fingerprint?
A. Well, within the ridges you've got three levels of detail. The first level of detail is the ridge flow or the pattern on the print and those patterns are classified into four kinds of patterns, or three

general patterns, arches, loops and whorls, and within those arches, loops and whorls you have a set of classifications. The second level of detail is your ridge pattern, so that's the actual path of each ridge and that's where the identification starts. Within that path that ridge might flow, it might stop, it might split, so the ridge flow -- we can eliminate people but we can't identify. The ridge path, we can start the identification process. The third level of detail is ridge shape and that's because these ridges are pores and they're drawn out of the skin and fused together. This is not a straight line. You know, they're narrow at some places and wide in other places so a lot of that depends on the clarity of the latent fingerprint.

Q. And how is it possible for people to leave fingerprints?

A. Again, you know, you've got these ridges and they do sweat, so when you touch something you're leaving residue on it, and with a latent fingerprint there's a lot of different environmental factors, surface factors, and just the mechanics of actually grabbing something. I can grab a door knob, I've left my finger on there. When I turn that door knob my wrist turns so now instead of just having a slight impression, I've

twisted it and a lot of times that ruins it for the identification process.

Q. What types of surfaces are conducive for fingerprint examination? I'll get back to that. What kinds of surfaces are conducive to leaving fingerprints?

A. Well, you can leave a fingerprint pretty much on most surfaces except water. Some surfaces are more conducive. Smooth, non-porous surfaces leave a really good fingerprint. Paper is very good because the oil is actually absorbed into the paper and then the environmental factors don't affect it as much, so your fingerprint will last longer on paper. The rougher the surface the less likely you're going to be able to make identification, because you're dealing with these small ridges that are within your finger and if the surface is uneven then you're missing areas that could be points of identification.

Q. So are some surfaces not conducive to leaving fingerprints?

A. Some are better than others. That's, I guess, the best answer to that.

Q. It's possible for a person to touch a surface and not leave a fingerprint?

A. Identifiable fingerprint, yeah, and that's, kind

of, the common miscommunication that people have with fingerprints. We say on a report, you know, no fingerprints were found. Well, it's not true that no fingerprints were found. It's that the fingerprints that were there weren't identifiable. I sit at this witness stand right here. I may not have touched anything but if I touch something, I may leave an identifiable fingerprint behind or I may just leave a smudge that I know somebody touched there, but it's not identifiable.

Q. And how are fingerprints -- I believe you already discussed this a little bit, but what are the ways you compare and identify the fingerprints? Is that going back to the whorls? How does that work?

A. It goes into the three levels of detail. You have a latent fingerprint or an unknown fingerprint side by side with your known standard. You start at that first level of detail, the ridge flow. You know, do these rides, kind of, flow the same way between the latent and the known? Once you have, you know, flow between the two that are the same, then you start going to the next level, ridge pattern, and you will actually follow each individual ridge between the latent and the known and make sure that each individual ridge ending or verification between the known and the unknown

correspond to each other and are in agreement, not only in the general area but between the ridges.

Q. And are fingerprints and palm prints specific to each individual?

A. The individual -- nobody has the same fingerprints, even identical twins who will share the same DNA. Their fingerprints will be different.

Q. So it's not possible for two people to have the same fingerprint?

A. It hasn't been found so far.

Q. I'm going to show you what has been admitted into evidence as State's Exhibit 21. Do you recognize that?

A. Yes, I do

Q. How do you recognize that?

A. Last Thursday Detective Durant from the Hanahan Police Department brought this to me to process for latent fingerprints.

Q. And what time was that?

A. It was in the afternoon.

Q. And do you remember what date last Thursday was?

A. The 3rd.

Q. Lieutenant Kokinda, did you prepare a report for this examination?

A. Yes, I did.

Q. What is the date on there?

A. Actually it's April the 2nd. I apologize.
Q. Was it sealed when you received it?
A. Yes, it was. I broke the seal and then when I got done processing it, I resealed it and initialed it.
Q. And did you examine the exhibit for latent or patent prints?
A. Yes, I processed it using cyanoacrylate which is Super Glue fumes.
Q. And how does that work?
A. What you take is it's a -- it's Super Glue but it's a little thinner Super Glue. We heat it to actually go from a liquid state to a gaseous state in a closed environment and the idea behind it is the fumes will stick to any residue stuck on the object that we're trying to process.
Q. And what were the results of your examination?
A. Some ridge detail was developed on the plastic bag that contained the white powder substance, or white rock substance, but the detail wasn't sufficient enough to make an identification.
Q. So you weren't able to identify any latent or patent fingerprints for comparison?
A. That's correct.
Q. What can affect -- again, I think you went into this a little bit, but what could have affected the

ability to obtain fingerprints on this particular item?
A. There are a lot of different variables, especially with latent fingerprints. You've got the type of surface, smooth, non-porous surfaces leave very good fingerprints behind. Flexible surfaces, you know, tend not to because in the grabbing of it, it's moving around. You know, your finger itself is pliable so any time the mechanics of manipulating the hand affects it. Environmental factors, humidity.

Right now, you know, the pollen, it kills us this time of year trying to even locate or recover any latent fingerprints because the pollen will settle down onto it, you know, the oil buildup behind will absorb the oil and there's nothing left behind.

MR. PATTERSON: The Court's indulgence. Nothing further. Please answer any questions Mr. Schwacke might have.

THE COURT: Mr. Schwacke.

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. Hey, how are you doing?

A. Good.

Q. I want to talk about fingerprints with you a little bit, but I want to go into other activities and things that you do within your department.

A. Okay.
Q. Now, until last Wednesday you didn't know anything about this case; correct?
A. That's correct. And I don't really know nothing about the case other than what the evidence that was presented to me.
Q. What you were asked to do?
A. Right.
Q. With the Berkeley County Sheriff's Office you testified that you do a number of things and a lot of that is crime scene investigation?
A. That's correct.
Q. And so fingerprinting would be a part of that?
A. Yes.
Q. But you also are involved in things like ballistics?
A. The collection of the evidence.
Q. Collection of the evidence.
A. I don't do ballistic analysis but the collection of the evidence, yes.
Q. So photography?
A. That's correct.
Q. Anything to try to preserve the evidence in the case that you're working on for your agency?
A. Correct.

Q. And that would include you at various times doing DNA swabs?
A. Yes.
Q. And so you have experience in that.
A. In the collection of DNA?
Q. Correct.
A. Yes.
Q. And how many times have you done that in your career with law enforcement?
A. Probably a thousand. I think we actually started using DNA when I first started this. Actually started using it when I first started crime scene investigation.
Q. So you have some experience and expertise in that as well?
A. In the collection of it?
Q. Correct.
A. Yes.
Q. You've been qualified as an expert in that area as well?
A. In crime scene investigation, crime scene processing.
MR. SHWACKE: Your Honor, I guess I'm going to expand his area of expertise. I would move him to be qualified as a crime scene investigation expert.

THE COURT: Any objection?

MR. PATTERSON: Object only to relevance.

THE COURT: Do you wish to voir dire him on that area?

MR. PATTERSON: No, I believe that he could be qualified to that. I'm just objecting the relevance of it.

THE COURT: I'll note your objection. He will be so qualified.

MR. SHWACKE: Thank you, Your Honor.

Q. So you've testified with regard to the leaving of a fingerprint that you're going to have to develop because it's not patent or obvious.

A. Correct.

Q. So when you're looking for any latent prints, you indicated that one of the ways it's possible to leave a fingerprint for later detection includes sweat and oils from your hand.

A. That's the substance that's left behind, yes, that's correct.

Q. So that is something that in the DNA realm would be called touch DNA.

A. That means dead skin cells that actually fall off the skin.

Q. All right. So there's two different ways, if I

were to touch this, that there could be DNA evidence left behind for collection by a crime scene investigator?

A. It's possible.

Q. And you weren't asked to do that on this document, this item 21.

A. No.

Q. And again, you were just asked to do this last Wednesday?

A. Yes

Q. And it's not your department's case?

A. No, it's Hanahan Police Department.

MR. SHWACKE: Thank you. That's all the questions I have.

MR. PATTERSON: Nothing further from the State.

THE COURT: You may step down. Call your next witness.

MR. CONDON: The State calls Sergeant Wyant.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Scott Cameron Wyant -- W-Y-A-N-T.

SCOTT WYANT, after being duly sworn, testified as follows:

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DIRECT EXAMINATION

BY MR. CONDON:

Q. Good morning. Who do you work for?

A. The City of North Charleston Police Department.

Q. And did you obtain fingerprints from Detective Durant on March 13th, 2014?

A. Yes, I did.

Q. I'm going to show you what's been marked as State's Exhibit 14 and 15. Do you recognize those fingerprints?

A. These are the prints turned over to me by Detective Durant.

Q. And what did you do with those fingerprints?

A. They were given to crime scene technician Hallman who's in my unit. He does all of the -- most of the fingerprint examinations for our unit.

Q. While in your possession were these fingerprints altered or changed?

A. No, they were not.

MR. CONDON: Nothing further.

MR. SHWACKE: No questions.

THE COURT: You may step down. Thank you. Call your next witness.

MR. CONDON: Can we approach a second?

THE COURT: You may. Ladies and gentlemen, I went

to a seminar last week and they said that you could -- I was told we need to move every hour, so feel free to stand up. We're going to take a little stretch break and we'll just take a stretch break, Mr. Schwacke. The attorneys will take a little stretch break as well so feel free to move.

(Whereupon, a bench conference was held off the record in the presence of the jury, but out of the hearing of the jury.)

MR. CONDON: Al Hallman.

(Witness sworn)

THE CLERK: Please be seated, state your full name and spell your last name for the record.

THE WITNESS: Al Hallman -- H-A-L-L-M-A-N.

AL HALLMAN, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CONDON:

Q. Good morning, Mr. Hallman.

A. Good morning.

Q. Who are you employed by?

A. The City of North Charleston Police Department.

Q. And what title or position do you hold with North Charleston?

A. Currently I am a crime scene investigator.

Q. And can you, kind of, tell the jury about your education, background and experience?

A. Yes, I recently retired from North Charleston after 25 years being a police officer. During those 25 years, I did 17 of them as a crime scene investigator and half of that as a crime scene supervisor. I've been through numerous basic and advanced schools and seminars that deal with forensic science. To name a few, I attended the FBI's version of basic and advanced fingerprint identification. I've been through a class called advanced ridgeology; a class of complex latent prints; crime scene reconstruction; shooting incident reconstruction; blood stain pattern analysis; and there's several other repetitive type fingerprint courses that I've been through. I also have a diploma through the American Institute of Applied Sciences in forensic science.

Q. And have you had an occasion to identify persons by comparing latent fingerprints or palm prints with their own ink fingerprints or palm prints?

A. I have.

Q. About how many times have you done that?

A. Probably hundreds of thousands.

Q. Okay.

A. To give an example, last year alone I did 22,000

side-by-side comparisons, just the last year alone.

Q. Quite a few.

A. Yeah.

Q. And have you been qualified as an expert in fingerprint comparison before?

A. I have.

Q. And about how many times?

A. Hundreds during my career.

MR. CONDON: Your Honor, the State would move that examiner Al Hallman be declared as an expert in the field of fingerprint comparison and analysis.

THE COURT: Any objection?

MR. SHWACKE: No objection.

THE COURT: He will be so qualified.

Q. I don't want to be repetitive here because Examiner Kokinda went through a lot of the fingerprint basics, so I'm going to jump right to it. I'm going to show you -- it's up here. It's been entered into evidence as State's Exhibits 14 and 15. Do you recognize those fingerprints?

A. I do.

Q. And how do you recognize them?

A. These are two latent print cards or white backing cards, we call them, bearing latent print lifts and they've got my initials, and one is labeled as L2 which

is latent card two and it's got the date of 3/13/13 on it and then L3, 3/13/13, and my initials.

Q. And are those the fingerprints you examined in this case

A. They are.

Q. I'm going to show you what's been marked as State's Exhibit Number 16 for identification purposes. Do you recognize that?

A. Yes, sir

Q. And how do you recognize that?

A. This is the 10-print inked fingerprint card of Barry Jerrod Stanley.

MR. CONDON: The State would ask that Exhibit 16 be moved into evidence.

MR. SHWACKE: One moment, Your Honor.

THE COURT: Is there any objection?

MR. SHWACKE: No objection.

THE COURT: Mr. Condon?

Q. In this case did you have a chance to make a comparison of the fingerprints lifted from the vehicle with that of the known prints of the Defendant?

A. Yes, I did.

Q. And can you explain how you went about that and your result?

A. Yes, as I stated earlier about side-by-side

comparisons, how I do that is I'll take the unknown latent print that has been lifted and presented to me and then I'll take the known ink impressions which we know came from one person and one person only, and then I will set the latent print down and begin with it and go back and forth to the 10-print card until I find a pattern similarity, which the patterns is your level one detail, which is loops, whorls and arches.

You know, once I find the pattern that they're relatively the same, then we go into what's called level two detail which is the actual minutiae or points of identification within a print and for those points we deal with what's called bifurcations which is where one ridge will split into two different ridges. We have trifurcations, tri meaning three. One ridge breaks off into three. And we have ending ridges and dots. Ending ridge is simply a ridge that stops. That end is considered a point of identification and then dots which is just little pieces of ridges that are points of identification as well.

Then I start going, as I say, from the latent to the inked print identifying points of identification and relative similarity to the ink print that I'm looking at. Once I've established that the points are in relative conformity and they are exactly the same in

direction and flow, that's when I consider it as an identification. The reason it's an identification is because the chances of two people, living or dead, having the same exact fingerprint is one in 10 to the 46th power. That's 10 with 46 zeroes behind it. Basically it's impossible.

Q. And what was the results of your examination in this case?

A. The prints on the interior rearview mirror, I'd have to refer to my report, but I know they were identified to the right thumb of Barry Stanley.

Q. I'm going to show you what's been marked as State's Exhibit 23 for identification purposes. Do you recognize these documents?

A. I do. The first document is my fingerprint analysis sheet, the report that we do. The second one is just a worksheet that I wrote down notes on regarding the prints that I examined and on card L2, latent 2.2 was positive with the number one right thumb of Barry Jerrod Stanley, and on card three, latent number 3.1 was also positive to the right thumb of Barry Jerrod Stanley.

MR. CONDON: Your Honor, the State asks that Exhibit 23 be admitted into evidence.

THE COURT: Any objection?

MR. SHWACKE: No objection.

THE COURT: State's 23 into evidence without objection.

Q. Just to clarify one more time, the two prints from the mirror, can you explain that? They were matched up to who?

A. Barry Jerrod Stanley. They were -- 2.2 and 3.1 were both the right thumb ---

Q. Right thumbprints?

A. --- of Stanley. Yes.

Q. And what other prints were compared from the car and did you have any other matches?

A. Yes, there were a total of five cards presented to me for examination. On card number one which was lifted from the outside or exterior driver's door, four prints were identified to a Ms. Evette Monique Nelson and that was the only other prints that were identified during this case.

MR. CONDON: Just for the record the State has admitted -- I just want to make sure we've admitted all these exhibits into evidence. State's Exhibit 14, 15, 16, 23.

THE COURT: Yes. Is that correct? Is that what you have?

COURT REPORTER: That's correct, yes.

THE COURT: That's correct.

MR. CONDON: No further questions.

THE COURT: Mr. Schwacke?

CROSS-EXAMINATION

BY MR. SCHWACKE:

Q. Officer -- I guess you're a civilian now; right?

A. I am a civilian, yes, sir.

Q. So you can't say officer. One of the drawbacks to fingerprint analysis is you can't testify as to when it was left there.

A. Absolutely not. There is no time stamp.

Q. And there are a number of factors that can affect how long a fingerprint can be around ---

A. Yes.

Q. --- and still be able to be lifted.

A. Yes

Q. And it wouldn't surprise you for a person who is the operator of the car or the owner of the car to have their prints inside.

A. No, that would not surprise me at all.

Q. And you weren't asked to do any other fingerprint evaluation.

A. No, sir, just the ones listed on this sheet here.

Q. And you indicated that you did that when?

A. I believe that was March 13th of -- yeah, March

13th of 2013.

MR. SHWACKE: Thank you. That's all the questions I have.

THE COURT: Redirect?

MR. CONDON: No redirect, Your Honor.

THE COURT: You may step down.

THE WITNESS: Thank you, Your Honor.

THE COURT: Call your next witness.

MR. CONDON: Court's indulgence.

THE COURT: Take your time.

MR. CONDON: The State has no further witnesses.

THE COURT: State rests?

MR. CONDON: The State rests.

THE COURT: Ladies and gentlemen, we've reached an appropriate time for us to take our lunch break. Do not begin your deliberations. Do not discuss this case amongst yourselves. Please remember all of my admonitions. Please take your notepads with you. We'll lock those up during lunch. Please be back at 1:45. Please have a wonderful lunch. See you at 1:45. Please rise for the jury.

(Whereupon, the jury exited the courtroom at 12:08 p.m.)

THE COURT: Thank you. Be seated. Any motions, Mr. Schwacke?

MR. SHWACKE: Your Honor, on behalf of Mr. Stanley, I would move for a directed verdict of not guilty; that the evidence at best is speculative as to his involvement in these; that the amount of evidence that the State has presented is insufficient to establish his guilt beyond a reasonable doubt; and that it does not meet the level of evidence to survive the motion for directed verdict.

Specifically with regard to the trafficking conviction, we would submit the State has not proven the possession and control of the drugs by Mr. Stanley and as a result of that, that particular charge -- they've never -- they've not shown either actual or constructive possession of the drug and because of that we make our motion for a directed verdict.

THE COURT: Mr. Patterson?

MR. PATTERSON: Thank you, Your Honor. May it please the Court?

THE COURT: Yes.

MR. PATTERSON: The State's position is that we have met all of our burdens in this case concerning the elements of these crimes. Addressing the trafficking, there is evidence. Eyewitness testimony puts this Defendant in the car. There is fingerprint evidence that puts this Defendant in the car. There is

testimony from an eyewitness that he saw a bag get tossed out of the window of that vehicle. There is testimony that only one person was driving that vehicle. The bag that was tossed out was recovered within a very short time frame. The police were there, the testimony was, within 30 minutes. They recovered that and that bag did test positive for cocaine base at an amount of 28.84 grams which is above the threshold for trafficking and comports with the indictment, so there is certainly evidence, some of it direct, some of it circumstantial, that puts him in the car, throwing the bag out and essentially that amounts to a drop case really, which is actually possession, if the jury believes the evidence that we've presented, that he was in possession of the drugs and threw them out the window, which is actual possession.

In reference to the failure to stop for a blue light, in that instance as we began we had an eyewitness placing him in the vehicle leaving the scene. We have fingerprints of him in the vehicle. He was signaled by a marked patrol unit with sirens and lights and even on the video you can see him using his PA system. It's a 12-mile chase. He never stopped. The route was discussed by Sergeant Lanphere. All of those are roads and highways in the State of South

Carolina. So, Your Honor, the State believes that there is certainly enough evidence to put this to the jury on all charges.

THE COURT: Mr. Schwacke?

MR. SHWACKE: Nothing further, Your Honor.

THE COURT: When ruling on a motion for directed verdict I am concerned with the existence or non-existence of evidence, not to the weight, and I must view the evidence and all reasonable inferences in a light most favorable to the State. Mr. Stanley is charged with one count of trafficking in cocaine base 28 grams or more but less than 100 and one count of failure to stop for a blue light.

The State must prove beyond a reasonable doubt that Mr. Stanley was driving the motor vehicle, that he was driving the motor vehicle on the road, street or highway and that he was signaled to stop by law enforcement and officers by means of a siren or flashing lights and that Mr. Stanley did not stop. Mr. Rider testified that on the day of the incident he saw the Defendant driving the blue Crown Vic. He testified that he saw the Defendant driving the vehicle approximately 10 or 15 seconds before the police arrived at the apartment complex. He further indicated that they must have passed him when they were coming in

and that's because they had arrived after the phone call was made.

Officer Dodd testified that he was in pursuit of the Defendant in the Crown Victoria, that he signaled for the Defendant to pull over. The Defendant did not pull over and he further testified as to what the car looked like. He had a marked unit with the Hanahan Police Department. He testified that the Defendant was the individual he saw driving the Crown Vic.

Officer Lanphere testified that at the time he was in pursuit of the Crown Vic on I26 eastbound and reached up to 90 miles per hour. He testified he was driving a fully equipped Chevy Tahoe with operational blue lights that he was using to signal the Defendant to stop, and he kept going. Lieutenant Turner and Detective Durant testified that there were fingerprints found in the vehicle.

As to the trafficking in cocaine, the State must prove that Mr. Stanley either sold, manufactured or purchased and brought into the State 10 grams or more of cocaine base or that (inaudible) actual possession or attempting to have actual constructive possession of 10 grams or more of cocaine base. There were several witnesses that testified. Ms. Nelson told the officers the day of the incident that he had taken the vehicle

and had drugs and possibly a gun in his possession. Officer Dodd testified that he did lose sight of the vehicle but he said the location corresponded in his pursuit to where the drugs were later located.

Mr. Loflin testified that he saw the Defendant driving the Crown Victoria in his neighborhood and testified that he saw an object being thrown out of the window when the vehicle was rounding the corner. He stated the officer was well behind the Defendant's vehicle and he asked Mr. Rowland to go pick up the object. Mr. Rowland testified that he retrieved the object and that he called the police and waited for them to respond to his residence and gave them the object that was thrown out of the vehicle.

Corporal Ellwood testified that he responded to the residence and he obtained the Baggie and took the Baggie and the contents to be analyzed and the individuals from the Charleston police lab indicated that Ms. Hilton observed and supervised Ashley Earl perform the drug analysis and that the contents weighed 28.84 grams and the substance was found to be cocaine base or crack cocaine.

Based upon the evidence that has been presented (inaudible). Any further motions?

MR. PATTERSON: Nothing from the State. Sorry. I

apologize.

MR. SHWACKE: No, Your Honor.

THE COURT: Mr. Stanley, please rise. I need to place you under oath.

MR. SHWACKE: If I could have just one moment?

THE COURT: You may. I just need to place you under oath that you're going to promise to tell the whole truth and nothing but the truth, so help you God. Is that what you're going to do?

THE DEFENDANT: No, ma'am. I mean, no, I'm not testifying.

THE COURT: Well, I've got to advise you of your rights.

THE DEFENDANT: Okay.

THE COURT: And that's what I'm going to do right now, but I'm going to be asking you some questions and I don't have to do this with Mr. Schwacke or Mr. Shelton because they're officers of the Court. They're already sworn to uphold the integrity of this courtroom, so I don't have to place them under oath.

But when lay witness, just as if you were going to take the stand, and so everyone that came in here, we placed them under oath. That's all I'm doing, just to make sure that what you tell me is the truth. Are you going to tell me the truth here today?

THE DEFENDANT: Yes, ma'am.

