

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Appeal from Greenville County
Honorable Perry H. Gravely, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DAVID M. BARAJAS,

APPELLANT

APPELLATE CASE NO 2020-000549

RECORD ON APPEAL

ADAM SINCLAIR RUFFIN
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

WILLIAM M. BLITCH, JR.
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

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CHRIS CARLISLE-DIRECT BY MR. WATERS

1 doing a deal and then the core group, the cover team will
2 go with Juan and the person he's driving.

3 We do that because we've had money deals
4 before where it's set up through Mexico and a cartel and
5 the money's exchanged and the guy that gives, say, Juan,
6 the undercover, will double back around and try to steal
7 that money or steal that drug. So we -- right when he
8 leaves something, we really have to, we call it cleaning
9 off, and follow for a couple of blocks, do a couple of
10 turns just to make sure nobody is following him.

11 Q So there is a risk even after the deal is done
12 that the person who gave the money or someone else might
13 try to steal or rip the funds that were transferred to the
14 UC?

15 A Yes. I'll give you an example. Yesterday, we
16 did a deal and there's countersurveillance. So there was
17 somebody in the parking lot when he did a deal. When the
18 target left, we realized this guy was trying to follow us,
19 trying to figure out who was law enforcement. So the
20 cartel does use countersurveillance, also. So we do a
21 couple of turns, let him stop at red lights and see if the
22 same cars are with him until we're sure he's clean.

23 Q Tell me, what is the most important
24 consideration in doing these undercover operations or CI
25 operations?

CHRIS CARLISLE-DIRECT BY MR. WATERS

1 A So I've been doing the plain clothes undercover
2 stuff for seven years. And safety is the biggest thing.
3 I mean, the cartel makes drugs day in and day out.
4 They're going to come up here. You know, we try to catch
5 them. We try to seize the money before it goes to the
6 border. But the safety is the ultimate thing.

7 Q And how does those safety concerns, what you
8 said, are the paramount consideration, how does that
9 relate to the ability to put on a UC or a CI any sort of
10 audio or visual recording device?

11 A So this was a case several years ago.
12 Technology, I mean, just like with iPhones, they change
13 every year. This was five years ago. So now we use a
14 little bit more sophisticated equipment to where it's not
15 as obvious. I mean, a lot of you guys are used to TV and
16 it looks modern and it works and that's not the case. You
17 know, that's TV.

18 So if you were to -- if we were to wire
19 Juan up with a camera -- and they have different discrete
20 cameras, but when you're going in somebody's house, you
21 don't if there's one people or four people in that house.
22 If they find what's on you, it compromises who you are.
23 And if we can't hear that, if we don't know you're in
24 trouble, we can't go in there and rescue, who knows what's
25 going to happen. So a lot of it is just -- the technology

CHRIS CARLISLE-DIRECT BY MR. WATERS

1 is better now, but you just have to weigh the risk. Is it
2 worth having something they're going to pat you down and
3 find once you walk inside that house?

4 Q So the safety considerations can limit what
5 technology is used on a CI or UC?

6 A Correct.

7 Q Is it your experience that even with the best of
8 intentions, sometimes whatever devices were used just
9 don't work or the signal is not good or it's
10 unintelligible?

11 A Well, if you're out in a parking lot -- even
12 back then, the technology we were using then, which I
13 don't believe they use at all now. In a parking lot, an
14 open parking lot, it's just like cell phone coverage, it's
15 pretty much going to work. If you go inside a certain
16 store, that cell phone may not work. It's the same with
17 this device that they were using this day.

18 Q Okay. All right. Let's go back to the events
19 of that afternoon. And I think we left off that -- did
20 you receive reports that the CI had exited the meet, at
21 the place where it occurred?

22 A He had gotten -- so we did have somebody
23 stationed to where they could keep an eye on Juan's car.
24 We may have somebody in a minivan or something, can get in
25 the back of an SUV or a minivan. So I do remember him

CHRIS CARLISLE-DIRECT BY MR. WATERS

1 radioing and saying that the person, Juan's passenger had
2 come out of his house, gotten in the car with Juan and
3 then they drove off and at the same time, another car
4 left. So that's when we split. Half the group went with
5 that other vehicle that left the house and then our cover
6 team left with Juan in his UC car.

7 Q So you did not go on the surveillance team, you
8 went with the cover team to track Juan and the CI as they
9 drove to the rally point?

10 A Yes, sir.

11 Q And the purpose was to make sure nothing went
12 wrong?

13 A Yes.

14 Q Did you arrive at the rally point?

15 A Yes.

16 Q What, if anything, happened at the rally point
17 when you got there?

18 A By the time we did this cleaning off, like I
19 said, it was a mile or two, couple of turns, by the time
20 we met at this -- it's like a commercial business. It's
21 on a Sunday afternoon, so there's not much open. We pull
22 behind the business. And we do this just to get out of
23 sight to where, who knows where that other car, maybe it
24 drives by, you don't want to be out in front of the
25 business. But myself, Juan and several other group

CHRIS CARLISLE-DIRECT BY MR. WATERS

1 members all arrived behind this business at the same time.

2 Q Okay. And once you got there, what happened
3 next?

4 A Juan and the passenger got out of the car. Juan
5 got out with a bag. We originally put it on the back of I
6 think his UC car, but I have a black Dodge Charger, as I
7 stated. We eventually put it on the back of my car,
8 opened the bag to, you know, just observe and photograph
9 the drugs.

10 MR. WATERS: May I approach the witness, Your
11 Honor?

12 THE COURT: You may.

13 BY MR. WATERS:

14 Q I'm going to show you what's been marked as
15 State's Exhibit 6, 7, 8, 9, 10, 11 and 12. Just have you
16 go through those and see if you recognize them?

17 A So 6 is -- that's when they first took it out of
18 the bag?

19 Q Let me just have you look through them real
20 quick and then I'm going to put them on up on the screen?

21 A Okay.

22 Q You recognize all those?

23 A Yes.

24 MR. WATERS: May I publish these, Your Honor?

25 THE COURT: Yes, you may.

CHRIS CARLISLE-DIRECT BY MR. WATERS

1 BY MR. WATERS:

2 Q All right. Looking now at State's Exhibit 6,
3 what does this depict?

4 A So that's one of the first pictures I took right
5 after the bag was taken out of the car. It's still tied
6 and sealed as -- I believe it was in the back of the car
7 when they got it out. But that's the way it first came
8 out of the UC car.

9 Q So that's the condition that Agent or TFO
10 Echeverry handed it to you in?

11 A Yes, sir.

12 Q Let me go now to State's Exhibit 7. What is
13 that?

14 A This is just -- I, you know, it's not like we
15 use film anymore. Cameras are free, so I just take
16 several -- it's the same picture, essentially. I just
17 take several just in case it's not focused or whatever.
18 You know, the smallest detail may come into play years
19 later. So same picture, basically.

20 Q Close up?

21 A Yeah.

22 Q All right. I'm going to go back to 6 real
23 quick. What is this up here in sort of the right top
24 corner?

25 A It's a federal U.S. Department of Homeland

CHRIS CARLISLE-DIRECT BY MR. WATERS

1 Security evidence bag.

2 Q And what's the purpose of that bag?

3 A So that red strip you see is about an inch of
4 glue. You put evidence in a bag, whether it's money or
5 DVDs or whatever the evidence is, you place it in the bag.
6 You pull that red glue strip and it's solid glued to where
7 you would have to cut the bag to get back in the bag.
8 It's not -- you'd have to rip the bag to open the bag.

9 Q Okay. All right. What's the police purpose of
10 a bag like that? What the point of having something like
11 that?

12 A To preserve the evidence.

13 Q Preserve the integrity of the evidence?

14 A Yes.

15 Q Ultimately, did you put these -- and we're going
16 to see some more pictures, but did you put the items
17 recovered from this bag into the evidence bag?

18 A After they were opened, yes, opened and tested,
19 yes.

20 Q And I see right here, you said it was a Homeland
21 Security evidence bag, it's kind of hard to see, but is
22 that their seal and it says Homeland Security right there?

23 A Yes, sir.

24 Q All right. So we looked at Exhibit 7, which was
25 kind of close up, correct?

CHRIS CARLISLE-DIRECT BY MR. WATERS

1 A Yes.

2 Q All right. Exhibit 8, tell us what this
3 depicts?

4 A It's just slowly opening the bag and showing
5 what's in there, just step-by-step taking it out.

6 Q And these are the agents doing this?

7 A Yes. Well, in my presence. I mean, I actually
8 take it out and open the bag.

9 Q Exhibit 9.

10 A Just the same thing, one step further. Getting
11 to the core of what was in it.

12 Q All right. Exhibit 10?

13 A Then that's -- so that's what Juan observed the
14 guy that he brought to the house come out with. Juan kept
15 the recover bag in his custody until we met and that's
16 eventually what was taken out of the bag.

17 Q So, ultimately, Juan gave you what was in
18 Exhibit 6 and 7, correct, just like that?

19 A Correct.

20 Q In that form, correct?

21 A Correct.

22 Q And then y'all opened it, other agents opened it
23 in your presence, and that's what came out of it?

24 A Yes.

25 Q Did anyone tamper with it, alter it, change it,

CHRIS CARLISLE-DIRECT BY MR. WATERS

1 take anything out, put anything in during the course of
2 that procedure?

3 A No, sir. There was probably about -- at this
4 point, there was probably about six or eight of us
5 standing around the car at that point.

6 Q And they were in your observation the entire
7 time?

8 A Yes.

9 Q From the second Juan gave them to you?

10 A Yes.

11 Q All right. Exhibit 11, what does that look
12 like?

13 A It's just a closer -- I don't know if you've
14 ever seen meth before, but the one on the top right is the
15 shards that -- that's what you really want as far as a
16 final product.

17 Q Okay. So you've, obviously, got a lot of law
18 enforcement experience, but that's what it appeared to you
19 to be is meth; is that correct? These two, at least?

20 A Yes.

21 Q All right. Exhibit 12, what does that
22 represent?

23 A Like I said, just one more picture of the same
24 thing.

25 Q All right. Now, we can see these appear to be

CHRIS CARLISLE-DIRECT BY MR. WATERS

1 on the trunk of a white car; is that correct?

2 A Yes, sir.

3 Q At some point, did y'all move the items that
4 were recovered from what the CI brought to Juan and Juan
5 brought to you, move them somewhere else?

6 A Yeah, the cars are parked right next to each
7 other.

8 Q Okay. Where did you move them to?

9 A The back of my car.

10 Q All right. I'm going to show you what's been
11 marked as Exhibit 13, you recognize that?

12 A Yes.

13 Q Tell the jurors what that depicts.

14 A So I -- state patrol supplies me with test kits.
15 We have test kits for coke, marijuana, different drugs.
16 We suspected this was methamphetamine. What that pouch
17 is, you can take the top off. There's several glass tubes
18 in it. You take that straw, that white straw with gloves
19 on, obviously, and you take a small sample -- open that
20 bag and take a small sample out of it, whether it's coke
21 or, like I said, in this case, it's meth. You drop that
22 very, very small sample in. You break those tubes one at
23 a time. It's a chemical reaction. I'm not a chemist, but
24 the instructions are on the package, which I've used I
25 can't tell you how many dozen of times. But you break the

CHRIS CARLISLE-DIRECT BY MR. WATERS

1 tubes and it will tell you -- like, on the package,
2 there's a color code. If it turns a certain color, it
3 tells you there's a high probability that's meth.

4 Q Was that a positive result there?

5 A Yes. We call that field testing. We just do
6 that because we've had deals where we think it's cocaine
7 and it's sugar or powder or, you know, sheetrock. So we
8 do this just to say hey, we're fairly certain with the
9 police drug test in the field that this is what we
10 suspect.

11 Q But that's not the end of it, is it?

12 A No. No, sir.

13 Q So you've got a positive field test. What do
14 you do after that to ensure that this evidence is
15 transported without being altered in any fashion for any
16 further testing?

17 A So after I field test it, which I did that, we
18 place it in the bag that I told you, with the glue. I
19 don't know what kind of glue it is, but as I said, once
20 you seal it, it's done. So you just have to make sure
21 everything's in there, it's documented, it's written on
22 when you seal it.

23 Q All right. Is that what you did in this case?

24 A Yes.

25 Q Did you put the items that were recovered in

CHRIS CARLISLE-DIRECT BY MR. WATERS

1 that evidence bag and seal it in the form without any
2 alteration or tampering that they were provided to you by
3 Juan?

4 A Yes, sir.

5 Q What did you do after that? Once you put them
6 in the bag, where did you take them?

7 A Georgia State Patrol, we partner with the Forest
8 Park Police. And like I said, I'm on the criminal
9 interdiction unit. We have a locker at Forest Park that
10 we can secure it overnight. I mean, they keep evidence
11 for burglaries and murders or whatever. But we have an
12 evidence locker where it's 24 hours at the police station,
13 there's somebody 24 hours day. You submit it into the
14 evidence locker, it's almost like putting something in the
15 mail, but when you shut it, it's locked. And because this
16 is a Sunday, I can't take it to the crime lab. The GBI
17 crime lab is not open on Sunday.

18 Q So you put it in a secure location made for that
19 very purpose?

20 A Yes, myself and Juan traveled to Forest Park
21 Police, secured that in the locker. And then we returned
22 on Monday morning, picked it up with that evidence
23 custodian. It's in the same exact condition, the same
24 bag. The bag is sealed. Juan and I picked that up and we
25 transported it, drove it to the GBI crime lab.

CHRIS CARLISLE-CROSS BY MR. HODGE

1 Q When you picked it up the next day or whenever
2 it was after depositing it in that secure location, was it
3 in the same form, untampered with when you picked it up?

4 A Yes.

5 Q All right. Did you deliver it to the GBI crime
6 lab in the same condition it was, untampered, unaltered,
7 unchanged?

8 A Yes, sir.

9 Q And GBI, remind us what that stands for?

10 A Georgia Bureau of Investigation. That would be
11 similar to SLED up here. So we have the state patrol,
12 GSP, and then GBI is our investigative branch of the state
13 police?

14 Q State police?

15 A Yes.

16 Q And they have a state crime lab that performs
17 tests to confirm whether or not something is an illegal
18 substance?

19 A Yes, it's right in Atlanta.

20 MR. WATERS: Nothing further at this time, Your
21 Honor.

22 THE COURT: Cross-examination.

23 MR. HODGE: Very, very briefly, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. HODGE:

CHRIS CARLISLE-CROSS BY MR. HODGE

1 Q TFO Carlisle; is that right?

2 A Yes, sir.

3 Q Just wanted to make sure. TFO Carlisle, you
4 stated you were parked a couple streets over while this
5 transaction was occurring; is that correct?

6 A That's correct.

7 Q So you didn't have the opportunity to view any
8 individuals that were involved in this transaction
9 yourself?

10 A No, sir.

11 Q You had no first-hand knowledge prior to this
12 transaction who was even involved?

13 A No, sir.

14 Q You didn't have names?

15 A No.

16 Q You didn't have nicknames?

17 A No, sir.

18 Q You just knew there was an operation and you
19 were there for support purposes, countersurveillance, that
20 sort of thing?

21 A Yeah, it's kind of like a SWAT call out to where
22 you're at home on the weekend, the phone rings and, you
23 know, you get there as soon as you can. But like I said,
24 they were already in the beginning stages when I arrived.

25 Q Right. So you had no direct knowledge of who or

CHRIS CARLISLE-CROSS BY MR. HODGE

1 where these drugs were coming from and had come from other
2 than you knew that Officer Echeverry had brought them to
3 you at this location?

4 A Correct.

5 Q Then you just took them for testing?

6 A Correct.

7 MR. HODGE: No further questions.

8 THE COURT: Any redirect?

9 MR. WATERS: Nothing further, Your Honor.

10 THE COURT: All right, you may step down.

11 THE WITNESS: All right, thank you.

12 MR. WATERS: Your Honor, the State's next
13 witness is Dr. Mosammat Begum.

14 Your Honor, I apologize, can the previous
15 witness be excused?

16 THE COURT: Any objection?

17 MR. HODGE: No objection.

18 THE COURT: All right.

19 THE CLERK: Please step forward to be sworn in.

20 If you would, place your left hand on the Bible.

21 THE WITNESS: I don't want to.

22 THE CLERK: Raise your right hand, please.

23 MOSAMMAT BEGUM, after being duly sworn,

24 testified as follows:

25 THE WITNESS: I do.

MOSAMMAT BEGUM-DIRECT BY MR. WATERS

1 THE CLERK: Thank you, please be seated.

2 DIRECT EXAMINATION

3 BY MR. WATERS:

4 Q Good afternoon, Dr. Begum.

5 A Good afternoon.

6 Q If you could, please tell the jury where you are
7 employed and what you do for a living.

8 A I am employed by Georgia Bureau of Investigation
9 in the division of forensics sciences, which is also known
10 as crime lab. It is located in Decatur, Georgia.

11 Q What exactly do you do in your position?

12 A I analyze different evidence that is submitted
13 by agencies for the presence or absence of controlled
14 substances.

15 Q And controlled substances, is that another word
16 for drugs?

17 A Correct.

18 Q Dr. Begum, if you would, please summarize what
19 special training and experience you have in that field
20 that makes you qualified to do that job.

21 A To begin with my education, I have Bachelor of
22 Science Degree, Master of Science Degree in chemistry from
23 University of Dhaka, Bangladesh. I have PHd in chemistry
24 from Brandeis University, which is located in Waltham,
25 Massachusetts. After finishing PHd, I held a number of

MOSAMMAT BEGUM-DIRECT BY MR. WATERS

1 post-doctoral research positions. My first post-doctoral
2 research position was at Chemistry Department Brandeis
3 University. Second post-doctoral position was at Research
4 Triangle Institute, North Carolina. And the third
5 post-doctoral position was at Chemistry Department at
6 Georgia State University, Atlanta, Georgia.

7 Q So that's three separate post-doctoral
8 positions?

9 A Correct.

10 Q Please continue.

11 A After that, I went to get a job as a teaching
12 position at Life University in the Department of Natural
13 Sciences where I taught chemistry both in classroom as
14 well as in the laboratory. I taught chemistry there for
15 about 12 and a half years. After that, I moved to another
16 college, which was a state college -- is a state college,
17 which is also in Georgia. It's called Midland Georgia
18 College. That's where I taught chemistry also in the
19 classroom as well as in the laboratory for one year and a
20 half.

21 And then after that, I moved back to
22 Atlanta to join the Georgia Bureau Investigation in
23 division of forensic science, where I was given a rigorous
24 training to handle and deal with different types of
25 controlled and noncontrolled substances, controlled and

MOSAMMAT BEGUM-DIRECT BY MR. WATERS

1 noncontrolled drugs, where I went through an analysis of
2 those drugs. I passed all the proficiency tests with 100
3 percent accuracy. I passed mock trial, I passed
4 supervised case work, independent case work and, also,
5 peer review. And finally, I was given a certificate to
6 work as a forensic chemist in the crime lab.

7 Q For how many years have you been a forensic
8 chemist with the Georgia Bureau of investigation?

9 A Since January 2005.

10 Q Have you ever had the opportunity to be
11 qualified as an expert witness in court before?

12 A Yes.

13 Q Approximately how many times?

14 A Many times.

15 Q And by many, more than five, more than ten?

16 A More than hundred.

17 Q More than a hundred times. In what field were
18 you qualified as an expert?

19 A Analysis of drugs, controlled and noncontrolled
20 substances.

21 MR. WATERS: Your Honor, at this time, the State
22 offers Dr. Begum as an expert in the field of drug
23 analysis and identification.

24 THE COURT: All right, any objection or voir
25 dire?

MOSAMMAT BEGUM-DIRECT BY MR. WATERS

1 MR. HODGE: No objection, Your Honor.

2 THE COURT: All right, ladies and gentlemen, let
3 me tell you --

4 And your request is granted.

5 Normally, a person cannot testify about their
6 opinions or conclusions. They have to -- you know,
7 lay witnesses are required to testify about what they
8 observed and smelled or heard, something like that.
9 Exception to that is when somebody is qualified as an
10 expert, then they can testify about conclusions or
11 opinions in their field of expertise. In this case,
12 the field of drug analysis and identification. And
13 you're to give that weight the same weight you do
14 anything else, the weight that you feel is
15 appropriate.

16 With that being said, you may proceed.

17 MR. WATERS: Thank you, Your Honor.

18 BY MR. WATERS:

19 Q Dr. Begum, have you had an opportunity to
20 examine some substances that was submitted in relation to
21 the case which you're here to testify today?

22 A Yes, sir.

23 MR. WATERS: If I may approach, Your Honor?

24 THE COURT: You may.

25 MR. WATERS: Your Honor, I've already shown

MOSAMMAT BEGUM-DIRECT BY MR. WATERS

1 these exhibits to counsel.

2 THE COURT: Any objection to them?

3 MR. HODGE: No objection.

4 THE COURT: All right, they're in without
5 objection.

6 MR. WATERS: All right.

7 (WHEREUPON, State's Exhibits Nos. 61 & 62 were
8 admitted into evidence.)

9 BY MR. WATERS:

10 Q Dr. Begum, beginning with Exhibit 61, what is
11 this document that we're looking at?

12 A This is -- I have a copy of this, also, which I
13 brought from my network that I possess. And this is
14 called chain of custody.

15 Q All right. And Exhibit 62, what is that item?

16 A This is a report which is generated by me. I,
17 also, brought -- I picked up copies of this from my
18 network. It's called an official report.

19 Q So this is the report of your findings after you
20 tested items in this case?

21 A Yes.

22 MR. WATERS: Permission to publish, Your Honor?

23 THE COURT: Yes, you may.

24 (WHEREUPON, State's Exhibit Nos. 61 and 62 were
25 published.)

MOSAMMAT BEGUM-DIRECT BY MR. WATERS

1 BY MR. WATERS:

2 Q All right, Dr. Begum, beginning with the chain
3 of custody in Exhibit 61, could you explain to the jury
4 kind of what this document is and why it's kept and how
5 it's kept?

6 A When we receive evidence, we have a department
7 called operational department where we have evidence
8 receiving section. There are technicians who receive
9 evidence. In this receiving section, there are boxes just
10 like post office boxes or mailboxes, which are called
11 lockboxes. Officers submit evidence to our evidence
12 receiving area and they fill out their form called
13 submission form. Then they put the evidence along with
14 the submission form into the lockbox. Once the door of
15 the lockbox is closed, it's locked. Officers cannot get
16 access to the evidence or the paperwork that was submitted
17 anymore. On the opposite end, we have windows to get
18 access to the evidence and paperwork by our technicians
19 and they receive the evidences.

20 And once they receive the evidences, they
21 check all the information on the submission form along
22 with the information written on the evidence and then --
23 making sure that everything matches. And then they assign
24 a case number with a bar code. Then they take a picture
25 of the evidence and the paperwork are scanned. And the

MOSAMMAT BEGUM-DIRECT BY MR. WATERS

1 bar code is what is used to transfer evidence from person
2 to person, person to the locker area, or locker to locker.
3 And this is what is reviewed here, how the evidence was
4 transferred from person to person or locker to locker or
5 person to locker and so on and so forth. And it is all
6 marked here in this chain of custody.

7 Q Dr. Begum, up here at the top where it has case
8 number, is that the specialized case-by-case number that
9 you were referring to a moment ago?

10 A Yes. That's the unique casenumber assigned by
11 our crime lab.

12 Q And if you could, very quickly, explain up here
13 where it has evidence list, the case and these different
14 items here, how that's delineated.

15 A So it is outlined as six packages containing a
16 bag of white crystalized solid material. And that is
17 labeled and marked as 001A. Next, a bag of brown
18 crystalized solid material, which is 001B. A bag of leafy
19 material, which is 001C and two used test kits, which is
20 001D. All these four items are in this sealed package.

21 Q So items A, B, C and D were all within the same
22 sealed package that was submitted to evidence?

23 A Correct.

24 Q Then on this chain of custody sheet, does that
25 break it down by each one of the sub items?

MOSAMMAT BEGUM-DIRECT BY MR. WATERS

1 A That is correct.

2 Q Now, Dr. Begum, did you have an opportunity to
3 test the substances that was listed here, particularly
4 item 1A and 1B?

5 A Yes, I did.

6 Q All right. Now, referring to Exhibit 62, is
7 this your report of that test?

8 A That is correct.

9 Q Does the unit case number match with the chain
10 of custody we were just looking at?

11 A Yes, it's 2015-1005827, which I do also have in
12 my hand.

13 Q What sort of test did you perform on these
14 substances?

15 A I did two tests.

16 Q Is there a reason why you do two tests?

17 A We needed minimum of two tests as required by
18 our policy that we have.

19 Q All right. So what were the two tests that you
20 conducted?

21 A Gas chromatography mass spectrometry and the
22 other one is [indiscernible].

23 Q And were the results of the two separate tests
24 consistent with each other?

25 A Yes.

MOSAMMAT BEGUM-DIRECT BY MR. WATERS

1 Q What were you able to conclude that these
2 substances were?

3 A I was able to conclude, yes.

4 Q What were those substances?

5 A Analysis confirms the presence of
6 methamphetamine in sample tested, Schedule II.

7 Q And as part of your analysis, are you also
8 required to determine how much of the substance there is?

9 A Yes.

10 Q How much of the substance were you able to
11 determine in this particular case?

12 A Evidence submission 001A, net weight of total
13 sample, 501.25-grams plus, minus 0.20-grams. Evidence
14 submission 001B, net weight of total sample, 571.63-grams
15 plus, minus 0.20 grams.

16 Q By the net weight, is that referring to the
17 actual substance, not any packaging or containers?

18 A That is correct.

19 Q All right. Now, I want to show you what's been
20 marked as State's Exhibit 63, you recognize that?

21 A Yes, I do.

22 Q What are we looking at here?

23 A I'm looking at the unique case number assigned
24 to this evidence, which is 2015-1005827.

25 Q All right. And when you received this package,

MOSAMMAT BEGUM-DIRECT BY MR. WATERS

1 was the original seal from the submitting agency still
2 intact?

3 A Yes.

4 Q Following your analysis, did you reseal the
5 package?

6 A I did.

7 Q All right. And did you do that at the bottom?

8 A I did, on the opposite end to the seal by the
9 agency.

10 Q Is your seal still intact?

11 A May I turn it?

12 Q Yes.

13 A Yes.

14 Q All right. Is that marked by your initials and
15 the date?

16 A Yes.

17 Q So is this the substance that -- or the
18 substances that you tested in accordance to this lab
19 report that we're looking at?

20 A Correct.

21 MR. WATERS: Your Honor, at this time, the State
22 offers Exhibit 63 into evidence.

23 THE COURT: Any objection?

24 MR. HODGE: No objection.

25 THE COURT: All right, without objection.

MOSAMMAT BEGUM-CROSS BY MR. HODGE

1 (WHEREUPON, State's Exhibit No. 63 was admitted
2 into evidence.)

3 BY MR. WATERS:

4 Q Again, Dr. Begum, so what we're looking at in
5 this package right here is one bag containing 501.25-grams
6 of methamphetamine and another containing 571.63-grams of
7 methamphetamine; is that correct?

8 A Correct.

9 MR. WATERS: All right, thank you, ma'am.
10 That's all the questions I have.

11 THE COURT: Cross-examination?

12 CROSS-EXAMINATION

13 BY MR. HODGE:

14 Q Just two easy questions, I guess. Doctor, when
15 you analyzed these drugs, there's nothing to tell you
16 where these drugs came from, correct? Other than from law
17 enforcement, right?

18 A That is correct.

19 Q There's no way for you to know who sold and/or
20 purchased the drug that you're testing, right?

21 A That is correct.

22 MR. HODGE: No further questions. Thank you.

23 THE COURT: Any redirect?

24 MR. WATERS: Nothing further, Your Honor. We
25 would ask that the witness be excused.

MOSAMMAT BEGUM-CROSS BY MR. HODGE

1 THE COURT: All right, any objection?

2 MR. HODGE: No objection.

3 THE COURT: All right, you may step down. Thank
4 you.

5 This would be a good time for a short break.

6 We've been going about an hour and a half.

7 All right, at this time, ladies and gentlemen,
8 I'm going to ask that y'all take a ten-minute break.
9 So go back to your jury room, do not discuss the
10 case. We'll bring you back out in just a few
11 minutes.

12 (WHEREUPON, the jury left open court at
13 approximately 2:58 p.m.)

14 THE COURT: All right, are we back to Mr. Assad
15 or do we have another one?

16 MR. UNDERWOOD: Back to Mr. Assad, Your Honor.

17 THE COURT: Let's take a ten-minute break and
18 then we'll be back.

19 (WHEREUPON, a short break was taken.)

20 THE COURT: All right, Mr. Assad, I remind you
21 that you're still under oath.

22 State ready for the jury?

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

24 THE COURT: Defense ready?

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

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 THE COURT: I guess at some point, though, and
2 it looks like we're going to go past 5:00, I guess we
3 need to decide do we go a little bit past 5:00 if we
4 can finish it up and talk to the jury in that regard.
5 What I can do, we can take a break and say okay,
6 looks like we're going past 5:00, y'all talk, see if
7 that's going to present a problem. I just want -- if
8 we can get this witness through today, I'd like to.
9 But I also want to consult with the jury.

10 MR. UNDERWOOD: Yes, sir, Your Honor.

11 THE COURT: All right.

12 (WHEREUPON, the jury entered open court at
13 approximately 3:14 p.m.)

14 THE COURT: All right, ladies and gentlemen, as
15 indicated, we are now back with the testimony of
16 Mr. Assad. This is still direct testimony of the
17 State.

18 So, Mr. Underwood, you may proceed.

19 MR. UNDERWOOD: Thank you, Your Honor.

20 CONTINUED DIRECT EXAMINATION

21 BY MR. UNDERWOOD:

22 Q Mr. Assad, earlier you had testified that while
23 you were working with law enforcement on the controlled
24 purchase of methamphetamine from the Defendant,
25 Mr. Barajas, you had engaged in several other controlled

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 calls with a person that you knew as Chico; is that
2 correct?

3 A Yes, sir.

4 Q Did the content of some of those calls reference
5 each other?

6 A Yes, sir.

7 MR. UNDERWOOD: At this time, Your Honor, I'd
8 like to publish several of those items, those
9 recordings.

10 THE COURT: You may.

11 MR. UNDERWOOD: All right, we're going to begin,
12 Your Honor, with State's Exhibit No. 19.

13 (WHEREUPON, State's Exhibit No. 19 was
14 published.)

15 BY MR. UNDERWOOD:

16 Q Whose voices do we hear in this recording,
17 Mr. Assad?

18 A The loud voice is mine, the other voice is his,
19 Mr. David's.

20 Q That's David Barajas?

21 A Yes, sir, Chavo.

22 Q The Defendant in the case?

23 A Yes, sir.

24 (WHEREUPON, State's Exhibit No. 19 was continued
25 to be published.)

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 BY MR. UNDERWOOD:

2 Q Mr. Assad, 45 seconds into the recording, what
3 are each of you talking about?

4 A I told him that I was going to let him know if I
5 was going to be on my way the next day toward Georgia and
6 to talk with Chema so we could arrange everything and
7 start working pretty good.

8 Q What did he say?

9 A It's okay.

10 (WHEREUPON, State's Exhibit No. 19 was continued
11 to be published.)

12 BY MR. UNDERWOOD:

13 Q A minute, 22 in, what have the two of you
14 discussed up to this point?

15 A I told him that I was going to be on my way so
16 he could introduce me to Chavo, referring to all his
17 people down there.

18 Q Does the word Chavo mean something?

19 A Yes, sir, like a little kid.

20 Q So in that context, it's not a proper name, it's
21 referenced to kid?

22 A Yeah, just like kids.

23 Q What else did the two of you discuss?

24 A I told him that I wanted three whole kilos and
25 he said that it was not a problem. He said, Are you going

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 to bring -- what he mean by papalito, that mean is he
2 going to bring all the money cash?

3 I told him, No. I said, I got to get it,
4 bring it back to my people and they're going to pay me
5 then and there.

6 (WHEREUPON, State's Exhibit No. 19 was continued
7 to be published.)

8 BY MR. UNDERWOOD:

9 Q Two minutes, ten seconds into the recording,
10 what have the two of you discussed up to this point?

11 A I told him that I was going to go down there
12 myself personally because I was looking for a dog, a
13 bulldog. Like I said earlier, I was going to buy a dog.
14 And I was going to see him personally.

15 He asked me if I was going to pick up two
16 whole ones or one.

17 I told him, Yeah, I'll call you and let you
18 know when I'm on my way.

19 Q What was that last part? You kind of trailed
20 off at the end. What did you say?

21 A I'll call you, I'll let you know when I'm on my
22 way.

23 (WHEREUPON, State's Exhibit No. 19 was continued
24 to be published.)

25

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 BY MR. UNDERWOOD:

2 Q Three minutes into the conversation, what have
3 each of you just discussed up to this point?

4 A He asked me again if I was going to go down
5 there.

6 I said, I got to let you know if I'm going
7 to be on my way tomorrow.

8 He said, Are you going to come pick that
9 up?

10 I said, Yeah.

11 He said, How are we going to do this with
12 the money thing?

13 I said, Well, I guess when you give me the
14 stuff, I just pay you.

15 Q When reference was pick it up, what were you
16 talking about? What was being picked up?

17 A Methamphetamine, drugs.

18 (WHEREUPON, State's Exhibit No. 19 was continued
19 to be published.)

20 BY MR. UNDERWOOD:

21 Q We're four minutes in, what have y'all discussed
22 up to this point?

23 A I told him to get everything ready and I'll let
24 him know if I was leaving the next day.

25 Then he made a comment, said, Well,

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 Chico -- he was referring to Chico, said, you know, Chico
2 called me and said that -- he told me to give you a kilo
3 from him. But I said, No, you told me yesterday to throw
4 it away and I throw it away. And --

5 Q Slow down. Say that part one more time and
6 explain what you mean.

7 A Said that -- according to -- Mr. David said the
8 day before, Chico told him to throw it away because it was
9 not good quality. And Mr. David threw it away, threw the
10 kilo away and that's what they were bitching about.

11 (WHEREUPON, State's Exhibit No. 19 was continued
12 to be published.)

13 BY MR. UNDERWOOD:

14 Q We're four minutes, 20 seconds in, what was just
15 said there?

16 A David said that he called his brother and his
17 brother told him to be careful, but -- don't mess with
18 them because, you know, you been doing everything for him
19 and he ain't paid you shit yet. That's what he referred.

20 (WHEREUPON, State's Exhibit No. 19 was continued
21 to be published.)

22 BY MR. UNDERWOOD:

23 Q Now, we're four minutes, 51 seconds, what's
24 going on here?

25 A He was telling me, basically, that -- basically,

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 cussed him out. They were arguing and, basically, told
2 him, Go fuck yourself. Because he said, I'm over here
3 doing everything, moving other people's stuff and you
4 ain't doing shit.

5 Q Who was saying that?

6 A Mr. David is referring to Chico.

7 (WHEREUPON, State's Exhibit No. 19 continued to
8 be published.)

9 BY MR. UNDERWOOD:

10 Q Now, we're five minutes, 32 seconds into this
11 recording, what's been discussed up to this point?

12 A Well, I told him, I said, Stop arguing with him,
13 you know, tell him go screw himself. If anything, we'll
14 call him tomorrow. When I get down there, we'll call him
15 together.

16 He said, No, I mean, I threw him five
17 pesos, which he was referring -- basically, he was
18 complaining that I threw \$5,000 away, but --

19 Q Hold up, who was complaining that who threw
20 \$5,000 away?

21 A Chico was complaining to David that he threw
22 \$5,000 away worth of product.

23 Q That Chico threw it away or that David threw it
24 away?

25 A No, that David threw it away. He was referring

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 to Chico.

2 Q All right. He was saying Chico --

3 A They were arguing.

4 Q I'm sorry, I want to make sure I understand this
5 correctly. So are you saying that David Barajas said that
6 Chico was upset because David had thrown away
7 methamphetamine?

8 A Yes, sir.

9 Q All right. Was anything else said in that
10 portion?

11 A That's when I told him that we'll call him
12 together. And I told him, Well, y'all ain't got to start
13 no war, be arguing and bullshit. Just tell him to go
14 screw himself.

15 Q You were saying that to David about Chico?

16 A Yes, sir.

17 (WHEREUPON State's Exhibit No. 19 was continued
18 to be published.)

19 BY MR. UNDERWOOD:

20 Q Now, six minutes, 19 seconds in, what's being
21 said there?

22 A Well, I told him, I said, Well, basically, if
23 you're the one that has people down there, you got your
24 own people, you're doing everything yourself, why you got
25 to worry about him?

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 And he kept telling me -- that's when he
2 told me, he said, Yeah.

3 I said, Who's the one that cooks at night?
4 Who cooks the drugs and everything?

5 He said, I do. He said, I'm the one that
6 cooks it. I'm the one that moves everything.

7 So I said, You don't have to worry about
8 him.

9 Then he's like, No, it ain't the thing,
10 that he just complaining a little bit of money when he
11 already made money.

12 (WHEREUPON, State's Exhibit No. 19 was continued
13 to be published.)

14 BY MR. UNDERWOOD:

15 Q Six minutes, 50 seconds in, what has been said
16 here?

17 A He said that -- I asked a question -- I asked
18 him a question and he told Chico that if -- why did he ask
19 me -- why did I ask him if they had more people down here.
20 And he said he asked him and Chico never told him the
21 truth. Told him that he did ask him the question, he
22 never gave no verification.

23 Q Who asked the question?

24 A David asked Chico.

25 Q If you could, Mr. Assad, as we're going through

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 this, since we're talking about multiple different people,
2 instead of using pronouns like he, if we could just say
3 everyone's name to keep it straight.

4 A Okay, sir.

5 Q Thank you. All right. Anything else said at
6 that point?

7 A Yeah. After he told me that, he said that he
8 never told him the truth about it.

9 Q Who?

10 A Mr. David said that Chico never told him the
11 truth about it. He never answered that question to him,
12 so he said, I don't want to talk to him no more. I'm just
13 going to communicate through text messages.

14 Q David said that about Chico?

15 A Yes, sir.

16 (WHEREUPON, State's Exhibit No. 19 was continued
17 to be published.)

18 BY MR. UNDERWOOD:

19 Q Seven minutes, 30 seconds into the recording,
20 what's been said up to that point?

21 A He was telling me about the situation again with
22 Chico. Mr. David was telling me about the situation with
23 Chico. I told him, Don't worry about him no more. I'll
24 call the boss, which is Chacas, and get Chema ready and
25 we're going to square everything off tomorrow. Just get

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 everything ready.

2 Q He's saying that to you, to get ready?

3 A Yes, sir. I'm telling him to get everything
4 ready for tomorrow when I show up to talk to Chema.

5 And he said, Yeah.

6 Q So you're telling --

7 A I'm telling David.

8 Q You're telling David to talk to Chema?

9 A Yes, sir.

10 (WHEREUPON, State's Exhibit No. 19 was continued
11 to be played.)

12 BY MR. UNDERWOOD:

13 Q What was that last little bit?

14 A He's trying to tell me that he got some work he
15 wanted to get out. He said, I got this last bit of work I
16 want to get out.

17 And I cut him off, I said, Well, I'll call
18 you tomorrow and I'll let you know if I'm going to be
19 there tomorrow.

20 (Whereupon State's Exhibit No. 19 was continued
21 to be published.)

22 BY MR. UNDERWOOD:

23 Q Again, that voice was Lieutenant Tyrel Woodring
24 with SLED?

25 A Yes, sir.

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 Q Did you go on to give a summary of your
2 testimony here to the agent?

3 A Yes, sir, brief summary.

4 MR. HODGE: Your Honor, I would like to hear
5 that brief summary that he gave.

6 THE COURT: Okay.

7 MR. HODGE: Just because it directly relates to
8 who he says is Mr. David Barajas.

9 THE COURT: All right.

10 (WHEREUPON, State's Exhibit No. 19 was continued
11 to be published.)

12 BY MR. UNDERWOOD:

13 Q Is that the end of the recording?

14 A (The witness nods.)

15 Q Is that a yes?

16 A It should be, yeah.

17 Q Next will be State's Exhibit No. 20.

18 (WHEREUPON, State's Exhibit No. 20 was
19 published.)

20 BY MR. UNDERWOOD:

21 Q Whose voices are we hearing?

22 A My voice and David's.

23 Q David Barajas?

24 A Yes, sir.

25 (WHEREUPON, State's Exhibit No. 20 was continued

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 to be published.)

2 BY MR. UNDERWOOD:

3 Q We're 52 seconds in, what have the two of you
4 discussed up to this point?

5 A He told me he talked to Chema, which is Chemine,
6 he's referring to Chemine, but it's Chema. And he said
7 they didn't have enough work now at that moment, the work
8 that he had is for one of his friends, but the dude is
9 like a cry baby. He said that he's a cry baby. He said,
10 last time I gave you that -- that last pack I gave you and
11 sent to him big pieces, shards, he said, he kept on
12 bothering me every hour for the money and to see how
13 everything was going on.

14 Q Now, you mentioned that there was a discussion
15 of Chema, but he was called something different. Can you
16 explain that?

17 A Just Chemine, like, basically, just Chema, he
18 just abbreviated like a child, basically, like Chemine.

19 Q Does the word Chemine something in Spanish?

20 A It's just a nickname.

21 Q So Chemine is like another nickname on the
22 nickname of Chema?

23 A Yes, sir.

24 Q All right. Anything else discussed up to that
25 point?

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 A No, sir.

2 (WHEREUPON, State's Exhibit No. 20 was continued
3 to be published.)

4 BY MR. UNDERWOOD:

5 Q One minute, 34 into the recording, what have the
6 two of you discussed up to now?

7 A I told him, I said -- like I told him before, I
8 said, I'm going to go down there myself. We'll do
9 everything we have to do and then I'll come back and
10 you'll get paid.

11 He said, Well, you know, the guy's been
12 crying, he's a cry baby. He said, The last time you left,
13 every hour or every two hours later, he kept on bugging me
14 and bugging me to see how everything was going.

15 So he said, That's why I'm telling you
16 this. I said, Well, all I have to do is bring the stuff
17 right back with me. The person that is going to pay me
18 for the work that I'm going to meet is like 30 minutes
19 away. You can give me a bank account number and I'll just
20 wire, transfer the money.

21 Q Who is the other person that Mr. Barajas is
22 referring to?

23 A Oh, I don't have no clue there. I know he was
24 talking to Chema. I don't have no clue.

25 Q Is he talking to Chema or is he talking to you?

1 A No, he's talking to me, but he's talking about
2 another person.

4 | A No, sir.

7 BY MR. UNDERWOOD:

9 A I told him -- medico is what they refer as a
10 kilo. I just told him, If you want, just give me the kilo
11 and give me the one that you threw away and that should be
12 good.

15 A It's just abbreviation, it's just words that
16 they use. Like, a medico is a doctor and a nurse. Medico
17 which means a pound, it's a nurse and a kilo is a doctor.

20 BY MR. UNDERWOOD:

22 A Basically, I told him, I'll pick up what you got
23 and get another one. Because he said he was going to get
24 it from whoever the person was. That's what I told David.

25 I said, You ain't got to worry about it

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 because people want to see to believe. I said, I got to
2 bring them the product and once they see it, they going to
3 start coming loose with the cash. Again, I just told him,
4 Just give me a bank account number and I'll transfer the
5 fund.

6 (WHEREUPON, State's Exhibit No. 20 was continued
7 to be published.)

8 BY MR. UNDERWOOD:

9 Q Three minutes, 12 in, what was just discussed?

10 A I told him, Well, the worst case scenario, I
11 said, you ain't got to worry about it.

12 He said he going to bring me money from
13 what he gave you last time. He was referring to him and
14 Chico, the last pack that I received from them together.

15 And told him, Well, it's a big chance I was
16 just -- when I said Texas, that's what I meant. I won't
17 pay Texas. I just won't pay Chico and I'll pay you.

18 Q So when you're saying Texas, you're referring to
19 Chico?

20 A Yes, sir.

21 Q Is that because he was in Texas?

22 A Yes, sir.

23 (WHEREUPON, State's Exhibit No. 20 was continued
24 to be published.)

25

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 BY MR. UNDERWOOD:

2 Q Four minutes in, what was just discussed?

3 A I told him, basically, that I had the people
4 ready. The man keeps on calling me and calling me.

5 He said, Yeah, I know. He said, I've
6 talked to Chemie again, referring to Chema. And that's
7 what I told him, I said, Look, as soon as I come down
8 here, I'm going to have the money.

9 Q Anything else?

10 A (The witness shook his head.)

11 Q You have to answer out loud, please.

12 A No, sir.

13 (WHEREUPON, State's Exhibit No. 20 was continued
14 to be published.)

15 BY MR. UNDERWOOD:

16 Q If you could, what was the end of the
17 conversation?

18 A He told me, he said, Okay, let me call Chemie,
19 which is Chema. That's the last word he said.

20 (WHEREUPON, State's Exhibit No. 20 was continued
21 to be published.)

22 BY MR. UNDERWOOD:

23 Q All right, that was the recording. I want to
24 switch over to State's Exhibit 29.

25 (WHEREUPON, State's Exhibit No. 29 was

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 published.)

2 BY MR. UNDERWOOD:

3 Q Whose voices do we hear in this recording?

4 A My voice and Chico.

5 (WHEREUPON, State's Exhibit No. 29 was continued
6 to be published.)

7 BY MR. UNDERWOOD:

8 Q 1:29 into the recording, what's been discussed
9 by the two of you so far?

10 A In the beginning, we were just discussing the
11 weather because it was snowing in Texas. He said it was
12 snowing and the weather wasn't good.

13 I told him, Yeah, the weather messed up
14 over here too, the roads are messed up, the ice and stuff
15 like that. Then I told him they just canceled classes for
16 no reason.

17 And he told me, Yeah, I ain't even going to
18 worry about it. With all the kids I got, I don't have to
19 take them to daycare, school, all that.

20 I said, So -- and I jump from the
21 conversation, I told him, I said, What we going to do,
22 man? I can't leave the people without work. I need to
23 know what's going on.

24 (WHEREUPON, State's Exhibit No. 29 was continued
25 to be published.)

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 BY MR. UNDERWOOD:

2 Q We're two minutes in, what were you just
3 discussing?

4 A He was telling me, said, I got, I got good news
5 for you.

6 I said, Yeah?

7 He said, Yeah. 12 medicos, which is
8 12-kilos landed already, but the only issue is they're not
9 ready. That's all he said.

10 (WHEREUPON, State's Exhibit No. 29 was continued
11 to be published.)

12 BY MR. UNDERWOOD:

13 Q 2:54 in, what was just discussed?

14 A He was telling me -- well, then I told him,
15 Well, I need it.

16 He said, we need to get them ready for you
17 and pay somebody to take them down there to you.

18 Basically, like, get them ready, cook them
19 and finish the product. They want to cook. So he told
20 me, I need to pay somebody to take it down there where
21 you're at.

22 I said, Well, yeah, minimum, I need, at
23 least, six because I got everybody ready.

24 Then he started talking -- Mr. Chico was
25 talking about Mr. David and said, Well, he said, the issue

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 about my homeboy over there, he said, I ain't really -- he
2 just getting into detail about them arguing, basically,
3 the same arguing back and forth.

4 (WHEREUPON, State's Exhibit No. 29 was continued
5 to be published.)

6 BY MR. UNDERWOOD:

7 Q We're 3:40 in, what was discussed up to this
8 point?

9 A Chico was telling me about David. At first, he
10 say, Well, I'm not going to pay him, whatever. And if he
11 did that, he said, I'll charge him my way. Basically,
12 that's what he said.

13 Q What does that mean?

14 A Well, he'll charge him -- like, he'll charge him
15 his way, like saying, I'll square it off with him.

16 Q What else did he say?

17 A Then he just changed, said, Well, really,
18 really, if he threw the drugs away like he said he did
19 throw them away, then that's on him. He said, I'm still
20 going to pay him. If he says that I still owe him, I'm
21 going to pay him and just keep on going from there. Then
22 he said it again. What he said from then, he said, Just,
23 basically, I'm going to pay him what I owe him, then screw
24 him.

25 Q Did Chico use any different names for

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 Mr. Barajas?

2 A No, sir.

3 Q I mean, did he ever refer to Mr. Barajas by any
4 different names?

5 A Oh, yeah, he said comun hombre, like common man.
6 That's what that means. It's what you call like a friend,
7 like somebody close.

8 Q Did Chico have any other nicknames for
9 Mr. Barajas that you know of?

10 A No, sir.

11 Q Did anyone else?

12 A Yes, sir.

13 Q What was that?

14 A People that know him, like Chema, everybody that
15 knows him, like my father-in-law, everybody that knows
16 him, they call him Pelon.