THE COURT: All right. At this time I'm going to explain to you certain of your rights. If you do not understand anything that I say or need me to explain anything in further detail, please let me know. Can you do that, Mr. Stanley?

THE DEFENDANT: Yes, ma'am.

THE COURT: Thank you. We've reached the stage of the trial where you may present your defense. You have the right to claim the protections given to you by the Constitution of the United States. The Fifth Amendment states in part that no person shall be compelled in any criminal case to be a witness against himself. That means that you cannot be required to testify. You do have the right to testify on your behalf; however no one can make you testify. This is a personal right and no one can waive this right except for you.

If you decide to testify you will be subject to the same (inaudible) as other witnesses and you may be examined and cross-examined on any relevant issue in this case. In addition, if you have any convictions involving dishonesty or false statements or for crimes punishable by imprisonment for more than one year and I determine that the probative value of admitting that evidence outweighs its prejudicial effect to you, the

Solicitor will be able to introduce your record to attack your credibility.

Mr. Patterson, there are convictions that you plan to introduce.

MR. PATTERSON: That's correct, Your Honor.

THE COURT: Thank you. If you decide to testify the decision on your part must be freely and voluntarily and intelligently made with the knowledge of the protections given to you by the Fifth Amendment and the consequence of any decision to testify.

If you decide not to testify I will instruct the jury that they cannot give the fact that you did not testify any consideration whatsoever and that there is to be absolutely no prejudice to you because you did not testify.

It is left entirely up to you whether or not you testify. You may talk with your attorneys or your friends or family members or anyone else, but the final decision is left entirely up to you. Do you understand what I've explained?

THE DEFENDANT: Yes, ma'am.

THE COURT: Do you have any questions about what I've explained to you?

THE DEFENDANT: No, ma'am.

THE COURT: Have you discussed with your lawyer

whether or not you should testify?

THE DEFENDANT: Yes, ma'am.

THE COURT: Have you made a decision whether or not you're going to testify?

THE DEFENDANT: Yes, ma'am.

THE COURT: And what is that decision?

THE DEFENDANT: No, ma'am.

THE COURT: You will not testify; is that correct?

THE DEFENDANT: Yes.

THE COURT: All right. Thank you. And, Mr. Stanley, I will include in the charge that the jury is not to consider the fact that you did not testify in any manner whatsoever. Thank you. You may have a seat.

Mr. Schwacke, is there any additional witnesses that you want to add?

MR. SHWACKE: No, Your Honor.

THE COURT: So the defense rests?

MR. SHWACKE: We will rest.

THE COURT: And so we have reached an appropriate time also for us -- do you have any lesser-includeds that you will be requesting?

MR. PATTERSON: I'm not aware of any.

THE COURT: I always ask.

MR. PATTERSON: I'm 99 percent sure. I'm still

thinking we're going to be over the 20 grams. I don't believe there's a lesser-included.

THE COURT: So you're not requesting any lesser-includeds?

MR. PATTERSON: No, Your Honor.

THE COURT: Any charges, any special charges that you think I may not have included, Mr. Schwacke?

MR. SHWACKE: Just earlier, the status conference on Monday morning, we asked for the Logan charge dealing with circumstantial evidence.

THE COURT: That is typically the one that I will -- the one that I have. Is that sufficient for you, Mr. Schwacke? The one that I have been using?

MR. SHWACKE: Well, the case allows us to ask for the language that says the Court shall -- that language along with the long reasonable doubt charge, so my client is asking for the actual one laid out in Logan along with ---

THE COURT: You and I have had a conversation right after Logan came out and I believe we were in trial ---

MR. SHWACKE: I know.

THE COURT: --- I'm just wanting to make sure you are asking -- you want the wording ---

MR. SHWACKE: From -- from it, yes.

THE COURT: Word by word, not the one that I've been using.

MR. SHWACKE: Yes, ma'am.

THE COURT: Okay. Any other?

MR. SHWACKE: No, ma'am.

THE COURT: I would be including identification. Anything else?

MR. PATTERSON: The State would just ask for clarification as to your charge for trafficking, how you phrase it so that we understand what we can discuss in our closing. Our indictment says trafficking 28 to 100 grams; however, trafficking really is 10 grams or more, so for purpose of closing, will your jury instruction say trafficking 10 grams or more and then give the jury a list of weights to identify as to what the weight was?

THE COURT: Mr. Schwacke, what's -- let me hear from you on that.

MR. SHWACKE: Your Honor, the only testimony as to weight has been 28.8 grams so I'm thinking it becomes confusing to them if they hear numbers that they don't need to hear, because otherwise you could go on to 100 and 200 and up to 400 grams. I just don't -- I think you're supposed to charge on only where there's factual basis for it and the only factual basis is for the 28

grams.

THE COURT: This is where with the weights (inaudible) but I understand what Mr. Patterson is asking for. What's your preference, Mr. Patterson? The statute indicates that it's 10 grams or more just as the definition of trafficking, that that becomes the threshold weight. You have indicted for 28 to 100 and the testimony, I believe, was 28.84.

MR. PATTERSON: That's correct. The State's preference would be to go by the statute. Ten grams or more is trafficking. The weight is an issue for the jury.

THE COURT: Mr. Schwacke, I'll be happy to hear from you.

MR. SHWACKE: Our discussion over here is whether he sort of proposed a special verdict form like they have asked if they find him guilty of the trafficking, what weight do they find. I'm not sure if that's what they're really asking.

MR. PATTERSON: Just that we be able to read the statute as it is, that trafficking is 10 grams or more. You know, as you get higher weight it becomes a sentencing issue.

THE COURT: Sentencing issue. I'm inclined to charge the statute which is 10 or more and leave it at

that but then I haven't heard any other testimony other than -- sometimes in cases such as this there's some -- it was retrieved and then by the time it got weighed there was some, but I haven't heard any conflicting testimony so I think that it's appropriate just to be under the charge 10 or more since I haven't heard any contradictory weight issue and it is what the State has charged. So what I will do is indicate that he was charged with trafficking 10 to 28 and read the statute and then (inaudible). Thank you.

MR. PATTERSON: Thank you, Your Honor.

THE COURT: Anything else?

MR. PATTERSON: Nothing from the State.

THE COURT: 1:45. Thank you. We're at ease.

(Off the record until 1:45 p.m.)

THE COURT: On the forms, any objection from the State?

MR. PATTERSON: I'm sorry. Can you say it again?

THE COURT: Any objection regarding the verdict forms?

MR. PATTERSON: No objections from the State.

MR. SHWACKE: None from the ---

THE COURT: Any objection -- I have emailed a copy of my charge to Mr. Patterson and Mr. Schwacke. I understand you haven't been to your office.

MR. SHWACKE: I am familiar with what your charge is. No objection.

THE COURT: My biggest concern was that you reviewed how I was going to proceed with the trafficking charge. Any objection, Mr. Patterson?

MR. PATTERSON: No objections, Your Honor.

MR. SHWACKE: You're going to allow me to read that?

THE COURT: Do you need any additional time?

MR. SHWACKE: No, ma'am.

THE COURT: I'll let you look at the whole charge, Mr. Schwacke. All right? Anything before we bring in ---

MR. PATTERSON: One final clarification.

THE COURT: Yes.

MR. PATTERSON: On the charge -- just to make sure I understand correctly. It's going to be presented per the statute at 10 grams but then below that there is the caveat of the 28 to 100? I just want to make sure that I have it correct.

THE COURT: Mr. Patterson, would you make a copy of that charge?

MR. PATTERSON: I have it on my -- my email but I didn't have a chance to print it out.

THE COURT: One of the reasons why I don't give

copies of my charges is because people tend to flip through them as I'm reading them. So Mr. Schwacke, you will need to rest in front of the jury and renew your motions.

MR. SHWACKE: I'm making those same motions now, so for the record we can just put them on?

THE COURT: And you will be giving the last close; right?

MR. SHWACKE: That's correct.

THE COURT: Mr. Patterson, are you giving the close?

MR. PATTERSON: I'll be giving the close, Your Honor.

THE COURT: And are you ready because Mr. Schwacke is going to close -- rest in front of the jury and then I'll give them the instruction that they've heard all this evidence, now they're going to hear closing arguments and you will go and Mr. Schwacke will go and then I'll instruct the jury. Anything else?

MR. PATTERSON: Nothing further from the State.

THE COURT: Anything else, Mr. Schwacke?

MR. SHWACKE: No, Your Honor.

THE COURT: Let's bring in the jury.

(Whereupon, the jury entered open court at 1:52 p.m.)

THE COURT: Thank you. Please be seated. Did every member of the jury comply with the Court's instructions? If you did not comply with my instructions, please state. Thank you. All of the jurors have complied with my instructions. Mr. Schwacke?

MR. SHWACKE: Thank you. The defense rests and would renew all motions previously made.

THE COURT: Thank you. Ladies and gentlemen, you have now heard all the testimony that you will hear in this case and received into evidence all the exhibits that will be made part of the record in this case. The next stage of the trial is closing arguments. You will be hearing closing arguments on behalf of the State and the Defendant.

After that I will instruct you on the law applicable to this case. Just as I indicated to you, what was contained in opening statements is not to be considered evidence, neither is what is contained in closing arguments. Please give your strict attention to Mr. Patterson.

MR. PATTERSON: Thank you, Your Honor. May it please the Court.

CLOSING ARGUMENT ON BEHALF OF THE STATE

MR. PATTERSON: A reckless disregard for the law.

When we started this case, I told you that's what the Defendant showed when he took the police on a 12-mile pursuit from Hanahan to downtown Charleston, and what he showed when he tossed a bag of 28.84 grams of cocaine base out of the window of his vehicle.

You heard a lot of testimony, so I'm going to take time right now to go through the testimony that you've heard and how it proves our case. Evette Nelson, you're going to get to judge her credibility. Your job as the fact-finder is to judge her story and her credibility. That day she told officers that Barry Stanley assaulted her and took her car. She wrote a statement that day about her and the Defendant fighting over keeping drugs in her house. She showed Detective Camp a picture of the Defendant on her phone and described him as the person who assaulted her and took her car.

Did she lie to the police? Yes, she did but there is absolutely no evidence indicating that some other individual, Deangelo Watson, was involved. She told you it looked like a grits festival in her microwave. She told you there was no evidence of a box of grits in the kitchen. Officer Norton told you that crack is most commonly cooked in a microwave. She told you there was a strange smell in the apartment. You get to

judge her credibility. Is she scared of the Defendant? You get to make these determinations, but it's important that in that moment on that day when this occurred, she only identified one individual as being involved and that was the Defendant Barry Stanley.

Tanya Deane, she's a neighbor. She's one of the people that Evette ran to trying to find help. She knows who Barry Stanley is. She's seen him in the apartment complex. She was there when Evette came to her for help. Evette told her that Barry Stanley was coming to kill her. Evette never told her it was anybody other than Barry Stanley.

Mr. Greg Rider, Tanya Deane's husband, he's an eyewitness to this event. He 100 percent, positively identified the Defendant Barry Stanley as the man driving that vehicle. He had met Barry Stanley prior to this incident. He knew who he was and he knew who he was looking at when he saw the Defendant in that vehicle. He told you he saw the Defendant for a good 10 seconds while he was in that vehicle, sitting in the driver's seat. He picked the Defendant out of a photo lineup. He told you that no one else was in that car.

The police arrived within 10 to 15 seconds, is what he described, as the Defendant fled the scene. He's also the first person that Evette comes to because

he's playing basketball outside. She comes running outside and he described her as appearing to be afraid for her life, and she told him that it was Barry Stanley who assaulted her.

Detective Camp, you heard from Detective Camp. She responds to the scene and Evette tells her that Barry Stanley assaulted her and that he's the person who fled in her vehicle and took her car. There's never any mention to Detective Camp, who's there to help, of any other person. Told Detective Camp there was an argument about drugs in the house. Evette appeared afraid, physically shaking, fearful. Evette provided her with a picture of this Defendant from her phone. Detective Camp took a picture of that photo and sent it out to other officers involved in this case.

Officer Dodd, Officer Dodd was leaving his house to use his vehicle for personal use, is the way he described it. He describes seeing that vehicle and the Defendant tried to strike his car in an attempt to escape. He starts to pursue the Defendant. He says the description of the person driving that car and that vehicle matched the description of the suspect information that gets put out by Detective Camp. He even identified the Defendant as the person in the vehicle based on the photo that Detective Camp had

sent. He said that the person in that vehicle was the person in that photo and the person in that photo was Barry Stanley. He chases him on the same route the drugs are found on in that neighborhood. The Defendant does not stop for his police car, for his lights and his siren. The place where the drugs were thrown out is around the corner where Detective Dodd told you he slowed down to try and negotiate that sharp curve. He tells you there's nobody else in that vehicle.

Sergeant Lanphere, you saw the video. That's a long chase. The Defendant clearly wanted to escape and he was extremely reckless in doing that. Told you he saw the Defendant reach up with his right hand to adjust the rearview mirror of that vehicle. Defendant's right thumbprints are found on the rearview mirror. He pursued the Defendant for almost 12 miles all the way onto Interstate 26 at speeds of up to 90 miles an hour. He told you no one else was in that vehicle.

Corporal Ellwood, Corporal Ellwood responded to the scene. He gets there within one minute. Evette is visibly shaken, she's afraid. She tells him that the Defendant Barry Stanley possibly has drugs -- or has drugs in the car and possibly has a gun in the car. Information is given to him that a witness has located

drugs during the pursuit. He responds within 30 minutes to [redacted] collects those drugs from William Loflin. He secures them in his vehicle.

The drug chain, it's our duty to establish a chain of custody for these drugs. Detective Ellwood told you he collected the drugs and he submitted them to evidence. Lieutenant Fowler stored them in evidence. Detective Durant took that evidence for testing. The drugs are stored and tested by the ladies at the Charleston Police Department crime lab. Those drugs tested positive for cocaine base or crack cocaine at a weight of 28.84 grams. That's what Renee Hilton testified to.

William Loflin, he has no reason to lie. He isn't even from Charleston. He's from Great Falls. He was here on a contract. He identifies the vehicle as a blue Crown Victoria with big rims. He sees and hears the lights, the sirens. He's sitting on the back porch smoking a cigarette. He gets up to see what's going on. He tells you an officer is chasing this Crown Victoria with blue lights and sirens. He tells you that that Crown Victoria loses the officer around that sharp turn. He sees the Defendant looking over his shoulder to see where that officer is, trying to get him to where he could toss that bag out. Sees the

Defendant throw a bag out of the window. Mr. Loflin, not living in that neighborhood, only being there for contracting, being there temporarily, asked his roommate, Mr. Rowland, to go pick up the drugs and when Mr. Rowland shows it to him, he says I know it's crack.

Mr. Rowland calls 911 or calls -- calls the police department. Chris Rowland, he's sitting on his couch. He doesn't see this but Mr. Loflin comes in and says hey, Chris, this guy being chased by the police, he threw something out of the window. Chris goes and picks it up. He told you that. He calls the police department. He waits in his driveway for them to respond. He told you he was concerned about kids in the neighborhood finding it.

Lieutenant Kokinda, he tested the bag containing the drugs for fingerprints and no fingerprints were developed. We know that Mr. Rowland touched the bag, because he picked it up. We know that Mr. Loflin touched the bag, because he handed it to Corporal Ellwood and the ladies from the lab, they don't use gloves so they touched the bag and their prints weren't on the bag, but that doesn't mean they didn't touch the bag. Lieutenant Kokinda told you why sometimes prints are unable to be developed.

Lieutenant Turner, he lifted these fingerprints

from the rearview mirror of that vehicle. Those fingerprints match the Defendant, his right thumb. He told you that he took note of the position of the driver's seat and that it was in such a position there was no way that a person of Mr. Watson's size could have been the one driving that vehicle.

Mr. Hallman, fingerprint analyst who identified the fingerprints that were collected from the rearview mirror. He discussed his expertise and told you that those prints were a match for the Defendant, in his expert opinion, and they're exactly where Sergeant Lanphere saw him adjust the mirror.

Today the State is tasked with proving our case beyond a reasonable doubt and we accept that burden. What does that mean, a reasonable doubt? It does not mean beyond all doubt. There are very few things in this world that we know for an absolute certainty. The law does not require proof that overcomes every possible doubt, but if the facts of this case leave you firmly convinced of the Defendant's guilt then you have to find him guilty.

So what are the charges in this case? Failure to stop for a blue light, what does that mean? The statute is in absence of mitigating circumstances it is unlawful for a motor vehicle driver while driving on a

road, street or highway of the State to fail to stop when signaled by a law enforcement officer or law enforcement vehicle by means of siren or flashing light; an intent to increase the speed of vehicle or in other manner avoid the pursuing law enforcement vehicle when signaled by a siren or flashing light is prima facie evidence of a violation of this section. Failure to see the flashing light or hear the siren does not excuse the failure to stop when the distance between the vehicles and other road conditions are such that it would be reasonable for a driver to hear or see the signals from the law enforcement vehicle.

What does that mean? The State will show the Defendant was driving the motor vehicle. Well, the Crown Victoria is the motor vehicle and the Defendant was driving. How do we know the Defendant was driving? Was the Defendant driving the car? Yes. Greg Rider positively identifies him as the person driving that vehicle. The Defendant's fingerprints are located on the rearview mirror. Sergeant Lanphere observed the Defendant adjust the rearview mirror. Officer Dodd was provided a picture of the Defendant and testified the Defendant was the person driving that car.

Was he driving on a road, street or highway in South Carolina? Yes. Officer Dodd testified about his

pursuit of the Defendant. Sergeant Lanphere testified about the entire route of the pursuit. We saw a map and all of the streets that the Defendant utilized in his flight from police: Fort Drive, Murray Drive, Rivers Avenue, Redeemer Avenue, 26, Rutledge, Maple. Was he signaled by a law enforcement? Yes. You saw the video, the whole time, lights and sirens. Sergeant Lanphere tried to use his PA to get him to stop. Did he stop? No, he did not.

Trafficking in cocaine base, in South Carolina a person who knowingly sells, manufactures, delivers, purchases or brings into this State or who provides financial assistance or otherwise aids, abets, attempts or conspires to sell, manufacture, deliver, purchase or bring into this State or who is knowingly in actual or constructive possession or who knowingly attempts to become in actual or constructive possession of 10 grams or more of cocaine base.

Again, a mouthful but it's simple. The State has to prove three things: the substance was, in fact, cocaine base, a controlled substance in the State of South Carolina; the Defendant had possession of the cocaine base; and the amount was more than 10 grams.

Is it cocaine base? How much is it? Yes, the substance found in the plastic bag was lab-tested

positive as 28.84 grams of cocaine base. How do we know? Renee Hilton told you. She's the crime analyst. She testified she performed three separate tests on the substance and all the tests confirmed the substance was, in fact, cocaine base. She testified that the crack was weighed at the lab and weighed 28.84 grams.

Possession, there are two kinds of possession: actual and constructive. Actual possession is when a person has actual, physical custody of the item. Well, I submit to you that actual possession in this case has been proved when the Defendant threw the bag of drugs out of the car. Mr. Loflin testified that he saw the Defendant driving the vehicle throw something out of the window that was recovered and it was tested. It was cocaine base.

Constructive possession is when a person has dominion and control -- dominion or control either over the item or the premises where it is located. Possession may be inferred from the circumstances. The evidence in this case only shows one thing: the Defendant was in actual possession of those drugs. When he took the bag and threw it out the window, that's actual possession and if you believe Greg Rider, Officer Dodd, fingerprint evidence, William Loflin, if you believe their testimony, then the Defendant is

guilty of possession of these drugs and the State would ask that you find the Defendant guilty of failing to stop for a blue light or siren and trafficking in cocaine base. Thank you.

THE COURT: Mr. Schwacke?

CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

MR. SHWACKE: Good afternoon. I told you yesterday when I first spoke to you that I was going to be brief. One point that I wanted to make with you is evidence in the case sometimes is what you -- always what you hear from the witness. It's either an exhibit that's introduced from there or it's testimony of the witness. I told you I wanted you to be patient and listen intently, but I also told you sometimes the evidence that matters at the end is the evidence you didn't hear and that's what I want to talk with you about this afternoon.

I'm going to go through here. You know, any case has to start with the first witness and that was Evette Nelson who has given statement after statement after statement. By the time she finished testifying before you yesterday, that was the fourth version of the case that she's given to anybody whether it's law enforcement or whether it was you. And just like the State has suggested she's a liar, I submit to you you

can't believe what she has to say and that cuts both ways. That hurts them and it hurts my client, but I want to talk about that a little bit because there are things that the State wants you to believe based on the testimony, but they still want to use it.

For instance, they want you to believe that my client is a drug dealer, that when he left that house he had a bunch of drugs. Now, ladies and gentlemen, there were search warrants that were served and there were search warrants that were served and no evidence of drugs, no evidence of paraphernalia, anything you use drugs with, no evidence of any large amounts of money that was made from the sale of drugs, no evidence of packaging material such as Baggies, not in the car, not in the house.

Now, the State wants you to say hey, there were grits inside the microwave and there's no evidence of grits. You know, that cuts both ways too because Detective Norton testified that the way you cook cocaine, crack cocaine is in a microwave where you mix it with baking powder. There is no evidence of baking powder in that house either and if they had it, it would be right here. So they're trying to mislead you. They're trying to edge you in a direction that you shouldn't take because it comes first from the mouth of

Evette Nelson.

Mr. Rider testified that he saw my client go back into the apartment and come back and he was concerned about whether he was going to take the child and he came back empty-handed, so he didn't take anything. No gun, no evidence of a gun, no bullets, no ammunition, nothing for a gun, apartment or car. Again, that starts with Evette because she's the one who said that. Mr. Rider didn't know she'd said that.

Officer Dodd is the one who initiates the pursuit and his testimony is at no point along the course of the route did he see anything get thrown from the vehicle either. The only person that's going to be here for you to consider that testimony from is Mr. Loflin. I'm going to get to him. Officer Dodd estimated the speed that was involved in their chase was between 40 and 45 miles per hour.

Now, ladies and gentlemen, starting about third grade you start learning units of measurement. One of the things that we learn is that in a mile there are 5,280 feet. Other things we learn, there is 60 minutes in an hour, 60 seconds in a minute, so that would be some other numbers here in a second. At 40 miles per hour by the time that you have completed that, you would have gone 211,200 feet. That's how far you go at

40 miles an hour. So when you divide that -- because I told you before there's 60 minutes in an hour and there's 60 seconds in a minute. When you convert this over to find out how fast that you're going a second, you'll find that you're going 58.6 feet per second. We went around on this with Mr. Loflin yesterday and we ended up deciding (inaudible). Sixty feet, one second.

He wants you to believe he's able to see people turning around, looking, doing this, and then he wanted to explain hey, these photographs with these bushes, well, you know, maybe I was over here a little bit or I sat down and I pivoted and I saw something different. But he left the fact the speed was about 40 miles per hour. He left the fact that he had only a window of feet and what that tells you is 1,001 and the State wants you to depend on his testimony because he's the only one who saw or says he saw.