17 Q Why?

18 A Because he used to shave his head all the time.

19 Q What does Pelon mean in Spanish?

20 A Bald head.

21 (WHEREUPON, State's Exhibit No. 29 was continued
22 to be published.)

23 BY MR. UNDERWOOD:

24 Q Five minutes in, what's been discussed up to
25 this point?

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 A He was telling me, he said, Well, I'm going to
2 get everything ready. I'm going to call -- compa means
3 like a short word for compadre. It's just a shorter
4 version. Again, that's somebody that you know real well,
5 that you grow up with. That's your compa, that's how we
6 refer to it. And he said, I'm going to get everything
7 ready to go up there. He said, You think the guy is going
8 to charge us a lot if he has to come there?

9 I said, No.

10 And he said, Okay.

11 Q When he says the guy, who's he referring to?

12 A The driver, referring to the driver.

13 Q Which driver?

14 A Well, I mean, I ain't had nobody picked, ain't
15 nobody ready for that.

16 Q All right. But he's referring to a driver of
17 yours?

18 A Yes, a driver of mine. Just in case they have
19 to go to Texas or something. He told me, Well, the
20 weather's good now, so I can move now because it's
21 snowing. Let me call my compadre and let's see if we can
22 make something happen now.

23 I said, Okay. Well, I got the people ready
24 down here and they got money in their hand, so come up
25 right now.

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 Q So is that talking about him coming here from
2 Texas?

3 A Yes, sir.

4 (WHEREUPON, State's Exhibit No. 29 was continued
5 to be published.)

6 BY MR. UNDERWOOD:

7 Q Six minutes, ten seconds in, what's been
8 discussed up to this point?

9 A He told me, In case that the driver went down
10 there, he said, well, you know, there's extra money if he
11 could just load one or two and take them up that way for
12 me. You know, that's extra money. Then he told me, Well,
13 he said, in case I go over there, he said, and three pod
14 means, three. It's just referring like the code for
15 saying three. He said he would bring three with him.

16 Q Three what?

17 A 3-kilos of methamphetamine.

18 (WHEREUPON, State's Exhibit No. 29 was continued
19 to be published.)

20 BY MR. UNDERWOOD:

21 Q What did you just say there?

22 A I just told him, I said, Well, while all that --
23 we wait for all that, I said, you can't do me a favor and
24 get somebody here in Atlanta to give me one kilo or
25 something?

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 (WHEREUPON, State's Exhibit No. 29 was continued
2 to be published.)

3 BY MR. UNDERWOOD:

4 Q We're 6:49 in, what's been said up to this
5 point?

6 A Well, he was kind of iffy because he said, Well,
7 you know, the only person I really trusted down there was
8 he was referring to David.

9 Q How did he refer to him?

10 A He said, Compadre Barajas.

11 Q So when he said that, he's referring to David
12 Barajas?

13 A Yes, sir, he's referring to --

14 Q What else did he say?

15 A He said, Compadre Barajas, he's my friend that
16 was over there. That's the only one he trusted. Then I
17 told him, Well, no, in this case, I'm going to go
18 personally and that way they can see me and see that I'm
19 going to be held responsible for anything. I go make the
20 transaction.

21 (WHEREUPON, State's Exhibit No. 29 was continued
22 to be published.)

23 BY MR. UNDERWOOD:

24 Q All right. What's been said up to this point at
25 7:49?

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 A I told him that it's been days that people been
2 dry. And I told him, It's been about a week. I can't
3 leave people without work. Is there anything you can get
4 me down there, at least, you know, at least, something
5 small so I can get some people to work?

6 And he said, Well, let me call, let me call
7 compadre that I have down there, another person that he
8 had in Georgia that had work. He said, He landed about 12
9 days ago. Let me call him.

10 Q So there's another person he knows in Georgia,
11 too?

12 A Uh-huh.

13 Q When you are referring to people that are dry
14 and needed work, what does that mean?

15 A Dry means that they ran out of work for the
16 moment being.

17 Q And work again is what?

18 A Drogas means drugs.

19 Q So they need work means they need more meth?

20 A They need more drugs, yes, sir.

21 (WHEREUPON, State's Exhibit No. 29 was continued
22 to be published.)

23 MR. UNDERWOOD: Court's indulgence, Your Honor.

24 (WHEREUPON, there was a brief pause.)

25

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 BY MR. UNDERWOOD:

2 Q All right, switching back over to State's
3 Exhibit 21.

4 (WHEREUPON, State's Exhibit No. 21 was
5 published.)

6 BY MR. UNDERWOOD:

7 Q Whose voices are on this recording?

8 A Me and Mr. David.

9 Q David Barajas?

10 A Yes, sir.

11 (WHEREUPON, State's Exhibit No. 21 was continued
12 to be published.)

13 BY MR. UNDERWOOD:

14 Q One minute, three seconds into the recording,
15 what's been discussed so far?

16 A Basically, he was telling me that he talked to
17 Chema, he's referring to Chema.

18 Q Mr. Barajas is referring to Chema?

19 A Yes, sir, he was referring to Chema. He said
20 that he got two other people, but they're far away. And
21 he said he had to look, call somebody else for the work.
22 Papalito, again, that means the money. So, basically, he
23 said he was going to call and get everything ready.

24 (WHEREUPON, State's Exhibit 21 was continued to
25 be published.)

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 BY MR. UNDERWOOD:

2 Q Two minutes, two seconds in, what's been
3 discussed to this point?

4 A He said that he talked to Chema.
5 [indiscernible] -- that's what it means, is like a person.
6 He said he talked to the person that was going to bring me
7 some work.

8 And I told him, Well, if you don't trust me
9 with anything, he could ride with me and he could send
10 somebody with me.

11 Q That who could ride with you?

12 A Anybody that he would send, the person --

13 Q Who's the he you're referring to?

14 A I'm referring to the person that's going to
15 bring me the work.

16 Q So the person that's supplying Mr. Barajas is
17 who you're talking about?

18 A Yes.

19 Q Anything else said up to that point?

20 A I just told him, I said, Because I got the
21 people ready and these people got money. They've been out
22 of work.

23 (WHEREUPON, State's Exhibit No. 21 was continued
24 to be published.)

25

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 BY MR. UNDERWOOD:

2 Q We're 3:16 in, what's been discussed to this
3 point?

4 A I was telling David that I was going to go down
5 there. And I said, That way, you'll introduce me to all
6 these people and we'll be face-to-face so you'll see that
7 I'm going to be responsible and I'll take care of the
8 business myself.

9 And he said, Okay. And then he also told
10 me --

11 I said, Your homeboy keep on calling me. I
12 was referring -- I was telling David I was referring to
13 Chico. I said, He keep on calling me that he got work,
14 but I ain't picking up the phone for him.

15 Q Was that actually the case?

16 A Yeah. At the time, yeah.

17 Q So at this point, were you kind of working the
18 two of them against each other?

19 A Not against each other, I was trying to get work
20 from both. They were already against each other.

21 (WHEREUPON, State's Exhibit No. 21 was continued
22 to be published.)

23 BY MR. UNDERWOOD:

24 Q 4:14 in the recording, what's been discussed at
25 this point?

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 A I told him that -- he said, Well -- David was
2 referring to Chema and he said, Well, he's calling
3 somebody else that he got on the line for you to bring
4 work.

5 And I told him, Well, that's good because
6 we could move, at least, ten. I was referring to ten kies
7 this month.

8 He said, Okay, that's good.

9 Then I told him that when I get down there,
10 you know, I was going to meet these people. That's all he
11 kept on saying, was talking about weight. I told him that
12 the money was going to be there.

13 And he told me that he had one -- the --

14 I said, Well, I'll pay you five for the one
15 that you threw away. Because, I mean, at that point, I
16 knew that he didn't throw it away. So I said, I'll pay
17 you for that one, I'll take that one and I'll discount it.
18 From the person that's going to buy it, I'll just knock
19 off a thousand dollars so he can take it right then on
20 cash.

21 Q Explain what you mean by that. How is that
22 supposed to work?

23 A Okay. He told Chico that he threw the product
24 away, but he really didn't throw it away. He wanted me to
25 sell it just cheaper and pay him for it. That's what he

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 was telling me. That's what he was saying in that
2 conversation.

3 (WHEREUPON, State's Exhibit No. 21 was continued
4 to be published.)

5 BY MR. UNDERWOOD:

6 Q All right. What was said up to this point at
7 5:29?

8 A He told me -- well, the kilo that supposedly he
9 threw it away, he said, I didn't throw it away, I just
10 changed it from one wrap to the next. I changed the
11 packaging on it because it had a hole and it was leaking.

12 I said, Okay. I told him, Well, when I get
13 there, you know, I meet these people and we'll get ready.

14 And he said, Well --

15 I said, If anything, I'll go pick that up,
16 at least.

17 Q Is that what eventually happened?

18 A Yeah, I mean, he had two, basically.

19 (WHEREUPON, State's Exhibit No. 21 was continued
20 to be published.)

21 BY MR. UNDERWOOD:

22 Q Is this you now talking to the agents?

23 A Yes, sir.

24 (WHEREUPON, State's Exhibit No. 21 was continued
25 to be published.)

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 BY MR. UNDERWOOD:

2 Q Then did you proceed to go on and give the
3 agents more background information after that?

4 A Yes.

5 Q Switch back over to Exhibit 31.

6 (WHEREUPON, State's Exhibit No. 31 was
7 published.)

8 BY MR. UNDERWOOD:

9 Q Whose voices do we hear in this recording?

10 A My voice and Chico's.

11 (WHEREUPON, State's Exhibit No. 31 was continued
12 to be published.)

13 BY MR. UNDERWOOD:

14 Q One minute in, what's been discussed to that
15 point?

16 A He asked me about the money. See prior to all
17 this, before I got arrested, we already had business
18 transactions. And they was owed \$7,000 that I was going
19 to pay them that day.

20 Q Who was owed?

21 A Chico. But he was telling me in that, he said,
22 550 go to Mr. David and two pesos, which means 2,000, go
23 to me.

24 Q Me, meaning Chico?

25 A Yes, sir. That was the previous transaction.

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 Q When you say 550, is that \$550 or does that mean
2 something else?

3 A No, he just say [indiscernible]. They just say
4 shorter numbers. That means 5,500.

5 (WHEREUPON, State's Exhibit No. 31 was continued
6 to be published.)

7 BY MR. UNDERWOOD:

8 Q About two minutes in, what's been discussed to
9 this point?

10 A Chico was saying that he was going to take two
11 pesos. Again, he was referring to \$2,000 of the money
12 that was supposed to go to David and he was going to buy a
13 car to drive down here.

14 I said, Well, I got something better yet.
15 I mean, if you coming down here, just bring an oil, which
16 means the [indiscernible], bring an oil. I got somebody
17 down here that can cook it.

18 Q First of all, when you say down here, are you
19 referring to coming from Texas to South Carolina?

20 A From Texas to South Carolina.

21 Q All right. And when you're talking about oil,
22 are you talking about like motor oil? What are you
23 talking about?

24 A No, sir, I'm talking about methamphetamines,
25 it's just an oil.

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 Q So methamphetamine and it's liquid oil form?

2 A Liquid oil form, yes, sir.

3 (WHEREUPON, State's Exhibit No. 31 was
4 continuing to be published.)

5 BY MR. UNDERWOOD:

6 Q Three minutes and ten seconds in, what's been
7 discussed up to this point?

8 A Chico telling me that if I can do him a favor,
9 he said, Send me the \$2,000. Because at the time, I had
10 the money that I owed for the previous, the money that I
11 was going to send the day before I got locked up. I had
12 the money. He said, If you do me favor, like he said,
13 5,500 were his. And he told me to get \$2,000 from that
14 and do him a favor and send it to him.

15 Q So \$5,500 was for Mr. Barajas, but he wanted
16 \$2,000 to go to him, meaning Chico?

17 A Yeah, he wanted me to get \$2,000 of that money
18 and send it to him, so he had to pay the person that was
19 going to go with him for the gas and the food and all
20 that, for the trip.

21 Q So he was going to pay -- with that \$2,000, he
22 was going to pay the person that was going to bring the
23 meth from Texas to South Carolina?

24 A Yes, sir.

25 Then he told me, Well, it will be a good

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 thing because that way, I finally get to meet you
2 face-to-face, in person.

3 (WHEREUPON, State's Exhibit No. 31 was continued
4 to be published.)

5 BY MR. UNDERWOOD:

6 Q We're 4:14 in, what's been discussed to this
7 point?

8 A He said, Well, what I can do, I can cook two of
9 them and the rest, I'll take in liquid form.

10 That's when I told him, No, if you want,
11 just bring the liquid form and that way I learn how to do
12 it myself.

13 He said, Yeah, I can teach you step-by-step
14 how to do it yourself.

15 I said, That will be better because that
16 way whatever the amount, what he say is liquid, whatever
17 it comes up to, I'll know.

18 And he said, Yeah. Then he told me again,
19 Just please do me that favor and send the money.

20 And I ask him for an account, give me an
21 account so I can wire the money.

22 Q Did law enforcement take care of that money
23 getting wired for you?

24 A No. We didn't wire the money to him.

25 Q All right. At least, you didn't do anything

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 with that?

2 A No.

3 (WHEREUPON, State's Exhibit No. 31 was continued
4 to be published.)

5 BY MR. UNDERWOOD:

6 Q Okay, we're 5:16, what's been discussed at this
7 point?

8 A I was telling Chico to send me the bank account,
9 the number for the bank account so I can transfer the
10 money.

11 He said, Well, it's late right now. I'll
12 do it first thing early in the morning. Then he told --

13 I said, What do you want me to tell -- I
14 was referring to Mr. David. What do you want me to tell
15 him about the money?

16 And he said, Well, we'll just give him five
17 later.

18 Q By five, what does that mean?

19 A Five thousand dollars.

20 Q Anything else said at that point?

21 A No, sir.

22 (WHEREUPON, State's Exhibit No. 31 was continued
23 to be published.)

24 BY MR. UNDERWOOD:

25 Q All right. What was discussed up to this point

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 in the recording, 6:17?

2 A Chico was referring that David -- he was telling
3 me that he don't understand where he got all this bullshit
4 from and he started to put me in this misunderstanding
5 they had going on. He said he really doesn't understand
6 how he came about that idea. He said, He ain't call me, I
7 ain't call him. I ain't answer no texts or nothing, no
8 text messages.

9 Q All right. We're getting to that pronoun thing
10 again.

11 A Chico was referring to David.

12 Q All right. So what was Chico saying about David
13 Barajas?

14 A That he doesn't understand why he started this
15 bullshit, basically, and put you in the middle of this
16 misunderstanding. He said, I ain't talked to him. He
17 ain't talked to me. I ain't texted him. I ain't picked
18 up, nothing.

19 Q Chico talking about Mr. Barajas?

20 A Yes, sir. He said he didn't understand where he
21 came up with that.

22 Q That being the misunderstanding you described
23 earlier?

24 A Yes, sir.

25 (WHEREUPON, State's Exhibit No. 31 was continued

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 to be published.)

2 BY MR. UNDERWOOD:

3 Q Again, was that Agent Tyrel Woodring at the end?

4 A Yes, sir.

5 Q Coming back to State's Exhibit 22.

6 (WHEREUPON, State's Exhibit No. 22 was
7 published.)

8 BY MR. UNDERWOOD:

9 Q Whose voices do we hear in this recording?

10 A My voice and Chavo.

11 Q Chavo is Mr. David Barajas?

12 A Yes, sir.

13 (WHEREUPON, State's Exhibit No. 22 was continued
14 to be published.)

15 BY MR. UNDERWOOD:

16 Q 1:19 in the recording, what's been discussed so
17 far?

18 A David was explaining to me that -- he told me in
19 the beginning, No, he said, some people don't want to work
20 right now, they don't have nothing. He said, But like I
21 told you, I got the kilo that supposedly I threw away, I
22 got that waiting and I got another one for you. He said,
23 You just leave me the \$5,000 and that's what five pesos
24 mean, for the stuff, then we'll go from there.

25 (WHEREUPON, State's Exhibit No. 22 was continued

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 to be published.)

2 BY MR. UNDERWOOD:

3 Q 2:43 into the recording, what's been discussed
4 up to this point?

5 A David was telling me that they didn't have
6 nothing at the moment. He only had two, which is two
7 medicos, again, referring to medico, which is a doctor in
8 English, it's a whole kilo. He said, I only have two
9 right now that I left just for emergency. You can take
10 that and we're going to call downstairs. What he mean we
11 going to call downstairs, basically, we going to call
12 Mexico and we'll find somebody and work it out from there.

13 (WHEREUPON, State's Exhibit No. 22 was continued
14 to be published.)

15 BY MR. UNDERWOOD:

16 Q 3:50 into the recording, what's been discussed
17 up to this point?

18 A David was explaining to me that he talked to
19 Chema, that's who he was talking about, referring to him.
20 He said I talked to him already. He said, Well, right
21 now, really -- he said --

22 I said, Well, if I give him some cash up
23 front, are they really going to work?

24 He said, Yeah. I mean, right now, I ain't
25 got no option right now, as of right now, but, yeah, they

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 will, referring to other people. I don't know who that
2 is.

3 (WHEREUPON, State's Exhibit No. 22 was continued
4 to be published.)

5 BY MR. UNDERWOOD:

6 Q 5:02 in recording, what's been discussed up to
7 this point?

8 A David was explaining to me -- I was asking him
9 if he could make it happen. He said, Yeah. Because like
10 I said, previous to that, we had a transaction. They were
11 waiting to get paid. That's where they had the fall out.

12 I said, If I pay you that, I pay you what
13 I'm going to get and I pay you some money in advance, is
14 this person going to cooperate and work with us?

15 He said, Yeah, yeah. But right now, he
16 was, basically, urging me just to take what he had off his
17 hands at the time. But he said, Yeah, they will.

18 THE COURT: All right, we're going to take a
19 short break.

20 I know it's 4:30, but, ladies and gentlemen, go
21 back to your jury room and we'll bring you back out
22 in just a few minutes. Do not discuss the case.

23 (WHEREUPON, the jury left open court at
24 approximately 4:35 p.m.)

25 THE COURT: Are you all right, Mr. Assad? You

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 need to take a break?

2 THE WITNESS: Yes, sir.

3 THE COURT: All right. Can I see counsel in the
4 back in my office?

5 (WHEREUPON, a short break was taken.)

6 THE COURT: All right. State ready?

7 MR. UNDERWOOD: Once we have the witness back,
8 Your Honor.

9 THE COURT: Okay. I'm sorry.

10 It's my understanding we're going to go how much
11 longer today?

12 MR. UNDERWOOD: One second, Your Honor. May we
13 approach, Your Honor?

14 THE COURT: Yeah.

15 (WHEREUPON, an off-the-record bench conference
16 was held.)

17 MR. UNDERWOOD: Judge, if we could just finish
18 up this one, I'll call it a day.

19 THE COURT: I'm sorry, Mr. Underwood, on the
20 record, I'll say that.

21 (WHEREUPON, the jury came into open court at
22 approximately 4:47 p.m.)

23 THE COURT: All right, ladies and gentlemen,
24 just have a few more minutes today and we'll call it
25 a day and break by 5:00. Some people had some issues

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 there. So don't worry about that, we're in good
2 shape.

3 Mr. Underwood, you may proceed.

4 MR. UNDERWOOD: Thank you, Your Honor.

5 BY MR. UNDERWOOD:

6 Q Mr. Assad, we were listening to a phone call.
7 The last bit of your testimony was about five minutes into
8 the recording. We're going to pick up right there.

9 (WHEREUPON, State's Exhibit No. 22 was continued
10 to be published.)

11 BY MR. UNDERWOOD:

12 Q We're about six minutes in, what was just
13 discussed?

14 A He was telling -- David was explaining to me
15 that, basically, go ahead and get that, what he had, pay
16 the previous that I had, which is the last shipment that I
17 got before I got locked up, pay him for that. And he said
18 he was going to talk to Chema.

19 So I asked him, I said, Well, who's the one
20 in charge?

21 And, basically, he said, Right now, Chema
22 is running the show. He said, He's the one in charge. He
23 said, We're going to call downstairs, which that means
24 going to call Mexico, and for the next time you come,
25 we'll have more work. We'll round up more work for you.

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 Now, when they refer to that, basically, because Chico
2 wanted to work separate with me and him and Chema wanted
3 to work with me.

4 Q When you say him, you're referring to --

5 A Mr. David.

6 (WHEREUPON, State's Exhibit No. 22 was continued
7 to be published.)

8 BY MR. UNDERWOOD:

9 Q Who is the person that you were talking about
10 there at the end?

11 A I was talking about Chema and I was talking
12 about the other person that he was going to call
13 downstairs.

14 Q All right. And, Mr. Assad, following that phone
15 call, did you have a number of other recorded phone calls
16 with the person that you call Chavo, David Barajas?

17 A As far as I recall, no.

18 Q All right. Did you have further communication
19 with him just to set up that purchase that you made down
20 in Georgia?

21 A Yes, sir. Not that day, but, yes, sir.

22 Q Not that day, but you had additional calls later
23 on?

24 A When we went down there, when I was down there.

25 Q So the nature of those other calls were all

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 related to that controlled purchase that you've already
2 testified about?

3 A Yes, sir.

4 MR. UNDERWOOD: Your Honor, with that bit of
5 testimony, I think we're at a good point to stop for
6 the day.

7 THE COURT: All right, ladies and gentlemen,
8 we're going to break for the day. Again, my four
9 rules, do not discuss the case among yourselves or
10 anybody else. I know it's difficult when you get
11 home, you can't tell your friends and family what all
12 you've been listening to. Also, do not do any type
13 of research about anything related to this case, the
14 attorneys or the law or anything like that. Do not
15 pay any attention to any media coverage. Again, like
16 I said before, I'm not aware of any. And if you're
17 contacted by anybody other than somebody from the
18 clerk's office, then please let the bailiff know.
19 Nine o'clock good for everybody? All right, we'll
20 see y'all at nine o'clock in the morning.

21 (WHEREUPON, the jury left open court at
22 approximately 4:53 p.m.)

23 THE COURT: All right, Mr. Assad, nine o'clock
24 good with you? I'm sorry, you can step down.

25 All right. Anything from the State?

1 MR. UNDERWOOD: Nothing, Your Honor.

2 THE COURT: Anything from the Defendant?

3 MR. HODGE: No, Your Honor.

4 THE COURT: All right, see y'all in the morning.

5 (WHEREUPON, the proceedings were concluded for
6 the day to be reconvened on March 12, 2020.)

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1 March 12, 2020

2 THE COURT: State ready?

3 MR. UNDERWOOD: Yes, sir, Your Honor.

4 THE COURT: The defense ready?

5 MR. HODGE: Yes, sir, Your Honor.

6 (WHEREUPON, the jury entered open court at
7 9:12 a.m.)

8 THE COURT: Good morning, ladies and gentlemen,
9 hope everybody had a good evening. Just one second
10 here, we have some. . .

11 Do y'all need to take a break? All right,
12 you're good.

13 Okay. All right, ladies and gentlemen, as you
14 will recall, we were still in the testimony of
15 Mr. Assad questioning by the State. The State will
16 proceed.

17 MR. UNDERWOOD: Thank you, Your Honor.

18 CONTINUED DIRECT EXAMINATION

19 BY MR. UNDERWOOD:

20 Q Good morning again, Mr. Assad.

21 A Good morning.

22 Q Mr. Assad, just to kind to recap where we were
23 yesterday, after you were confronted by law enforcement,
24 did you agree to cooperate with them?

25 A Yes, sir.

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 Q And as part of that cooperation, did you give
2 full debriefings about your involvement in a drug
3 trafficking organization?

4 A Yes, sir. Like I said yesterday, sir, I started
5 the case. I decided to cooperate myself.

6 Q And, also, as part of that cooperation, did you
7 agree to do several what we refer to as controlled
8 purchases or controlled buys of methamphetamine?

9 A Yes, sir.

10 Q And yesterday, I believe we covered one of those
11 buys was a buy on someone you knew as Chencho; is that
12 correct?

13 A Yes, sir.

14 Q And that was a buy that took place here in
15 Greenville; is that right?

16 A Yes, sir.

17 Q Did that take place as you recall
18 February 28th of 2015 or thereabouts?

19 A Yes, sir.

20 Q All right. And very briefly, what happened in
21 that particular transaction?

22 A An individual known as Chenco came down to South
23 Carolina from Georgia, from Marietta, Georgia. He came
24 down on a bus. And me and Agent Mr. Scott, we were
25 waiting for him in the car. Got out real quick, he

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 spotted the car as soon as he got out the bus. He came in
2 the car in the back seat, jumped in the back of the car
3 and we did the transaction in the vehicle. And after
4 that, he got out of the vehicle and went back to the bus
5 and went back to Georgia.