Now, this isn't -- this is just a demonstrative thing but it was used in the trial so it's not going to be back there with you, but you will recall the testimony of Officer Dodd who returned to the scene. You will recall the testimony of Mr. Loflin and you will recall the testimony of Mr. Rowland and every one picked out a different spot on where those drugs were found. Mr. Rowland and Mr. Loflin can't even agree who

found it, picked it up, brought it back and gave it to the police.

Officer Ellwood who was out there that day, who collected the drugs and brought it back to the department, never heard of Mr. Rowland; not mentioned in his report; in fact says Loflin was the one who gave it to me. Who is this mystery person Mr. Rowland and why did he just miraculously appear with no reference in any police report about the same time the State decided to try to lift fingerprints off the drugs? You heard testimony. You heard them tell you when they took the fingerprints from the car to go be examined and then lastly when they realized how weak their case is, because it all hinges on (inaudible). Try to get someone to come in here and tell people (inaudible), so they didn't.

The other thing they didn't do -- you heard Dean Kokinda's testimony. Hey, any time you touch something you're going to leave a fingerprint potentially. It might not be legible. It might not be readable but that's a process of leaving sweat out of your pores and your fingerprint ridges. That is the stuff of DNA. All they had to do instead of waiting another year was to have sent that off to answer your questions. Instead they want you to (inaudible) one second of the

car going by down the road 40 miles per hour.

I submit to you that Mr. Loflin is not somebody you should believe either. Multiple forgery convictions in 2002. Didn't stop. Had another forgery conviction in 2007. Didn't stop. Had a petit larceny and then shoplifting in 2009. And you saw him on the stand and it's your job as judges to determine the believability and credibility of witnesses. His story changed and it changed right in front of your eyes from that very witness, where things were and what he saw, where he was sitting, where he was, who did what. The police sent somebody totally different who came in here and testified found (inaudible).

The State tried to push into evidence part of the actual possession of the bag, tried to convince you you should buy into it. They want you to believe because, you know, this is a quantity or drugs that's (inaudible). But where is the beef on this? Where is it? A search of the house, search of the car, no scale, no other drugs, no packaging materials, no Baggies, no gun, no ammunition, no baking powder. I submit to you, ladies and gentlemen, the State has not proved its case and they realize it because they went and later tried to get you additional evidence before you.

So as regards the trafficking charge, Mr. Loflin is not credible. You can't buy into his word based on his record alone but also by the way he appeared to you on that stand. You must find my client not guilty.

THE COURT: Ladies and gentlemen, I normally do not send back a copy of my charge. You've got a Foreperson and you are responsible for writing the verdict in this case. At least pay close attention because as I stated I will not send back a copy of my charge.

I remind you that during this trial, you and I have certain duties to perform. As the trial Judge it is my responsibility to preside over the trial of this case and I have the duty to rule on the admissibility of the evidence offered during this trial. You will consider only the evidence before you. If there was any testimony ordered stricken from the record, you must disregard that testimony. You are to consider only the testimony that you've heard from the witness stand as well as the exhibits that have been made part of the record in this case.

I have the additional duty to charge you the law applicable to this case. As the presiding Judge I am the sole judge of the law of this case. It is your duty as jurors to accept the law and apply the law

exactly as stated to you now. If you have any idea as to what the law is or what the law ought to be and it does not agree with what I'm about to tell you, you must abandon your own idea because you are sworn to accept the law and apply the law exactly as I state it to you now.

In every case tried in this Court before a jury, the jury becomes the sole and exclusive judges of the fact. A trial judge may not make any comment regarding the facts of this case. Do not think from anything that I have said or done throughout the conduct of this trial that I have any opinion about the -- excuse me -- opinion about the facts in this case. The law does not allow me to have an opinion about the facts in this case. This is solely a matter for you to determine.

The indictments in this case charge Mr. Stanley with one count of trafficking in cocaine base, 28 grams or more but less than 100 grams, and one count of failure to stop for a blue light. I remind you that the fact that Mr. Stanley was arrested, charged and indicted in this case is not evidence in this case, nor does it create any presumption or inference of guilt. An indictment is simply the formal written instrument which contains the charge made against the Defendant. It is the formal document by which this case is brought

into Court.

The indictments in this case allege several different offenses against Mr. Stanley. The charges are: indictment number one, 2014-GS-08-0027, failing to stop for a blue light; indictment number two, 2014-GS-08-0028, trafficking in cocaine base 28 grams or more but less than 100 grams. Each indictment charges a separate and distinct offense. You must decide each offense separately on the evidence and the law applicable to it uninfluenced by your decision as to the other indictment.

Mr. Stanley may be acquitted or convicted on any or all of the offenses charged. Ms. Foreperson, you will be asked to present your verdict (inaudible). Mr. Stanley has pled not guilty to these indictments. A person charged with committing a criminal offense in South Carolina is never required to prove himself innocent. I charge you it is an important rule of the law that a Defendant in a criminal charge, no matter what the seriousness of the charge may be, will always be presumed to be innocent of the crime for which the indictment was issued unless guilt has been proven by the evidence satisfying you beyond a reasonable doubt.

The presumption does not end when you begin your deliberations but it accompanies the Defendant

throughout the trial until you reach a verdict of guilt based upon the evidence satisfying the standard of guilt beyond a reasonable doubt. The presumption of innocence is not mere legal theory. It is the substantial right to which every defendant is entitled until you are satisfied of the evidence of the Defendant's guilt beyond a reasonable doubt.

The State has the burden of proving Mr. Stanley guilty beyond a reasonable doubt. Some of you may have served as jurors before in civil cases where you were told that it was only necessary to prove that a fact is more likely true than not true, so that you apply a greater weight over a preponderance of the evidence. Proof beyond a reasonable doubt is proof that leaves you firmly convinced or Mr. Stanley's guilt. There are very few things in this world that we do know to absolute certainty and in criminal cases, the law does not require proof that overcomes every possible doubt. If, based upon your consideration of the evidence, you are firmly convinced that Mr. Stanley is guilty of the crime charged, you must find Mr. Stanley guilty. If, on the other hand, you think there is a real possibility that Mr. Stanley is not guilty, you must give Mr. Stanley the benefit of the doubt and find him not guilty.

There a two types of evidence that are generally presented throughout the trial: direct evidence and circumstantial evidence. Direct evidence directly proves the existence of a fact that does not require deduction. Circumstantial evidence is proof of a chain of acts and circumstances indicating the existence of a fact. Crimes may be proven by circumstantial evidence. The law makes no distinction between the weight or value to be given either direct or circumstantial evidence; however, to the extent the State relies on circumstantial evidence, all of the circumstances must be consistent with each other and when taken together point conclusively to the guilt of Mr. Stanley beyond a reasonable doubt.

If the circumstances merely portray Mr. Stanley as being suspicious the proof must fail. The State has the burden of proving Mr. Stanley guilty beyond a reasonable doubt. This burden rests with the State regardless of whether the State relies on direct evidence, circumstantial evidence or a combination of the two.

It's necessary that you must determine the credibility of the witnesses who have testified in this case. Credibility simply means believability. It becomes your duty as jurors to analyze the evidence and

determine which evidence is true. In determining believability of the witnesses who have testified in this case, you may believe one witness over several witnesses, or several witnesses over one witness. You may believe part of the testimony of one witness and reject the remaining part of the testimony of that same witness. You may believe the testimony of a witness in its entirety or reject the testimony of a witness in its entirety.

You may consider whether the witness has admitted to you any interest, bias, prejudice in the case and you may also consider the appearance and manner of the witness while on the witness stand. A person who has a past criminal record is competent to testify during a trial. A past record does not affect the ability of that witness to testify. The past record may be only considered by you if at all in determining the witness's believability. Remember, you are the sole judges of the facts in this case and of the believability of any and all of the witnesses.

There has been evidence presented that a witness has made prior statements which are not consistent with the witness's prior testimony. You may use this evidence to decide whether to believe the witness. You may also use evidence of the earlier contradictory

statements to determine the truth of the statements. It is up to you to decide whether to believe the earlier statements or to believe the testimony given at trial. If a witness is shown to have knowingly testified untruthfully concerning any material matter, you may consider this in determining whether to trust the witness's testimony as to other matters. You may reject all the testimony of that witness or believe it all or in part and give it the weight you feel it deserves.

The rules of evidence ordinarily do not permit witnesses to testify to opinions or to conclusions. An exception to this rule exists for witnesses we call expert witnesses. A witness who by education and experience has become expert in some art, science, profession may state an opinion as to relevant and material matters in this case in which the witness claims to be an expert and may also state the reasons for that opinion. You should consider any expert opinion received as evidence in this case like any other evidence, giving it the weight that you think it deserves. If you decide that the opinion of an expert witness is not based on sufficient education or experience, or if you conclude that the reasons given in support of the opinion are not sound, or that the

opinion is outweighed by other evidence, you may disregard the opinion entirely. An expert witness's testimony is to be given no greater weight than that of other witnesses simply because the witness is an expert. Further, you are not required to accept an expert's opinion simply because it is not contradicted.

At issue in this case is the identification of Mr. Stanley as the person who committed the crime charged. The State has the burden of proving identity beyond a reasonable doubt. You must be satisfied beyond a reasonable doubt of the accuracy of the identification of Mr. Stanley before you may convict Mr. Stanley. Identification testimony is an expression of belief or impression by a witness and you must determine the accuracy of any identification of Mr. Stanley. You must consider the believability of each identification witness in the same way as any other witness. You may consider whether the witness has an adequate opportunity to observe the offender at the time of the offense. This will be affected by things such as how long or short a time was available, how far or close the witness was, the lighting conditions and whether the witness had a chance to see and know the person.

Once again, I instruct you the burden of proof on the State extends to every element of the crime charged

and it specifically includes the burden of proving beyond a reasonable doubt the identity of Mr. Stanley as the person who committed the crime. If, after examining the testimony, you have a reasonable doubt as to the accuracy of the identification, you must find Mr. Stanley not guilty.

In order to establish criminal liability, criminal intent is required. For example, the mental state required to be proven by the State for a particular crime might be purpose, intent, knowledge, recklessness or criminal negligence. Criminal intent must be proven by the State beyond a reasonable doubt. Criminal intent is always a matter that must be determined by the jury from the circumstances surrounding the situation. There is no way to prove intent to a medical certainty because there is no way to tell with exact certainty what the person had in mind. The law says criminal intent may be inferred from circumstances that were shown to have existed. This is how you make the determination whether or not the element requiring intent was present. It is not necessary to establish intent by direct and positive evidence, but intent may be established by inference in the same way as any other fact by taking into consideration the acts of the parties and all the facts and circumstances of the

case. Criminal intent is a mental state. It is a conscious wrongdoing. It is up to you to determine what the Defendant intended to do based upon the circumstances shown to have existed.

I instruct you and emphasize that the fact that Mr. Stanley did not testify is not a factor to be considered by you in any way in your deliberation. It must not be considered by you in any manner whatsoever. A Defendant has the Constitutional right to remain silent and the assertion of this right must not be considered by you in your deliberations. I repeat, under your oath you are to draw no conclusion whatsoever from the fact that Mr. Stanley did not testify. The fact that he did not testify may not even be discussed in the jury room. The burden of proof, as I have stated to you, is on the State and Mr. Stanley is not required to prove his innocence. The burden of proof remains on the State to prove guilt beyond a reasonable doubt.

Mr. Stanley is charged with failure to stop for a blue light. In order to prove this crime, the State must prove beyond a reasonable doubt that Mr. Stanley was driving a motor vehicle; that Mr. Stanley was driving the motor vehicle on a road, street or highway of this State; that Mr. Stanley was signaled to stop by

a law enforcement -- excuse me -- by a law enforcement vehicle by means of a siren or a flashing light; and that Mr. Stanley did not stop. In determining whether or not there are mitigating circumstances which would justify Mr. Stanley's failure to stop for a blue light, you may consider actual road conditions, actual roadside conditions or other conditions such as lighting and weather, officer, driver and/or passenger safety and any other circumstances you believe to reasonably mitigate the violation.

An official signal requiring a motorist to stop may be a siren or flashing lights, but both are not required. An attempt to increase the speed of a vehicle or in some other manner avoid the pursuing law enforcement vehicle when signaled by a siren or flashing light may be considered as evidence of failure to stop for a blue light; however, it is merely an evidentiary fact to be taken into consideration by you, along with all the other evidence in this case and to be given the weight that you think it deserves.

Mr. Stanley is charged with trafficking in cocaine base. The State must prove beyond a reasonable doubt that Mr. Stanley knowingly sold, manufactured, cultivated, delivered, purchased or brought into the State, provided financial assistance or otherwise

aided, abetted, attempted or conspired to sell, manufacture, cultivate, deliver, purchase or bring into the State, was knowingly in actual or constructive possession, knowingly attempted to become in actual or constructive possession of cocaine base.

Actual possession means that the cocaine base was in the actual physical custody of Mr. Stanley. Constructive possession means that Mr. Stanley had the dominion and control or the right to exercise dominion and control over either the cocaine base itself or the property on which the cocaine base was found. Mere presence at the scene where the drugs were found is not enough to prove possession. The Defendant's knowledge and possession may be inferred when the substance is found on the property under the Defendant's control; however, this inference is simply an evidentiary fact to be taken into consideration by you along with the other evidence in this case and to be given the weight that you think it deserves. The State must also prove beyond a reasonable doubt that the amount of cocaine base was 28 grams or more but less than 100 grams.

Ladies and gentlemen, I'm now going to let you deliberate. Madam Foreperson, once again it is your responsibility to complete both verdict forms. There is one for each of the charges. In your Court of

General Sessions for the 9th Judicial Circuit Case Number 2014-GS-08-00027 -- and again, there is no significance to the fact that I read this verdict form to you -- we the jury find the Defendant Barry Jerrod Stanley not guilty of failure to stop for a blue light, or we the jury find the Defendant Barry Jerrod Stanley guilty of failure to stop for a blue light.

Madam Foreperson, you will sign the verdict form indicating that you have reached a unanimous decision. That means all 12 of you must agree. Once you have reached a unanimous decision, you will sign it and alert the bailiff that you have completed your deliberation on those verdict forms.

Case Number 2014-GS-080028, we the jury find the Defendant Barry Jerrod Stanley not guilty of trafficking in cocaine base 28 grams to 100 grams, or we the jury find the Defendant Barry Jerrod Stanley guilty of trafficking in cocaine base 28 grams to 100 grams.

Again, you will sign the verdict form indicating that you have reached a unanimous verdict, meaning all 12 of you must agree. Once those are completed, once again, you indicate to the bailiff that you have completed both verdict forms and you have reached a verdict and we will see you back in the courtroom.

Madam Foreperson, one of the questions that always comes up is will you read the verdict, will you publish the verdict. You will not. You will hand the verdict to my bailiff and I will make sure that the verdict will be published. You do not have any public speaking role as a result of your appointment as Foreperson.

Ladies and gentlemen, is there any member of the panel who feels that they would not be able, for whatever reason, to retire and begin deliberating at this time? If so, please signify at this time. Thank you. All 12 jurors have indicated that they are able to begin their deliberations. With the one caveat, this is the last time that I will say this to you: Do not begin your deliberations at this time. Do not begin discussing this case. We're going to be gathering the evidence and the verdict forms to send back to you. Once we have done that the bailiff will indicate to you that you may then begin your deliberations. So please go back to your room, take your comfort break and begin getting ready for your deliberations.

To my alternate, you have completed at this time your service to this case. Same admonishment to you: Do not begin your deliberations. Do not discuss this case with anyone until I release you. Thank you.

Please rise for the jury.

(Whereupon, the jury exited the courtroom at 2:43 p.m.)

THE COURT: Any objection, correction, addition to the charges from the State?

MR. PATTERSON: No objections, Your Honor.

MR. SHWACKE: No, Your Honor.

THE COURT: All right. All the evidence and the verdict form will go back to the jury.

(Whereupon the jury began to deliberate at 2:46 p.m.)

THE COURT: The note indicates that we have reached a verdict on one count and we are unable to reach a verdict on the second count so I will bring them in and give them the Allen charge and then send them back. Any objection?

MR. PATTERSON: No objection.

MR. SHWACKE: No objection.

THE COURT: Let's bring the jury in.

(Whereupon, the jury came into open Court at 4:57 p.m.)

THE COURT: Thank you. Please be seated. Ladies and gentlemen, I have received your note and so I am going to give you what is called the Allen charge. You have stated that you have been unable to agree on a

verdict in this case and as I instructed you earlier, the verdict of the jury must be unanimous on each indictment.

When a matter is in dispute it isn't always easy for even two people to agree, so when 12 people must agree it becomes increasingly more difficult. In most cases absolute certainty cannot be reached or expected. However, you have a duty to make every reasonable effort to reach a unanimous verdict.

In doing this you should consult with each other, express your own views and listen to the opinions of your fellow jurors. Tell each other how you feel and why you feel that way and discuss your differences with open minds. Although the verdict of the jury must be unanimous, every one of you has the right to your own opinion. The verdict you agree to must be your own verdict, the result of your own convictions and you should not give up any firmly held beliefs merely to be in agreement with your fellow jurors.

The majority should consider the minority's opinion and the minority should consider the majority's opinion. You should carefully consider and respect the opinions of each other and re-evaluate your position for reasonableness, correctness and impartiality. You must lay aside all outside matters and re-examine the

questions before you based upon the law and the evidence in this case.

If you do not agree on a verdict in this case I must declare a mistrial. In that case it does not mean that anybody wins. It just means that at some future time I will try this case with some other jury sitting exactly where you are. The same participants will come in and the same lawyers will ask basically the same questions and get basically the same answers and we'll go through this whole process again.

You were selected in the same manner and from the same source as any future jury will be and there is no reason for me to believe that this case will ever be submitted to 12 more intelligent, impartial and conscientious jurors than sit in front of me today. I ask you to return to your deliberations with the hope that you can arrive at a verdict within a reasonable time.

Madam Foreperson, it is five o'clock and as I indicated to you previously, we typically end around five o'clock, so if y'all think that after considering my new instructions if y'all would like to retire for the evening and come back in the morning, we'll entertain that request as well. But please go back and based upon my instructions to you, my Allen charge to

you, go back and consider and let me know how you wish to proceed. If you wish to remain for the evening, we will begin making arrangements to order dinner for you, so those are all issues that you can consider at this time. All right. Thank you. Please rise for the jury.

(Whereupon, the jury exited the courtroom at 5:10 p.m.)

THE COURT: You may be seated. Any objection to my charge?

MR. PATTERSON: No objection from the State.

MR. SHWACKE: None, Your Honor.

THE COURT: Okay. We'll be at ease.

(Whereupon, there was a pause in the proceedings.)

THE COURT: Let's bring them in.

(Whereupon, the jury entered open court at 5:08 p.m.)

THE COURT: Please be seated. I have received your note that you wish to continue your deliberations tomorrow; is that correct, Madam Foreperson?

THE FOREPERSON: Yes.

THE COURT: Please remember all of my admonitions. Do not discuss this case with anyone in any fashion. Please do not continue your deliberations. I know that's going to be difficult now that you have spent

the better part of the afternoon thinking about this case, but please go home and rest. Do not do any outside investigations. Do not go by the scene where any of these events are alleged to have taken place.

Please be back downstairs at nine a.m., and I will see you in the morning. Thank you. Please rise for the jury.

(Whereupon, the jury was excused for the evening at 5:10 p.m. and the trial of the case adjourned.)

(Whereupon, the trial of the case reconvened on April 9, 2014 and the jury continued to deliberate at 9:09 a.m.)

(Whereupon, the jury reached a verdict at 10:48 a.m.)

THE COURT: Mr. Schwacke, anything before we bring in the jury?

MR. SHWACKE: Well, Your Honor, I am assuming at some point you're going to ask them whether they obeyed your instructions ---

THE COURT: Correct.

MR. SHWACKE: --- because we didn't do that this morning before they began to deliberate.

THE COURT: Yes.

(Whereupon, the jury came into open court at approximately 10:56 a.m.)

THE COURT: Thank you. Please be seated. Good morning, ladies and gentlemen. I have not seen you yet this morning, but I understand that you have reached a verdict. Before you hand the form to the bailiff, I just want to make sure, did all 12 of you comply with my instructions over the evening hours? If you did, please raise your right hand. All of the jurors have complied with my instructions. Madam Foreperson, you may please hand the verdict forms to the bailiff. Thank you.

THE CLERK: The State of South Carolina versus Barry Jerrod Stanley, Indictment 2014-GS-08-00027, we the jury find the Defendant Barry Jerrod Stanley guilty of failure to stop for a blue light, signed by the Foreperson.

State of South Carolina versus Barry Jerrod Stanley, Case Number 2014-GS-08-00028, we the jury find the Defendant Barry Jerrod Stanley guilty of trafficking cocaine base, signed by the Foreperson, Ms. Kay -- Shenesey -- sorry.

If this is your verdict would you signify by raising your right hand? Thank you.

THE COURT: The record will reflect that all 12 jurors raised their hand.

MR. SHWACKE: Your Honor, we would ask they be

polled.

THE COURT: All right. Using the jury numbers we will have polling of the jury.

THE CLERK: Juror number 145, is this your verdict?

JUROR NUMBER 145: Yes.

THE CLERK: Is this still your verdict?

JUROR NUMBER 145: Yes.

THE CLERK: Juror number 13, is this your verdict?

JUROR NUMBER 13: Yes.

THE CLERK: Is this still your verdict?

JUROR NUMBER 13: Yes.

THE CLERK: Juror number 17, is this your verdict?

JUROR NUMBER 17: Yes.

THE CLERK: Is this still your verdict?

JUROR NUMBER 17: Yes.

THE CLERK: Juror number 18, is this your verdict?

JUROR NUMBER 18: Yes.

THE CLERK: Is this still your verdict?

JUROR NUMBER 18: Yes.

THE CLERK: Juror number 178, is this your verdict?

JUROR NUMBER 178: Yes.

THE CLERK: Is this still your verdict?

JUROR NUMBER 178: Yes.

THE CLERK: Juror number 23, is this your verdict?
JUROR NUMBER 23: Yes.
THE CLERK: Is this still your verdict?
JUROR NUMBER 23: Yes.
THE CLERK: Juror number 72, is this your verdict?
JUROR NUMBER 72: Yes.
THE CLERK: Is this still your verdict?
JUROR NUMBER 72: Yes.
THE CLERK: Thank you. Juror number 166, is this your verdict?
JUROR NUMBER 166: Yes.
THE CLERK: Is this still your verdict?
JUROR NUMBER 166: Yes.
THE CLERK: Juror number 63, is this your verdict?
JUROR NUMBER 63: Yes.
THE CLERK: Is this still your verdict?
JUROR NUMBER 63: Yes.
THE CLERK: Juror number 91, is this your verdict?
JUROR NUMBER 91: Yes.
THE CLERK: Is this still your verdict?
JUROR NUMBER 91: Yes.
THE CLERK: Juror number 10, is this your verdict?
JUROR NUMBER 10: Yes.
THE CLERK: Is this still your verdict?
JUROR NUMBER 10: Yes.