6 Q Who ended up taking possession of that
7 methamphetamine evidence?

8 A Agent Scott.

9 Q Agent Scott Gardner?

10 A Yes, sir.

11 Q And, also, yesterday, we mentioned to a number
12 of what we refer to as controlled phone calls; is that
13 correct?

14 A Yes, sir.

15 Q And were a number of those calls related to the
16 controlled purchase you just discussed?

17 A Yes, sir.

18 Q Were there additional calls related to that
19 purchase that we have not listened to?

20 A No, sir, not that I'm aware of.

21 Q Were there additional calls related to some of
22 the same individuals that we did not listen to? A call
23 made to a person known as Chacas and other calls with
24 Chencho that happened at a later time?

25 A Not that I'm aware of, sir.

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 Q All right. Did you testify yesterday also
2 concerning a controlled purchase in the State of Georgia?

3 A Yes, sir.

4 Q All right. And that controlled purchase, was it
5 also methamphetamine?

6 A Yes, sir.

7 Q Was the target of that purchase the Defendant in
8 this case, David Barajas?

9 A Yes, sir.

10 Q Was that someone at the time you referred to as
11 Chavo?

12 A Yes, sir.

13 Q All right. Very briefly, just recap what
14 transpired in that controlled purchase operation?

15 A We went to Georgia and met with another agency
16 in Georgia. While I'm there, I was talking back and forth
17 with him. He texted me the address where to go. Me and
18 the agent got in the car. We showed up to the location.
19 I got out, went in the house by myself and that's where I
20 met David and I met Chema. And we did the transaction
21 hand-to-hand, me and him in the house.

22 Q And then what did you do with that drug
23 evidence?

24 A Well, I came back out, I gave the agent the
25 drugs and we drove off. Pulled up near, to a near

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 location behind the store. It was a parking lot. And
2 they took out the drugs. He showed it to me. I seen --
3 and they moved them from the trunk of the car we were in
4 to another vehicle. Then I got in another vehicle and
5 left.

6 Q So at that point, they were turned over to law
7 enforcement authorities in Georgia?

8 A Yes, sir.

9 Q Now, Mr. Assad, also, yesterday, did we listen
10 to a number of controlled calls between yourself and the
11 person you knew as Chavo, later identified as David
12 Barajas?

13 A Yes, sir.

14 Q And those were calls, very preliminary stage
15 trying to to set that deal up; is that right?

16 A Yes, sir.

17 Q As we discussed yesterday, were there some
18 additional calls leading up to and immediately following
19 that purchase that we did not listen to yesterday?

20 A Yes, sir.

21 Q In the interest of time, is it fair to say
22 without listening to all those calls -- because these were
23 all in Spanish, correct?

24 A Yes, sir.

25 Q Without listening to those Spanish calls,

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 immediately up to and following up, is it safe to say that
2 the content of those calls was simply setting up that
3 transaction?

4 A Yes, sir.

5 Q All right. Now, Mr. Assad, during the course of
6 those calls, were there also a number of calls that you
7 made at that same time frame with someone you knew as
8 Chico?

9 A Yes, sir.

10 Q What the purpose of those calls?

11 A Set up a controlled buy.

12 Q And was there some overlap between the
13 controlled buy you made with Mr. Barajas and the
14 controlled buy you were making with the person you knew as
15 Chico as to payments and things of that nature?

16 A Yeah. Most of time, it was just argument about
17 dispute they had.

18 Q So there's some overlap in the discussions
19 between those two purchases?

20 A Yes, sir.

21 Q All right. We listened to a couple of calls
22 again between you and Chico; is that right?

23 A Yes, sir.

24 Q And there are additional calls that you had with
25 Chico setting up your purchase that we did not listen to;

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 is that right?

2 A Yes, sir.

3 Q But in a short summary fashion, were those calls
4 consistent with setting up the controlled purchase that
5 we'll discuss in just a moment that you had with a person
6 you knew as Chico?

7 A Yes, sir.

8 Q And in those calls, was there some continual
9 references back to that same dispute that we have already
10 talked about?

11 A Yes, sir.

12 Q Between Barajas and Chico?

13 A Yes, sir.

14 Q All right. And those were also in Spanish; is
15 that right?

16 A Yes, sir.

17 Q Would they be consistent with the calls that
18 we've already listened to?

19 A Yes, sir.

20 Q All right. Let's talk about the controlled
21 purchase with Chico. Now, we started talking a little bit
22 about it yesterday, but without listening to the calls
23 again, let's start at the beginning. How did you set up
24 the controlled purchase of methamphetamine from the person
25 you knew at that time as Chico?

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 A Well, I called him on the phone and I told him I
2 needed the product. And I -- basically, I asked him if he
3 had somebody in Georgia that could give me more work. And
4 Chico said that he only trusted David at the time, so he
5 didn't have nobody else. So we made an agreement that he
6 was going to drive and bring the drugs himself from
7 Georgia -- from Texas down to South Carolina. And that's
8 what went down there. He drove from Texas and brought the
9 drugs.

10 Q When he finally brought the drugs to you, was
11 that on or about March 2nd, 2015?

12 A Yes, sir.

13 Q Please the jury what happened on that particular
14 day concerning the controlled buy with Chico?

15 A Okay. Well, he showed up from Georgia and we
16 went to go eat in a restaurant. And we were talking about
17 how we was in an established business between me and him
18 from that point on, how he wanted to do things, how we was
19 going to work. Well, I thought we was going to do --
20 like, the person that was driving with him and the agent
21 that was with me, they was going to do the transaction.
22 But he said that he wanted to go somewhere safer if I
23 could find a place. So we went to a nearby location, a
24 storage building unit and that's where we did the
25 transaction.

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 Q All right. So let's build on that a little bit.
2 You said there was somebody with him, who was that?

3 A The person that was driving him, his driver from
4 Texas.

5 Q All right. So Chico brought another person with
6 him?

7 A Yes, sir.

8 Q All right. And you mentioned someone being with
9 you?

10 A Yes, sir.

11 Q Who was that?

12 A It was an agent. I don't remember his name.

13 Q There was an agent with you?

14 A Yes, sir.

15 Q Was he in an undercover capacity?

16 A Yes, sir.

17 Q Was he with you the whole time?

18 A Yes, sir, the whole time.

19 Q So you mentioned being at a restaurant and
20 talking about the drug business. What do you recall of
21 the content specifically of that discussion?

22 A Basically, just establish a way of possibly
23 working between one another, figuring out a way how to get
24 more drugs faster. Basically, he was explaining to me
25 that sometimes he would send a couple drivers and

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 sometimes I would have to send drivers, or send my drivers
2 that way and they all come back together, basically.

3 That's what we were trying to discuss.

4 Q Was there any discussion of Mr. Barajas during
5 that conversation?

6 A He just mentioned him briefly, it was nothing
7 major. Just the same incident, just kept on saying the
8 same thing about the incident. That he don't understand
9 where all this came about.

10 Q Just to refresh the jury's memory, what was the
11 incident that you're referring to?

12 A Well, the incident was that David told him that
13 he threw away a kilo of methamphetamine. And that it was
14 a loss that he had to take.

15 Q Following the meeting that you had at the
16 restaurant, you mentioned a storage unit. How did you get
17 to the storage unit?

18 A We drove. I got in the car -- I got in the
19 truck with the agent. They got in their vehicle. And
20 they followed us to a nearby storage unit. We got there,
21 they kind -- the storage unit all the way towards the
22 back. And when he got out, we got to talking. And he
23 told me, Well, I need help getting the stuff from the car.
24 Because he had it under the car, it was a spare tire that
25 had the product in it. So they were struggling and

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 everything, so the agent got down and helped him remove
2 the tire.

3 Q All right. Were they eventually able to remove
4 the tire?

5 A Yes, sir.

6 Q What happened to the tire once it came off of
7 their vehicle?

8 A We put it in the vehicle, in the agent's
9 vehicle. The agent took the tire and rolled it all the
10 way and put it in the trunk of the vehicle.

11 Q All right. To the best of your knowledge, from
12 that point forward, that tire remained in law
13 enforcement's custody?

14 A Yes, sir.

15 Q What happened that was -- well, what happened
16 after that?

17 A Well, I gave him \$2,000. Because that's the
18 same \$2,000 that he was asking me for, but he never send
19 me the name to wire the money. So I gave him the \$2,000
20 cash then.

21 Then from there, he said, You know any
22 place where I can stay nearby just in case anything you
23 need before I leave?

24 And I said, Yeah.

25 I drove him close by in the same area to a

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 hotel. It was a motel. And they got a room there. And
2 we left.

3 Q Is that the last that you saw of him in relation
4 to that transaction?

5 A Yes, sir.

6 Q Did you have any other phone conversations with
7 him after that?

8 A Just one brief. He was asking me how everything
9 was and that was it.

10 Q So in summary, when it comes to controlled
11 purchases, you did three with law enforcement as part of
12 your cooperation; is that correct?

13 A Yes, sir.

14 Q One with Chico that we just discussed?

15 A Yes, sir.

16 Q One with Chencho that we discussed. And the
17 third being purchasing a little more than a kilo of
18 methamphetamine from the Defendant, David Barajas; is that
19 right?

20 A Yes, sir. That's the only one that we did in
21 Georgia. It was with Mr. David Barajas. The other two
22 were here in South Carolina.

23 Q Now, Mr. Assad, at the time that took place, did
24 you know Chavo's full legal name?

25 A No, sir.

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 Q Did law enforcement know his full legal name at
2 that time?

3 A I'm not sure, sir.

4 Q Do you remember if -- do you remember law
5 enforcement asking for your assistance after that in an
6 attempt to confirm the identity of Chavo?

7 A They just showed me the picture.

8 Q Let's talk about that. Did -- do you remember
9 the procedure that was used when they showed you
10 photographs of him?

11 A Yeah. They showed up and he had pictures. And
12 he asked me, said, Do you happen to know this person here?

13 And I said, Yeah.

14 Q Did he suggest to you who that person was?

15 A No, sir.

16 Q Did he suggest that you should know the person?

17 A No, sir.

18 Q Do you remember who the agent was?

19 A It was Agent Wells.

20 Q And at the time that you were shown the
21 photographs, did you recognize the person?

22 A Yes, sir.

23 Q All right. How confident were you in
24 recognizing the person?

25 A I was 100 percent sure.

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 Q All right. Who was the person that you
2 recognized?

3 A David.

4 Q The Defendant, David Barajas?

5 A Yes, sir.

6 Q I want to show you what's been marked as State's
7 Exhibit 14 and State's Exhibit 15. Do you recognize
8 those?

9 A Yes, sir.

10 Q What are those two?

11 A That's the pictures that I was shown of David.

12 Q All right. So Exhibit 15 and Exhibit 14 are
13 both photographs that you were shown in the procedure that
14 you just described?

15 A Yes, sir.

16 MR. UNDERWOOD: Your Honor, at this time, if
17 they're not already admitted, I would ask to offer
18 into evidence State's Exhibit 14 and 15.

19 THE COURT: All right, any objection?

20 MR. HODGE: Just previous --

21 THE COURT: Previously noted, okay. Over
22 Defendant's objection, they will be entered into
23 evidence.

24 (WHEREUPON, State's Exhibits Nos. 14 & 15 were
25 admitted into evidence.)

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 MR. UNDERWOOD: Permission to publish, Your
2 Honor?

3 THE COURT: Yes.

4 (WHEREUPON, State's Exhibit Nos. 14 and 15 were
5 published.)

6 BY MR. UNDERWOOD:

7 Q Now, Mr. Assad, is this one of the photographs
8 that you were shown? This is State's Exhibit 15.

9 A Yes, sir. That was actually the first picture
10 he showed me.

11 Q So this was the first picture you saw?

12 A Yes, sir.

13 Q And the person in this picture, do they have a
14 shaved head?

15 A Yes, sir.

16 Q Whose initials here, right here?

17 A Those are my initials, sir.

18 Q Did you initial that to show that you were able
19 to identify someone?

20 A Yes, sir.

21 Q Right here where the word Chavo is written, is
22 that the person that you identified?

23 A Yes, sir, I wrote it down.

24 Q So you wrote this, Chavo?

25 A Yes, sir.

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 Q So you were telling the agents at that time that
2 you recognized this person as Chavo?

3 A Yes, sir.

4 Q How confident were in that identification?

5 A A hundred percent. He told me just write it
6 down, put your initials next to it.

7 Q Are these Agent Wells' -- this is Agent Wells'
8 signature?

9 A Yes, sir.

10 Q And the date when that happened?

11 A Yes, sir.

12 Q State's Exhibit 14, again, in this photograph,
13 this person have a shaved head?

14 A Yes, sir.

15 Q All right. And down here at the bottom, whose
16 initials are these?

17 A That's mine.

18 Q And is this also an identification of the person
19 at the time you knew as Chavo?

20 A Yes, sir.

21 Q How confident were you in that identification at
22 that time?

23 A A hundred percent, sir.

24 Q A hundred percent, all right. Now, earlier, you
25 had mentioned some tattoos that the person you knew as

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 Chavo had?

2 A Yes, sir.

3 Q You mentioned a tribal tattoo. Is this the
4 tattoo that you were referring to?

5 A Yes, sir.

6 Q Were you aware of that tattoo prior to seeing
7 this photograph?

8 A Yes, sir.

9 Q Is the person in these photographs in the
10 courtroom?

11 A Yes, sir.

12 Q All right. Could you point them out, please?

13 A Yes, sir. Sitting right there.

14 MR. UNDERWOOD: Your Honor, once again, for
15 judicial notice, he's identified the Defendant, David
16 Barajas.

17 THE COURT: All right.

18 BY MR. UNDERWOOD:

19 Q Also, Mr. Assad, were you ever asked to identify
20 some other coconspirators that you dealt with here in
21 South Carolina?

22 A Yes, sir.

23 Q In some of those instances, were you shown --
24 instead of a single photograph, were you shown a number of
25 photographs?

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 A Yes, sir.

2 Q How did that procedure work?

3 A He came -- the agent came, he asked me, Do you
4 recognize anybody in these pictures?

5 And I said, Yeah. And the same thing
6 happened.

7 He said, If you recognize somebody, circle
8 it and put your initials.

9 Q All right. And did you do that with several
10 different individuals?

11 A Yes, sir.

12 Q Was one of those individuals one of your
13 runners, someone that you refer to as Alejandro or Alejo?

14 A Yes, sir.

15 Q Now, when that procedure was done, did the agent
16 suggest to you that you should know anyone in the
17 photographs?

18 A No, sir.

19 Q Did he suggest to you that anyone in the
20 photographs was Alejo or Alejandro?

21 A No, sir. He just said, If you recognize the
22 person, circle it. If not, don't worry about it.

23 Q All right. I'm going to show you what's been
24 marked as State's Exhibit 16 for identification. Do you
25 recognize that?

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 A Yes, sir.

2 Q Now, is this one of those photo lineups we were
3 just talking about?

4 A Yes, sir.

5 Q All right. Did your circle an individual in
6 this lineup?

7 A Yes, sir, I did.

8 Q Who did you identify that individual to be?

9 A That used to be one of my drivers, Alejo.

10 Q How confident are you in that identification?

11 A A hundred percent.

12 Q Were you that confident at the time you did it?

13 A Yes, sir.

14 Q Whose initials appear there?

15 A Mine.

16 Q All right.

17 MR. UNDERWOOD: Your Honor, at this time, I
18 would offer into evidence State's Exhibit No. 16.

19 THE COURT: Any objection?

20 MR. HODGE: No objection.

21 THE COURT: All right, in without objection.

22 MR. UNDERWOOD: Permission to publish, Your
23 Honor?

24 THE COURT: Yeah.

25 (WHEREUPON, State's Exhibit No. 16 was admitted

EDUARDO ASSAD-CONTINUED DIRECT BY MR. UNDERWOOD

1 into evidence.)

2 BY MR. UNDERWOOD:

3 Q So once again, here's the person that's circled,
4 number four. These are your initials?

5 A Yes, sir.

6 Q All right. Did you identify that person as
7 Alejandro or Alejo?

8 A Yes, sir.

9 Q And is this Agent Wells' signature?

10 A Yes, sir.

11 Q Is this Agent Woodring's signature?

12 A Yes, sir.

13 Q All right. And Mr. Assad, at this time and at
14 any point in time, has there been any doubt to you
15 whatsoever that the person you knew as Chavo, the person
16 that you did a controlled purchase of more than a kilogram
17 of methamphetamine in Georgia, who you had repeated deals
18 with, is there any doubt in your mind that that same
19 person is the Defendant in this trial, David Barajas?

20 A Yes, sir.

21 Q There is doubt?

22 A No, no, there's no doubt. That's him.

23 Q So there's no doubt that's the same person?

24 A No, sir, there is no doubt. That is him.

25 MR. UNDERWOOD: Thank you. Please answer any

EDUARDO ASSAD-CROSS BY MR. HODGE

1 questions that opposing counsel has for you.

2 THE COURT: Cross-examination.

3 MR. HODGE: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. HODGE:

6 Q Good morning, Mr. Assad, I have not met you yet,
7 but my name is William Hodge and I represent David
8 Barajas. I'm going to ask you a few questions. I'm not
9 going to take nearly as long to go through some of this
10 stuff, but I just want to clarify some of the things
11 you've said and ask you some questions, okay?

12 A Yes, sir.

13 Q You said you started off in the drug business
14 working for your father-in-law; is that right?

15 A Yes, sir.

16 Q That was Chiva?

17 A Yes, sir.

18 Q Also known as Morales?

19 A Mario Morales, that's his real name.

20 Q Mario Morales, okay. When you first got
21 started, I think the first time that you ever went with
22 him to a transaction of any kind was when you went to Jack
23 and somebody's house, Lisa's house, I think, to pick up
24 some money; is that right?

25 A Yeah, it was to translate for some money, yeah.

EDUARDO ASSAD-CROSS BY MR. HODGE

1 Q Right. And it was your understanding at that
2 point -- at least, you testified that it's your
3 understanding that at that point, that was for a loan that
4 he had made to Lisa for \$50,000; is that right?

5 A Yes, sir.

6 Q What kind job did Chiva have?

7 A Like I said, he works out of state all the time.
8 He's never at home. He's always had actually good job,
9 electrical jobs and stuff like that.

10 Q Good enough jobs to loan someone \$50,000?

11 A He makes good money.

12 Q Okay. So you thought you were just going to
13 translate for a loan that Chiva had made of \$50,000 to
14 Lisa?

15 A Yes, sir. Another thing, I didn't know him like
16 that. I just met him, so.

17 Q You didn't know Chiva like that?

18 A No.

19 Q Because you had just moved to live with him?

20 A Right, exactly.

21 Q So you go with him and I think you testified
22 that when you get there, you realize fairly quickly that
23 this isn't a loan transaction, right?

24 A Yes, sir.

25 Q You realized there was some shady business going

EDUARDO ASSAD-CROSS BY MR. HODGE

1 on here?

2 A Yes, sir.

3 Q And I think you testified that at some point,
4 Lisa and this other gentleman -- Lisa being the main
5 person I'm going to refer to because I think you said she
6 was clearly the boss, right?

7 A Yes, sir.

8 Q So at some point, Lisa, who you had never met
9 and who you didn't even know you were going for a drug
10 purchase or payment, starts accusing you of taking her
11 money; is that right?

12 A Yeah, said, We gave it to them. That's how it
13 started.

14 Q She said, I gave that man right there my money?

15 A Yeah, I gave them the money.

16 Q That's what she told Chiva, was that she had
17 already paid her debt to you and you must have stolen it?

18 A No. She told -- I testify yesterday, I said,
19 she told Alejandro that. He was there. That was our
20 boss.

21 Q So the first time you went to Lisa, the only
22 time you went to Lisa, Alejandro showed up?

23 A Yes, sir.

24 Q So you didn't make multiple trips to Lisa before
25 Alejandro showed up?

EDUARDO ASSAD-CROSS BY MR. HODGE

1 A No.

2 Q And when you went to this one trip with Lisa and
3 Alejandro showed up and she says that, he didn't like that
4 very much; did he?

5 A No, sir.

6 Q Did he threaten you?

7 A Yes, sir.

8 Q Did he beat you up?

9 A No, sir.

10 Q Nobody roughed you up?

11 A No, not at the beginning, no.

12 Q Okay. But, obviously, you didn't know what was
13 going on, right?

14 A No, sir.

15 Q So you told him, I ain't got your money,
16 Alejandro. I don't know what you're talking about.

17 A I explained to him, yes, sir.

18 Q But at that point, that's when Alejandro,
19 essentially, says, Well, you got no choice now, you're
20 mine. You have to sell for me. That's, basically, what
21 you're saying?

22 A That's exactly what he said.

23 Q All right. And I think you testified that
24 Alejandro was also known to Chato; is that right?

25 A Yes, sir.

EDUARDO ASSAD-CROSS BY MR. HODGE

1 Q And there's been a lot of CH names and I'm sure
2 I'll screw some of them up. But you didn't have a CH
3 name, right?

4 A No, sir.

5 Q Did you ever get a CH name?

6 A No, sir.

7 Q Why not?

8 A I was last person, I guess.

9 Q What year was it that you started selling?

10 A When I moved down here, it was 2011.

11 Q So 2011 is when you, when you got involved with
12 the actual drug trade?

13 A Yeah. Mid to late 2011.

14 Q And I believe you testified that the last
15 controlled buy you made was in 2015, right?

16 A Yes, sir.

17 Q And I think you testified that you had worked
18 your way to where you were even with Chiva, right, and you
19 were separated from Chiva; right?

20 A Uh-huh.

21 Q But you didn't have a CH name or a C name, I
22 guess? They all seem to have CH.

23 A (The witness nods.)

24 Q Okay. You testified that there was a number of
25 distributors coming out of Georgia and Texas, I think you

EDUARDO ASSAD-CROSS BY MR. HODGE

1 said were the two main places you were getting your
2 product from right?

3 A (The witness nods.)

4 Q Where was most of it coming from?

5 A Texas.

6 Q You were getting most of it from Texas?

7 A Texas to Georgia.

8 Q Right. Right.

9 A But my main supplier was Georgia.

10 Q But the Texas plug, if you will, that was Chico;
11 is that right?

12 A Yes, sir.

13 Q And Chico, you told us is -- and I cannot say
14 his name, but Isaias Arias?

15 A Yes, sir.

16 Q Okay. And so Chico was the guy who lived in
17 Texas and was getting the product from Mexico, bringing it
18 to Georgia and then getting it to you somehow, right?

19 A Yes, sir.

20 Q You said, also, that you knew Chema was
21 involved, right?

22 A Yes, sir.

23 Q When was the first time you heard the name
24 Chema?

25 A I been heard his name from Chiva.

EDUARDO ASSAD-CROSS BY MR. HODGE

1 Q Okay. Had you ever had conversations with
2 Chema?

3 A On the phone.

4 Q You had? Had you ever purchased from Chema?

5 A Not me personally, no.

6 Q Had you ever received drugs from Chema?

7 A Yeah, through the drivers. That was our
8 contact. They go meet with them, they see everybody.
9 They're the ones that bring the product back.

10 Q Had you ever met Chema?

11 A Yes, sir.

12 Q When did you meet him?

13 A When we did the controlled buy.

14 Q Before that?

15 A No, sir. Only on the phone.

16 Q But you knew that Chema was involved in the same
17 organization as Chavo and Chencho and Chico and Chiva?

18 A Yes, sir.

19 Q Then you?

20 A Yes, sir.

21 Q Gordo, or [indiscernible]?

22 A Uh-huh.

23 Q And your testimony is the first time you ever
24 met Chema was at the residence, right?

25 A Physically was at the residence.

EDUARDO ASSAD-CROSS BY MR. HODGE

1 Q But you're telling me that you had had
2 conversations with Chema and had transactions or deals
3 with Chema prior to that?

4 A Yeah.

5 Q Okay. What about have you ever heard the name
6 Gordo?

7 A Yes, sir.

8 Q I saw your little chart. I'm not talking about
9 Big Gordo and Little Gordo. Was there a guy in Georgia
10 named Gordo?