THE CLERK: Juror number 88, is this your verdict?

JUROR NUMBER 88: Yes.

THE CLERK: Is this still your verdict?

JUROR NUMBER 88: Yes.

THE CLERK: Judge, the jury has been polled. The verdict stands.

THE COURT: Thank you. Anything further required from the jury?

MR. SCHWACKE: Not at this time, Your Honor.

THE COURT: From the State?

MR. PATTERSON: Nothing from the State, Your Honor.

THE COURT: Ladies and gentlemen, this completes your service to this case. If you'll go back to your jury room, I'll be there in just a few moments to excuse you. I need to check on a few things to determine when you'll need to report back and then, Madam Foreperson, I have a task for you to sign documents. So please go back to your jury room. Thank you. Please rise for the jury.

(Whereupon, the jury exited the courtroom.)

THE COURT: Thank you. Be seated. Outside the presence of the jury, Mr. Schwacke?

MR. SHWACKE: Your Honor, I would renew all motions previously made. I don't know that we put on

the record specifically that I renewed my motions after we rested because we moved right into -- into our closings, but at this time I would renew all motions for new trial based upon the same circumstances, facts and legal arguments made at the close of the State's case and upon resting, at this time, Your Honor, that there's insufficient evidence to support the verdict.

THE COURT: Any response?

MR. PATTERSON: The State's response is the same as our first response. We rely on that response.

THE COURT: Any response to their response, Mr. Schwacke?

MR. SHWACKE: No, Your Honor.

THE COURT: I have heard nothing -- no indication that I would -- that there is any reason or any additional evidence or any legal argument that would cause me to change my initial ruling, so I stand by my initial ruling so are we ready to go forward on sentencing?

MR. PATTERSON: The State is prepared to move forward with sentencing.

THE COURT: Do you have your sheets?

MR. PATTERSON: I do, Your Honor. Sentencing sheets, I need -- I'm sorry. I thought you meant mine.

THE COURT: Thank you. This is a trafficking

third offense, Mr. Schwacke? Trafficking third?

MR. PATTERSON: It is a third offense, Your Honor.

THE COURT: Do you agree that your client has ---

MR. SHWACKE: They have provided me with sentencing sheets and copies of the indictments that would reflect a prior conviction that was in December of 2007; another drug offense from January 2005; another conviction from April 2001.

THE COURT: Do you have the sheets, Solicitor?

MR. PATTERSON: Yes, Your Honor.

THE COURT: Anything further from the State?

MR. PATTERSON: I have certified copies of the prior convictions. I'll furnish copies of those.

THE COURT: Mr. Schwacke has indicated that he's seen those. Anything further?

MR. PATTERSON: Nothing further from the State.

THE COURT: Anything further, Mr. Schwacke?

MR. SHWACKE: Your Honor, with regard to sentencing, Mr. Stanley has been in continuous custody for 387 days on these charges. Present in the courtroom and throughout the trial, his mother is here today. His mother was in attendance yesterday. He has a daughter who is 10 years old. I do not know if he wishes to address Your Honor with regards to sentencing. I do believe his mother does.

THE COURT: I'll be happy to hear from her. Failure to stop for a blue light, first or second?

MR. SHWACKE: I believe it's a first.

MR. PATTERSON: I believe it's a first offense.

THE COURT: Thank you. Right there is fine. Please state your full name for the record and spell your last name.

MS. STANLEY: My name is Jolene Stanley -- S-T-A-N-L-E-Y. Barry is my youngest. He has a 10-year-old daughter. I keep her sometimes when he's not around. I'm disabled. I have two sons. Barry doesn't have a father. Well, he had a father. He died. I'm the only one that took care of him. He's not a bad person. He's not a bad person at all. He helps me. He helps his daughter. He buys her clothes and he helps her with her homework and if he's gone for a long time, I don't know. I'm 53 years old and I'll try my best to help my children and my grandchildren, but if he's gone I don't know. I'll still be there because I'm going to stay until he comes back home. Sometimes when you have children you try to do the right thing by them. I also know that at one point in life they'll grow up and then they make their own decisions. Sometimes if they would just only listen, if they would sometimes just only listen to what their mom and daddy got to say there

wouldn't be all this. All I know now is I'm going to have to go back home and tell his daughter and that's going to hurt her like it's hurting me right now. That's all.

THE COURT: Thank you, Ms. Stanley.

MS. STANLEY: Thank you.

THE COURT: Solicitor, this is a minimum mandatory of 25 up to 30; is that correct?

MR. PATTERSON: That's correct, Your Honor.

THE COURT: And a $50,000 fine?

MR. PATTERSON: That's correct, Your Honor.

MR. SHWACKE: It would be an 85 percent sentencing so for that reason we would ask that you (inaudible).

THE COURT: And have you -- I understand he's also pending some charges?

MR. SHWACKE: There are some Berkeley charges that we're not trying with this case.

THE COURT: Did those occur before or after this?

MR. PATTERSON: They're all connected to this offense, or this same incident. There was a charge in connection with this offense for the Defendant's driving. He attempted to strike one of the officers. That was not tried as part of this case.

THE COURT: So there's another trafficking. When did that occur? There's a trafficking pending?

MR. PATTERSON: No, there's an armed robbery pending in Charleston.

THE COURT: Did that occur while he was under bond?

MR. PATTERSON: This occurred while he was out on bond for the armed robbery event.

THE COURT: And another pending failure to stop for a blue light ---

MR. PATTERSON: In Charleston.

THE COURT: --- in Charleston. Mr. Stanley, anything you wish to tell me?

THE DEFENDANT: I ask can you please have mercy on me, ma'am? Honestly, I don't agree with the verdict. I ask that you please have mercy on me.

THE COURT: My options are fairly limited, Mr. Stanley. I must sentence you for a minimum of 25 years up to 30 years and on the failure to stop for a blue light, it's 90 days up to three years. Do you understand those are the possible punishments?

The trafficking, because it is your third offense, is considered a violent and a serious charge. Do you understand what those two classifications mean for you?

THE DEFENDANT: Yes, ma'am.

THE COURT: And do you understand you have the right to appeal this sentence?

THE DEFENDANT: Yes, ma'am.

THE COURT: I know Mr. Schwacke also probably told you not to say anything because you have the right to appeal this case, but is there anything before I impose sentence upon you?

THE DEFENDANT: Would you please have mercy and take my family into consideration?

THE COURT: Thank you, Mr. Stanley. Anything further, Mr. Schwacke?

MR. SHWACKE: No, Your Honor.

THE COURT: Anything further from the State?

MR. PATTERSON: Nothing further from the State, Your Honor.

THE COURT: It is the order of the Court on Indictment 2014-GS-08-00027 that you be committed to the State Department of Corrections for a term of three years, giving credit for 387 days. It is the order of the Court on Indictment 2014-GS-08-00028 that you be committed to the State Department of Corrections for a term of 30 years and pay a fine of $50,000, giving credit for 387 days. Those indictments are to run consecutive. Good luck to you, sir.

(Whereupon, the trial of the case was concluded.)

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

CERTIFICATE

Be it known that I, the undersigned Reba C. Hayes, CVR, official court reporter for the State of South Carolina, transcribed the foregoing transcript of 322 typewritten pages which represents a true, accurate and complete transcription of the testimony so given and the evidence introduced at the time and place aforesaid to the best of my skill and ability;

That I am not related to nor an employee of any of the parties hereto, nor a relative or employee of any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action.

Witness my hand this 20th day of August, 2014.

Reba C. Hayes

REBA C. HAYES, CVR
(Original signature in Blue Ink)

VCD2013-03-00731

WITNESSES

Hanahan Police Department

AGENCY CASE NUMBER

2013006828

ARREST WARRANT NUMBER

2013A0820300292

DATE OF ARREST

March 18, 2013

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date: 2-11-14

VERDICT Guilty

4/9/14

Foreperson of Petit Jury *Date:*

INDICT

DOCKET NO. 2014GS0800027

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

February Term 2014

THE STATE

Vs

BARRY JERROD STANLEY
DOB: [redacted]
B/M

Indictment for

Failure to Stop for a Blue Light

FILED
14 FEB 11 PM 12:59
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

324

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

INDICTMENT

At a Court of General Sessions, convened on February 11, 2014 the Grand Jurors of Berkeley County present upon their oath:

Failure to Stop for a Blue Light

That Barry Jerrod Stanley did in Berkeley County, South Carolina, on or about March 11, 2013, while driving a motor vehicle on a road, street, or highway of the State, did knowingly, willfully, intentionally, and in the absence of mitigating circumstances, fail to stop for a law enforcement vehicle after being signaled by a flashing light and/or a siren to do so; all in violation of Section 56-5-750 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

MICHAEL E. PATTERSON
ASSISTANT SOLICITOR

VCD2013-03-00731

WITNESSES

Hanahan Police Department

AGENCY CASE NUMBER

2013006828

ARREST WARRANT NUMBER

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INDICT

DOCKET NO. 2014GS0800028

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

February Term 2014

THE STATE

Vs

BARRY JERROD STANLEY
DOB: [redacted]
B/M

Indictment for

Trafficking Cocaine Base 28g-100g

FILED
14 FEB 11 PM 12:59
MARY P. BLOOM
CLERK OF COURT
BERKELEY COUNTY, S.C.

JH

JH

326

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

INDICTMENT

At a Court of General Sessions, convened on February 11, 2014 the Grand Jurors of Berkeley County present upon their oath:

Trafficking Cocaine Base 28g-100g

That Barry Jerrod Stanley did in Berkeley County, South Carolina, on or about March 11, 2013, knowingly sell, manufacture, deliver, purchase, or bring into this State; or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State; or did possess or attempt to possess a controlled substance or a controlled substance analogue, to wit: Cocaine Base, in excess of 28 grams; in violation of 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 case made and provided.

MICHAEL E. PATTERSON
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."

July 8th, 2015

Tiffany L. Butler
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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Berkeley County

Kristi Lea Harrington, Circuit Court Judge

THE STATE, RESPONDENT,

V.

BARRY JERROD STANLEY, APPELLANT

APPELLATE CASE NO. 2014-000767

FINAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the trial judge erred by failing to direct a verdict of acquittal on the charge of trafficking in cocaine base, third offense, where the State failed to introduce direct or substantial circumstantial evidence at trial that Appellant was in constructive possession of the drugs found on the ground?

STATEMENT OF THE CASE

On February 11, 2014, a Berkeley County Grand Jury indicted Appellant for failure to stop for a blue light and trafficking in cocaine base in excess of twenty-eight grams, but less than one-hundred grams, third offense. R. 324 – 327. On April 7, 2014, Appellant's case proceeded to trial before the Honorable Kristi Harrington and a jury. R. 1. David Schwake and Chad Shelton represented Appellant. Michael Patterson and Charles Condon represented the State. R. 1.

After a three-day trial, Appellant was found guilty of both charges. R. 313. Judge Harrington sentenced Appellant to three years imprisonment for failure to stop for a blue light charge and thirty years imprisonment for trafficking cocaine base. R. 322. Both sentences were to run consecutive. R. 322.

Appellant appealed his convictions and sentences. This brief follows.

ARGUMENT

The trial judge erred by failing to direct a verdict of acquittal on the charge of trafficking in cocaine base, third offense, where the State failed to introduce direct or substantial circumstantial evidence at trial that Appellant was in constructive possession of the drugs found on the ground.

The Charge

To prove that Appellant is guilty of trafficking in cocaine base, the State must show that Appellant "knowingly sells, manufactures, delivers, purchases, or brings into this State, or who provides financial assistance or otherwise aids, abets, attempts, or conspires to sell, manufacture, deliver, purchase, or bring into this State, or who is knowingly in actual or constructive possession or who knowingly attempts to become in actual or constructive possession of ten grams or more of . . . cocaine base." S.C. Code Ann. § 44-53-375 (C) (1976).

Actual possession occurs "when the drugs are found to be in the actual physical custody of the person charged with possession." State v. Ballenger, 322 S.C. 196,199, 470 S.E.2d 851, 854 (1996). However, constructive possession occurs "when the person charged with possession has dominion and control over either the drugs or the premises upon which the drugs are found." State v. Lane, 271 S.C. 68, 73, 245 S.E.2d 114, 116 (1978); State v. Ellis, 263 S.C. 12, 22, 207 S.E.2d 408, 413 (1974).

Relevant Facts

On March 11, 2013, in Berkeley County, South Carolina, Evette Nelson, Appellant's girlfriend, ran to the apartment of her neighbor, Greg Rider, and claimed that Appellant assaulted her. R. 76 – 77. Rider was outside playing basketball with his son when he saw Nelson run over to his apartment. R. 97, lines 20 – 25. Rider brought Nelson into his apartment and asked his wife to call the police. R. 98, lines 10 – 12. Rider claimed that after calling the police, he saw Appellant

driving an older model, dark blue Crown Victoria that looked "like an old police car." R. 99, lines 21 – 24. Rider stated that Appellant parked, walked into the apartment that he shared with Nelson, walked right back out, and drove away. R. 98, line 22 – R. 99, line 6. The police arrived at the apartment about fifteen seconds after Appellant left. R. 99, lines 6 – 8.

Once officers responded, the description that Nelson gave of Appellant was dispatched to other officers in the area. R. 112, lines 2 – 6. There were no drugs found in the apartment. R. 75, lines 12 – 13. Nelson stated that she had never seen him with drugs in the apartment and that Appellant did not have drugs in the apartment on the day of the alleged incident. R. 75, lines 14 – 15.

Officer Dodd observed the vehicle that matched the description drive past him in the opposite direction. Dodd turned around and followed the driver who, according to Dodd, was driving at a high rate of speed. R. 112, lines 18 – 23. Dodd initiated his blue lights and attempted a traffic stop, but the driver did not stop. R. 112, lines 23 – 25.

Dodd stated that he got a "brief look" at the driver, who matched the description of Appellant. R. 113, lines 9 – 10. After following the car through several neighborhoods, including Spring Hill Road, Dodd allowed other officers to assume the pursuit. R. 114, lines 4 – 10. When Dodd returned to the police station, he received a call that drugs that had been thrown out of a fleeing car onto Spring Hill Road in Berkeley County. R. 114, lines 18 – 24. Dodd did not see the driver throw anything out of the car while in pursuit. R. 116, lines 22 – 24. He claimed that he lost sight of the driver in "the approximate area where the drugs were recovered." R. 116, line 25 – R. 117, line 1.

William Loflin told officers that he was outside on the back porch when he heard sirens. R. 136, lines 18 – 24. Loflin walked out into the backyard to get a better view of Spring Hill Road. R.

137, lines 1 – 3. He claimed to witness a "blue-colored" Crown Victoria "flying by." According to Loflin, the driver was "looking over his shoulder the whole time" and threw "a bag" out of the car. R. 137, lines 3 – 6. Loflin asked his roommate, Chris Rowland, to go and retrieve the bag thrown on the side of the road. R. 138, lines 10 – 13. Loflin never identified Appellant as the driver. He was never shown a photo line-up. The contents of the bag tested positively for cocaine base and weighed 28.8 grams. R. 224 – 25.

Appellant abandoned the car during the chase and fled on foot. He was later located and arrested. R. 205 – 206; R. 129 – 130. The Crown Victoria, which belonged to Evette Nelson, was photographed, searched and processed for evidence. R. 198, line 18 – R. 199, line 4. Officers discovered a thumb print on the rearview mirror that matched Appellant. R. 258, lines 9 – 11. Officers did not find any drugs, drug paraphernalia, or guns inside the car. R. 211, line 17 – R. 212, line 12. There were no fingerprints recovered from the plastic bag of cocaine base. R. 224, line 4 – R. 225, line 17.

Motion for Directed Verdict of Acquittal

At the close of the State's case, defense counsel moved for a directed verdict of acquittal on the trafficking cocaine base charge. R. 262. Counsel argued that the State's "evidence at best is speculative" as to Appellant's involvement. R. 262, lines 3 – 4. Counsel explained that the State "ha[d] not proven the possession and control of the drugs by [Appellant]." R. 262, lines 10 – 12. Further, the State had not shown "either actual or constructive possession." R. 262, lines 13 – 14.

The solicitor argued that the State had presented sufficient evidence to send the case to the jury. The solicitor stated that there was eyewitness testimony that put Appellant in the car, as well as fingerprint evidence. R. 262, lines 23 – 25. In addition, argued the solicitor, there was a witness who saw a bag get "tossed" out of the window of the speeding car. R. 262, line 25 – R. 263, line 2.

Judge Harrington denied defense counsel's motion.

Discussion

The trial judge erred by failing to direct a verdict of acquittal on the charge of trafficking cocaine base, third offense. The State failed to introduce direct or substantial circumstantial evidence at trial that Appellant was in constructive possession of the drugs officers found on the ground.

A criminal defendant is entitled to a directed verdict when the State fails to present evidence of the offense charged. State v. McCombs, 368 S.C. 489, 493, 629 S.E.2d 361, 362-63 (2006); State v. Cherry, 361 S.C. 588, 593, 606 S.E.2d 475, 478 (2004); State v. McHoney, 344 S.C. 85, 97, 544 S.E.2d 30, 36 (2001). When reviewing the trial judge's denial of a directed verdict, an appellate court must review the evidence presented at trial in the light most favorable to the State. State v. Weston, 367 S.C. 279, 292, 625 S.E.2d 641, 648 (2006); State v. Buckmon, 347 S.C. 316, 321, 555 S.E.2d 402, 404 (2001). Where the State relies "exclusively" on circumstantial evidence, such evidence must be "substantial" before the judge submits the case to a jury. State v. Mitchell, 341 S.C. 406, 409, 535 S.E.2d 126, 127 (2001). When the evidence merely raises a suspicion that the defendant is guilty, the trial judge should grant a directed verdict motion. State v. Lollis, 343 S.C. 580, 584, 541 S.E.2d 254, 256 (2001).

Here, the State's evidence of constructive possession was purely circumstantial. Appellant was not arrested with or near the bag of drugs. Although there was a witness who claimed to see a bag being thrown out of the car, that witness did not identify Appellant as the one who threw the bag. Appellant's finger prints were not found on the bag. Further, Officer Dodd, who initiated the pursuit and continued to follow Appellant on the street where the bag of drugs was found, did not see Appellant throw anything out of the car.

When officers searched the car, they found no evidence that drugs were inside of the car. The fact that officers discovered Appellant's fingerprint in the car has no bearing on whether Appellant was in possession of the drugs. Evette Nelson told the police that Appellant drove her car often.

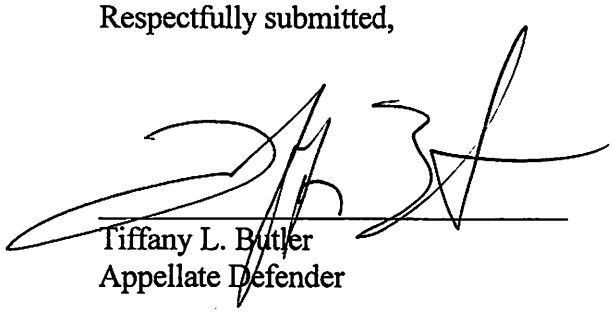
See State v. Bostick, 392 S.C. 134, 708 S.E.2d 774 (2011) (holding that the trial court should have granted a directed verdict of acquittal on the charge of murder where there was no direct evidence linking defendant to the crime scene or items from the victim's house found in a burn pile on defendant's mother's property, there was no testimony that defendant had control over the burn pile, and blood found on defendant's pants could not be matched to the victim's DNA); State v. Odems, 395 S.C. 582, 720 S.E.2d 48 (2011) (holding that the circumstantial evidence presented by the State did not tend to prove defendant's guilt of burglary, larceny, and conspiracy, where the only evidence presented was that defendant was with the burglars in the stolen car less than ninety minutes after the burglary, defendant fled from law enforcement, and defendant asked an uninvolved person to lie for him); State v. Martin, 340 S.C. 597, 533 S.E.2d 572 (2000) (holding that evidence that car resembling the one in defendant's possession was parked at the victim's apartment complex on the night of the murder failed to place defendant at the scene of the crime or show his participation, where there was no evidence that the car belonged to defendant's girlfriend or that defendant entered the victim's apartment near the time of the murder); and State v. Schrock, 283 S.C. 129, 322 S.E.2d 450 (1984) (holding that defendant was entitled to a directed verdict of not guilty where no evidence placed defendant at the scene of the murders, experts could not testify that footprint found at scene was made by shoes that purportedly belonged to defendant, the State could not establish that cigarettes found at the scene had been smoked by defendant, and handprint found at the scene was not defendant's handprint).

Because the evidence the State introduced at trial raised only a suspicion that Appellant possessed the drugs found on the ground, the trial judge should have directed a verdict of acquittal on the charge of trafficking in cocaine base.

CONCLUSION

For the reasons argued, Appellant Barry Jerrod Stanley respectfully requests this court to direct a verdict of acquittal on the charge of trafficking in cocaine base, third offense.

Respectfully submitted,



Tiffany L. Butler
Appellate Defender

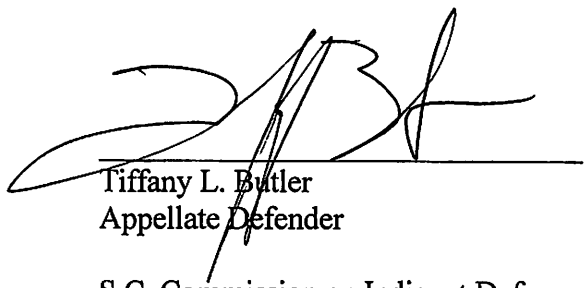
ATTORNEY FOR APPELLANT

This 24th day of July, 2015.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR.

July 24, 2015



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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Berkeley County
Kristi Lea Harrington, Circuit Court Judge

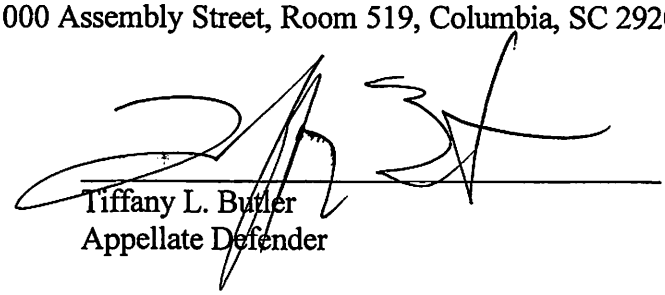
THE STATE, RESPONDENT,

V.

BARRY JERROD STANLEY, APPELLANT

CERTIFICATE OF SERVICE

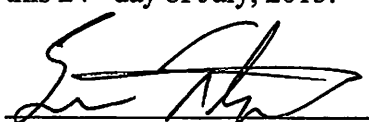
The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant and Designation of Matter in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 24th day of July, 2015.



Tiffany L. Butler
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 24th day of July, 2015.



(L.S.)
Notary Public for South Carolina
My Commission Expires: October 30, 2022.

TATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Kristi L. Harrington, Circuit Court Judge

Appellate Case No. 2014-000767

THE STATE, ...RESPONDENT

v.

BARRY JERROD STANLEY, ...APPELLANT.

FINAL BRIEF OF RESPONDENT

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The trial court properly denied Appellant's motion for directed verdict when evidence was presented establishing that cocaine base in excess of twenty-eight grams, but less than one-hundred grams, was recovered by an eyewitness who observed Appellant, as the only occupant of the vehicle, throw the drugs from the car during a police chase, when Appellant's fingerprints were found in that vehicle in a location an officer observed Appellant touch during the chase, and when witness testimony identified Appellant as the aggressor in a domestic dispute arising from an argument about drugs in the home, that Appellant was seen leaving the scene of the domestic dispute as the sole occupant of the car from which the drugs were thrown and where the victim of the domestic dispute reported that Appellant had drugs with him in the vehicle. 3

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State v. Grant, 275 S.C. 404, 272 S.E.2d 169 (1980) 14

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State v. Jackson, 395 S.C. 250, 717 S.E.2d 609 (Ct. App. 2011) 11

State v. Jenkins, 270 S.C. 365, 242 S.E.2d 420 (1978) 10

State v. McCombs, 367 S.C. 489, 629 S.E.2d 361 (2006) 9

State v. Mollison, 319 S.C. 41, 459 S.E.2d 88 (Ct. App. 1995) 11

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State v. Simmons, 269 S.C. 649, 239 S.E.2d 656 (1977) 10

State v. Walker, 366 S.C. 643, 623 S.E.2d 122 (Ct. App. 2005) 12

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State v. Zeigler, 364 S.C. 94 9

Statutes:

S. C. Code Ann. § 44-53-375 (C) (2) (c) (Supp. 2014) 10

S.C. Code Ann. § 44-53-375 (C) 10

RESPONDENT'S STATEMENT OF ISSUES ON APPEAL

Did the trial court properly deny Appellant's motion for directed verdict when evidence was presented establishing that cocaine base in excess of twenty-eight grams, but less than one-hundred grams, was recovered by an eyewitness who observed Appellant, as the only occupant of the vehicle, throw the drugs from the car during a police chase, when Appellant's fingerprints were found in that vehicle in a location an officer observed Appellant touch during the chase, and when witness testimony identified Appellant as the aggressor in a domestic dispute arising from an argument about drugs in the home, that Appellant was seen leaving the scene of the domestic dispute as the sole occupant of the car from which the drugs were thrown and where the victim of the domestic dispute reported that Appellant had drugs with him in the vehicle?

STATEMENT OF THE CASE

The Grand Jury of Berkley County indicted Appellant for failure to stop for a blue light and trafficking in cocaine base in excess of twenty-eight grams but less than one-hundred grams, third offense. (R. 324-325). Appellant proceeded to trial on April 7, 2014 before the Honorable Kristi Harrington, and a jury. The jury found Appellant guilty of both charges, and the Judge Harrington imposed sentences of three years imprisonment for the failure to stop for a blue light charge and thirty years imprisonment for trafficking cocaine base, consecutive. (R. 322).

Appellant filed a timely appeal and filed and served the brief of Appellant. This brief of Respondent follows.

ARGUMENT

The trial court properly denied Appellant's motion for directed verdict when evidence was presented establishing that cocaine base in excess of twenty-eight grams, but less than one-hundred grams, was recovered by an eyewitness who observed Appellant, as the only occupant of the vehicle, throw the drugs from the car during a police chase, when Appellant's fingerprints were found in that vehicle in a location an officer observed Appellant touch during the chase, and when witness testimony identified Appellant as the aggressor in a domestic dispute arising from an argument about drugs in the home, that Appellant was seen leaving the scene of the domestic dispute as the sole occupant of the car from which the drugs were thrown and where the victim of the domestic dispute reported that Appellant had drugs with him in the vehicle.

Issue and Ruling

Appellant moved at trial for a directed verdict of acquittal at the close of the State's case arguing the State failed to prove his actual or constructive possession and control of the drugs. (R. 262). The State argued the evidence supported Appellant's actual possession. (R. 262 – 264). Appellant rested without presenting witness testimony and renewed the motion. (R. 270; 277; 316 - 317). The court denied the motion finding that eyewitness testimony and fingerprint evidence placed Appellant as the driver of a vehicle from which 28.84 grams of cocaine base was thrown, police testimony confirmed that they engaged Appellant in a high speed chase past the location where the drugs were found, that the drugs were thrown from the window of the vehicle Appellant was driving

during the pursuit and retrieved moments later, and that the victim of the initial dispute reported that Appellant took her vehicle which was later identified as the car from which the drugs were thrown and reported that Appellant had drugs and possibly a gun in the vehicle with him when he fled. (R. 264 – 266). It was the State's theory of the case that Appellant was in actual possession of the drugs. (R. 270 – 276; 287; 293; 304 -305).

Trial Evidence

On March 11, 2013, Evette Nelson ran out of her apartment, frantic, toward neighbors playing basketball in the parking lot and asked them to "call the police, he's beating me, he's going to kill me." (R. 77, 80; 90; 93; 97). Greg Rider testified that he and his son calmed Ms. Nelson down but could not call the police because they did not have their phones. However, he observed Appellant come out of his apartment, get into his blue Crown Victoria, and drive slowly through the basketball court while Ms. Nelson backed up to another building. Appellant then traveled through the gate and Mr. Rider took Nelson to his apartment and asked his wife to call the police. Rider instructed his son to stay there to protect the two women. (R. 98; 92 – 93; 98 - 101). Once inside Nelson was still hysterical and saying that Appellant was going to "kill her." Tanya Deane called 9-1-1 while her husband, Rider, went back outside to make sure that Appellant did not return. (R. 93-98). Rider saw Appellant return to the apartment complex, stop the car in front of Appellant's apartment, and run into his apartment while the car was running, and then get in the vehicle and drive to where Rider stood outside waiting on officers to arrive. (R. 98 - 101). Appellant stopped, made eye contact with Rider, and drove off. Law enforcement officers arrived not more than 15 seconds later. (R. 99). Rider said no one was in the vehicle with Appellant and that he was able to look

at Appellant driving the vehicle twice, once as Appellant drove through the basketball court and a second time when Appellant returned to the apartment. (R. 99; 100). Rider had no doubt that Appellant was the individual he saw driving the vehicle that day and described the vehicle Appellant was driving as a dark blue older model Crown Victoria with large wheels. (R. 99; 100- 101). He also stated that Appellant was the only person he had seen driving that vehicle. Ms. Nelson confirmed that the Crown Victoria belonged to her but that Appellant had permission to use it. (R. 77 - 79; 89; 94; 100). Not only did Rider know Appellant from previous interactions with him, he also identified Appellant in a photographic lineup as the person he saw driving the vehicle that day. (R. 97; 101; 187; 189).

Corporal Ellwood and Detective Camp arrived at the apartment building and relayed to other officers the information that Appellant left in a Crown Victoria. (R. 104 – 105; 110). Nelson appeared very upset and fearful of Appellant and provided Camp a cell phone photograph of Appellant which was relayed by text to officers pursuing Appellant. (R. 106 – 108; 157). Ms. Nelson advised the officers that she and Appellant argued because she did not want Appellant to keep drugs in the apartment with her children. (R. 107; 280). Ms. Nelson also reported that Appellant took her vehicle and had drugs and possibly a firearm in the vehicle with him. (R. 157; 162). This information was also relayed to other officers. (R. 157).

Officer Dodd, an off duty resource officer, heard the commotion over the police radio about a black male who left the scene in a dark Crown Victoria and requested permission to join the pursuit as it was near his location. (R. 111 – 12). Officer Dodd was the first to encounter Appellant driving in the opposite direction at a high rate of

speed. (R. 112; 120 – 21). Dodd turned around, activated his blue lights and attempted to make a traffic stop, but Appellant did not stop. (R. 112-113). Instead, Appellant attempted to hit Dodd's patrol car but a collision was avoided when Dodd swerved off of the road. (R. 114). Dodd remained the lead officer in pursuit through several neighborhoods at which point Corporal Lanphere took over. (R. 114). Dodd identified Appellant as the person he saw driving the Crown Victoria that day. (R. 122; 124).

While the pursuit of Appellant was still active, a call was made to the police department that narcotics had been thrown out of a dark blue Crown Victoria that was currently involved in a police chase as the pursuit passed the intersection of Spring Hill and Fort Drive. (R. 115; 158-159). Corporal Ellwood and Officer Dodd responded. (R. 114; 123; 158). Dodd testified that he did not see anything being thrown from Appellant's vehicle during his pursuit of Appellant in that neighborhood but stated that he slowed as he and Appellant approached a sharp turn because he feared children might be present. Dodd testified that the narcotics were discovered along the sharp turn where he lost sight of Appellant. (R. 116 – 119; 121). Officers Dodd and Ellwood spoke with and took a statement from William Loflin. (R. 115- 116; 158; 164). Loflin reported that he heard the sirens and saw the blue Crown Victoria being driven by a black male and being pursued by officers in the residential neighborhood. Loflin reported that as the pursuit passed, he saw narcotics coming out of the Crown Victoria Appellant was driving. (R. 115 – 116; 163 - 164; 166). The item thrown from the car was given to the officers who described the contents as a clear plastic bag containing a disc-shaped substance and several shards. (R. 158 – 160). Ellwood conducted a quick test of the substance. It tested positive for a cocaine based substance. (R. 160; 149). Ellwood took

the evidence into custody and interviewed the witnesses, Rowland and his coworker, Lofin, who was out in the backyard smoking when he heard sirens then saw Appellant driving the car as it raced by and Appellant throw something out of the window. (R. 136-141).

William Loflin testified that he was on the back porch of the home smoking a cigarette when he heard sirens in the neighborhood. The residential neighborhood has only one access in and out. (R. 136). He walked into the backyard to investigate what he heard and saw a blue Crown Victoria "come flying by" and cut the corner with a "siren" behind it trying to catch up. Loflin stated that the driver of the Crown Victoria was looking over his shoulder the entire time for the officer in pursuit. Loflin stated that the driver threw a bag out of the vehicle and took off. Loflin testified that the officer following the Crown Victoria would not have been in a position to see the bag being tossed out. (R. 136 – 137; 140; 143 -146; 150 – 153). Loflin called to his roommate to retrieve the item that was thrown from the car and to call officers about what they found. (R. 138; 153). Loflin saw his roommate pick up the bag and identified the contents of the bag as crack and also identified the drugs in court as the item he saw thrown from the Crown Victoria. (R. 141 – 142; 148 – 149).

Christopher Rowland testified that William Loflin was his roommate on the day in question and that he also heard sirens. He also testified that Loflin advised him that he saw a car fly by and throw a bag out of the window. Rowland went outside and found the bag on the side of the road. He retrieved the bag based upon his concern the bag contained drugs that would be found by children in the neighborhood. He called law enforcement officers to report what he found. (R. 168 – 169; 179). He turned the bag

over to officers when they arrived and identified the drugs in court as the item he retrieved that day. (R. 170 – 175). The bag contained 28.85 grams of crack cocaine or cocaine base. (R. 206 – 208; 219 – 225).

Officer Lanphere also received the call about the domestic assault and the fact that the assailant fled in a blue Crown Victoria. Lanphere waited near the neighborhood where Appellant was being pursued and took over the pursuit. (R. 126 – 129; 182). Appellant was identified as the driver and sole occupant of the blue Crown Victoria. (R. 133). Lanphere saw Appellant touch the rear-view mirror in the vehicle during his pursuit of Appellant. (R. 133). Officers Lanphere and Beaudoin observed as Appellant collided with another vehicle. (R. 129 – 131; 182). Appellant abandoned the Crown Victoria and fled on foot. (R. 129-130). Appellant's fingerprints were found on the rear-view mirror of the blue Crown Victoria Appellant abandoned. (R. 200; 206; 253 – 259). Appellant was charged, and found guilty of failure to stop for a blue light and trafficking in cocaine base in excess of twenty-eight grams, but less than one-hundred grams, third offense.

Discussion

Appellant argues on appeal that the trial judge erred in failing to direct a verdict of acquittal on the charge of trafficking cocaine base, contending the State failed to introduce direct or substantial circumstantial evidence at trial that he was in constructive possession of the drugs found on the ground.

"When ruling on a directed verdict motion, the trial court is concerned with the existence or nonexistence of the evidence, not its weight. State v. Weston, 367 S.C. 279, 625 S.E.2d 641 (2006). "A defendant is entitled to a directed verdict when the State fails

to produce evidence of the offense charged." State v. McCombs, 367 S.C. 489, 493, 629 S.E.2d 361, 362 - 63 (2006). However, the trial judge should deny a directed verdict motion and submit the case to the jury if there is any direct or substantial circumstantial evidence reasonably tending to prove the guilt of the accused or from which guilt may be fairly or logically deduced. State v. Cherry, 361 S.C. 588, 606 S.E.2d 475 (2004) (emphasis added). "[A] trial [court] is not required to find that the evidence infers guilt to the exclusion of any other reasonable hypothesis." State v. Zeigler, 364 S.C. 94, 102 – 13, 610 S.E.2d 859, 863 (Ct. App. 2005). In State v. Cherry, 361 S.C. 588, 593-594, 606 S.E.2d 475, 478 (2004), the Court described circumstantial evidence and direct evidence as follows:

> There are two types of evidence which are generally presented during a trial – direct evidence and circumstantial evidence. Direct evidence is the testimony of a person who asserts or claims to have actual knowledge of a fact, such as an eyewitness. Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact.

Where the State relies exclusively on circumstantial evidence, the trial court must submit the case to the jury if there is any substantial circumstantial evidence which reasonably tends to prove the guilt of the accused, or from which his guilt may be fairly and logically deduced. State v. Buckmon, 347 S.C. 316, 555 S.E.2d 402 (2001). A case is considered a direct evidence case, rather than circumstantial, when the State relies upon direct evidence to prove the acts of the crime and the identity of the perpetrator, and circumstantial evidence was merely corroborative or offered to demonstrate intent. State v. Salisbury, 343 S.C. 520, 541 S.E.2d 247 (2001) (stating the officers' personal observations and opinions of the defendant's actions, appearance, and condition

constitute direct evidence of DUI because it is based on the officers' actual knowledge of the situation and requires no inference from the jury) (citing State v. Carroll, 277 S.C. 306, 286 S.E.2d 382 (1982); State v. Jenkins, 270 S.C. 365, 242 S.E.2d 420 (1978); State v. Simmons, 269 S.C. 649, 239 S.E.2d 656 (1977)).

On appeal from the denial of a directed verdict, an appellate court must view the evidence and all reasonable inferences in light most favorable to the State. State v. Weston, 367 S.C. 279, 625 S.E.2d 641 (2006). If there is any direct or substantial circumstantial evidence reasonably tending to prove the guilt of the accused, an appellate court must find the case was properly submitted to the jury." State v. Cherry, 361 S.C. at 588, 593 – 94, 606 S.E.2d 475, 478. "[U]nless there is a total failure of evidence tending to establish the charge laid in the indictment, the trial judge's ruling upon a motion for a directed verdict must stand absent an error of law." State v. Nix, 288 S.C. 492, 496, 343 S.E.2d 627, 629 (Ct. App. 1986).

Appellant was charged with trafficking cocaine base, third offense, in violation of S. C. Code Ann. § 44-53-375 (C) (2) (c) (Supp. 2014). S.C. Code Ann. § 44-53-375 (C) provides in pertinent part that "[a] person who . . . is knowingly in actual or constructive possession or knowingly attempts to become in actual or constructive possession of ten grams or more of . . . cocaine base . . . is guilty of a felony which is known as "trafficking in . . . cocaine base . . . ."

Conviction by possession of illegal drugs "requires proof of possession - either actual or constructive, coupled with knowledge of its presence." State v. Hudson, 277 S.C. 200, 202, 284 S.E.2d 773, 774 (1981); State v. Bowers, 301 S.C. 457, 392 S.E.2d 482 (Ct. App. 1990). "Actual possession occurs when the drugs are found to be in the

actual physical custody of the person charged with possession, while constructive possession occurs when the person charged with possession has dominion and control over either the drugs or the premises upon which the drugs are found." State v. Ballenger, 322 S.C. 196, 199, 470 S.E.2d 851, 854 (1996), citing State v. Ellis, 263 S.C. 12, 207 S.E.2d 408 (1974); State v. Mollison, 319 S.C. 41, 459 S.E.2d 88 (Ct. App. 1995). "In drug cases, the element of knowledge is seldom established through direct evidence, but may be proven circumstantially." State v. Jackson, 395 S.C. 250, 255, 717 S.E.2d 609, 612 (Ct. App. 2011), citing State v. Hernandez, 382 S.C. 620, 677 S.E.2d 603 (2009).

The theory of the State's case and the evidence presented at trial establish that the crack cocaine in question was in Appellant's actual possession. (R. 287). The evidence reflects that Appellant and Ms. Nelson argued over Appellant having drugs in the apartment and that Appellant physically assaulted and threatened Nelson's life during the altercation. Nelson fled and sought assistance from neighbors Greg Rider, Rider's wife, Tanya, and their son, Preston. Law enforcement officers were immediately summoned. Rider, who knew Appellant, saw Appellant leave the apartment complex in the blue Crown Victoria belonging to Ms. Nelson but which Appellant had permission to drive. In fact, Appellant was the only person Rider had seen driving that vehicle. Appellant returned to the apartment complex moments later. Appellant pulled in front of his apartment, left the blue Crown Victoria running, and dashed inside his apartment momentarily. Appellant again fled the apartment complex no more than fifteen seconds before officers arrived. Appellant was the only person in the Crown Victoria. When officers arrived, Ms. Nelson reported that Appellant assaulted her and had drugs in the

vehicle and possibly a gun. Nelson provided a description and photograph of Appellant which was immediately relayed by text message to other officers along with a radio transmission about Appellant which resulted in the prompt sighting and pursuit of Appellant by Officer Dodd. The individual driving the Crown Victoria seen by Officer Dodd matched the description given of the perpetrator and was identified by Officer Dodd as Appellant. Appellant was the sole occupant of the Crown Victoria and refused to stop for the officers' blue lights and sirens, swerved toward a patrol car in an effort to escape and led officers on a high-speed chase indicating his consciousness of guilt. See State v. Burgess, 408 S.C. 421, 759 S.E.2d 407 (Ct. App. 2014), citing State v. Walker, 366 S.C. 643, 623 S.E.2d 122 (Ct. App. 2005).

During a portion of his pursuit, Appellant drove at a high rate of speed through a neighborhood with only one road allowing for entry and exit. Appellant was pursued by a law enforcement officer into the neighborhood. As Appellant sped through a sharp turn and while looking back at the patrol car in pursuit, Appellant threw a bag of cocaine base from the Crown Victoria at a point when the officer slowed his vehicle and was out of eyesight of Appellant's vehicle. However, a resident of the neighborhood saw Appellant's pursuit by the officer, identified the Crown Victoria Appellant was driving, and saw Appellant look back for the patrol car and throw the bag of cocaine base out of the blue Crown Victoria when the patrol car was out of sight. The bag thrown by Appellant was immediately retrieved and promptly turned over to law enforcement officers while other officers continued to pursue Appellant.

Appellant was seen by a pursuing officer touching the rear-view mirror inside the Crown Victoria. Appellant fingerprints were found on the rear-view mirror in the blue

Crown Victoria after Appellant abandoned the vehicle during the pursuit and fled on foot. Appellant was identified as the only occupant of the blue Crown Victoria and the bag containing the cocaine base was identified in court as the item thrown from the Crown Victoria by Appellant. The bag contained 28.85 grams of cocaine base.

Respondent submits that the facts of this case are consistent with State v. Ballenger, 322 S.C. 196, 470 S.E.2d 851 n. 3 (1996). In Ballenger, officers responding to a complaint about drugs being sold on a street corner saw the defendant who matched the description given and who was engaged in what appeared to be a drug transaction. The defendant put something in his pocket and fled when he saw the officers. Officers pursued the defendant on foot, and found crack cocaine on the ground near where the defendant fell during the pursuit. Our supreme court concluded that there was sufficient evidence of actual possession to justify the trial court's denial of a directed verdict motion and noted the evidence did not support constructive possession. The court concluded that the defendant matched the description of the possible perpetrator, appeared to be involved in a drug transaction, put something in his pocket and fled when he saw the officers, and the drugs were found in the open in an area where the defendant fell during pursuit by officers. While the defendant did not have physical custody of the drugs when he was caught, the only reasonable inference from the evidence presented in Ballenger was that the defendant either discarded and abandoned the drugs or simply lost the drugs when he fell.

Similarly, the trial court properly denied Appellant's motion for directed verdict in this case when evidence was presented establishing that cocaine base in excess of twenty-eight grams, but less than one-hundred grams, was recovered by an eyewitness

who observed Appellant, as the only occupant of the vehicle, throw the cocaine base from the vehicle Appellant driving during a police pursuit, when Appellant's fingerprints were found in that vehicle in a location an officer observed Appellant touch during the pursuit, and when witness testimony identified Appellant as the aggressor in a domestic dispute arising from an argument about drugs in the home, when Appellant was seen fleeing the scene of the domestic dispute as the sole occupant of the vehicle from which the cocaine base was thrown and when the victim of the domestic dispute reported that Appellant had drugs with him in the vehicle, police pursuit occurred within moments of Appellant fleeing the scene of the domestic dispute, and Appellant intentionally attempted to elude officers. Respondent submits that direct eye-witness evidence of Appellant's actual possession of the drugs he threw from the Crown Victoria was sufficient to withstand the motion for directed verdict. See also State v. Grant, 275 S.C. 404, 272 S.E.2d 169 (1980) (finding that a jury charge on flight as evidence of guilt is improper, admission of evidence and argument by counsel concerning flight is permissible); State v. Gore, 318 S.C. 157, 456 S.E.2d 419 (Ct.App. 1995) (stating evidence sufficient to withstand directed verdict when marijuana was found after 1:00 a.m. in vacant parking lot under car where defendant had been).

CONCLUSION

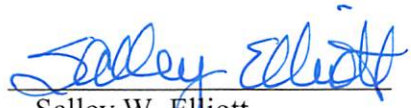
For all of the foregoing reasons, the State respectfully requests that the judgment, conviction, and sentence of the lower court be affirmed.

Respectfully submitted,

ALAN WILSON
Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

SCARLETT A. WILSON
Solicitor, Ninth Judicial Circuit

BY: 
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ATTORNEYS FOR RESPONDENT

Columbia, South Carolina
July 24, 2015

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Kristi L. Harrington, Circuit Court Judge

Appellate Case No. 2014-000767

THE STATE,.....RESPONDENT

v.