11 A That's the guy that was in Georgia is Gordo.

12 Q So there's another guy in Georgia, Gordo, who
13 was at the top of your chart up there?

14 A Yeah.

15 Q He was Chacas' right-hand man?

16 A There's Gordo and Little Gordo. His son is the
17 one that stays in Georgia.

18 Q Did Gordo provide you with drugs?

19 A Yes, sir, through Chencho.

20 Q Through Chencho?

21 A Yes, sir.

22 Q So was Chencho working for Gordo, right, and
23 then Chico was working for Tolini?

24 A Yeah, they both worked under Chacas, but they
25 worked together.

EDUARDO ASSAD-CROSS BY MR. HODGE

1 Q So it was like a triangle, like a pyramid scheme
2 almost?

3 A Yes, sir.

4 Q And you said that you got to know Chavo, who you
5 now say is David Barajas, but at the time only knew him as
6 Chavo, right?

7 A Yes, sir.

8 Q You got to know him through Chico?

9 A Yes, sir.

10 Q And how did that come about? How did you get to
11 know Chavo through Chico?

12 A Well, prior to my arrest, I was already booking
13 business with Chico. And Chico said, Look, I got one
14 person that can supply you that has my product, that
15 receives my product from Texas in Georgia. He said, I
16 want to you to call this number and tell him you ready to
17 go pick up. Tell him how much you need. Talk to him and
18 get to know the man. He's a real good friend of mine.
19 His brother lived with me before here in Texas. We know
20 each other very well.

21 That's how I met him.

22 Q Okay. So he told you his brother lived in Texas
23 and that he knew Chavo through his brother and that's how
24 you got hooked up with Chavo?

25 A Yes, sir.

EDUARDO ASSAD-CROSS BY MR. HODGE

1 Q All right. When did you start dealing with
2 Chavo?

3 A Right immediately.

4 Q As in 2011?

5 A No. No, sir.

6 Q Immediately as in?

7 A As in the last six months prior to my arrest.

8 Q So 2014?

9 A 2014.

10 Q So you dealt with Chavo for approximately six
11 months?

12 A Yes, sir. That sounds right.

13 Q And during that approximate six months, you had
14 never met Chavo?

15 A No, sir. I only seen the picture, like on the
16 Facebook. He seen my pictures through my girl's Facebook.
17 It was all through the phone. But my drivers, they knew
18 him well.

19 Q Okay. But the pictures you had seen from
20 Facebook, they were through your wife's account; is that
21 right?

22 A Yes, sir.

23 Q Was she friends with Chavo?

24 A No, he just scoped through the Facebook. He
25 just tagged me and scoped through the Facebook and see

EDUARDO ASSAD-CROSS BY MR. HODGE

1 pictures.

2 Q So when you saw those pictures on Facebook,
3 you -- I think you testified that's when you knew his name
4 to be David?

5 A No, I knew through a conversation with Chico one
6 time. He told me, David call you back?

7 I said, Who the hell is David?

8 Oh, I mean, Chico. He said that's just his
9 first name.

10 Q You mean Chavo?

11 A Right, Chico told me.

12 Q Right. Chico told you that his name was David?

13 A Uh-huh.

14 Q And --

15 A And I said, Who the hell is David?

16 And he told me, he said, You know, Chavo.

17 I said, Oh, okay.

18 Q All right. So once that happened and you found
19 out that his name was David, then you were able to find
20 him on Facebook?

21 A No, sir.

22 Q How did you find him on Facebook if you didn't
23 know his name?

24 A I asked him -- me and him had a conversation
25 and he told me one day that he wanted to come down here to

EDUARDO ASSAD-CROSS BY MR. HODGE

1 South Carolina and see how everything was done here, see
2 how it is. He ain't never been down here. And he said,
3 Man, look, I know you a good man, want to get to know me,
4 give me a chance. Said, Look, look me up on Facebook.

5 And I said, Okay, well, do the same thing.
6 You can look me up through my wife's account or page. You
7 going to see pictures of me and my wife and my daughter.
8 I called him and I told him I saw the pictures and
9 everything. We just never finished -- got back on the
10 subject of him coming down to South Carolina.

11 Q So you found the Facebook page before Chico told
12 you that his name was David?

13 A He told me his name was David one time. I
14 didn't know.

15 Q Right.

16 A Just David, I didn't know. When he gave me the
17 whole information and I looked, that's when everything --
18 that's when I knew who it was.

19 Q So Chavo then told you that his name was David
20 Barajas?

21 A Yes, sir.

22 Q When was that? What time frame was that?
23 Before you ever started dealing?

24 A No, no, that was -- we were always dealing.
25 See, when he started dealing with each other, that's when

EDUARDO ASSAD-CROSS BY MR. HODGE

1 he wanted to come down here.

2 Q So you were dealing with him prior to learning
3 being his name and/or seeing his Facebook, right?

4 A Yes, sir.

5 Q If you were already dealing with him, then why
6 would you or he need to get to know the other one to
7 continue dealing with other other?

8 A No, because he was going to move down here. He
9 wanted to come down here to South Carolina. I had never
10 met the man physically. I've only seen him on pictures.

11 So he said, Look me up on my page so you
12 can know my description to know what I look like. I'm a
13 stand-up guy.

14 And that's why I did that.

15 Q I guess that's what -- my question is, why do
16 you need to know that he's a stand-up guy if you're
17 already dealing with him?

18 A Because I don't know him physically. He wanted
19 me to see him and he wanted to see me. He didn't know me
20 physically either. Only my drivers that been dealing with
21 him know him or seen him.

22 Q And so the Facebook photo that they showed you,
23 I believe it's marked State's Exhibit 14, this one here,
24 had you seen that picture before?

25 A No, sir.

EDUARDO ASSAD-CROSS BY MR. HODGE

1 Q That was on his Facebook, right?

2 A No, sir. I don't remember that picture. He had
3 one with a green hat on and that's when I seen his tattoo.
4 He had multiple pictures, him and another girl.

5 Q Okay. So you saw him with a hat on?

6 A Yes, sir.

7 Q Okay. And you saw a neck tattoo?

8 A Yes, sir, that's why I know what it was.

9 Q Okay. Is he the only one with a tattoo that
10 says Hecho en Mexico?

11 A No, sir, very common. It's very common.

12 Q You say you heard -- you testified yesterday
13 that you heard or you assumed that Chico and Chavo were
14 good friends because you had heard them talk to each other
15 as good friends, right?

16 A Yes, and they were working together.

17 Q When did you hear them have a conversation
18 together? Where were you?

19 A Through the phone. We used to do a three-way.

20 Q Okay.

21 A Both of them be talking. When he first
22 introduced me to him, that's how we used to talk, on a
23 three-way on the phone. All three of us be on the same
24 page. And it happened sometimes -- the reason I got to
25 talk more and more with him because sometimes I called

EDUARDO ASSAD-CROSS BY MR. HODGE

1 down there, send the drivers and he wouldn't be ready or
2 he wouldn't pick up the phone. So I got to call Chico and
3 tell him, Man, your brother, man ain't picking up. What's
4 going on? And then he'll call him again and then they'll
5 call me.

6 Q Okay. Did Chacas ever refer you to Chavo?

7 A No, sir.

8 Q It was just Chico?

9 A Just Chico.

10 Q Okay. Now, you testified yesterday you heard a
11 phone call -- you heard a lot of phone calls yesterday and
12 in a couple of those, you were listening to Chico talk to
13 you and he used the term compadre, right? He used that
14 term multiple times; is that right?

15 A Uh-huh.

16 Q And you assumed that he was talking about Chavo
17 when he used that term; is that right?

18 A Yes, sir.

19 Q But then later on in those conversations, he
20 referred to another guy as compadre, right?

21 A The only reason I know he was talking about him
22 because in that particular time when he says compadre,
23 he's describing the situation that happened where
24 Mr. David said he threw a package of drugs away. And
25 Chico -- that was their whole argument.

EDUARDO ASSAD-CROSS BY MR. HODGE

1 Q Was he threw the drugs away?

2 A Yeah. That was our understanding. That's what
3 David told us initially. I sent my driver down there and
4 he said he didn't have the packages, he didn't have all
5 the packages because he threw some of it away. Then David
6 claims that Chico told him to throw the drugs away. And
7 Chico said, Why in the hell would I tell him to throw
8 money away for free? And that was their dispute. That's
9 how they fell out.

10 Q All right. Speaking of -- just real quick,
11 speaking of money, I've heard a lot of large numbers
12 thrown around as to how much drugs were worth, what they
13 were sold for at that time. You made a lot of money
14 selling dope, didn't you?

15 A Yes, sir.

16 Q Did you get to keep any of that money?

17 A No, sir.

18 Q You had to turn every bit of that money over to
19 the CHs?

20 A No, sir, I had -- yeah, to the cartel, to my
21 boss, exactly.

22 Q How did you make a living?

23 A Me? I worked as an electrician. I was working
24 for a conduit company running conduit for WK Electric and
25 a company name HRL.

EDUARDO ASSAD-CROSS BY MR. HODGE

1 Q So you maintained a steady job and still ran a
2 drug trade out of Greenville?

3 A Yes, sir.

4 Q And didn't make any profit off of it?

5 A I mean, the last six months I was by myself when
6 they split me up from Chiva. I did make some money. I
7 paid my bills that way, you know, on and off with a job.
8 They one in the same.

9 Q Now, I've heard you testify for two days now.
10 And I've heard you reference Chavo as Mr. David?

11 A Yes, sir.

12 Q Have you ever referred to anyone as Mr. David
13 before?

14 A No, sir.

15 Q So you didn't start that until you sat up there
16 on that witness stand, right?

17 A Yes, sir.

18 Q And your testimony now is -- in this trial is
19 that you knew that Chavo was David Barajas?

20 A Yeah, I knew. I knew his name.

21 Q Why didn't you tell law enforcement that his
22 name was David Barajas?

23 A I knew his first name. When I got locked up, I
24 forgot about his last name.

25 Q What about when you were interviewed prior to

EDUARDO ASSAD-CROSS BY MR. HODGE

1 being locked up, why didn't you tell them his name was
2 David Barajas or David even?

3 A I did mention his name. I did say his name was
4 David.

5 Q You told them it was David, they just failed to
6 put that in any of the notes?

7 A I just say the name David.

8 Q Oh. But you didn't know his last name?

9 A I didn't recall.

10 Q Well, let's go back to what you just said then.
11 You were locked up. Where were you locked up?

12 A I was in Greenville County Detention Center.

13 Q Okay. Is that when you learned David Barajas'
14 name?

15 A No, that's when I seen his whole -- his whole
16 name again, but no, that's not when I learned his name.

17 Q So did you know his name as David Barajas or did
18 you know him as just David?

19 A When I got his name, I told my people to look
20 him up on Facebook. And I knew his name was David. I
21 didn't recall his last name, I just know David. Now,
22 after that, I didn't recall. I was locked up first in
23 Oconee County when they showed me them pictures.

24 Q Now, you said -- and I'm almost done soon, I
25 promise. You testified yesterday and I heard you say it

EDUARDO ASSAD-CROSS BY MR. HODGE

1 again today, that you started this case?

2 A Yes, sir.

3 Q You're proud of that, aren't you?

4 A In a way, I am.

5 Q Proud that you are cooperating and saying these
6 things in this courtroom and otherwise, right?

7 A Yeah. I mean, why not? I mean, can I say
8 something? This is a lucrative business, first of all. I
9 didn't have a life no more. None of them ever cared about
10 me. They expect me to roll over and take all this time.
11 What's going to happen to my family? You know what I'm
12 saying? No, man, it doesn't work that way. When you have
13 a boss, you got to answer to somebody, you miss a payment,
14 that's your head.

15 Q Well, the truth is, though, you didn't really
16 start this case until after you had been caught, right?

17 A To be honest with you, I knew the confidential
18 informant that busted me and everything with his drugs,
19 with Mr. David's drugs. It was a yellow color, a yellow
20 color methamphetamine that only came from him. And the
21 drivers can verify that, sir. That's the drugs that I
22 sold to the confidential informant, me, myself,
23 personally.

24 Q So you sold those drugs knowing you were going
25 to get caught?

EDUARDO ASSAD-CROSS BY MR. HODGE

1 A Yes, sir. I knew it was just matter of time.
2 It was that or be dead.

3 Q So you, essentially, turned yourself in --
4 that's your testimony, that you, essentially, set yourself
5 up to be sitting here right now?

6 A It was a matter of time. It was take prison or
7 get killed.

8 Q I think you testified yesterday that they told
9 you that if you rolled over and took the blame that they
10 would take care of you and your family, right?

11 A Uh-huh. That don't work that way.

12 Q But you didn't believe that?

13 A No. No. I seen it multiple times, people had
14 been working with them and everything and they never took
15 care of nobody.

16 Q And Chavo didn't tell you that, right?

17 A No.

18 Q Chico didn't tell you that?

19 A No.

20 Q That came from up high?

21 A Uh-huh.

22 Q You testified that you recognized the tattoos in
23 that picture as the tattoos, the exact tattoos that who
24 you now call Mr. David had, right?

25 A Uh-huh.

EDUARDO ASSAD-CROSS BY MR. HODGE

1 Q But you had only actually ever met and see
2 Mr. David one time, right?

3 A In person, one time.

4 Q One time?

5 A Yes, sir

6 Q All right. That conversation lasted for 30
7 minutes, less?

8 A Less probably, yeah.

9 Q Okay. Do you remember what he was wearing?

10 A No, I don't remember what he was wearing that
11 day.

12 Q Do you remember if he had on a hat?

13 A Don't remember.

14 Q Do you remember if he had on a white shirt,
15 black shirt?

16 A Don't remember, sir.

17 Q But you remember that tattoo, right? The one on
18 his arm, the tribal tattoo?

19 A Yes, sir. I remember he had a shirt on. He had
20 a shirt on and jeans.

21 Q All right. Was it a short-sleeve or long-sleeve
22 shirt?

23 A Short-sleeve.

24 Q What time of year was it?

25 A It was 2015. It was 2015. Like around February

EDUARDO ASSAD-CROSS BY MR. HODGE

1 March.

2 Q In March, right?

3 A Yes, sir.

4 Q And so after meeting with him one time, knowing
5 that his name was David, even though you didn't tell law
6 enforcement that his name was David, as soon as they show
7 you these two completely different looking pictures,
8 because one is from 2006, you recognize that immediately?

9 A Yes, sir.

10 Q As the guy that you had seen one time?

11 A Yes, sir.

12 Q Okay. You knew they were coming to ask you if
13 you recognized him because he would have been involved in
14 this conspiracy under their theory, right?

15 A I didn't know what they were going to do.

16 Q You thought they were trying to solve other
17 crimes?

18 A I don't know, sir. They got certain procedures,
19 I don't know. It's my first time being in any trouble
20 like this. I don't know how things work.

21 Q Your first time being in trouble?

22 A Uh-huh, major trouble really.

23 Q You've never been arrested before?

24 A Yes, sir, I had a -- it was a misdemeanor charge
25 in San Diego one time for receiving stolen goods. That

EDUARDO ASSAD-CROSS BY MR. HODGE

1 was it.

2 Q How old were you then?

3 A I was young. I was 17, about to turn 18.

4 Q So how long ago was that? I don't know how old
5 you are now.

6 A I'm 31 now.

7 Q All right. Then you moved to South Carolina and
8 got away from that situation, right?

9 A (The witness nods.)

10 Q And now found yourself in this situation?

11 A Yes, sir.

12 Q And I think you testified yesterday that as of
13 right now, you have no plea deal in place?

14 A No, sir.

15 Q You have not been promised anything?

16 A No, sir.

17 Q You haven't been given an offer that you could
18 accept or deny?

19 A Nothing.

20 Q All right. You're indicted in this same
21 indictment, right?

22 A Yes, sir.

23 Q In this conspiracy, correct?

24 A Yes, sir.

25 Q Do you know how much time you're looking at?

EDUARDO ASSAD-CROSS BY MR. HODGE

1 A Well, the conspiracy, from what I understand,
2 carries zero to seven, just the conspiracy. Then the
3 trafficking charge from 28 to a hundred carries up to 15
4 years. Then the arson, that one carries time itself, too.

5 Q Okay. Well, I'm not going to worry about the
6 arson, that's obviously not why we're here. You were
7 charged -- you were indicted for conspiracy to distribute
8 400 grams or more of methamphetamine; is that right?

9 A Yes, sir.

10 Q And you were also charged with the trafficking
11 some other methamphetamine; is that right?

12 A Yes, sir.

13 Q Are you unaware that you're facing minimum 25
14 years under that indictment?

15 A I knew the consequences, sir.

16 Q A minimum of 25 years is what you're looking at
17 if you were convicted of that indictment?

18 A I know it's a lot of time.

19 Q You understand that?

20 A Yes, sir, I understand that. And I'm also
21 worried. None of that's changed, I'm still facing that
22 time.

23 Q But you're testifying here today in hopes that
24 you won't be facing that time, right?

25 A Yes, sir.

EDUARDO ASSAD-REDIRECT BY MR. UNDERWOOD

1 Q Your hope, obviously, is that they're going to
2 give you a cut, a break, a plea deal at some point, right?

3 A If it happens, it happens. If it doesn't, it
4 doesn't. I know I'll be alive, I know that.

5 Q But your hope, the reason that you are here
6 testifying in this case is because you want them to give
7 you a break, right? You don't want to do 25 years, do
8 you?

9 A I got my break already.

10 Q And that's just coming clean and getting it off
11 your conscience?

12 A I just got my break. I'm in jail. They can't
13 get to me right now.

14 MR. HODGE: Okay. Can I have just a moment to
15 confer with my client real quick?

16 THE COURT: Yeah.

17 (WHEREUPON, a brief pause was taken.)

18 MR. HODGE: Thank you, Mr. Assad, for answering
19 my questions.

20 I have nothing further at this time, Your Honor.

21 REDIRECT EXAMINATION

22 BY MR. UNDERWOOD:

23 Q Mr. Assad, a moment ago when your
24 cross-examination began, when you were asked about getting
25 roughed up during the initial meeting you had with Lisa?

EDUARDO ASSAD-REDIRECT BY MR. UNDERWOOD

1 A Yes, sir.

2 Q Were you roughed up that time?

3 A Yes, sir.

4 Q At some point, were you -- why were you roughed
5 up?

6 A Well, I mean, they don't ask you to do things.
7 They're not going to ask you, sir, do you -- you got to do
8 this and this. It's not an option. My father-in-law just
9 left me hanging. She blame it on us and he's not saying
10 nothing.

11 Q Who roughed you up?

12 A Two of the people that were there at the meeting
13 with us.

14 Q Who were they?

15 A Just two people that came with Alejandro, one of
16 them go around and the other one, they just fix his
17 problems.

18 Q So your boss' people roughed you up?

19 A Nothing major, but, you know, smacked me around
20 a couple of times.

21 Q Were there ever other times that you got roughed
22 up or threatened being roughed up?

23 A Yeah.

24 Q When were those?

25 A The second time that Chiva found out again.

EDUARDO ASSAD-REDIRECT BY MR. UNDERWOOD

1 Q What happened there?

2 A When the money wasn't being made. Well, they
3 made threats to my family, to my daughter and everything.

4 Q Now, when you were just talking about knowing
5 that you faced some pretty severe prison sentences, you
6 said that you've already gotten the benefit out of
7 everything because you're in jail. What do you mean by
8 that?

9 A They can't get to me, sir. These people ain't
10 happy. The day I got locked up, you know how many
11 payments I missed? People ain't stupid. They just care
12 about their money. This is a lucrative business. They
13 don't care if you live tomorrow or die tomorrow.
14 Everybody can be replaced. That's the nature of the
15 business. You mess up right now, I get rid of you. I'll
16 get somebody to replace you tomorrow. That's how it
17 works. They don't care about what you got going on, your
18 family, your kids, nothing.

19 Q And you mentioned that the drugs that you sold
20 to a confidential informant that resulted in you getting
21 caught?

22 A Yes, sir.

23 Q You said that you knew you were going to get
24 caught. Did you mean in that particular transaction or
25 just in general?

EDUARDO ASSAD-REDIRECT BY MR. UNDERWOOD

1 A I knew messing with them people, I was
2 eventually going to get busted. Because I done heard the
3 word from a lot of people that I know from the area that
4 one of the man been cased up several times and they know
5 that he's a snitch, he's a known snitch.

6 Q Now, you mentioned that everything was just a
7 matter of time that everybody either ends up in prison or
8 gets killed, what do you mean by that?

9 A No, I said myself.

10 Q Yourself. So that's not everybody, that's just
11 you.

12 A Myself. I had too many problems with my
13 ex-father-in-law. There's just too many problems, too
14 many threats. He put a hit on me once. It was just a
15 matter of time. Because every time he call, he
16 complained, why he got to be split up? Why he got to do
17 this by himself? Why he got to do that? And it was
18 always me and him bumping heads. At the time, you know, I
19 got my wife, that's her father, I can't really argue much.
20 They don't really know what's going on. So everything
21 have to be behind closed door between me and him. When I
22 move away, when I move from the house to the apartment I
23 was living in, we didn't have no contact no more. That
24 was what's bugging him. Because I was like his scapegoat
25 or I was the man that pay his debts all the time or his

EDUARDO ASSAD-REDIRECT BY MR. UNDERWOOD

1 backbone. Every time he go ahead and feel free to use
2 some people's money, hey, he got me, it's okay.

3 Q Now, you mentioned that you were involved with
4 this organization for quite some time under your
5 father-in-law, Chiva or Mario Morales; is that right?

6 A Yes, sir, that's how I got started in this.

7 Q How long were you operating on your own out from
8 under him where you had direct access to the important
9 players?

10 A Six months, the last six months.

11 Q So that was a relatively short period of time
12 where you were own your on?

13 A Yes, sir.

14 Q Now, when you were being debriefed by law
15 enforcement, at that time, did you remember that Chavo's
16 real name was David Barajas?

17 A No, sir, not his last. I didn't recall his last
18 name. I can't just make up a last name and say oh. No,
19 that's not how it works.

20 Q If you had seen his last name before, would it
21 have been on that Facebook you described?

22 A Yes, sir. But I didn't do the research, that's
23 why I'm making that point clear. I told one of my
24 drivers, Look it up. Look at his Facebook. And he showed
25 me the pictures.

EDUARDO ASSAD-REDIRECT BY MR. UNDERWOOD

1 Q So you didn't actually look it up yourself, you
2 had someone else --

3 A No, I had someone else do it. That eventually
4 was the first driver that went and seen him.

5 Q When you went to Georgia to do the controlled
6 buy on Chavo, was that just a casual meeting or was that
7 something that was pretty important to you?

8 A No, I mean, we been -- it was being discussed
9 prior to my arrest. It was already being discussed.

10 Q Well, what I mean is was that something that was
11 a significant event for you or was that just another day?

12 A No, it was significant. It was significant for
13 me, I mean, for me and my behalf. Because like I said --
14 like his attorney just said, I'm facing 25 years of my
15 life. Ain't nobody put a dollar on my books. Ain't
16 nobody helped my daughter when she been sick. All I got
17 is threats. I'm here right now. I can't even walk out
18 this door. If y'all were to take these chains off, I'm
19 scared to walk out that door because I got a target on my
20 back.

21 Q Why do you have a target on your back?

22 A Because due to the organization I was working
23 for. That's how it works. Unfortunately, I grew up in
24 San Diego, California. I don't know nothing in Mexico. I
25 visited short periods of time. I don't know my ways

EDUARDO ASSAD-REDIRECT BY MR. UNDERWOOD

1 around or nothing. This is where they work. I know after
2 prison, I can get deported. I know a lot of things can
3 happen to me. I understand that. But I'd rather be in
4 prison than get a chance of being killed. Again, I still
5 can have a relationship with my daughter, speak on the
6 phone. I can still do something with my life. I can
7 finish my school behind the wall. I can do a lot of
8 things that I can't do.

9 Q Is all the testimony that you've given in this
10 trial about the La Familia cartel and this drug
11 trafficking organizations, has it all been the truth?

12 A Yes, sir.

13 Q Has all your testimony about the Defendant in
14 this case, David Barajas, also known as Chavo, has it all
15 been the truth?

16 A Yes, sir. If his attorney review the phone
17 calls, you can see the conversations are even before the
18 controlled buy. I'm trying to set up a controlled buy and
19 he's talking to me about things that happened before
20 between us, between me, him and Chico. You know, so
21 that's very obvious, we had a relationship. I can't just
22 sit here and look at this man and -- for one, it's not
23 easy sitting here and pointing at that man. No, it's not
24 easy. It's not easy. If anybody thinks in here it's just
25 easy to sit here and point at this man and put the guilt

EDUARDO ASSAD-REDIRECT BY MR. UNDERWOOD

1 on him, no. But he is a big important factor of what
2 could happen to me if I was to walk out that door. Even
3 though he can sit there and act innocent, he is a big
4 important factor because he knows way more people that I
5 know that can get to me. That is the significance --
6 that's why that bust was important for me.

7 Q Okay. Is the Defendant in this case the man who
8 sold you that methamphetamine in Georgia?

9 A Yes, sir.

10 Q Is David Barajas, the Defendant in this case,
11 one of the members that you were being supplied on a
12 regular basis with multiple kilograms of methamphetamine?

13 A Yes, sir.

14 Q Did they know that that methamphetamine was
15 being brought back here to Greenville County?

16 A Yes, sir.

17 Q All right. And has all your testimony here
18 today been truthful?

19 A Yes, sir.

20 Q Has your testimony throughout this entire trial
21 been truthful?

22 A Yes, sir.

23 MR. UNDERWOOD: Thank you.

24 No further questions, Your Honor.

25 THE COURT: All right, you may step down.

DAVID URBINA-DIRECT BY MR. WATERS

1 All right, State ready to call their next
2 witness?

3 MR. WATERS: Yes, sir, Your Honor. Let me get
4 an exhibit marked if I could very quickly.

5 THE COURT: Everybody good over here? Anybody
6 need to take a break? Need to take a break? You're
7 good? I double questioned you. Yes or no question
8 at once.

9 (WHEREUPON, State's Exhibit No. 64 was marked
10 for identification only.)

11 THE CLERK: Please raise your right hand.

12 DAVID URBINA, after being duly sworn, testified
13 as follows:

14 THE CLERK: Please be seated. Once you're
15 seated, state your name for the record.

16 THE WITNESS: Good morning. My name is David
17 Urbina. You spell that U-R-B-I-N-A.

18 DIRECT EXAMINATION

19 BY MR. WATERS:

20 Q Officer Urbina, how you doing today?

21 A Doing good.

22 Q All right. Tell the grand jurors -- excuse me,
23 the jurors where you work.

24 A I'm currently employed with the Greenville
25 County Sheriff's Office.

DAVID URBINA-DIRECT BY MR. WATERS

1 Q All right. In what capacity do you serve with
2 Greenville County Sheriff's Office?

3 A I currently work in the family court as a
4 holding cell coordinator.

5 Q All right. How long have you been in law
6 enforcement?

7 A Been in law enforcement since July 2008.

8 Q 2008?

9 A Yes, sir.

10 Q And what agencies have you worked for in that
11 time?

12 A Just Greenville County Sheriff's Office.

13 Q That's where you started?

14 A Yes, sir.

15 Q And can you just very quickly tell the jurors
16 what sort of jobs you've had during that time, very
17 briefly?

18 A When you first start, you start in uniform
19 patrol just, basically, answering 911 calls and just doing
20 traffic stops, just getting acquainted with different
21 types of calls. I did that for about four years, which I
22 then transferred over to the warrant office, which is,
23 basically, locating people that have arrest warrants.

24 Q Okay.

25 A And about a year ago, I transferred over to

DAVID URBINA-DIRECT BY MR. WATERS

1 family court working the holding cell transporting inmates
2 from jail to if they have a hearing. Anything from child
3 support to even juveniles.

4 Q All right. Now, let me ask you this, are you
5 fluent in Spanish?

6 A Yes, sir. You can tell by my last name,
7 Hispanic. I try to, at least, learn a little bit more
8 than I have. My parents, unfortunately, they were the
9 only ones that spoke Spanish. And so -- but yeah, I'm
10 fluent in Spanish.

11 Q Fluent in Spanish. At some point -- and I'm
12 going to take you back to 2015, in particular, March 2nd,
13 2015. Were you asked to be part of an operation involving
14 methamphetamine?

15 A Yes. Investigator Cunningham --

16 Q Is that Charlie Cunningham?

17 A Charlie Cunningham, correct. Approached me
18 about -- see if I was interested in assisting in an
19 undercover case, that I fit the part. I was bilingual and
20 Hispanic, so.

21 Q What role did he approach you with playing in
22 this particular undercover operation?

23 A Well, it wasn't until the day of -- which, at
24 first, I was just eager. I was like my first time doing
25 any undercover operation, so I was eager to do it. And

DAVID URBINA-DIRECT BY MR. WATERS

1 the day of, he let me know that I was going to be working
2 along side a confidential informant and, basically,
3 meeting up with him to do a buy.

4 Q All right. Were you going to portray the CI's
5 friend or something like that or his associate or what?

6 A Yes. After meeting the CI, we got to talking
7 and came up with a game plan that, more likely, his
8 right-hand man.

9 Q His right-hand man?

10 A Yes, sir.

11 Q So you were going to be the CI's right-hand man.
12 Did you spend some time with the CI prior to y'all going
13 and doing the operation?

14 A Yes. Just like, you know, any time you meet
15 someone for the first time, you kind of want to feel the
16 other out. And, you know, anytime you're dealing in these
17 types of operations, the slightest thing that something is
18 wrong can really cost your life or somebody else's. So it
19 was very important that we kind of mesh together. And --

20 Q And appear to be life-long friends, correct?

21 A Yes, sir.

22 Q All right. Did you do that in this particular
23 case?

24 A Yes.

25 Q All right. After you spent that time with the

DAVID URBINA-DIRECT BY MR. WATERS

1 CI, sort of to develop that rapport so that y'all would
2 appear to have a relationship and you being his right-hand
3 man, what did y'all do after that? How did the operation
4 begin?

5 A The CI was in a cell phone, like text message
6 contact, with the buyer.

7 Q And do you remember the name that the CI was
8 going by?

9 A Gordo.

10 Q And so that's the guy that you spent time
11 getting acquainted with that you were going along with,
12 correct?

13 A Correct.

14 Q Do you remember the name of the buyer that he,
15 Gordo, was contacting?

16 A Yes. He was going by the name of Chico.

17 Q Chico?

18 A Chico.

19 Q Okay. Pick us up there. What -- lead us into
20 the operation itself.

21 A So, the time, we were actually planning on
22 having like a lunch, I guess, to discuss the details of
23 the buy and -- but they kept, I guess, taking longer than
24 usual to drive from Dallas, Texas, to here.

25 Q So you were present when Gordo was making calls

DAVID URBINA-DIRECT BY MR. WATERS

1 to Chico or, at least, some of them; is that correct?

2 A Texts, yes. Calls.

3 Q To your understanding, it was taking longer than
4 expected for Chico to come from Texas to Greenville?

5 A Yes.

6 Q All right.

7 A But when they said they were real close, we told
8 them the address of a Mexican restaurant we wanted to meet
9 at.

10 Q Do you remember which restaurant it was?

11 A Don Pablo's, a Mexican restaurant on Haywood
12 Road.

13 Q Is that in Greenville County?

14 A That's in Greenville County.

15 Q All right. So did they agree to go to the
16 restaurant, Chico?

17 A Yes. After we had that timeframe that they were
18 really close and they were going to meet us at the
19 restaurant, I was meeting the CI, drove in an undercover
20 police vehicle that I was driving and drove to the
21 restaurant.

22 Q Who was in the vehicle? You were driving?

23 A I was driving.

24 Q Who else was in the vehicle?

25 A And the confidential informant.

DAVID URBINA-DIRECT BY MR. WATERS

1 Q Gordo?

2 A Gordo, yes.

3 Q So what happened next? Where did y'all go?

4 A So we -- we're waiting in the parking lot and a
5 burgundy Nissan SUV pulled into the parking lot. And an
6 individual came out of the vehicle that matched the
7 description of Chico.

8 Q Let me ask you this, were you aware of whether
9 or not there were any other agents that were inside the
10 restaurant or were going to be coming in the restaurant at
11 this point?

12 A I know that I was given a -- basically, a
13 recording device that there were going to be some agents
14 in the parking lot and someone inside the restaurant just
15 to have eyes on the situation.

16 Q Was that for safety considerations?

17 A Yes, sir.

18 Q In case something went wrong?

19 A Yes, sir.

20 Q Were you -- I'm sorry?

21 A Yeah, because, obviously, you never know what's
22 going to happen.

23 Q Were you instructed to call for help if
24 something went wrong?

25 A Yes, sir.

DAVID URBINA-DIRECT BY MR. WATERS

1 Q And told that agents would respond if that
2 happened?

3 A Correct.

4 Q All right. So pick me back up, you're in the
5 parking lot and the SUV pulls in with the individual that
6 is Chico, correct?

7 A Yes.

8 Q Was he alone or did he have anybody with him?

9 A At that time, I did not see anybody, but Chico.
10 And me and Gordo got out of the vehicle and Gordo
11 introduced me to Chico. And we went inside and grabbed a
12 table and ordered some food.

13 Q All right. And did you have a conversation with
14 Chico while you were in the restaurant?

15 A Yes.

16 Q Tell us about the conversation that you had,
17 some of the subjects that were discussed.

18 A So Chico mentioned that normally his couriers,
19 his other employees that he would send to do the sale had
20 backed out last minute. So him and another employee,
21 which he said that he was just a Puerto Rican descendent,
22 was in the vehicle. And he didn't come in because he had
23 a stomachache.

24 Q Okay. So he told you he did have another person
25 with him at that point?

DAVID URBINA-DIRECT BY MR. WATERS

1 A Yes, that he was in the car.

2 Q All right. Did he tell you any more about the
3 drug business or make any propositions to you and Gordo
4 about the drug business while y'all ate dinner at the
5 Mexican restaurant?

6 A Yes. This was a conversation that was in
7 Spanish and in English. So I'm assuming since when they
8 were talking about, especially drug products and things
9 like that, the conversation was mostly in Spanish. And he
10 discussed a business proposition to Gordo.

11 Q He, being Chico?

12 A Chico.

13 Q All right. What was the proposition he
14 discussed?

15 A Currently, the route that they used to transport
16 methamphetamine from Dallas, Texas to Atlanta, he wanted
17 to see if, basically, changing up leaving Atlanta and
18 coming to Greenville.

19 Q So he was discussing bypassing the hub in
20 Atlanta; is that correct?

21 A Correct.

22 Q All right. Did he have a particular route he
23 discussed, Chico, that being Chico?

24 A Yes, he did. He was saying mostly that he was
25 just kind of nervous about going through the State of

DAVID URBINA-DIRECT BY MR. WATERS

1 Tennessee at night. So he, basically, said, Hey, listen,
2 if you --

3 MR. HODGE: Objection, Your Honor. This is all
4 hearsay coming from Chico, who will be here to
5 testify if my understanding is correct. I would just
6 ask that we allow Chico to testify to it, not the
7 officer who heard it third party and in a separate
8 language. It's clearly hearsay. It has nothing to
9 do with my client or Chavo, but.

10 MR. WATERS: Your Honor, I believe there's ample
11 evidence that laid the foundation for conspiracy and
12 these are statements in furtherance of conspiracy and
13 thus, would not be hearsay.

14 THE COURT: I believe under the hearsay
15 exception for conspiracy, then I'll let it in.

16 MR. HODGE: Thank you.

17 MR. WATERS: I'll move expeditiously.

18 BY MR. WATERS:

19 Q So real quickly, pick up where you left off.

20 A So his plan was to rent two vehicles and always
21 kind of travel through Tennessee during the daylight
22 hours. And normally, he proposed to Gordo that he can
23 actually rent a house and have me, basically, head over to
24 Dallas and kind of run the methamphetamine from Dallas to
25 Greenville.

DAVID URBINA-DIRECT BY MR. WATERS

1 Q All right. So the discussion was that you were
2 going to rent a house or he was going to rent a house for
3 you in Dallas and you being -- playing the right-hand man
4 of Gordo, were going to make runs directly there; is that
5 correct?

6 A That's correct.

7 Q Did he say that -- or discuss any problems or
8 issues he was having with anyone in Georgia or in Atlanta?

9 A I know that the majority of the conversations,
10 the names that nobody come up with, they all started with
11 CH. The names they discussed was Chema, Chavo and those
12 were mainly against the other people that were in charge
13 in the Atlanta area.

14 Q In Atlanta?

15 A Yes.

16 Q Chema and Chavo was who Chico and Gordo were
17 discussing as the people involved in Atlanta; is that
18 correct?

19 A Yes, sir.

20 Q And part of the conversation from Chico was not
21 dealing with those folks anymore, but seeing if he could
22 set up a direct pipeline with Gordo?

23 A Correct. And Gordo was saying, Look, I have a
24 lot of trust in my right-hand man here and if you can make
25 that happen where he can work. Now, Chico did say that

DAVID URBINA-DIRECT BY MR. WATERS

1 the way that he -- let me backtrack. He first mentioned
2 in Dallas, he owns or rents a location like two body shops
3 where he -- I guess his hobby or his passion was,
4 basically, taking out -- finding new ways of concealing
5 methamphetamine where he maybe cutting out part of where
6 the gas tank is at, just coming up with new like traps,
7 like concealment.

8 Q A trap being a place to conceal something in a
9 car, conceal drugs?

10 A Yes.

11 Q Go ahead.

12 A Which once in the conversation, he said, I
13 actually -- I have the three separate packages in a spare
14 tire that I want to unload. He actually wanted a
15 location.

16 Q Did he say what the weight was on those packages
17 or was that mentioned?

18 A It was 2.5 kilos.

19 Q 2.5 kilod of what?

20 A Methamphetamine.

21 Q Did he say that the drugs that he was getting
22 were coming across the border?

23 A Yes. Well, [indiscernible], Do you have any
24 issues getting it through the Mexican U.S. border?

25 He was like, No, that's -- we have a lot of

DAVID URBINA-DIRECT BY MR. WATERS

1 agents that's being paid off. So they don't have any
2 issues getting the drugs across the border.

3 Q Now, you said Chico told you that the 2.5 kilos
4 of methamphetamine were hidden in a spare tire; is that
5 correct?

6 A Yes.

7 Q All right. Did y'all discuss what to do about
8 doing the transaction and turning over those drugs to you
9 and Gordo?

10 A Yes. During this time, as I said, there was
11 communication from agents in the parking lot that could
12 hear what was going on. And they were able to communicate
13 to me by text that the location was a storage unit right
14 down the road from the restaurant. So I relayed that to
15 Gordo.

16 And Gordo, basically, said, We have a spot.

17 Q All right. Said that to Chico?

18 A Yes, sir.

19 Q Did Chico agree to follow y'all to that spot?

20 A Yes.

21 Q So what happened after that?

22 A So I was -- I drove him to the location and he
23 followed behind.

24 Q You drove Gordo to the location?

25 A Yes. And Chico was following behind.

DAVID URBINA-DIRECT BY MR. WATERS

1 Q All right. When Chico followed behind, was that
2 the first time that you observed that he had a partner
3 with him as well?

4 A That is correct.

5 Q Okay. So what happened, did y'all go to the
6 storage area?

7 A Went to the storage area. To get to the storage
8 area, you need an access code, which was provided to me by
9 text by Investigator Cunningham. So once went through
10 security gate, they also gave me the number of the storage
11 unit. And once I found the storage unit, I noticed that
12 the storage unit was -- the gate was opened. So I pulled
13 up ahead of the storage unit and Chico backed the SUV into
14 the storage unit.

15 Q Did he back it all the way in or just enough to
16 sort of conceal the rear of the vehicle?

17 A About halfway?

18 Q Halfway?

19 A Halfway in.

20 Q Once he parked, what happened next? What did
21 y'all do next?

22 A So Chico exit the driver's side and his
23 employee, which I recognized because he had an ear
24 piece -- a piercing on his eyebrow. He went towards the
25 rear and proceeded to remove the spare tire.

DAVID URBINA-DIRECT BY MR. WATERS

1 Q All right. Was he able to easily get it out or
2 was there some problem with that?

3 A Yeah, he was having issues with getting the
4 spare tire removed. At that point, Chico did kind of get
5 somewhat startled because he noticed a surveillance camera
6 at the storage unit.

7 Q You mean the ones that are just there for the
8 business?

9 A Yes.

10 Q Okay.

11 A So at that point in time, Chico was more like,
12 Hey, you guys, let's go to one of your guy's houses
13 because we're going have to cut this tire open because
14 it's not wanting to budge. But, eventually, his employee
15 was able to get the tire down. And at that point in time,
16 just to kind of make Chico feel at ease, we -- me and
17 Gordo kind of stood in front of the, I guess the storage
18 unit, kind of looking out just to say hey, look, we'll let
19 you know if anybody's coming or anything like that.

20 Q Were they successful in getting the spare tire
21 out?

22 A Yes.

23 Q All right.

24 A And at that point in time, I noticed Chico was
25 rolling the spare tire from the storage unit out to my

DAVID URBINA-DIRECT BY MR. WATERS

1 vehicle. And I opened up the trunk and Chico picked up
2 the tire and placed it in the back.

3 Q Okay. He placed it in the back of the vehicle
4 you were driving?

5 A Yes.

6 Q What kind -- was it like a sedan or an SUV or do
7 you recall?

8 A I was driving a silver, goldish Cadillac SUV,
9 Escalade.

10 Q So did y'all put the spare tire in the hatch
11 area or the storage compartment?

12 A Yeah, the trunk area.

13 Q Trunk area of the SUV. All right. And what
14 happened after that? What was the discussion and where
15 did y'all go?

16 A So at that point in time, Chico mentioned that,
17 you know, it's going to be a long drive back to Dallas.
18 And he wanted to see if he was -- if he could stay at one
19 of our houses.

20 Q Like your personal residence?

21 A Yes.

22 Q What did y'all say to that?

23 A So at that point in time, I'm like -- you know,
24 I kind of looked at Gordo and was like this ain't going to
25 happen.

DAVID URBINA-DIRECT BY MR. WATERS

1 Q All right. What did y'all come up with then on
2 the fly?

3 A So one of the things that while getting
4 aquatinted with Gordo, like I said, I never done this
5 before, so he said, Look, a lot of times, you're just
6 going to have to come with ideas up on the fly. It's
7 going have to be, you know, out of the blue, but just come
8 up with something.

9 Q Okay.

10 A And so we thought -- yeah, I think Gordo
11 mentioned, Hey, why don't you just get a hotel? And
12 knowing the area, I suggested the Clarion Hotel, which is
13 real close to the storage unit. I know we've had prior
14 calls over there where there's a lot of drug activity and
15 stuff like that, so I don't think that, you know, if they
16 saw our vehicle and Chico in the parking lot like that,
17 they would just blow it off.

18 Q Wouldn't attract attention?

19 A Correct.

20 Q So did he agree to go over to the hotel with
21 y'all?

22 A Yes. Luckily, he did.

23 Q Did he -- was he going to pay for the room or
24 did he want y'all to pay for the room?

25 A No, he said, Well, I want y'all to get me a room

DAVID URBINA-DIRECT BY MR. WATERS

1 then. So while we were driving to the hotel --

2 Q So who's in the car with you, Gordo?

3 A It's me and Gordo.

4 Q Where's the spare tire that you've taken?

5 A The spare tire was in the back of the vehicle I
6 was driving.

7 Q In your possession?

8 A Correct.

9 Q Was Chico and his friend following you?

10 A Yes, they were following me.

11 Q All right. So while y'all are driving to the
12 hotel, are you communicating with the agents about the
13 plan?

14 A Yes. I was like, Hey, come up with something
15 because I need a room at the Clarion.

16 Q Okay.

17 A So we -- as we pulled into the location, I
18 parked right in front of the office. And Chico,
19 basically, drove kind of toward the end of the parking
20 lot, way down. So once we parked, I exit the vehicle and
21 Gordo went over to Chico to kind of keep conversation.

22 Q Make conversation and stall him?

23 A Yes.

24 Q While you figured out the room situation?

25 A Correct.

DAVID URBINA-DIRECT BY MR. WATERS

1 Q All right. Did you go inside at that point to
2 the office?

3 A I went inside and I told the clerk, Hey, can I
4 get a room? And, you know, he says, Well, okay, I'll need
5 an ID and a credit card.

6 Q You pulled your wallet out or not?

7 A Yeah, at that point in time, I was like, Well, I
8 can't really give my ID, but -- so at that point in time,
9 I was like, Well, it's only me. You know, other people, I
10 guess they -- I'm not saying they did, but paid cash for a
11 room, but now they're asking for a credit card. So I
12 called Charlie.

13 Q Did you call him or did you text him? Or do you
14 remember?

15 A I don't recall.

16 Q You contacted him?

17 A Yes. I was like, Hey, we have a problem. How
18 fast can you get somebody over here and get me a room with
19 an ID.

20 Q Did the other agents take care of that?

21 A Yes. They were able to pull in and get a room
22 and hand it off, the room key to me.

23 Q What did you do after that?

24 A At that point, I drove the vehicle with Gordo in
25 it. He had already walked back. We drove over next to

DAVID URBINA-DIRECT BY MR. WATERS

1 where Chico was parked and Gordo handed him the room key.

2 Q Okay.

3 A And Chico was saying, Well, you know, go ahead
4 and get rid of that tire and let's get back up together
5 maybe for, I guess, go out on town or something like that.

6 Q He wanted to get back together and go out?

7 A Yes.

8 Q All right.

9 A And it wasn't -- it was still daylight. I'm not
10 sure if it was 6:00, 7:00, whatever it was. So we
11 drove -- I drove with Gordo back to the designated
12 location where we, basically, handed over the tire to a
13 SLED agent completing a --

14 Q Chain of custody form?

15 A Chain of custody form.

16 Q Let me ask you this, so the tire that you got,
17 the tire was actually mounted on the rim, correct?

18 A Yes, yes.

19 Q And it was -- when you got it, it was mounted on
20 the rim, correct?

21 A Yes, a big tire.

22 Q The time it was in your possession, was it ever
23 tampered with, altered, changed in any form?

24 A No.

25 Q When you turned it over to the SLED agent at the

DAVID URBINA-DIRECT BY MR. WATERS

1 rally point, was it in the same condition as when you
2 received it from Chico?

3 A Yes.

4 Q All right. Bear with me one second. I'm going
5 to show you what's been marked at this point as State's
6 Exhibit 64, do you recognize what's in that image?

7 A Yes. This is the tire that I handed over to the
8 SLED agent.

9 Q That's the tire you received from Chico?

10 A Yes.

11 Q All right. Then I'm going show you what's been
12 marked as State's Exhibit 65 for identification, do you
13 recognize, particularly, the second page of this document?

14 A Yes, that's my signature.

15 Q Is that a chain of custody form where you turned
16 it over to SLED?

17 A That's correct.

18 MR. WATERS: Your Honor, at this time, I would
19 move into evidence State's Exhibits 64 and 65.

20 THE COURT: Any objection?

21 MR. HODGE: No objection.

22 (WHEREUPON, State's Exhibit No. 64 was admitted
23 into evidence.)

24 (WHEREUPON, State Exhibit No. 65 was marked for
25 identification and received into evidence.)

DAVID URBINA-DIRECT BY MR. WATERS

1 THE COURT: All right, in without objection.

2 MR. WATERS: May I publish these, Your Honor?

3 THE COURT: You may.

4 BY MR. WATERS:

5 Q All right. Looking now at State's 64, again,
6 tell me what this is.

7 A That was the tire I received from Chico and
8 handed over to the SLED agent.

9 Q All right. Then looking at State's 65, in
10 particular, the second page here, is that your name up
11 here at the top?

12 A Yes, sir.

13 Q What is this right here?

14 A That is my signature.

15 Q Signature turning it over to Aaron Rawl at SLED
16 on March 2nd, 2015?

17 A Yes, sir.

18 Q That would be turning over that tire; is that
19 correct?

20 A That's correct.

21 Q And that tire was in the same form as when you
22 received it from Chico; is that right?

23 A That's correct.

24 Q And it was not altered, tampered with, changed
25 in any fashion during the time it was in your possession

DAVID URBINA-DIRECT BY MR. WATERS

1 from the time Chico gave it to you until the time you gave
2 it to Aaron Rawl at SLED?

3 A No, sir.

4 MR. WATERS: Nothing further at this time.

5 THE COURT: Cross-examination.

6 MR. HODGE: No questions of this witness, Your
7 Honor.

8 THE COURT: All right, you may step down.

9 Would this be a good time for a morning break?

10 MR. WATERS: Yes, sir, Your Honor.

11 THE COURT: All right, ladies and gentlemen,
12 we'll take a short 10 minute break. So go back to
13 your jury room. Do not discuss the case. We'll see
14 y'all back out in just a few minutes.

15 (WHEREUPON, the jury left open court at
16 approximately 10:41 a.m.)

17 THE COURT: All right, we'll be at ease for 10
18 minutes.

19 (WHEREUPON, a short break was taken.)