BARRY JERROD STANLEY,.....APPELLANT.

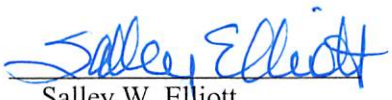
CERTIFICATE OF COUNSEL

The undersigned hereby certifies the Final Brief of Respondent complies with Rule 211(b), SCACR.

ALAN WILSON
Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

SCARLETT A. WILSON
Solicitor, Ninth Judicial Circuit

BY: 
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ATTORNEYS FOR RESPONDENT

Columbia, South Carolina
July 24, 2015

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Kristi L. Harrington, Circuit Court Judge

Appellate Case No. 2014-000767

THE STATE, ...RESPONDENT

v.

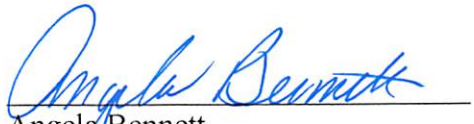
BARRY JERROD STANLEY, ...APPELLANT.

PROOF OF SERVICE

I, Angela Bennett, Administrative Assistant, hereby certify that I have served the within *Final Brief of Respondent*, dated July 24, 2015, on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Tiffany L. Butler, Esquire
SC Commission on Indigent Defense
Division of Appellate Defense
P.O. Box 11589
Columbia, South Carolina 29211

I further certified that all parties required by Rule to be served have been served. This 24th, day of July, 2015.



Angela Bennett
Administrative Assistant

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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.

Barry Jerrod Stanley, Appellant.

Appellate Case No. 2014-000767

Appeal From Berkeley County
Kristi Lea Harrington, Circuit Court Judge

Unpublished Opinion No. 2016-UP-194
Submitted February 1, 2016 – Filed May 11, 2016

AFFIRMED

Appellate Defender Tiffany Lorraine Butler, of Columbia, for Appellant.

Attorney General Alan McCrory Wilson and Interim Senior Assistant Deputy Attorney General John Benjamin Aplin, both of Columbia; and Solicitor Scarlett Anne Wilson, of Charleston, for Respondent.

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following authorities: *State v. Hernandez*, 382 S.C. 620, 624, 677 S.E.2d 603, 605 (2009) ("When ruling on a motion for a directed verdict, the trial court is concerned with

the existence or nonexistence of evidence, not its weight."); *id.* (stating if the State fails to produce evidence of the charged offense, then the defendant is entitled to a directed verdict); *State v. Cope*, 405 S.C. 317, 348, 748 S.E.2d 194, 210 (2013) ("In an appeal from the denial of a directed verdict motion, the appellate court must view the evidence in the light most favorable to the State."); *id.* (stating this court must affirm the trial court's decision to deny a directed verdict motion and submit the case to the jury if there is any direct or substantial circumstantial evidence reasonably tending to prove the defendant's guilt); S.C. Code Ann. § 44-53-375(C) (Supp. 2015) ("A person . . . who is knowingly in actual or constructive possession or who knowingly attempts to become in actual or constructive possession of ten grams or more of . . . cocaine base . . . is guilty of a felony which is known as 'trafficking in . . . cocaine base . . . .'").

AFFIRMED.[1]

WILLIAMS, LOCKEMY, and MCDONALD, JJ., concur.

[1] We decide this case without oral argument pursuant to Rule 215, SCACR.

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JUN - 2 2016
ATTORNEY GENERALS OFFICE

The South Carolina Court of Appeals

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May 27, 2016

The Honorable Mary P. Brown
PO Box 219
Moncks Corner SC 29461-0219

REMITTITUR

Re: The State v. Barry Jerrod Stanley
Lower Court Case No. 2014GS0800027, 2014GS0800028
Appellate Case No. 2014-000767

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
Tiffany Lorraine Butler, Esquire
Scarlett Anne Wilson, Esquire
John Benjamin Aplin, Esquire

FORM 5

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

IN THE COURT OF COMMON PLEAS

Barry Jerrod Stanley #274236)
Full name and prison number (if any) of Applicant.)

20 16 -CP-08- 2600

v.)

APPLICATION FOR

State of South Carolina)
Respondent.)

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

FILED
2016 DEC 23 PM 3:1
JULIE J. BROWN
CLERK OF COURT
BERKELEY COUNTY, SC

1. Place of detention Lieber Corr. Inst.; S.C. Dept. of Corrections

2. Name and location of Court which imposed sentence Berkeley Co. Ct. of Gen. Sessions, Moncks Corner, SC

3. Name(s) of co-defendant(s) (if any) None

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

   (a) 2014-GS-08-00028; trafficking cocaine base

   (b) _____

   (c) _____

5. The date upon which sentence was imposed and the terms of the sentence:

   (a) April 9th, 2014; thirty (30)

   (b) _____

Revised 3/2003

655

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty X

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. South Carolina Court of Appeals

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. Conviction and sentence affirmed

ii. _____

iii. _____

(c) the date of each such result:

i. May 11, 2016; haven't received Remittitur

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. State v. Barry Jerrod Stanley; 2016-UP-194

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) N/A

(b) _____

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) Ineffective Assistance of Counsel

(b) Ineffective Assistance of Counsel

(c) Ineffective Assistance of Counsel

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) See Attached pages 3a-3g

(b) " " " 3a-3g

(c) " " " 3a-3g

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? No

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No

(d) any other petitions, motions or applications in this or any other Court? No

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. N/A

ii.

iii.

iv.

(b) the name and location of the Court in which each was filed:

i. N/A

ii.

iii.

iv.

(c) the disposition thereof:

i. N/A

ii.

iii.

iv. _____

(d) the date of each such disposition:

i. N/A

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. N/A

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. N/A

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. N/A

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) Ineffective assistance of counsel cannot be

(b) raised on direct appeal but must be brought

(c) pursuant to the Uniform Post-Conviction statute 5-27-10 et seq. See State v. Carpenter, 277 S.C. 309, 286 S.E.2d 384 (1982); State v. Felder, 290 S.C. 521, 351 S.E.2d 852 (1986); Drayton v. Evatt, 312 S.C. 4, 430 S.E.2d 517 (1993).

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? N/A

(b) your trial, if any? yes

(c) your sentencing? yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? No

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you: David P. Schwacke,

i. Esquire, 219 North Highway 52, Suite E, Moncks Corner, S.C. 29461

ii. Tiffany L. Butler, Appellate Defender, SCCID, Div.

iii. of Appellate Defense, P.O. Box 11589 Columbia, S.C. 29211-1589

(b) the proceedings at which each such attorney represented you:

i. trial and sentencing

ii. Direct Appeal

iii. _____

19. State clearly the relief you seek in filing this application: Conviction and sentence vacated or, in the alternative, reversed and remanded for a new trial and any other relief the Court deems just and proper

20. Are you now under sentence from any other court that you have not challenged?

failure to stop for a blue light (three "3") years)

indictment # 2014-GS-08-00028

STATE OF SOUTH CAROLINA)
)
County of Dorchester)

VERIFICATION

I, Barry Jerrod Stanley #274236, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

x Barry Stanley

SWORN to and subscribed before me this 26th day of October, 2016.

Linda K. B (L.S.)
Notary Public

My Commission Expires: 6-30-26

TSM

FILED
2016 OCT 31 PM 3:19
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, SC

APPLICATION TO PROCEED WITHOUT PAYMENT OF COSTS AND AFFIDAVIT IN SUPPORT THEREOF

I, Barry Jerrod Stanley #274236, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

(1) I am the applicant in this action and I believe I am entitled to redress.

(2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

x Barry Stanley
Applicant

SWORN or affirmed to and subscribed before me this 26th day of October, 2016.

Lisa K. B
Notary Public

My Commission Expires: 6-20-2026

TSM

FILED
2016 OCT 31 PM 3:19
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, SC

10.(a) Ineffective Assistance of Counsel

Applicant was denied the effective assistance of counsel, in violation of the Sixth and Fourteenth Amendments to the United States Constitution and Art. I, §§ 3 & 14 of the South Caroling Constitution, in failing to voir dire or request the trial court voir dive the juvy for any potential bias of potential jurors prior to seating the juvy. Strickland v. Washington, 466 U.S. 668 (1984); MJ' Min v. Va., 500 U.S. 415, 431 (1991). Due Process violation.

10.(b) Ineffective Assistance of Counsel

Applicant was denied the effective assistance of counsel, in violation of the Sixth and Fourteenth Amendments to the United States Constitution and Art. I, §§ 3 & 14 of the South Caroling Constitution, in failing to object to the Solicitor vouching for the State's witness William Loflin. Strickland v. Washington, 466 U.S. 668 (1984); Matthews v. State, 350 S.C. 272, 565 S.E.2d 766; Gilchrist v. State, 350 S.C. 221, 565 S.E.2d 281 (2002). Due Process violation.

10.(c) Ineffective Assistance of Counsel

Applicant was denied the effective assistance of counsel, in violation of the Sixth and Fourteenth Amendments to the United States Constitution and Art. I, § 3 & 14 of the South Constitution in failing to object to testimony regarding how crack cocaine is made, after objection made and sustained to witness being a narcotics expert as well as failing to ask for curative instruction or motion to strike testimony. Strickland v. Washington, 466 U.S. 668 (1984). Due Process violation.

10.(d) Ineffective Assistance of Counsel

Applicant was denied the effective assistance of counsel, in violation of the Sixth and Fourteenth Amendments to the United States Constitution and Art. I, §§ 3 & 14 of the South Caroling Constitution in failing to object to and preserve for appellate review the

10.(d) continued:

State's use of false inconsistent testimony of State's witnesses to obtain a conviction for trafficking in crack cocaince. Strickland v. Washington, 466 U.S. 668 (1984); Giglio v. United States, 405 U.S. 150 (1972) and Napue v. Illinois, 360 U.S. 264 (1959). Due Process violation.

10.(e) Ineffective Assistance of Appellate Counsel

Appellate counsel was ineffective and denied Applicant his Sixth Amendment right to the effective assistance of appellate counsel as well as his Fourteenth Amendment Due Process right to effective assistance of appellate counsel as guaranteed him by the United States Constitution. Strickland v. Washington, 466 U.S. 668 (1984); Evitts v. Lucey, 469 U.S. 387 (1985); Griffin v. Aiken, 775 F.2d. 1226 (4th Cir. 1985).

Facts In Support of Grounds:

11.(a) Applicant asserts that he was deprived of the effective assistance of counsel as guaranteed by the Sixth Amendment and a fair trial by an impartial jury as guaranteed by the Due Process Clause of the Fourteenth Amendment and, Art. I, §§3 & 14 of the South Carolina Constitution.

The trial court failed to conduct voire dire of the potential jurors concerning whether they were aware of any bias or prejudice against either the State or the defendant. State v. Woods, 345 S.C. at 587; State v. Kelly, 331 S.C. 132, 502 S.E.2d 99 (1998).

The Sixth Amendment mandates that "[i]n all criminal prosecutions, the accused shall enjoy the right to a ... trial [] by an impartial jury. The United States Supreme Court has long recognized that the Sixth Amendment prohibits partial jurors, whether bias is "actual or implied;" United States v. Wood, 299 U.S. 123, 133, 57 S.Ct. 177, 81 L.Ed. 78 (1936).

In the present case, the Applicant was deprived of information that could have possibly been used to challenge for cause a juror or information that would have been a material factor in deciding to use a peremptory challenge.

"Through the judge, parties have a right to question jurors on their voir dire examination not only for the purpose of showing grounds for a challenge for cause, but also, within reasonable limits, to elicit such facts as will enable them intelligently to exercise their right of peremptory challenge." State v. Wood, 345 S.C. at 587 (quoting Gulledge, 277 S.C. at 370, 287 S.E.2d at 490).

As Applicant's transcript, certified by the court reporter reveals no jury voir dire, therefore, trial counsel was ineffective and prejudiced his client, the defendant, by failing to request that the trial judge voire dire potential jurors for bias, thus, counsel deprived Applicant of his federal constitutional rights as well as state constitutional rights to the effective assistance of counsel at trial and a fair trial by an impartial jury.

11.(b) Applicant asserts that he was deprived of the effective assistance of counsel as guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution in failing to object to the Solicitor vouching for the credibility of a crucial State's witness.

During the State's closing argument, the Solicitor vouched for State's witness William Loflin, who was crucial to the State's case against the Applicant for trafficking in crack-cocaine, 28-100 grams.

The Solicitor informed the jury that "William Loflin, has no reason to lie." Closing argument, App. 282, Line 14.

Credibility of the witness, especially William Loflin, was a key factor in the present case and it affected the jury's verdict of guilty. Had counsel objected to this prosecutorial testimony, this guilty verdict may not have happened if it was not for the Solicitor's improper vouching for State's witness William Loflin.

The solicitor may not vouch for a witness's credibility, as so doing improper invades the province of the jury and placing the government's prestige behind the witness. Vaughn v. State, 362 S.C. 163, 169, 607 S.E.2d 72, 74 (2004) (citing State v. Sholer, 344 S.C. 604, 630, 545 S.E.2d 805, 818 (2001) (stating that a solicitor "improperly vouches for a witness's credibility "by making explicit personal assurances, or indicating that information not presented to the jury support's the testimony.").

The solicitor must confine his closing remarks to the record and the reasonable inferences that may be drawn therefrom. Matthews v. State, 350 S.C. 272, 276, 565 S.E.2d 766, 768 (2002).

In the present case, the solicitor's statement was highly damaging to Applicant, as he placed his office and power behind William Loflin's testimony.

Mr. Loflin, testified that he gave the bag of crack-cocaine to Corporal Ellwood. App. 141, Lines 6-8, however,

there's evidence that directly contradicts Mr. Loflin's testimony. State's witness Christopher Rowland testified during direct by the State that "he found the bag [of drugs] on the side of the road and that he handed the bag over to the officer. That he [Mr. Rowland] never handed the bag over to Mr. Loflin." App. 172, Lines 7-12. And, again, during cross by defense. App. 178, Lines 14-15.

Thus, the solicitor's statement was clearly improper and objectable. See Matthews, 350 S.C. at 276, 565 S.E.2d at 768 ("vouching for a witness based on outside material conveys the impression to the jury that the solicitor has evidence not presented to the jury but known by the prosecution which supports conviction.").

Counsel should have objected to this improper vouching as this case was entirely dependent on a credibility determination between the State's witness Mr. Loflin and Applicant. Given the dearth of evidence beyond Mr. Loflin's assertion that he saw Applicant toss the bag of crack-cocaine from a vehicle traveling approximately fifty miles per hour is incredible. The evidence of guilt on Applicant's behalf was extremely weak on the trafficking charge. But for the improper vouching for the state's witness's credibility, there is a reasonable likelihood the outcome of the trial would have been different, and Applicant was prejudiced by trial counsel's failure to object, in that, Applicant was denied his right to a fair trial as guaranteed by the Sixth Amendment as well as his Fourteenth Amendment right to due process of law.

11.(c) Applicant was denied the effective assistance of trial counsel for failing to object to testimony regarding how crack-cocaine is made, after an object was made and sustained as to witness being a narcotics expert. After objection was sustained, the solicitor asked "Officer Norton" how crack-cocaine was made and without an objection from trial counsel, Officer Norton testified that crack-cocaine was cooked in the microwave. App. 236, Lines 14-22; 337, Lines 4-9.

This highly prejudicial testimony was more prejudicial to the Applicant and irrelevent and prejudiced the Applicant in that, it allowed the jury to consider facts that was not supported by record, as there was no proof that the Applicant had cooked crack-cocaine in the microwave as the record reveals no cocaine, baking soda, baggies, scales or other drug items was located in the apartment.

Trial counsel also failed to motion to strike said testimony or ask for a curative instruction. Thus, Applicant was deprived of the effective assistance of counsel as well as Due Process of Law.

Trial counsel was further ineffective in failing to object to Ms. Nelson's testimony concerning that "her" microwave looked like a "grits festival". Counsel failed to object to and motion to strike testimony or request a curative instruction. Trial counsel failed to preserve these issues for appellate review.

II.(d). Trial counsel failed to argue, during closing argument that the State used false inconsistent testimony to obtain a conviction for trafficking in crack-cocaine.

State's witness, Mr. William Loflin testified that he gave the bag of crack-cocaine to officer Ellwood. App. 141, Lines 6-8.

State's witness, Mr. Christopher Rowland testified during direct examination that "he found the drugs on the side of the road and handed the bag to the police officer. After finding it, he [Rowland] held on to the bag, sat on the tailgate of his truck, that he never gave the bag [of drugs] to Mr. Loflin. That Mr. Loflin was handling the bag after he [Rowland] gave the bag to officer Ellwood. App. 172, Lines 7-15; 178, Lines 13-16; 20-21

Corporal Ellwood testified that Mr. Loflin gave him the bag of drugs. App. 158, Lines 12-16; 159, Lines 24-25; App. 164, Lines 20-24; 165, Lines 2- 166, Line 4.

Counsel was ineffective for failing to object to this testimony, in that, it was inconsistent and false. Failed to motion to strike said testimony, same grounds and preserve for appellate review.

II. (e) Appellate counsel was ineffective in failing to raise "The trial court erred in denying Defendant's motion for a directed verdict of acquittal on the charge of trafficking crack-cocaine, thereby denying him due process;" on direct appeal.

A person accused of a crime has a due process right to have each element of the offense charged proved beyond a reasonable doubt. In the instant case, there was no direct evidence and no substantial circumstantial evidence tending to prove the elements of either actual possession or constructive possession of crack-cocaine. The resulting conviction for trafficking in crack-cocaine is a violation of Applicant's Sixth Amendment right to a fair trial and Due Process of Law as guaranteed by the Fourteenth Amendment to the United States Constitution and Art. I, §3 of the South Carolina Constitution.

Here, the State presented weak evidence that the Applicant possessed crack-cocaine that led up to his being charged with trafficking in crack-cocaine. The record reveals a police officer saw anything being tossed from the vehicle Applicant was driving, while maintaining a distance of two-three yards behind the suspect's vehicle. App. 121, Lines 16-17. State's witness William Loflin testified that the police officer's car was four car lengths behind Applicant. App. 151, Lines 3-23. Mr. Loflin testified

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE ☒ COURT OF COMMON PLEAS
☐ FAMILY COURT

Barry Jerrod Stanley, #274236
☒ ~~Plaintiff~~ Applicant

v.

State of South Carolina
☒ ~~Defendant~~ Respondent
check box above indicating submitting party

CASE NO. ___-___-___-_____

MOTION INFORMATION FORM AND COVER SHEET

name, S.C. Bar no. and address of plaintiff's attorney	name, S.C. Bar no. and address of defendant's attorney
Barry Jerrod Stanley #274236 Lieber Corr. Inst. Cooper B-09 P.O. Box 205 Ridgeville, S.C. 29472 telephone: fax: e-mail: other:	telephone: fax: e-mail: other:

☒ **MOTION HEARING REQUESTED** (attach written motion and complete SECTIONS I and III)
☐ **FORM MOTION, NO HEARING REQUESTED** (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Application for Post-Conviction Relief
Estimated Time Needed: ? Court Reporter Needed (YES) / NO

SECTION II: Motion Type

☐ Written motion attached
☐ Form Motion –
I hereby move for relief or action by the court as set forth in the attached proposed order.

Barry Stanley — Signature of Attorney for Plaintiff / Defendant
10/26/16 — Date submitted

SECTION III: Motion Fee

☐ PAID – AMOUNT: _____
☒ EXEMPT: (check reason)
- ☐ Rule to Show Cause in Child or Spousal Support
- ☐ Domestic Abuse or Abuse and Neglect
- ☒ Indigent Status ☐ State Agency v. Indigent Party
- ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
- ☐ Motion for Stay in Bankruptcy
- ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
- ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
  Name of Court Reporter: _____
- ☒ Other: PCR

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.
☐ Other:

_____ JUDGE

CODE: Date:

CLERK'S VERIFICATION

Collected by: _____ (print name)

DATE FILED

☐ MOTION FEE COLLECTED: _____
☐ CONTESTED – AMOUNT DUE: _____

Barry Jerrod Stanley #274236
Lieber Corr. Inst. Cooper B-89
P.O. Box 205
Ridgeville, S.C. 29472

October 26, 2016

Mary P. Brown
Clerk of Court, Berkeley County
P.O. Box 219
Moncks Corner, S.C. 29461-0219

Dear Ms. Brown,

Enclosed for filing with your office, please find the original and one (1) copy of my Application for Post Conviction Relief, and one (1) cover sheet.

Please clock-stamp the copy and return to me. With kind regards, I am

Sincerely Yours,

x
Barry Jerrod Stanley

STATE OF SOUTH CAROLINA COUNTY OF BERKELEY	)	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT
Barry Jerrod Stanley, #274236, Applicant, v. State of South Carolina, Respondent.	)	Case No. 2016-CP-08-2600 **RETURN**

Respondent (the "State"), making its Return to the Application for Post-Conviction Relief ("PCR") filed on October 13, 2016, would respectfully show this Court:

I.

Barry Jerrod Stanley ("Applicant") is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Berkeley County Clerk of Court. In February 2014, the Berkeley County Grand Jury indicted Applicant for failure to stop for a blue light (2014-GS-08-0027) and trafficking cocaine base, 28-100 grams, third offense (2014-GS-08-0028). David Schwacke, Esquire and Chad Shelton, Esquire represented Applicant. Assistant Solicitors Michael Patterson, Esquire and Charles Condon, Esquire prosecuted the case. On April 7-9, 2014, Applicant proceeded to trial before the Honorable Kristi Harrington. The jury found Applicant guilty as indicted on both charges. Judge Harrington sentenced Applicant to imprisonment for consecutive terms of three years for failure to stop for a blue light and thirty years for trafficking cocaine base, 28-100 grams, third offense.

Applicant filed a timely notice of appeal. Tiffany Loraine Butler, Esquire, of the Office of Appellate Defense perfected the appeal. The South Carolina Court of Appeals affirmed Applicant's

conviction on May 11, 2016. State v. Stanley, Op. No. 2016-UP-194 (S.C. Ct. App. filed May 11, 2016). The remittitur was returned to the circuit court on May 27, 2016.

II.