20 THE COURT: State ready?

21 MR. WATERS: Yes, sir, Your Honor.

22 THE COURT: Defense ready?

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

24 THE COURT: All right, if the jury is ready
25 bring them in.

1 (WHEREUPON, the jury entered open court at
2 approximately 10:55 a.m.)

3 THE COURT: Okay. All right. Y'all ready for
4 your next witness?

5 MR. WATERS: Yes, sir, Your Honor. The State
6 calls special agent Scott Gardner.

7 THE COURT: Mr. Gardner, if you'd come around be
8 sworn.

9 THE CLERK: Please raise your right hand.

10 SCOTT GARDNER, after being duly
11 sworn{,} testified as follows:{F}

12 THE CLERK: Please be seated and once you're
13 seated state your name for the record.

14 THE WITNESS: Scott Gardner.

15 DIRECT EXAMINATION

16 BY MR. WATERS:

17 Q Special agent Gardner, how you doing today?

18 A Good.

19 Q I see you're wearing your SLED uniform so
20 obviously you work at SLED, correct?

21 A Yes, sir.

22 Q Give us just a very quick history of your career
23 in law enforcement.

24 A Started in law enforcement in 2008, was at
25 Greenville City. I stayed there for almost seven years

SCOTT GARDNER-DIRECT BY MR. WATERS

1 where I did patrol narcotics the slot. Now I have been
2 SLED since 2015, where again, and I do narcotics a SWAT.

3 Q All right. So you went to SLED in 2015 and been
4 doing narcotics ever since; is that correct?

5 A Yes, sir.

6 Q Do you remember your start date at SLED?

7 A I want to say it was February 17th, 2015.

8 Q February 17th, 2015?

9 A Yes, sir.

10 Q Did you fairly very quickly get involved in the
11 investigation that's the subject of this trial?

12 A Yes, sir.

13 Q All right. I'm going to take you to
14 February 25th, 2015. Do you recall participating in a
15 search warrant operation on that particular day?

16 A Yes, sir. My task was -- there was an address
17 on Cook Street and my task was literally just to sit
18 outside to conduct surveillance and wait and see what was
19 coming and going directed by Special Investigator Tyrel.
20 They conducted a search. They went inside, when they came
21 out, they had a quantity of methamphetamine, which was
22 eventually turned over to me so that way I can take it
23 down to Columbia to SLED evidence. That occurred on
24 February 27th.

25 Q All right. And that particular residence on

SCOTT GARDNER-DIRECT BY MR. WATERS

1 Cook Street, do you recall whose residence that was?

2 A She was known as Ma, or Sandra Duncan.

3 Q Sandra Duncan?

4 A Yes, sir.

5 Q All right. Now, you say that you were sort of
6 providing security and surveillance outside the residence,
7 is that correct, for the most part?

8 A Yes, sir.

9 Q And then, ultimately, a quantity of
10 methamphetamine that had been seized from her house was
11 turned over to you; is that correct?

12 A Yes, sir.

13 Q And once you received that methamphetamine, what
14 did you do with it?

15 A Once I -- I stayed in my possession until I took
16 it down to Columbia to our SLED forensic lab, which at
17 that time, I submitted it to them.

18 Q Was it in a secure location the whole time it
19 was in your possession?

20 A Yes, sir. Just common practice for us because
21 we have lockboxes on our truck. I'm the only one with the
22 key to it. I have access to it and I locked it down
23 myself.

24 Q And during the time it was in your possession,
25 was it altered, tampered with, changed in any way?

SCOTT GARDNER-DIRECT BY MR. WATERS

1 A Not at all.

2 MR. WATERS: May I approach the witness, Your
3 Honor?

4 THE COURT: You may.

5 BY MR. WATERS:

6 Q I'm going to show you what's already in evidence
7 as State's Exhibit 1 and see if you recognize that
8 particular document?

9 A Yes, sir.

10 Q What's in this particular document?

11 A It come with our SLED Best kit, that's how we
12 secure our drugs. This comes with every sealable package.

13 Q All right. And the point of that sealable
14 package is to preserve the integrity of the evidence while
15 it's being transported from wherever it was recovered to
16 the lab, correct?

17 A Yes, sir.

18 Q Was it, in fact, in a Best kit bag?

19 A Yes, sir.

20 Q When you received it?

21 A Yes, sir.

22 Q Did it remain untampered in that Best kit bag
23 until you delivered it to the SLED lab?

24 A Yes, sir.

25 MR. WATERS: May I publish this, Your Honor?

SCOTT GARDNER-DIRECT BY MR. WATERS

1 THE COURT: You may. This was already
2 introduced?

3 MR. WATERS: Yes, sir, Your Honor.

4 THE COURT: Okay.

5 (WHEREUPON, State's Exhibit No. 1 was
6 published.)

7 BY MR. WATERS:

8 Q Looking right here, we got February 25th, 2015;
9 is that right?

10 A Yes, sir.

11 Q Cook Street, as you mentioned, was that the
12 address you mentioned before?

13 A Yes, sir.

14 Q Sandra Duncan, that's the individual you
15 mentioned before?

16 A Yes, sir.

17 Q And we see Charles Cunningham and then Tyrel
18 Woodring. And then what's this right here?

19 A That's me, Scott Gardner.

20 Q That's where you received it from Tyrel?

21 A Yes, sir.

22 Q And then down here, what does this say right
23 there?

24 A SLED lab.

25 Q All right. And that date right there?

SCOTT GARDNER-DIRECT BY MR. WATERS

1 A February 27th, 2015.

2 Q And that's when you delivered it to the SLED
3 lab?

4 A Yes, sir.

5 Q In the condition that you received it?

6 A Yes, sir.

7 Q Okay. All right. After that initial
8 involvement with this particular case, did you get a
9 little bit more involved in the case?

10 A Yes, I did.

11 Q In particular, was that a CI that SLED was
12 working in this case that you had some interaction and
13 involvement with?

14 A Yes, sir. His name was Eduardo Assad or I
15 referred to him as Eddie.

16 Q What exactly was your sort of role with Eddie,
17 you know, being the new guy on the block in this regard?

18 A I had done some prior undercover work and
19 Investigator Tyrel felt comfortable, so he put me with
20 Eddie. I was going to do some undercover with him along
21 with basic security for him and also just handle his basic
22 needs. If he needed me to get a hotel room for him or
23 something, I was going to be assigned to do that.

24 Q Was the point of that also for you and Eddie to
25 have some interaction and kind of feel each other out so

SCOTT GARDNER-DIRECT BY MR. WATERS

1 that if you were in an undercover capacity, y'all would
2 appear to be friends that knew each other?

3 A Yes. The more time you spend together and you
4 meet, the common things, it helps with, like, just banter
5 in front of maybe somebody else that was with us.

6 Q And I think you mentioned this, but even though
7 you were the new guy at SLED, you had, in fact, done
8 undercover operations when you with Greenville City; is
9 that right?

10 A Yes, sir.

11 Q So let me, let me move on to February 28th,
12 2015. Were you involved with a controlled purchase of
13 methamphetamine on that day?

14 A I was.

15 Q Can you describe to the grand jurors what your
16 role was and kind of walk us through the operation as it
17 occurred? To the jurors.

18 A Okay. Mr. Eduardo Assad, he had coordinated a
19 drug transaction from an individual known as Chencho from
20 Atlanta. They agreed to exchange \$1,000 for one kilo of
21 methamphetamine. We were going to meet at 2803 White
22 Horse Road, and that's in Greenville County, at a store
23 called Guadalajara. It's also like a makeshift bus stop.

24 So my job was to be in an undercover role,
25 possibly meet Chencho myself and talk to him. And then,

SCOTT GARDNER-DIRECT BY MR. WATERS

1 also, again provide just basic security and drive
2 Mr. Eduardo Assad.

3 Q Let me stop you right there. You mentioned
4 provide security. Is safety the ultimate, sort of main
5 consideration in any sort of undercover operation?

6 A Absolutely.

7 Q Pick us up where -- what happened with that op?

8 A So we respond to that area waiting for Chencho.
9 While we were sitting there, Special Agent Wells had given
10 me a thousand dollars. I provided it to Mr. Assad. We
11 received the text message saying he was almost there and
12 then we observed a white Turimex International bus arrive.
13 We received a phone call from the individual known as
14 Chencho saying that he had arrived. While we were sitting
15 there, we were pulled in, the front of the car was towards
16 the store. I observed Chencho walking in front of our
17 vehicle and get in the back of our vehicle on the back
18 passenger side. He had a black bag with him. He put the
19 bag down. They began having casual conversation in
20 Spanish. I'm not fluent in Spanish by any means. I know
21 a little bit.

22 Q How were you introduced to -- go ahead.

23 A I'm sorry. He introduced me as Wero, which
24 means white boy. After a brief conversation, Mr. Chencho
25 got back out of the car and went inside. Mr. Eduardo

SCOTT GARDNER-DIRECT BY MR. WATERS

1 Assad advised me that he was going back in to buy a bus
2 ticket back to Atlanta.

3 While we're sitting there, I observed
4 another Hispanic male behind our vehicle reading our
5 license plate and, also, trying to see what me and Eddie
6 were doing. He was only there for a brief time. Again,
7 this is the kind of stuff -- the reason I'm there is to
8 observe countersurveillance and to keep Eddie safe. He
9 disappeared for a moment and then briefly reappeared in
10 front of our vehicle again, trying to see what me and
11 Eddie were doing. And that only happened briefly.

12 Then Mr. Chencho came back out, got back in
13 the same rear package door. He and Eddie again started
14 talking in Spanish. Eduardo give him the thousand dollars
15 provided SLED documented funds. And what it means to be
16 documented is we actually have to handwrite each bill --

17 Q The serial number of each bill?

18 A Yes, sir.

19 Q Okay.

20 A So we did that. And the purpose of that is in
21 case whenever we come across those bills again in some
22 kind of seizure or something, you can tie everything
23 together. So he gave him them. I gave Chencho a bookbag
24 that I had. He removed a plastic container.

25 Q From what? What did he have?

SCOTT GARDNER-DIRECT BY MR. WATERS

1 A From that black bag. A plastic container from
2 that black bag containing approximately one kilo, kilogram
3 of methamphetamine. He put it in the bookbag and handed
4 it back to me.

5 Q Let me stop you there. You had been in
6 narcotics with Greenville City prior to going to SLED,
7 right?

8 A Yes, sir.

9 Q Obviously, you've had training and experience in
10 narcotics investigation; is that right?

11 A Yes, sir.

12 Q So you said it was a kilo of methamphetamine.
13 Did it in your training and experience appear to be a kilo
14 of meth when it was handed to you?

15 A Yes, sir.

16 Q All right. Continue on, what happened after
17 that?

18 A They continued to have basic conversation in
19 Spanish from what I could tell. Then all of a sudden,
20 Chencho removed another container from his black bag and
21 handed it to me. Edward said, Hey, he wants you to open
22 this. I opened it and I observed several clear plastic
23 bags also containing methamphetamine.

24 And Eddie said, It's seven onions.

25 Q Onions?

SCOTT GARDNER-DIRECT BY MR. WATERS

1 A Yes, sir.

2 Q What does an onion mean in your experience?

3 A Seven onions -- usually on the street, an onion
4 equals one ounce. So it was approximately seven ounces
5 more of methamphetamine.

6 Q The packages you observed, the seven onions, did
7 they seem in your training and experience to consist of
8 what each being an ounce of meth?

9 A Absolutely. They package it that way so they
10 can sell it pretty easy. So the -- after that, they had a
11 little bit more conversation and Chencho exited. At that
12 time, due to the concerns of countersurveillance or trying
13 to follow us or anything like that, me and Eduardo, we
14 left and drove to a predetermined location where we met
15 the rest of our team.

16 Q All right. And when you got to that
17 predetermined location, what did you do with the
18 narcotics, the methamphetamine as it appeared to you, that
19 you had received from Chencho?

20 A It was again sealed in a Best kit.

21 Q Did you turn that over to agents there?

22 A On March 2nd, I turned it over to Aaron Rawl.

23 MR. WATERS: May I approach the witness, Your
24 Honor?

25 THE COURT: You may.

SCOTT GARDNER-DIRECT BY MR. WATERS

1 BY MR. WATERS:

2 Q I'm going to show you what's been marked for
3 identification as State's Exhibit 70. Do you recognize
4 that document?

5 A Yes, sir.

6 Q Tell us what that is.

7 A Again, it's just a Best kit package.

8 Q Does it also have a chain form as well?

9 A Yes, sir. It's where I gave it to Aaron.

10 MR. WATERS: Your Honor, at this time, I would
11 move to enter State's Exhibit 70 into evidence. I've
12 previously shown it to counsel.

13 THE COURT: Any objection?

14 MR. HODGE: No objection, Your Honor.

15 THE COURT: All right, in without objection.

16 (WHEREUPON, State's Exhibit No. 70 was marked
17 for identification and received into evidence.)

18 BY MR. UNDERWOOD:

19 Q All right. This is the form we were just
20 talking about in State's Exhibit 70; is that correct?

21 A Yes, sir.

22 Q And we have here where it refers to the clear
23 plastic container with the seven clear plastic bags; is
24 that right?

25 A Yes, sir.

SCOTT GARDNER-DIRECT BY MR. WATERS

1 Q And that's the seven onions you were talking
2 about?

3 A Yes, sir.

4 Q And then we, also, have the other container that
5 had what appeared to be the kilo in it; is that correct?

6 A Yes, sir.

7 Q Then we look on the next page. And this is,
8 again, referring to the controlled buy on 228 White Horse
9 Road; is that right?

10 A Yes, sir.

11 Q All right. And this is the buy you've just been
12 describing?

13 A Yes, sir.

14 Q What is this right here?

15 A My signature.

16 Q What does this indicate right here?

17 A That I gave it to Aaron Rawl.

18 Q To Aaron Rawl?

19 A Yes, sir.

20 Q He's a SLED agent?

21 A Captain Aaron Rawl, I apologize.

22 Q Okay. All right. Thank you. All right. That
23 didn't end your involvement in this case, did it?

24 A No, sir.

25 Q Okay. Were you involved in a subsequent -- in

SCOTT GARDNER-DIRECT BY MR. WATERS

1 any capacity in a subsequent deal that Eddie Assad, the CI
2 you were working with, was setting up?

3 A We did.

4 Q First, did you do any financial transactions to
5 facilitate that deal I guess I should ask?

6 A Yes, we did. That occurred on March 2nd.
7 Mr. Assad had orchestrated some kind of transaction with
8 an individual known as Chico from Texas. But first, we
9 had to send him \$2,000. At which time, myself and
10 Eduardo, we responded to a bank on Haywood Road in
11 Greenville where he wired the \$2,000 to this individual.

12 Q I'm going to show you what's been marked as
13 State's Exhibit 5, already in evidence, do you recognize
14 that particular document?

15 A It's just the sheet from the wire transfer?

16 Q And that's the wire transfer that you did with
17 Eddie Assad, known as Chico?

18 A Yes.

19 MR. WATERS: All right. Your Honor, may I
20 publish State's Exhibit 5 at this time? It's already
21 in evidence.

22 THE COURT: You may.

23 (WHEREUPON, State's Exhibit No. 5 was
24 published.)
25

SCOTT GARDNER-DIRECT BY MR. WATERS

1 BY MR. WATERS:

2 Q All right. Again, we're looking at State's
3 Exhibit 5 on the screen. And this is what now?

4 A The \$2,000 wire transfer to Chico.

5 Q All right. And you personally went along to
6 make that transaction?

7 A Yes, sir.

8 Q And the point was to wire that money for setting
9 up the drug transaction; is that correct?

10 A Yes, sir.

11 Q All right. What, if any, role did you have when
12 that operation actually took place?

13 A Later that day, Chico had arrived. Another
14 undercover investigator was needed that was fluent in
15 Spanish. It was an investigator name David Urbina. He
16 actually did the actual undercover role. They met Chico
17 at a restaurant called Don Pablo's, which is not there
18 anymore, but it was on Haywood Road.

19 They went in. I believe another suspect
20 stayed out in the vehicle. My job, again, was solely
21 security. So I was able to go in, sit down at a separate
22 table from them. My pure role was 100 percent safety.
23 I'm looking to make sure they don't get into any kind of
24 arguments and, also, make sure there's no other bad guys
25 that we don't know about or anything like that. So my

SCOTT GARDNER-DIRECT BY MR. WATERS

1 sole purpose there is to do security and then, also, relay
2 to the team outside what's going on, they're just eating
3 or something's escalating or five other guys just walked
4 in. That would be my role.

5 Q So you went in the restaurant and just posed as
6 a patron, ordered some food and that sort of thing?

7 A That's it, sir, yes, sir.

8 Q But you could not hear what conversations were
9 going on, correct?

10 A I could not.

11 Q Did you, in fact, observe Gordo and the UC meet
12 with the individual identified as Chico?

13 A I did.

14 Q And, ultimately, once they concluded their meal,
15 what happened after that as far as your involvement was
16 concerned?

17 A They left. And I believe they went to do a drug
18 transaction, I didn't see them do a transaction or
19 anything. I sat there I believe for a few seconds after
20 they left and then I just drove to the identified parking
21 lot and waited for further orders after they were done.
22 The purpose is, it wouldn't be good for them to see me at
23 the restaurant and then see me down the road or something
24 like that. So at that point, my role was done.

25 Q If you were to get seen after that, then that

SCOTT GARDNER-DIRECT BY MR. WATERS

1 might spark some suspicion as why does this guy keep
2 showing up?

3 A It would be obvious, yes, sir.

4 Q And that was on March 2nd; is that correct?

5 A Yes, sir.

6 Q Okay. Now, the day before that on March 1st,
7 or, at least, a couple days prior to that, did you have a
8 call to go to Georgia as part of this investigation?

9 A Yes. I believe we left after the potential buy,
10 I believe that's when it was. We went down to Georgia
11 that night. Again, just due to the fact that I had a good
12 rapport with Eddie and stuff like that, I kind of stayed
13 with him. I drove him down there. I was definitely more
14 of an operational guy. I wasn't as much in the planning
15 as Tyrel and them were.

16 Q You're the new guy on the block, correct?

17 A Yes, sir. So I drove Eddie down there. The
18 next day I was kind of assigned to be on the outskirts
19 of -- just surveillance and security, stuff like that
20 during that transaction. Again, they needed a Spanish
21 speaking undercover. I don't remember seeing anything or
22 doing anything with that transaction. Then we drove back.

23 Q So you didn't actually participate in that
24 particular buy that was done by and with an HSI UC; is
25 that correct?

SCOTT GARDNER-CROSS BY MR. HODGE

1 A Yes, sir.

2 MR. WATERS: All right. Nothing further at this
3 time, Your Honor.

4 THE COURT: Cross-examination.

5 MR. HODGE: Just very briefly, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. HODGE:

8 Q Agent Gardner, you said you were present in
9 Georgia when that transaction allegedly happened down
10 there; is that right?

11 A I wasn't present. I was on the outskirts on the
12 team for something like that.

13 Q But you were in the State of Georgia at that
14 time?

15 A I was in the State of Georgia.

16 Q But your testimony is that you didn't see
17 anything or take any pictures or actively participate any
18 way other than safety reasons; is that right?

19 A That would be correct. I was there for safety.

20 MR. HODGE: No further questions, thank you.

21 THE COURT: Redirect?

22 MR. WATERS: Nothing further, Your Honor.

23 THE COURT: Thank you, you may step down.

24 MR. UNDERWOOD: Your Honor, the State's next
25 witness is Aaron Rawl.

1 THE CLERK: Mr. Rawl, please approach the
2 witness stand, stop and raise your right hand.

3 AARON RAWL, after being duly sworn, testified as
4 follows:

5 THE CLERK: Please be seated. Once you're
6 seated, state your name for the record.

7 THE WITNESS: Aaron Rawl.

8 MR. UNDERWOOD: Your Honor, if I may have just a
9 moment to confer with our court reporter?

10 THE COURT: Yes.

11 (WHEREUPON, State's Exhibits Nos. 71-79 were
12 marked for identification only.)

13 DIRECT EXAMINATION

14 BY MR. UNDERWOOD:

15 Q Good morning.

16 A Good morning.

17 Q I believe it's now Captain Rawl; is that
18 correct?

19 A Correct.

20 Q All right. Captain Rawl, if you would please
21 introduce yourself to the jury and explain where it is
22 that you work, kind of your history in law enforcement and
23 how you got where you are.

24 A My name is Captain Aaron Rawl. I am captain
25 over tactical operations at SLED. I have been there 12

1 years. When I started SLED, I was in narcotics. I was in
2 narcotics for ten years and then moved and became
3 lieutenant of narcotics for another year and a half, then
4 moved to the technical operation side the last year and a
5 half.

6 Q And Captain Rawl, if you can move that
7 microphone a little bit closer.

8 A Is that better?

9 Q Yes. Captain Rawl, what division were you
10 working in back in 2015?

11 A Just narcotics. I guess I was -- I don't know
12 if I was still with the grand jury or just lieutenant over
13 the low country.

14 Q Were you still working in narcotics at that
15 time?

16 A Yes.

17 Q All right. Did you have an opportunity to
18 participate in a support capacity in several operations
19 concerning this case that was eventually code named Polar
20 Express?

21 A Yes.

22 Q And as part of that, were you acting in a
23 surveillance capacity on several of the controlled
24 purchases that were made?

25 A I was.

1 Q First, I want to discuss, were you involved with
2 an operation involving a controlled purchase of
3 methamphetamine where Special Agent Scott Gardner was in
4 an undercover capacity?

5 A I was, yes.

6 Q What was your role in that particular operation?

7 A I was just there for surveillance. I probably
8 transported the drugs back to Columbia since I'm the local
9 agent down there.

10 Q In that particular instance, you mentioned you
11 may have transported controlled substances. Is that
12 simply because of your proximity to Columbia?

13 A Correct.

14 Q Is that where the SLED laboratory is?

15 A Yes, sir.

16 Q So is that customary that if there's an agent
17 from one part of the state close to the lab, they'll
18 usually take the evidence back?

19 A It saves driving time.

20 Q Captain Rawl, I want to show you what's marked
21 as State's Exhibit No. 70. Do you recognize that?

22 A I do.

23 Q What is that we're looking at?

24 A Chain of custody from controlled purchase on
25 February 28th of 2015, where I took custody of drug

1 evidence from Agent Scott Gardner and transported it to
2 the SLED lab.

3 MR. UNDERWOOD: Your Honor, I believe this is
4 already in evidence, may I publish? Your Honor, it's
5 already been admitted into evidence.

6 THE COURT: Okay.

7 (WHEREUPON, State's Exhibit No. 70 was
8 published.)

9 BY MR. UNDERWOOD:

10 Q Captain Rawl, this front document here, is this,
11 basically, the document that request the lab to then
12 process the suspected drug evidence?

13 A Right.

14 Q All right. Is that your name appearing at the
15 bottom?

16 A Yes.

17 Q And the chain of custody sheet, this top portion
18 here, is that, typically, filled out by the person who
19 initially seizes the evidence?

20 A Correct, the case agent, then the person who
21 receives the evidence signs saying that's true.

22 Q All right. So according to this chain document,
23 this evidence was seized by Special Agent Gardner and then
24 turned over to you on March 2nd, 2015?

25 A Correct.

1 Q Then the following day, did you submit that
2 evidence to the SLED lab?

3 A Yes.

4 Q During that time, did you tamper with the
5 evidence in any way?

6 A No.

7 Q Did you change it, add anything to it, take
8 anything away from it, anything of that nature?

9 A No.

10 Q Did it remain in your custody and control the
11 entire time?

12 A It did.

13 Q Did you have the opportunity to work on a
14 similar operation in that time frame involving some -- an
15 undercover purchase where drugs were hidden in a tire?

16 A Yes.

17 Q All right. What was your role in that
18 particular operation?

19 A Again, I was just there for surveillance and to
20 transport whatever we purchased back to Columbia for
21 logging it into the lab.

22 Q All right. Now, I want to show you what's been
23 admitted as State's Exhibit No. 65, do you recognize this
24 document?

25 A Yes.

1 Q If you could move that microphone just a little
2 bit more close to you.

3 A Yes, same thing as the last one you shared, only
4 different purchase time.

5 Q And again, is this your name here at the bottom?

6 A It is.

7 Q Referring to the chain of custody page, this top
8 portion here, is this indicating the tire and its contents
9 were initially received by David Urbina of Greenville
10 County?