On March 11, 2013, Evette Nelson ran out of her apartment, frantic, toward neighbors playing basketball in the parking lot and asked them to "call the police, he's beating me, he's going to kill me." (Tr. 77, 80; 90; 93; 97). Greg Rider testified that he and his son calmed Ms. Nelson down but could not call the police because they did not have their phones. However, he observed Appellant come out of his apartment, get into his blue Crown Victoria, and drive slowly through the basketball court while Ms. Nelson backed up to another building. Appellant then traveled through the gate and Mr. Rider took Nelson to his apartment and asked his wife to call the police. Rider instructed his son to stay there to protect the two women. (Tr. 98; 92 – 93; 98 - 101). Once inside Nelson was still hysterical and saying that Appellant was going to "kill her." Tanya Deane called 9-1-1 while her husband, Rider, went back outside to make sure that Appellant did not return. (Tr. 93-98). Rider saw Appellant return to the apartment complex, stop the car in front of Appellant's apartment, and run into his apartment while the car was running, and then get in the vehicle and drive to where Rider stood outside waiting on officers to arrive. (Tr. 98 - 101). Appellant stopped, made eye contact with Rider, and drove off. Law enforcement officers arrived not more than 15 seconds later. (Tr. 99). Rider said no one was in the vehicle with Appellant and that he was able to look at Appellant driving the vehicle twice, once as Appellant drove through the basketball court and a second time when Appellant returned to the apartment. (Tr. 99; 100). Rider had no doubt that Appellant was the individual he saw driving the vehicle that day and described the vehicle Appellant was driving as a dark blue older model Crown Victoria with large wheels. (Tr. 99; 100- 101). He also stated that Appellant was the only person he had seen driving that vehicle. Ms. Nelson

confirmed that the Crown Victoria belonged to her but that Appellant had permission to use it. (Tr. 77 - 79; 89; 94; 100). Not only did Rider know Appellant from previous interactions with him, he also identified Appellant in a photographic lineup as the person he saw driving the vehicle that day. (Tr. 97; 101; 187; 189).

Corporal Ellwood and Detective Camp arrived at the apartment building and relayed to other officers the information that Appellant left in a Crown Victoria. (Tr. 104 – 105; 110). Nelson appeared very upset and fearful of Appellant and provided Camp a cell phone photograph of Appellant which was relayed by text to officers pursuing Appellant. (Tr. 106 – 108; 157). Ms. Nelson advised the officers that she and Appellant argued because she did not want Appellant to keep drugs in the apartment with her children. (Tr. 107; 280). Ms. Nelson also reported that Appellant took her vehicle and had drugs and possibly a firearm in the vehicle with him. (Tr. 157; 162). This information was also relayed to other officers. (Tr. 157).

Officer Dodd, an off duty resource officer, heard the commotion over the police radio about a black male who left the scene in a dark Crown Victoria and requested permission to join the pursuit as it was near his location. (Tr. 111 – 12). Officer Dodd was the first to encounter Appellant driving in the opposite direction at a high rate of speed. (Tr. 112; 120 – 21). Dodd turned around, activated his blue lights and attempted to make a traffic stop, but Appellant did not stop. (Tr. 112-113). Instead, Appellant attempted to hit Dodd's patrol car but a collision was avoided when Dodd swerved off of the road. (Tr. 114). Dodd remained the lead officer in pursuit through several neighborhoods at which point Corporal Lanphere took over. (Tr. 114). Dodd identified Appellant as the person he saw driving the Crown Victoria that day. (Tr. 122; 124).

While the pursuit of Appellant was still active, a call was made to the police department that narcotics had been thrown out of a dark blue Crown Victoria that was currently involved in a police

chase as the pursuit passed the intersection of Spring Hill and Fort Drive. (Tr. 115; 158-159). Corporal Ellwood and Officer Dodd responded. (Tr. 114; 123; 158). Dodd testified that he did not see anything being thrown from Appellant's vehicle during his pursuit of Appellant in that neighborhood but stated that he slowed as he and Appellant approached a sharp turn because he feared children might be present. Dodd testified that the narcotics were discovered along the sharp turn where he lost sight of Appellant. (Tr. 116 – 119; 121). Officers Dodd and Ellwood spoke with and took a statement from William Loflin. (Tr. 115- 116; 158; 164). Loflin reported that he heard the sirens and saw the blue Crown Victoria being driven by a black male and being pursued by officers in the residential neighborhood. Loflin reported that as the pursuit passed, he saw narcotics coming out of the Crown Victoria Appellant was driving. (Tr. 115 – 116; 163 - 164; 166). The item thrown from the car was given to the officers who described the contents as a clear plastic bag containing a disc-shaped substance and several shards. (Tr. 158 – 160). Ellwood conducted a quick test of the substance. It tested positive for a cocaine based substance. (Tr. 160; 149). Ellwood took the evidence into custody and interviewed the witnesses, Rowland and his coworker, Lofin, who was out in the backyard smoking when he heard sirens then saw Appellant driving the car as it raced by and Appellant throw something out of the window. (Tr. 136-141).

William Loflin testified that he was on the back porch of the home smoking a cigarette when he heard sirens in the neighborhood. The residential neighborhood has only one access in and out. (Tr. 136). He walked into the back yard to investigate what he heard and saw a blue Crown Victoria "come flying by" and cut the corner with a "siren" behind it trying to catch up. Loflin stated that the driver of the Crown Victoria was looking over his shoulder the entire time for the officer in pursuit. Loflin stated that the driver threw a bag out of the vehicle and took off. Loflin testified that the officer following the Crown Victoria would not have been in a position to see the bag being tossed

out. (Tr. 136 – 137; 140; 143 -146; 150 – 153). Loflin called to his roommate to retrieve the item that was thrown from the car and call officers about what they found. (Tr. 138; 153). Loflin saw his roommate pick up the bag and identified the contents of the bag as crack and also identified the drugs in court as the item he saw thrown from the Crown Victoria. (Tr. 141 – 142; 148 – 149).

Christopher Rowland testified that William Loflin was his roommate on the day in question and that he also heard sirens. He also testified that Loflin advised him that he saw a car fly by and throw a bag out of the window. Rowland went outside and found the bag on the side of the road. He retrieved the bag based upon his concern the bag contained drugs that would be found by children in the neighborhood and called law enforcement officers to report what he found. (Tr. 168 – 169; 179). He turned the bag over to officers when they arrived and identified the drugs in court as the item he retrieved that day. (Tr. 170 – 175). The bag contained 28.85 grams of crack cocaine or cocaine base. Tr. 206 – 208; 219 – 225).

Officer Lanphere also received the call about the domestic assault and the fact that the assailant fled in a blue Crown Victoria. Lanphere waited near the neighborhood where Appellant was being pursued and took over the pursuit. (Tr. 126 – 129; 182). Appellant was identified as the driver and sole occupant of the blue Crown Victoria. (Tr. 133). Lanphere saw Appellant touch the rear-view mirror in the vehicle during his pursuit of Appellant. (Tr. 133). Officers Lanphere and Beaudoin observed as Appellant collided with another vehicle. (Tr. 129 – 131; 182). Appellant abandoned the Crown Victoria and fled on foot. Tr. 129-130). Appellant's fingerprints were found on the rear-view mirror of the blue Crown Victoria Appellant abandoned. (Tr. 200; 206; 253 – 259). Appellant was charged, and found guilty of failure to stop for a blue light and trafficking in cocaine base in excess of twenty-eight grams, but less than one-hundred grams, third offense.

III.

In his application for post-conviction relief, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Trial Counsel
   a. "Failing to voir dire or request the trial court voir dire the jury for any potential bias of potential jurors prior to seating the jury."
   b. "Failing to object to the Solicitor vouching for the State's witness William Loflin"
   c. "Failing to object to testimony regarding how crack cocaine is made after objection made and sustained to witness being a narcotics expert as well as failing to ask for curative instruction or motion to strike testimony."
   d. "Failing to object to and preserve for appellate review the State's use of false inconsistent testimony of State's witnesses to obtain a conviction for trafficking in crack cocaine."

2. "Ineffective Assistance of Appellate Counsel"
   a. "Failing to raise 'the trial court erred in denying Defendant's motion for a directed verdict of acquittal on the charge of trafficking in crack-cocaine, thereby denying him due process' on direct appeal

Attached to this Return and incorporated by reference are the records of the Berkeley County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the trial transcript, Applicant's appellate records, and the post-conviction relief application. The State reserves the right to amend this Return upon receipt of any relevant materials.

Additionally, Applicant must specify any claims she intends to raise at the post-conviction relief evidentiary hearing. Any claims not specifically laid out in this post-conviction relief application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCP. All claims should be made well in advance of the

evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCP.

IV.

The State submits Applicant's allegations of ineffective assistance of trial counsel are without merit. In a post-conviction relief action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, Applicant must prove counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386

S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The State submits Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the State requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

A defendant is constitutionally entitled to effective assistance of appellate counsel. Evitts v. Lucey, 469 U.S. 387, 105 S.Ct. 830, 83 L.Ed.2d 821 (1985). "However, appellate counsel is not required to raise every non-frivolous issue that is presented by the record." Thrift v. State, 302 S.C. 535, 539, 397 S.E.2d 523 (1990). Appellate counsel has a professional duty to choose among potential issues according to their merit. Jones v. Barnes, 463 U.S. 745 (1983). Where the strategic decision to exclude certain issues on appeal is based on reasonable professional judgment, the failure to appeal all trial errors is not ineffective assistance of counsel. Griffin v. Aiken, 775 F.2d 1226 (4th Cir. 1985).

Applicant must show that appellate counsel's performance was deficient and that he was prejudiced by the deficiency. Thrift, at 537; Gilchrist v. State, 364 S.C. 173, 612 S.E.2d 702 (2005); Anderson v. State, 354 S.C. 431, 581 S.E.2d 834 (2003). When a claim of ineffective assistance of counsel is based upon failure to raise viable issues, the court must examine the record to determine "whether appellate counsel failed to present significant and obvious issues on appeal." Gray v. Greer, 800 F.2d 644, 646 (7th Cir. 1986). Generally, the presumption of effective assistance of

counsel will be overcome only when the alleged ignored issues are clearly stronger than those actually raised on appeal. Id.

The State contends that Applicant's appellate attorney rendered effective assistance of counsel. However, this ground for relief may raise factual issues that are not conclusively refuted by the record. The State requests an evidentiary hearing on this allegation.

V.

Each and every allegation contained within the post-conviction relief application not expressly admitted, qualified, or explained in this Return is hereby denied.

VI.

WHEREFORE, the State requests that an evidentiary hearing be held on the claims of ineffective assistance of trial and appellate counsels.

Respectfully submitted,

ALAN WILSON
Attorney General

ROBERT BOLCHOZ
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

By: Megan Harrigan Jameson
ATTORNEYS FOR RESPONDENT

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July 7, 2017

STATE OF SOUTH CAROLINA COUNTY OF BERKELEY BARRY JERROD STANLEY, #274236 Applicant, vs STATE OF SOUTH CAROLINA, Respondent,	IN THE COURT OF COMMON PLEAS **2016-CP-08-2600** AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.

2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.

3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Mr. Rodney Duane Davis
Lowcountry Law Office
4000 Faber Place Drive
Suite 300
Charleston, SC 29405

DATED this the 7th day of July, 2017.

Jennifer Jennison

Jennifer Jennison, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA)	
)	COURT OF COMMON PLEAS NONJURY
COUNTY OF BERKELEY)	
BARRY STANLEY,)	TRANSCRIPT
)	
APPLICANT,)	OF
)	
vs.)	RECORD
)	
STATE OF SOUTH CAROLINA,)	2016-CP-08-2600
)	
RESPONDENT.)	

January 23rd, 2020
Charleston, South Carolina

B E F O R E:

THE HONORABLE EDGAR W. DICKSON, Judge.

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

LESLIE SARJI
ESQ.
Attorney for the Applicant

BENJAMIN LIMBAUGH
ASSISTANT ATTORNEY GENERAL
Attorney for the State

Transcribed by Pamela E. Green, from
DCRP, Digital Courtroom Recorder Project

I N D E X

(WHEREUPON, there were no exhibits marked or testimony taken during this hearing.)

P R O C E E D I N G S

MR. LIMBAUGH: May I approach, Your Honor?

THE COURT: Yes, sir.

All right. Mr. Limbaugh.

MR. LIMBAUGH: Please the Court, Your Honor?

THE COURT: Yes, sir.

MR. LIMBAUGH: This is the case of Mr. Barry Stanley. Case Number 2016-CP-08-2600.

Your Honor, this is the case that we've been discussing this morning. I'm not entirely sure if Your Honor would like me to go through all of the procedural history on this case, and then go into the potential issue or how you would like me to proceed.

THE COURT: I'd like you just to go to the potential issue if you don't mind, and then, if we have to go back over the procedure, we will.

MR. LIMBAUGH: Yes, sir, Your Honor.

THE COURT: Okay.

MR. LIMBAUGH: So this case, it clearly has been, been pending, been pending for a while. Mr. Stanley has had multiple PCR counsels. The last one before Ms. Sarji I believe was Mr. Davis, Mr. Rodney Davis, where this was also an issue.

But Mr. Stanley has alleged that there is -- there's

not case specific voir dire done before his trial in picking his jury. I believe specifically he requested or wanted to questions (sic) about -- related to drugs, Your Honor. Potentially, if, you know, members of the jury panel had family members addicted to drugs in the past or things of that nature.

THE COURT: Yes, sir.

MR. LIMBAUGH: We had the original transcript sent to us quite some time ago, and that was not in there. In, in the original transcript there wasn't really a voir dire at all. It pretty much went straight into picking a jury. We asked a couple of times from the court reporter to get the case specific voir dire, and essentially we got the same thing every time, which I believe is in Your Honor's packet, which does ask, you know, if any of the jury panel knows the lawyers involved in the case. It asks some questions about or at least a question about domestic violence, a couple other things that seem -- I mean they are specific or at least semi-specific to Mr. Stanley's case. But there is nothing in that about drugs or anything of that nature, Your Honor.

We have had multiple talks over the course of this process with Mr. David Schwacke. Initially he indicated to us that he thought he had remembered there being something along those lines. Later on, when he, he had gone back

through his file, more in, more in depth fashion and found his notes from the voir dire of this case, we cross-referenced those this morning with the -- what I call it the transcript addendum that we got from Ms. Singletary. His notes seem to align almost perfectly with what we had gotten from her as the voir dire that was done in this case.

Your Honor instructed me earlier to try and get in touch with Ms. Singletary to try and see if she could enlighten us as to whether or not this was the full and complete record of this case. I did try calling Ms. Singletary's phone and was not -- her cell phone and was not able to get her this morning, Your Honor.

So, that is, that is where we are at at this very moment. It seems from Mr. Schwacke's notes they align with what we have fairly well. So, that's -- that is what we have at this moment, Your Honor.

THE COURT: When you say align, does his, his notes indicate they did a case specific voir dire or not?

MR. LIMBAUGH: His notes simply indicate -- they go along with what we have --

THE COURT: Oh.

MR. LIMBAUGH: -- the, the case specific relatively that we have now. Like that juror I believe, was it, 35, stood up and, and things that are in what we have, Your Honor.

THE COURT: Okay. So, nothing more than that?

MR. LIMBAUGH: I don't believe so, Your Honor, no.

THE COURT: Okay. So, by judging his notes and what we have, I, I -- it sounds like you're telling me continuing to try to find more voir dire is gonna be a fruitless endeavor?

MR. LIMBAUGH: We certainly tried to get all of the, the case specific voir dire in this case on numerous occasions, Your Honor.

THE COURT: I didn't -- oh, I didn't -- and please -- I'm, I'm not -- I am not blaming you at all. But I, I just want to make sure that continuing, continuing the case in search of this -- how many times has this case been continued about or this --?

MR. LIMBAUGH: With me personally, I would probably say at least three to four times.

Mr. Stanley---

THE APPLICANT: Since 2017. January, 20 -- 2017.

THE COURT: January.

Okay. All right.

MR. LIMBAUGH: So, I will say that we -- the State has made every effort on its part to try and get this full and complete record, Your Honor, and I am quite sympathetic to Mr. Stanley wanting to get his case moving, Your Honor.

THE COURT: I, I do not blame him nor do I blame you. I appreciate all the efforts that you've made.

Ms. Sarji.

MS. SARJI: Thank you, Your Honor.

I mean I, I think, simply put, it sounds like what we have is all that was actually done.

THE COURT: Okay.

MS. SARJI: Mr. Schwacke's notes do correspond very well. I mean he took pretty -- very thorough notes during the voir dire that was conducted. But like I think the reason the court reporter keeps producing just this part is because this really was all that was done.

THE COURT: Okay.

MS. SARJI: We would ask to be able to go forward today and are prepared to do so.

THE COURT: You got five minutes.

No, no. You can go ahead and do it.

MS. SARJI: Okay. I was gonna say well, the last judge that we were in front of, Judge Hood, in Berkeley County, when -- right off the bat when he said well, if this is all the voir dire that was done, then that's a -- you know, that's enough of an error that this is gonna be reversed.

Judge, I would submit to you that the, the same reasoning would apply, and that this is one that should be granted on its face.

THE COURT: You want me to go along with what Judge Hood said?

MS. SARJI: I -- you know, you guys get paid the big bucks, Judge. I just defer to you -- to y'all.

THE COURT: And now, if I don't go along with what Judge Hood said, it's gonna look really bad on the record now you know. You didn't have -- you know, is this called pitting judges?

Isn't that a -- isn't that---

MS. SARJI: I think it's just a recognition---

THE COURT: ---judicial error?

MS. SARJI: ---of, of the law and the fact that if this -- because this was all that was done, that that was a, a -- an extremely prejudicial error that was committed in the case, and that, on its face, Mr. Stanley's Application should be granted.

THE COURT: Okay.

MS. SARJI: That said, if you don't -- if you are not of the same opinion---

THE COURT: No, no, no. I, I---

MS. SARJI: ---I'm prepared to --.

THE COURT: I -- Judge Hood is a learned, scholarly, and very technically accurate criminal judge cause he did a lot of criminal law. He appeared in front of me often as a lawyer.

So, before I rule on that, Mr. Limbaugh, do you have any arguments contrary to that?

MR. LIMBAUGH: Not, not other than -- moments indulgence, Your Honor.

THE COURT: Huh?

MR. LIMBAUGH: Moments indulgence just to---

THE COURT: Oh, no.

MR. LIMBAUGH: ---ponder it over for one second.

THE COURT: I, I understand. I would be in -- I would ask for that were I in your shoes as well.

(Pause.)

MR. LIMBAUGH: My only argument, and, again, I, I can certainly stand to be corrected, but we had -- the only other case I've had that would be remotely similar---

THE COURT: Uh-huh. (Affirmative).

MR. LIMBAUGH: ---would just be -- cause we've had -- I've had some where attorneys have failed to request a -- certain things to be---

THE COURT: Right.

MR. LIMBAUGH: ---to be asked in, in voir dire.

THE COURT: Right.

MR. LIMBAUGH: And we had -- that was the case earlier this week where it was talking about striking jurors and Batson challenges---

THE COURT: Right.

MR. LIMBAUGH: ---things of that nature. And, in those, it's still -- it's hard enough -- it's hard to show

prejudice potentially.

THE COURT: Right.

MR. LIMBAUGH: If this, this warrants a reversal on its face, it does, Your Honor. But that would just be the only thing is that it could potentially be, be tough on that end.

THE COURT: Right.

MR. LIMBAUGH: But that---

THE COURT: Okay.

MR. LIMBAUGH: It's a, it's a unique case that I have not specifically seen and have not done in depth research on just flat out there not being---

THE COURT: Well, you need four (indiscernible.)

MR. LIMBAUGH: Yeah, you need four (indiscernible.)

THE COURT: Yeah. Right.

MR. LIMBAUGH: So, I'm not gonna put an official position against this for the State on the record, Your Honor. That was just more of a question to the Court.

THE COURT: But he was convicted of a drug charge. Is that correct?

MR. LIMBAUGH: He was, Your Honor.

THE COURT: Okay.

MR. LIMBAUGH: So --.

THE COURT: And see I, I, I do believe that, when you, when you have a -- when you -- when you are picking juries for that of a, a drug case, going over any prejudices that

potentially jurors could have regarding drugs, you know, whether anybody that had -- I, I think that is, is crucial and prejudicial, and, and with, with nothing in the record to satisfy that or to satisfy me that that was done when they're picking a jury, I believe it's, it's fatal.

And so, Ms. Sarji, Mr. Stanley's patience has been rewarded.

Okay. If you would prepare the Order.

MS. SARJI: Yes, Your Honor.

THE COURT: Send it to Mr. Limbaugh and, Mr. Limbaugh, when I get the proposed order, if, if your research has indicated anything else, you may submit that for me to consider it in opposition to it.

But if you would go ahead and do that, Ms. Sarji.

MS. SARJI: Yes, Your Honor.

THE COURT: And could you cite Judge Hood. No. Though I am going to talk to him about that.

MR. LIMBAUGH: Thank you, Your Honor.

THE COURT: Okay. Thank y'all.

MS. SARJI: Thank you, Judge.

THE COURT: All right.

* * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas Nonjury for Berkeley County, South Carolina, on the 23rd day of January, 2020.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

August 20th, 2020

_____

PAMELA E. GREEN, Court Reporter

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF BERKELEY)	CASE NO.: 2016-CP-08-2600
Barry Jerrod Stanley, # 274236,)	
)	ORDER GRANTING APPLICATION
Applicant,)	FOR POST CONVICTION RELIEF
-versus-)	
)	
State of South Carolina,)	
)	
Respondent.)	
)	

FILED
APR 16 2020
CASE NO
LEAH GUERRY DUPREE
CLERK OF COURT
BERKELEY COUNTY, SC

DATE OF HEARING:	January 23, 2020
PRESIDING JUDGE:	Edgar W. Dickson
APPLICANT'S ATTORNEY:	Leslie T. Sarji
RESPONDENT'S ATTORNEY:	Benjamin Limbaugh
COURT REPORTER:	Circuit Court DCRP

This matter came before me in Charleston County on January 23, 2020 upon Applicant's request for post-conviction relief ("PCR"). The Applicant, Barry Stanley, made several arguments in support of his claim of ineffective assistance of trial counsel. Those arguments and the Court's findings on each are discussed below.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Berkeley County Clerk of Court. Applicant was indicted in February 2014 for failure to stop for a blue light (2014-GS-08-027) and trafficking cocaine base 28 – 100 grams, third offense (2014-GS-08-0028). Applicant entered a not guilty plea and was tried by a jury from April 7 – 9, 2014 before the Honorable Kristi Lee Harrington. Applicant was represented at trial by David

CC: SDV
L. T. Sarji
B. Limbaugh

Schwacke, Esquire and Chad Shelton, Esquire. Applicant was found guilty on both charges and was sentenced to imprisonment for consecutive terms of three years for failure to stop for a blue light and thirty years for trafficking cocaine base, 28 -100 grams, third offense.

Applicant filed a timely Notice of Appeal. The South Carolina Court of Appeals affirmed Applicant's conviction on May 11, 2016. *State v. Stanley,* Op. No. 2016-UP-194 (S.C. Ct. App. May 1, 2016). Remittitur was returned to the circuit court on May 27, 2016.

On October 31, 2016, Applicant filed an initial application for post conviction relief. Applicant's application for post-conviction relief alleges that he is being held in custody unlawfully as he received ineffective assistance of counsel for the following reasons:

a. Trial counsel failed to conduct or request adequate voir dire to determine any potential bias of potential jurors, resulting in a due process violation;

b. Trial counsel failed to object to the State vouching for the State's witness, William Loflin;

c. Trial counsel failed to object to testimony regarding how crack cocaine is made and in failing to object to a curative instruction or motion to strike such testimony; and

d. Trial counsel failed to object to and preserve for appellate review the "use of false inconsistent testimony of State's witnesses."

At the hearing of this matter, counsel for the State conceded that trial counsel had not conducted any case specific voir dire to determine the potential jurors' bias with regard to a case involving drugs and/or crack cocaine. Because I find this amounts to ineffective assistance of trial counsel sufficient to satisfy the test set forth in *Strickland v. Washington*, 466 U.S. 668 (1984), it is not necessary to address Applicant's remaining allegations regarding ineffective assistance of counsel.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard argument of counsel provided at the Post-Conviction Relief hearing. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." *Fraiser v. State*, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP). Where ineffective assistance of counsel is alleged as a ground for relief, the Post-Conviction Relief Applicant must prove that (1) counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that the deficient performance prejudiced

the Applicant's case. *Porter v. State*, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006) (citing *Strickland v. Washington*, 466 U.S. 668, 687 (1984)). In order to prove prejudice, an Applicant must show that but for counsel's errors, there is a reasonable probability the result of the trial would have been different. *Johnson v. State*, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997). A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Id. Courts presume that "counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Strickland*, 466 U.S. at 690. The PCR Applicant must overcome this presumption to receive relief. *Cherry v. State*, 300 S.C. 115, 386 S.E.2d 624 (1989).

Trial counsel failed to request any case-specific voir dire, which substantially prejudiced his ability to select and impanel an impartial jury.

Applicant alleged trial counsel was ineffective for failing to request case-specific voir dire in order to determine whether any potential juror could be impartial. Specifically, Applicant alleges prejudicial error by trial counsel's failure to inquire of the potential jurors as to whether there was any member of the venire that had experience or knowledge relating to drugs and/or cocaine or crack cocaine. An examination of the record shows that trial counsel's failure to request specific voir dire resulted in a merely perfunctory *voir dire* examination by the trial court.

"*Voir dire* examination serves the dual purpose of enabling the court to select an impartial jury and assisting counsel in exercising peremptory challenges." *Mu'min v.*

Virginia, 500 U.S. 415, 431 (1991). *See also, Rosales-Lopez v. United States*, 451 U.S. 182, 188 (1981) ("Voir dire plays a critical function in assuring the criminal defendant that his Sixth Amendment right to an impartial jury will be honored."); *State v. Clark*, 981 S.W.2d 143, 146 (Mo. 1998) ("The purpose of voir dire is to discover bias or prejudice in order to select a fair and impartial jury."); *State v. Green*, 301 S.C. 347, 354 (1990) ("The ultimate consideration is that the juror be unbiased, impartial and able to carry out the law as it is explained to him."). Because trial counsel's failure to request the trial court inquire as to possible prejudices within the jury panel, Applicant was deprived of the ability to impanel an impartial jury. The result is a deprivation of Applicant's rights under the Sixth and Fourteenth Amendments to the Constitution. Therefore, I find trial counsel was ineffective and the result was a trial that was rendered fundamentally unfair. *See State v. Bixby*, 698 S.E.2d 572 (S.C. 2010); *State v. Stanko*, 658 S.E.2d 94 (S.C. 2008) ("To constitute reversible error, a limitation on questioning must render the trial fundamentally unfair.").

CONCLUSION

Based on the foregoing reason, this Court finds and concludes that the Applicant has established sufficient constitutional violations and deprivations that this Court is required to grant his application for Post-Conviction Relief. Therefore, this application must be granted and the Applicant's case reversed and remanded.

IT IS THEREFORE ORDERED That the Application for Post-Conviction Relief must be granted and the Applicant's convictions are hereby SET ASIDE and the Applicant's sentence is hereby VACATED. This matter is hereby REMANDED for further prosecution.

IT IS FURTHER ORDERED that Applicant shall be remanded to the custody of Berkeley County to await further prosecution.

AND IT IS SO ORDERED!

JUDGE EDGAR W. DICKSON
PRESIDING JUDGE

Orangeburg, South Carolina
2 April, 2020

EWD

STATE OF SOUTH CAROLINA COUNTY OF BERKELEY	)	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT
Barry Jerrod Stanley, #274236, Applicant, v. State of South Carolina, Respondent.	)	Case No. 2016-CP-08-2600 **RESPONDENT'S MOTION TO RECONSIDER, ALTER, OR AMEND PURSUANT TO RULE 59(e), SCRCP**

This matter comes before this Court by way of an application for post-conviction relief filed on October 31, 2016, by Barry Jarrod Stanley (Applicant). A hearing on this application was held in the Charleston County Courthouse before the Honorable J. Edgar Dickson, presiding judge, on January 23, 2020. By written order signed April 2, 2020, and received by Respondent on April 6, 2020, this Court granted post-conviction relief and remanded the matter to the Berkeley County Court of General Sessions for a new trial, finding trial counsel was ineffective due to "trial counsel's failure to request the trial court inquire as to possible prejudices within the jury panel, Applicant was deprived of the ability to impanel an impartial jury."

Respondent, by and through undersigned counsel, making its Motion to Reconsider, Alter, or Amend, pursuant to Rule 59(e), SCRCP, would respectfully show unto this Court:

PROCEDURAL HISTORY

Barry Jerrod Stanley ("Applicant") is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Berkeley County Clerk of Court. In February 2014, the Berkeley County Grand Jury indicted Applicant for failure to stop for a blue light (2014-GS-08-0027) and trafficking cocaine base, 28-100 grams, third offense (2014-GS-08-

0028). David Schwacke, Esquire and Chad Shelton, Esquire represented Applicant. Assistant Solicitors Michael Patterson, Esquire and Charles Condon, Esquire prosecuted the case. On April 7-9, 2014, Applicant proceeded to trial before the Honorable Kristi Harrington. The jury found Applicant guilty as indicted on both charges. Judge Harrington sentenced Applicant to imprisonment for consecutive terms of three years for failure to stop for a blue light and thirty years for trafficking cocaine base, 28-100 grams, third offense.

Applicant filed a timely notice of appeal. Tiffany Loraine Butler, Esquire, of the Office of Appellate Defense perfected the appeal. The South Carolina Court of Appeals affirmed Applicant's conviction on May 11, 2016. *State v. Stanley*, Op. No. 2016-UP-194 (S.C. Ct. App. filed May 11, 2016). The remittitur was returned to the circuit court on May 27, 2016.

In his application for post-conviction relief, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Trial Counsel
    a. "Failing to *voir dire* or request the trial court *voir dire* the jury for any potential bias of potential jurors prior to seating the jury."
    b. "Failing to object to the Solicitor vouching for the State's witness William Loflin"
    c. "Failing to object to testimony regarding how crack cocaine is made after objection made and sustained to witness being a narcotics expert as well as failing to ask for curative instruction or motion to strike testimony."
    d. "Failing to object to and preserve for appellate review the State's use of false inconsistent testimony of State's witnesses to obtain a conviction for trafficking in crack cocaine."

2. "Ineffective Assistance of Appellate Counsel"
    a. "Failing to raise 'the trial court erred in denying Defendant's motion for a directed verdict of acquittal on the charge of trafficking in crack-cocaine, thereby denying him due process' on direct appeal

A number of evidentiary hearings were scheduled, but ultimately continued in an attempt

to acquire the *voir dire* transcript from Applicant's trial. The *voir dire* transcript was finally received and reviewed by the parties. An evidentiary hearing was scheduled before this Court the week of January 20th in Charleston County. Applicant moved to grant the application citing the lack of case specific *voir dire* relating to drug use and other related topics. This Court granted the motion and requested a proposed order from Applicant. However, the State requested leave to submit a brief in opposition for your Honor's consideration.

The Court, after considering both the Applicant's proposed order and the State's brief in opposition, signed an order on April 3, 2020 granting post-conviction relief and remanding the matter to the Berkeley County Court of General Sessions for a new trial. This motion to reconsider, alter, and amend pursuant to Rule 59(e), SCRCP, follows.

ARGUMENT IN SUPPORT OF RECONSIDERATION

Respondent moves this Court to reverse its earlier decision and deny post-conviction relief because Applicant failed to meet his burden of establishing counsel was constitutionally ineffective and prejudice resulted.

In every criminal case tried in South Carolina, the defendant has a constitutional right to a fair trial. State v. Woods, 345 S.C. 583, 587, 550 S.E.2d 282, 284 (2001); see State v. Harris, 340 S.C. 59, 63, 530 S.E.2d 626, 627 (2000) ("The Sixth and Fourteenth Amendments of the United States Constitution guarantee a defendant a fair trial by a panel of impartial and indifferent jurors."). Pursuant to that right, the defendant is entitled to effective assistance of counsel. McMann v. Richardson, 397 U.S. 759, 771, n. 14 (1970); see Strickland v. Washington, 466 U.S. 668, 685 (1984) ("An accused is entitled to be assisted by an attorney, whether retained or appointed, who plays the role necessary to ensure that the trial is fair."). Significantly, effective assistance of counsel does *not* mean perfect representation. See Yarborough v. Gentry, 540 U.S.

1, 8 (2003) ("The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight."); see also Burt v. Titlow, 571 U.S. 12, 24 (2013) ("[T]he Sixth Amendment does not guarantee the right to perfect counsel; it promises only the right to effective assistance[.]"). Instead, it simply means assistance that was objectively reasonable under prevailing professional norms. Strickland, 466 U.S. at 687-688. Meanwhile, counsel's assistance is considered to be constitutionally ineffective when "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Id. at 686.

When faced with a claim of ineffective assistance of counsel, a reviewing court must conduct a two-pronged analysis. Franklin v. Catoe, 346 S.C. 563, 570, 552 S.E.2d 718, 722 (2001). Pursuant to that two-pronged analysis, an applicant raising an ineffective assistance of counsel claim must establish: (1) counsel's representation fell below an objective standard of reasonableness; *and* (2) there is a reasonable probability the outcome of the proceeding would have been different but for counsel's deficient performance. Williams v. State, 363 S.C. 341, 343, 611 S.E.2d 232, 233 (2005). Thus, the applicant has the burden of establishing both deficiency and prejudice in order to be entitled to post-conviction relief. Hughes v. State, 364 S.C. 554, 558, 552 S.E.2d 315, 317 (2001). Significantly, "the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged." Strickland, 466 U.S. at 696.

Regarding the deficiency prong of the analysis, the proper measure of performance is whether counsel provided representation within the reasonable range of competence required in criminal cases. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). When analyzing counsel's performance, the reviewing court will strongly presume counsel provided adequate

assistance, and the applicant is responsible for overcoming that presumption. Id.; see Cullen v. Pinholster, 563 U.S. 170, 189 (2011) (explaining a defendant must show defense counsel failed to act reasonably considering all the circumstances in order to overcome the presumption of adequate representation). Furthermore, the reviewing court will scrutinize counsel's performance in a highly deferential manner, will make every effort "to eliminate the distorting effects of hindsight," and will "evaluate the conduct from counsel's perspective at the time" in light of the then-existing circumstances. Strickland, 466 U.S. at 689. In order to establish counsel's performance was deficient, the applicant must demonstrate "counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." Id. at 687. Thus, counsel's performance will be considered to be deficient only when it objectively amounted to incompetence under prevailing professional norms and *not* when it simply "deviated from best practices or most common custom." Harrington v. Richter, 562 U.S. 86, 105 (2011).

Beyond satisfying the burden required by the deficiency prong, an applicant also bears the burden of establishing prejudice in order to be entitled to post-conviction relief as "[a]n error by counsel, even if professionally unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment."[1] Strickland, 466 U.S. at 691. In order for that burden to be met, counsel's deficient performance must have prejudiced the applicant to such an extent there is a reasonable probability the result of the proceeding would have been different but for counsel's unprofessional errors. Cherry v. State, 300 S.C. 115, 117-118, 386 S.E.2d 624, 625 (1989); see Strickland, 466 U.S. at 694 ("A reasonable probability is a probability

[1] Notably, "a court need not determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies." Strickland, 466 U.S. at 697. In fact, a reviewing court ordinarily should dispose of an ineffective assistance of counsel claim on the grounds of lack of sufficient prejudice "[i]f it is easier" to do so. Id.

sufficient to undermine confidence in the outcome."). Importantly, "[t]he likelihood of a different result must be *substantial*, not just conceivable." Richter, 562 U.S. at 112 (emphasis added).

In the case at bar, Mr. Stanley failed to meet his burden of establishing defense counsel's performance during the *voir dire* process fell below the prevailing standard of professional norms. Significantly, it appears that the trial judge asked some additional questions during *voir dire* beyond the statutorily-mandated questions to elicit information about the prospective jurors beyond the information that would have otherwise been elicited through the trial judge's standard questioning. Specifically, the trial judge stated; "If you need to answer that question or if you feel that whatever moral, political, whatever belief that you could not be a fair and impartial juror in this particular case and you need to discuss that with me, please move to the center aisle just as you did in the jury qualifications and I will see you at this time." Tr. 29, l. 3-9. See S.C. Code Ann. § 14-7-1020 (requiring a trial judge—upon request by either party—to question prospective jurors to determine whether any of them: (1) is related to either party; (2) has any interest in the cause; (3) has expressed or formed any opinions; and (4) is sensible of any bias or prejudice therein); see also Strickland, 466 U.S. at 689 ("[A] court must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance. . . . There are countless ways to provide effective assistance in any given case. Even the best criminal defense attorneys would not defend a particular client in the same way."). Defense counsel's failure to propose an additional *voir dire* question on potential bias against drugs to a trial judge with no obligation whatsoever to ask such a question was simply not evidence of unreasonable representation below the objective standard of professional norms. See Richter, 562 U.S. at 110 ("Just as there is no expectation that competent counsel will be a flawless strategist or tactician, an attorney may not be faulted for a reasonable miscalculation or lack of foresight or *for failing to*

prepare for what appear to be remote possibilities." (emphasis added)); see also State v. Britt, 237 S.C. 293, 305, 117 S.E.2d 379, 385 (1960) ("[A]fter the statutory questions have been asked and answered, any further examination of a juror on *voir dire* must be left to the discretion of the trial Judge, which is subject to review only for abuse thereof. . . . [T]he scope and limit of the interrogation of a juror on *voir dire* is within the sound discretion of the trial Judge, and it is for him to determine the character of the questions proposed, and when the examination shall end."), overruled on other grounds by State v. Torrence, 305 S.C. 45, 406 S.E.2d 315 (1991); cf. Mu'Min v. Virginia, 500 U.S. 415, 425-426 (1991).

Further, notwithstanding Stanley's failure to establish deficiency on the part of defense counsel, Stanley additionally failed to establish he suffered any actual prejudice as a result of defense counsel's performance during *voir dire*. First, Stanley did not present any evidence establishing the trial judge would have asked the question Stanley now contends should have been asked if it had been proposed by defense counsel, and thus, he has failed to show defense counsel's failure to propose such a question altered the manner in which *voir dire* was conducted. See Wall v. Keels, 331 S.C. 310, 318, 501 S.E.2d 754, 757 (Ct. App. 1998) ("[A]s a general rule, the trial court is not required to ask all *voir dire* questions submitted by the attorneys."); see also State v. Neeley, 271 S.C. 33, 37, 244 S.E.2d 522, 525 (1978) ("Having asked the statutory questions, any further examination was in the trial judge's discretion."). Second, other than mere speculation, Stanley presented no evidence supporting the claim that any juror selected was not fair and impartial. Thus, Stanley could not possibly have met his burden in proving his right to a fair and impartial jury was impacted negatively in any capacity by defense counsel's representation during *voir dire*. See State v. Stanko, 376 S.C. 571, 576, 658 S.E.2d 94, 96-97 (2008) ("While . . . a defendant [has] the constitutional right to a fair and impartial jury of his peers, this right does not

entitle a defendant to handpick a jury."); State v. Evins, 373 S.C. 404, 416, 645 S.E.2d 904, 910 (2007) ("[A] defendant has no right to trial by a particular jury."); cf. White v. Dingle, 757 F.3d 750, 755 (8th Cir. 2014) ("White asserts that he was 'prejudiced by counsel's errors' because there 'is a strong possibility that the jury foreperson was biased because of her relationship to the surviving victim's roommate.' As the district court found, there is no direct evidence of bias. His speculation of prejudice is without evidentiary support.").

Thus, because defense counsel's failure to propose additional questioning during *voir dire* on potential drug bias did not constitute unreasonable representation falling below a standard of professional norms and because Stanley has not presented any evidence proving prejudice as a result of any juror's service on the jury, this Court incorrectly concluded Stanley met his required burden of establishing both deficiency and prejudice, and the ruling is erroneous. See Sellner v. State, 416 S.C. 606, 610, 787 S.E.2d 525, 527 (2016) (instructing a post-conviction relief judge's factual finding will be upheld if supported by any evidence and a post-conviction relief's judge's decisions will only be reversed where controlled by an error of law). Therefore, this Court's grant of relief was improper and should be reconsidered.

CONCLUSION

For all the foregoing reasons, the State respectfully submits this Court reconsider its grant of relief and deny Applicant's post-conviction relief application.

Respectfully submitted,

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April 30, 2020

STATE OF SOUTH CAROLINA COUNTY OF BERKELEY	)	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT
Barry Jerrod Stanley, #274236, Applicant, -versus- State of South Carolina, Respondent.	)	Case No.: 2016-CP-08-2600 APPLICANT'S RESPONSE TO THE STATE'S MOTION TO RECONSIDER

Applicant, by and through undersigned counsel, respectfully requests this Court deny the State's Motion to Reconsider this Court's previous grant of his application for post-conviction relief. The State asks this Court to reverse its decision to grant Applicant's request for post-conviction relief based on the second prong of *Strickland*. However, it is more appropriate to analyze trial counsel's deficient performance in this case pursuant to the standard set out in *United States v. Cronic*, 466 U.S. 648 (1984).

As the Court acknowledges in the Order Granting Post-Conviction Relief, "Voir dire plays a critical function in assuring the criminal defendant that his Sixth Amendment right to an impartial jury will be honored." *Rosales-Lopez v. United States*, 451 U.S. 182, 188 (1981). Where, as in the case at bar, trial counsel failed to even request that the trial count conduct case specific *voir dire* aimed at discovering the jurors' biases and prejudices related to crack cocaine, the proceedings are so fraught with error as to allow this Court to presume prejudice. Where "the adversary process itself" has been rendered "presumptively unreliable," a presumption of prejudice is appropriate. *United States v. Cronic*, 466 U.S. 648, 659. In this case, trial counsel was unable to discharge his duty to assist the defendant with impanelling a fair and impartial jury

because he did not even attempt to do so by conducting a meaningful exploration of the jury panel's biases as related to Applicant's specific case.

As the United States Supreme Court recognized in *Cronic,* the Sixth Amendment is "meant to assure fairness in the adversary criminal process." *Id.* at 656 *quoting United States v. Morrison,* 449 U.S. 361, 364 (1981). The failure of trial counsel to conduct case specific *voir dire* before Applicant's trial produced "circumstances that are so likely to prejudice the accused that the cost of litigating their effect in a particular case is unjustified." *United States v. Cronic,* 466 U.S. 648, 659 (1984) (internal citations omitted). The circumstances created by trial counsel's failure to determine the biases and prejudices of the jury panel as related to Applicant's specific case justify a presumption of prejudice without further inquiry. *See Cronic, supra* at 661 *citing Powell v. Alabama,* 287 U.S. 45 (1932).

Trial counsel's failure to conduct case specific *voir dire* resulted in a deprivation of Applicant's Sixth and Fourteenth Amendment rights. Undersigned counsel therefore respectfully requests that this Court remain constant in its grant of Post-Conviction Relief and deny the State's Motion to Reconsider its grant of relief to Applicant.

Should this Court grant the State's Motion to Reconsider, undersigned counsel requests the case be remanded for a hearing on the merits of *all* issues raised in Applicant's application for post-conviction relief. A full hearing on the merits of Applicant's application for post conviction relief was not held previously, given this Court's ruling that trial counsel's failure to conduct (or even request) case specific *voir dire* amounts, in and of itself, to ineffective assistance of counsel sufficient to warrant granting Applicant's request for relief.

Respectfully submitted,

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June 9, 2020
Charleston, South Carolina

Attorney for Applicant

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF BERKELEY	)	
	)	CASE NO.: 2016-CP-08-2600
BARRY JERROD STANLEY, #274236	)	**MOTION AND ORDER INFORMATION**
Plaintiff,	)	**FORM AND COVERSHEET**
vs.	)	
STATE OF SOUTH CAROLINA	)	
Defendant.	)	

LEAH BUERHAUS CLERK OF COURT BERKELEY COUNTY, SC
2020 JUL 22 PM 5:04
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Plaintiff's Attorney:	Defendant's Attorney:
Leslie Sarji, Bar No. 15672	Benjamin Limbaugh, Bar No. ____
Address:	Address:
PO Box 20248, Chas. SC. 29413	____
Phone: 843-722-5354Fax ____	Phone: ____ Fax____
E-mail: ____Other: ____	E-mail: ____Other: ____

☐ **MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)**
☐ **FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)**
☒ **PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)**

SECTION I: Hearing Information

Nature of Motion: ____
Estimated Time Needed: ____ Court Reporter Needed: ☐ YES/☐ NO

SECTION II: Motion/Order Type

☐ Written motion attached
☒ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Leslie Sarji
Signature of Attorney for ☒ Plaintiff /☐ Defendant

July 16, 2020
Date submitted

SECTION III: Motion Fee

☐ PAID – AMOUNT: $____
☒ EXEMPT: (check reason)
- ☐ Rule to Show Cause in Child or Spousal Support
- ☐ Domestic Abuse or Abuse and Neglect
- ☐ Indigent Status ☐ State Agency v. Indigent Party
- ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
- ☐ Motion for Stay in Bankruptcy
- ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
- ☒ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
  Name of Court Reporter: ____
- ☐ Other: ____

JUDGE'S SECTION	
☐ Motion Fee to be paid upon filing of the attached order.	JUDGE CODE ____
☐ Other: ____	Date: ____

CLERK'S VERIFICATION

Collected by: VB Date Filed: ____
☐ MOTION FEE COLLECTED: $ ____
☐ CONTESTED – AMOUNT DUE: $ ____

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA COUNTY OF BERKELEY	)	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT
Barry Jerrod Stanley, #274236, Applicant, -versus- State of South Carolina, Respondent.	)	Case No.: 2016-CP-08-2600 ORDER DENYING STATE'S MOTION TO RECONSIDER

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THIS MATTER CAME BEFORE ME upon the State's Motion to Reconsider the Court's prior Order granting Applicant's petition for Post Conviction Relief, filed on April 16, 2020. After careful consideration of the State's Motion to Reconsider and Applicant's Response to the Motion to Reconsider, this Court denies the State's Motion.

AND IT IS SO ORDERED!

Judge Edgar W. Dickson
Presiding Judge

Orangeburg, South Carolina
July 9, 2020