11 A Yes.

12 Q Is that what GCSO stands for?

13 A Greenville County Sheriff's Office.

14 Q Okay. Then was that turned over to you on
15 March 2nd, 2015, the same date?

16 A It was.

17 Q Did you then submit it to the SLED laboratory
18 the following day?

19 A Yes.

20 Q All right. During that time, did you tamper
21 with any of the evidence that was seized during that
22 purchase?

23 A I did not.

24 Q All right. Now, the drug evidence at that time,
25 was it exposed or was it hidden within a container?

1 A It was hidden in a tire.

2 Q When you first got possession of that tire, what
3 did you do with the tire?

4 A It went to the back of my truck.

5 Q Did you have to take it anywhere?

6 A Yeah, I drove it back down to SLED to the garage
7 where we removed the tire and removed the tire from the
8 rim to see what was inside.

9 Q All right. And the physical removing of those
10 items from the tire, was that actually filmed on video to
11 preserve the integrity of evidence?

12 A It was.

13 Q I'm showing you what's been marked as State's
14 Exhibit No. 79, do you recognize that?

15 A Yes. It's CDR of Joe West filming the removal
16 of the tire from the rim with me present and with me
17 removing the drug evidence from the tire.

18 Q Have you had an opportunity to review the video
19 file on that disk?

20 A I have.

21 Q Is that a fair and accurate recording of what
22 took place at that time?

23 A Yes.

24 MR. UNDERWOOD: Your Honor, at this time, I
25 would move into evidence State's Exhibit 79.

1 THE COURT: Any objection?

2 MR. HODGE: No objection.

3 THE COURT: All right, without objection.

4 (WHEREUPON, State's Exhibit No. 79 was admitted
5 into evidence.)

6 MR. UNDERWOOD: Permission to publish, Your
7 Honor?

8 THE COURT: You may.

9 MR. UNDERWOOD: Your Honor, we may have to
10 publish that another time because we're having
11 technical issues here. We'll come back to that.

12 BY MR. UNDERWOOD:

13 Q In addition to videoing the removal of that
14 information, did you also have photographs taken?

15 A Yes.

16 Q I'm going to show you what's been mark as
17 State's Exhibit 71 through 78. If you'll take a moment to
18 review those exhibits.

19 A (The witness complies.)

20 Q Do each of these photographs depict the tire and
21 the evidence that was removed from it?

22 A Yes.

23 Q Do these photographs all fairly and accurately
24 show what you saw at that time?

25 A Yes, sir.

1 MR. UNDERWOOD: Your Honor, at this time, I
2 would move into evidence State's Exhibits 71 through
3 78.

4 MR. HODGE: No objection.

5 THE COURT: All right, in without objection.

6 (WHEREUPON, State's Exhibits Nos. 71-78 were
7 admitted into evidence.)

8 MR. UNDERWOOD: May I publish those, Your Honor?

9 THE COURT: You may. If it will let you.

10 MR. UNDERWOOD: We'll try, Your Honor.

11 (WHEREUPON, State's Exhibit Nos. 71 through 78
12 were published.)

13 BY MR. UNDERWOOD:

14 Q We are fortunate enough to be able to borrow
15 some equipment instead of the equipment we brought and I'm
16 trying to learn as I go.

17 All right. This is State's Exhibit 71.
18 Agent Rawl, is that the tire that you received from David
19 Urbina in Greenville County?

20 A Yes.

21 Q State's Exhibit 72, is this a close-up of a
22 particularly odd indentation on the tire?

23 A Yes.

24 Q Seventy-three, a slightly closer photograph of
25 the same evidence?

1 A Yes.

2 Q Same indentation on the tire?

3 A Yes, sir.

4 Q Same tire we're looking at in 74?

5 A It is.

6 Q Exhibit 75, what do we see here?

7 A That this the drug evidence taped to the inside
8 of the tire wall.

9 Q Is that how it was found once the tire was
10 removed from from the rim?

11 A Yes, sir.

12 Q Is the prior to any disturbing of it from law
13 enforcement?

14 A It is we hadn't touched it at that point.

15 Q And again, 76 is a slightly different angle?

16 A Yes.

17 Q Exhibit number 77, what are we looking at here?

18 A That is the drug removed from the tire.

19 Q Seventy-eight a slightly closer photograph of
20 the same evidence?

21 A Yep.

22 MR. UNDERWOOD: Court's indulgence, Your Honor,
23 while we switch computers for the video.

24 (WHEREUPON, there was a brief pause.)

25 MR. UNDERWOOD: Now if I can publish State's

1 Exhibit 79.

2 THE COURT: How long is this video?

3 MR. UNDERWOOD: I believe it's about a minute or
4 two. At the most, only a few minutes.

5 THE COURT: It went from a minute to more than a
6 few minutes.

7 Is there any issue on the chain custody of this
8 portion?

9 (WHEREUPON, State's Exhibit No. 79 was
10 published.)

11 BY MR. UNDERWOOD:

12 Q All right. Following that, did you take custody
13 of that suspected drug evidence?

14 A I did. I'm the one taking it out of the tire.

15 Q And after you removed, took those from the tire,
16 what did you do with them?

17 A Walked them across the parking lot to the lab.

18 Q Did you then submit them to the secure lab
19 facility?

20 A Correct.

21 Q From there on, the lab takes care of the chain
22 of custody?

23 A Correct.

24 MR. UNDERWOOD: Thank you, Captain Rawl. That's
25 all the questions I have for you.

1 THE COURT: Cross-examination?

2 MR. HODGE: No questions of this witness, Your
3 Honor.

4 THE COURT: All right, you may step down.

5 MR. UNDERWOOD: Your Honor, we would ask that
6 Captain Rawl be excused.

7 THE COURT: Any objection?

8 MR. HODGE: No objection.

9 THE COURT: All right. You can be excused.

10 MR. UNDERWOOD: Your Honor, the State's next
11 witness is Lynn black.

12 THE COURT: Okay.

13 THE CLERK: Ms. Black, please step to the
14 witness stand and please stop and raise your right
15 hand.

16 LYNN BLACK, after being duly sworn, testified as
17 follows:

18 THE CLERK: Please be seated. Once you're
19 seated, state your name for the record.

20 THE WITNESS: My name is Lynn Black.

21 (WHEREUPON, State's Exhibits Nos. 80-82 were
22 marked for identification only.)

23 MR. UNDERWOOD: Thank you, Your Honor, for the
24 Court's indulgence. I wanted to make sure we have
25 the exhibit numbers in the right order. Thought we

LYNN BLACK-DIRECT BY MR. UNDERWOOD

1 had confusion earlier, wanted to make sure it was
2 straight.

3 DIRECT EXAMINATION

4 BY MR. UNDERWOOD:

5 Q Good morning, Ms. Black. If you could, please
6 introduce yourself to the jury, tell them where you work
7 and what it is you do.

8 A I'm a forensic chemist. I work in the forensic
9 services laboratory at the South Carolina Law Enforcement
10 division, commonly known as SLED. I receive and analyze
11 substances brought in by law enforcement personnel and
12 determine if they are controlled substances or not.

13 Q If you would, please explain to the jury what
14 training and experience you have that qualifies you to do
15 that job?

16 A Yes. I have a Bachelor of Science degree in
17 chemistry from Kentucky Wesleyan College, a certificate of
18 medical technology from the University of Louisville and a
19 Master of Science degree in forensic science from Marshall
20 University. Prior to my job at SLED, I worked as a drug
21 analyst at Georgia Bureau of Investigation in Atlanta,
22 Georgia, for about eight years. And I've been with SLED
23 for approximately 11 and a half years.

24 Q And have you ever been qualified to testify as
25 an expert witness in court before?

LYNN BLACK-DIRECT BY MR. UNDERWOOD

1 A Yes, I have.

2 Q In what field?

3 A Drug chemistry.

4 Q All right. How many times have testified in
5 that capacity?

6 A In this state, I've testified 42 times. In the
7 State of Georgia, I've testified a hundred times.

8 MR. UNDERWOOD: Your Honor, at this time, the
9 State would offer the witness as an expert in drug
10 chemistry analysis identification.

11 THE COURT: Any objection or voir dire?

12 MR. HODGE: None at all, Your Honor.

13 THE COURT: All right. So your request is
14 granted. She's qualified as an expert in that field.

15 Now, ladies and gentlemen, as I told you
16 yesterday, an expert can testify about their
17 conclusions and opinions in their particular field.
18 You're to give it the weight and the value which you
19 feel is appropriate. All right.

20 BY MR. UNDERWOOD:

21 Q Ms. Black, did you have an opportunity to test
22 some suspected drug evidence as it relates to this
23 particular case?

24 A Yes, I did.

25 Q Was that concerning a lab number L-1502816?

LYNN BLACK-DIRECT BY MR. UNDERWOOD

1 A Yes.

2 Q All right. If you could explain, what's the
3 significance of that number? What does that mean?

4 A That's a lab number that's given to the evidence
5 when it comes in the door. When law enforcement brings
6 their evidence in, in the past, they've given it to our
7 forensic technicians who are in evidence control and they
8 would enter the information from the paperwork that they
9 give them in our computer. Then they would generate a lab
10 number in bar code form. And that's what this number is,
11 L-1502816. That would be -- that number would be affixed
12 to that evidence. And it has a bar code, that's how it's
13 tracked. That's our internal chain of custody tracking
14 system. So wherever it goes, it's scanned so you can look
15 in our system and find out where that piece of evidence
16 is.

17 Q And, Ms. Black, if you would, I'm going to hand
18 you what's been mark as State's Exhibit No. 67. Do you
19 recognize that?

20 A Yes, sir. It appears to be a copy of the chain
21 of custody for this particular case.

22 Q All right. And is that something that's kept in
23 the normal course of business at SLED?

24 A Yes, it is.

25 MR. UNDERWOOD: Your Honor, at this time, I

LYNN BLACK-DIRECT BY MR. UNDERWOOD

1 would offer into evidence State's Exhibit No. 67.

2 THE COURT: Any objection?

3 MR. HODGE: No objection.

4 THE COURT: All right, in without objection.

5 (WHEREUPON, State's Exhibit No. 67 was marked
6 for identification and received into evidence.)

7 BY MR. UNDERWOOD:

8 Q All right. Ms. Black, if you could, just
9 explain the course and how that substance -- once it was
10 turned into the lab, how did it get to you?

11 A I may refer to this paper as well?

12 Q Yes, ma'am.

13 A Yes. It came into the lab on March 3rd, 2015.
14 One of our forensic technicians received and entered the
15 information into the computer system. She then placed it
16 in the drug evidence intake storage, which is typical for
17 drug evidence. And it was there until April the 8th of
18 2015, when another forensic technician retrieved it from
19 that location. That's when I picked it up, on April 8th,
20 2015. Anymore for that?

21 Q No.

22 A Okay.

23 Q And did you have an opportunity to test the
24 substances that were found in that evidence?

25 A Yes, I did.

LYNN BLACK-DIRECT BY MR. UNDERWOOD

1 Q What kind of tests do you do to identify
2 believed narcotics or drugs?

3 A Generally, I do a preliminary test and a
4 chemical test. Then we have two different types of
5 confirmatory tests that we can choose from. In this
6 particular case, I chose to do -- well, it's got a big
7 long name, fourier-transform infrared spectroscopy or FTIR
8 for short. So I usually just say FTIR. So I did those
9 two tests, I did a chemical tests and FTIR.

10 Q And as a result of conducting those tests, were
11 you able to form conclusions?

12 A Yes, sir, I did.

13 Q And did you reduce those conclusions into a
14 formal written report?

15 A Yes, I did.

16 Q I'm going to hand you what's been marked as
17 State's Exhibit No. 66. Do you recognize that?

18 A Yes, this appears to be a copy of the report
19 that I did generate for this case.

20 Q All right.

21 MR. UNDERWOOD: Your Honor, at this time, I
22 would offer into evidence State's Exhibit No. 66.

23 THE COURT: Any objection?

24 MR. HODGE: No objection.

25 THE COURT: Okay.

LYNN BLACK-DIRECT BY MR. UNDERWOOD

1 (WHEREUPON, State Exhibit No. 66 was marked for
2 identification and received into evidence.)

3 MR. UNDERWOOD: Permission to publish, Your
4 Honor?

5 THE COURT: Yes, you may.

6 (WHEREUPON, State's Exhibit No. 66 was
7 published.)

8 BY MR. UNDERWOOD:

9 Q Exhibit 66, is this your report?

10 A Yes, it is.

11 Q All right. Again, that corresponds to lab
12 number L-1502816?

13 A That's correct.

14 Q All right. What were you able to determine as
15 to the substances that you tested?

16 A They were all were found to have methamphetamine
17 in them.

18 Q And as part of testing the substances, do you
19 also weigh or somehow determine how much of that substance
20 there is?

21 A Yes, I do.

22 Q How do you do that?

23 A For instance, in this particular case, that
24 first exhibit 1.1 has seven plastic bags containing
25 crystal substance. So I took each bag and weighed them

LYNN BLACK-DIRECT BY MR. UNDERWOOD

1 separately. Actually, you get net weight. And how you do
2 that is you take a piece of weighed paper and place it on
3 the balance, zero that out so that weighed paper is not --
4 the weight of it is not being counted in your weight.
5 Then I place one of the bags -- the substance of one of
6 the bags, empty out the plastic bag onto that and I get a
7 net weight. So I did that for each of those seven bags
8 and then added them up to get 195.33-grams. So I would
9 have done that with each subsequent exhibit. Take the
10 substance out of the bag and place it on the weighed paper
11 that's been zeroed out and get a net weight.

12 Q All right. And, Ms. Black, so the weight that
13 you refer to in your report, that is the weight of just
14 the methamphetamine, not any containers or anything else,
15 that is just the weight of the methamphetamine only,
16 correct?

17 A That's correct, just the net weight of the
18 substance.

19 Q Now, are you familiar with a bit of packaging
20 referred to as a Best kit or heat-sealed bag or anything
21 of that nature?

22 A Yes, I am.

23 Q What is the purpose of those containers?

24 A The BEST kit is -- BEST is an acronym for Best
25 Evidence Sample Testing. And it's the way that SLED came

LYNN BLACK-DIRECT BY MR. UNDERWOOD

1 up years ago to kind of streamline how drug submissions
2 are given to the laboratory. It's, basically, a manila
3 envelope that has a tamper evident bag inside and also the
4 paperwork that the law enforcement folks need to fill out
5 when they submit drug evidence. And that, like I said,
6 comes in a manila envelope. They usually place the
7 evidence in that tamper evident bag, seal it up, they fill
8 out all the paperwork. Then they usually put it all into
9 that manila envelope and bring it to the lab for evidence
10 control people to enter the information into the system.

11 Q And, Ms. Black, what happens when -- when you
12 get one of those submitted in one of those bags, you,
13 obviously, have to open it to test it, right?

14 A Yes, sir, that's correct.

15 Q What do you do with it after that?

16 A Generally, I don't place it back into that
17 tamper evidence bag. We have other plastic bags that are
18 called K-packs. I think it's just the name of the
19 company. It's just a plastic bag that we place everything
20 into and then we heat seal that. So all the evidence,
21 plus the tampered evident bag in this bag. Then we put a
22 bar code, lab number with bar code on it, sticker on the
23 outside. So then that's what's transferred back down to
24 evidence control, then eventually given back to the agency
25 that brought it in.

LYNN BLACK-DIRECT BY MR. UNDERWOOD

1 Q What do you do when you have so much drug
2 evidence that it doesn't fit in the bag?

3 A Generally, they'll place it in a box. So that
4 that box is usually sealed up with packaging tape, then
5 they'll put evidence tape on it. So when they bring that
6 box in, the evidence control people just -- they do all
7 their normal things they have to have for paperwork. Then
8 they put that bar code sticker on the box. In fact, in
9 this case, that's what I got was a large box.

10 Q All right. Now, in this case, Ms. Black, is
11 that what you had do?

12 A That's correct.

13 Q I want to now show you what's been marked as
14 State's Exhibits 80, 81 and 82. Do you recognize those
15 items?

16 A Yes, I can see these are pictures of what's in a
17 box, some plastic bags. I can see my initials and this
18 case number on several of them. It appears to be the
19 evidence from this case.

20 Q All right. Thank you.

21 MR. UNDERWOOD: Your Honor, at this time, I
22 would move into evidence State's Exhibits 80, 81, and
23 82.

24 THE COURT: Any objection?

25 MR. HODGE: No objection.

LYNN BLACK-DIRECT BY MR. UNDERWOOD

1 (WHEREUPON, State's Exhibits Nos. 80-82 were
2 admitted into evidence.)

3 MR. UNDERWOOD: Permission to publish, Your
4 Honor?

5 THE COURT: Okay.

6 (WHEREUPON, State's Exhibit 80 through 82 were
7 published.)

8 BY MR. UNDERWOOD:

9 Q Exhibit 80, 81, and 82. Now, Ms. Black, in
10 reviewing each of these bags, do they have writing on
11 them?

12 A They do. They've got a case number, the item
13 number and my initials. You can see it pretty good in
14 this one right here.

15 Q All right. Based on that, are you able to
16 determine that the items in this photograph, those are the
17 items that you, in fact, tested and are reflected in your
18 report?

19 A That's correct.

20 (WHEREUPON, State's Exhibit No. 83 was marked
21 for identification only.)

22 BY MR. UNDERWOOD:

23 Q Ms. Black, I'm now showing you State's Exhibit
24 83. Do you recognize that?

25 A Yeah, this is the box that contained the

LYNN BLACK-CROSS BY MR. HODGE

1 evidence that I received. It's got a lab bar code over
2 here. Then also, I've written my initials on the top.

3 MR. UNDERWOOD: Your Honor, at this time, I
4 would move State's Exhibit 83 into evidence.

5 THE COURT: Any objection?

6 MR. HODGE: No objection.

7 (WHEREUPON, State's Exhibit No. 83 was admitted
8 into evidence.)

9 MR. UNDERWOOD: Thank you. No further
10 questions, Your Honor.

11 THE COURT: Any cross-examination?

12 MR. HODGE: Just one quick question just for
13 clarification. May I approach the witness, Your
14 Honor?

15 THE COURT: You may.

16 CROSS-EXAMINATION

17 BY MR. HODGE:

18 Q I'm going to show you what you've previously
19 seen as State's Exhibit 66, do you see that?

20 A Yes, sir.

21 Q Up here at the top, I think you said that's the
22 case number; is that correct?

23 A The lab case number, L-1502816, yes.

24 Q And then here underneath, you've got
25 [indiscernible] AKA Chencho, is that the suspect that they

LYNN BLACK-CROSS BY MR. HODGE

1 believed these drugs came from?

2 A That's the suspect, the name that was entered
3 into the system, correct.

4 Q And that was Chencho, that's what that document
5 says, correct?

6 A Correct.

7 MR. HODGE: No further questions, Your Honor.
8 Thank you.

9 THE COURT: Any redirect?

10 MR. UNDERWOOD: No, Your Honor.

11 THE COURT: All right, you may step down.

12 MR. UNDERWOOD: Your Honor, can this witness be
13 excused?

14 THE COURT: Any objection?

15 MR. HODGE: No objection.

16 THE COURT: All right, you may be excused.

17 THE WITNESS: Thank you, Your Honor.

18 MR. UNDERWOOD: Your Honor, the State's next
19 witness Lawrence Zivkovich.

20 THE CLERK: Please raise your right hand.

21 LAWRENCE ZIVKOVICH, after being duly sworn,
22 testified as follows:

23 THE CLERK: Please be seated. And once you're
24 seated, state your name for the record.

25 THE WITNESS: Lawrence Zivkovich,

LAWRENCE ZIVKOVICH-DIRECT BY MR. UNDERWOOD

1 Z-I-V-K-O-V-I-C-H.

2 DIRECT EXAMINATION

3 BY MR. UNDERWOOD:

4 Q Good morning, Mr. Zivkovich. If you would,
5 please introduce yourself to the jury, let them know where
6 you work and what it is that you do.

7 A My name is Lawrence Zivkovich and I work with
8 the South Carolina Law Enforcement Division, commonly
9 known as SLED. I've been there for approximately 15 and a
10 half years. And while employed there, I analyze
11 substances for the presence of controlled substances.

12 Q All right. By controlled substances, does that
13 mean that you're looking to find out if the substance is
14 some sort of illegal drug or other controlled medication
15 or drug?

16 A That's correct.

17 Q All right. What kind of training and experience
18 do you have to qualify you to do that job?

19 A I received a Bachelor of Science in chemistry
20 from the University of South Carolina. After that when I
21 was hired on at SLED, I received six months training in
22 forensics chemistry. And once I got on the bench and
23 starting to do case work, then I also received training
24 from the Drug Enforcement Administration, also, at the
25 University of West Virginia.

LAWRENCE ZIVKOVICH-DIRECT BY MR. UNDERWOOD

1 Q All right. How long have you been working in
2 this capacity testing controlled substances?

3 A Approximately 13 and a half years.

4 Q Have you had the opportunity to be qualified as
5 an expert witness in court before?

6 A I have.

7 Q Approximately how many times?

8 A Approximately 60.

9 Q Is that 60, 6-0?

10 A Six-zero, yes.

11 Q What field were you qualified as an expert?

12 A Analysis of controlled substances.

13 MR. UNDERWOOD: Your Honor, as this time, the
14 State would offer Mr. Zivkovich as an expert witness
15 in the field of drug analysis and identification.

16 THE COURT: Any objection or voir dire?

17 MR. HODGE: None at all, Your Honor.

18 THE COURT: All right. The same rule as
19 previously noted about expert applies here.

20 MR. UNDERWOOD: Thank you, Your Honor.

21 BY MR. UNDERWOOD:

22 Q Now, Mr. Zivkovich, did you have an opportunity
23 to examine some suspected controlled substance evidence
24 associated with lab number L15-02706?

25 A I did.

LAWRENCE ZIVKOVICH-DIRECT BY MR. UNDERWOOD

1 Q All right. I want to hand you what's been
2 marked as State's Exhibit No. 69, do you recognize that?

3 A It's an internal chain of custody for SLED for
4 the case number L105-02706.

5 Q Is that something that's kept in the ordinary
6 course of business at SLED?

7 A It is.

8 Q What's the purpose of that document?

9 A It's just to show evidence of when something has
10 been received from an outside agency and then it follows
11 it through the chain of each person that touches the
12 evidence while it's at SLED and other agents that comes
13 and retrieves the evidence.

14 Q So every time that evidence moves or gets
15 touched, it's documented and put into that document, is
16 that how it works?

17 A Yes, sir.

18 MR. UNDERWOOD: Your Honor, at this time, I'd
19 offer into evidence State's Exhibit 69.

20 MR. HODGE: No objection.

21 THE COURT: All right, in without objection.

22 (WHEREUPON, State's Exhibit No. 69 was marked
23 for identification and received into evidence.)

24 BY MR. UNDERWOOD:

25 Q Mr. Zivkovich, following the examination you

LAWRENCE ZIVKOVICH-DIRECT BY MR. UNDERWOOD

1 made of that evidence, were you able to produce a written
2 report?

3 A I was.

4 Q I'm going hand you State's Exhibit No. 68, do
5 you recognize that document?

6 A Yes, sir. This is a report issued by me for
7 SLED lab number L15-02706.

8 MR. UNDERWOOD: Your Honor, at this time, I'd
9 offer into evidence State's Exhibit No. 68.

10 THE COURT: Any objection?

11 MR. HODGE: No.

12 THE COURT: All right, in without objection.

13 (WHEREUPON, State's Exhibit No. 68 was marked
14 for identification and received into evidence.)

15 MR. UNDERWOOD: Permission to publish, Your
16 Honor?

17 THE COURT: You may.

18 BY MR. UNDERWOOD:

19 Q Exhibit 69, as the chain of custody, can you
20 explain how this evidence made its way from out in the
21 field to you?

22 A Yes, sir. The evidence was dropped off by Scott
23 Gardner as shown on the top line. He brought it into our
24 evidence room February 27th, 2015. It was checked in by
25 the technician, Amy Black, on the same date,

LAWRENCE ZIVKOVICH-DIRECT BY MR. UNDERWOOD

1 February 27th, 2015. She then transferred the evidence to
2 the intake storage unit. And what they do is they take
3 the evidence once it's been logged in, they store it until
4 the departments that have to do analysis on it come pick
5 it up.

6 Once I was informed that I was assigned the
7 case, Jackie Davis went and retrieved the evidence from
8 the intake storage and transferred it to me on
9 February 27th, 2015. After I finished my analysis, I
10 transferred the evidence back to our technicians down in
11 the storage intake area on March 12th, 2015. The evidence
12 was then finally returned to the outside agency, which is
13 our SLED group on January 29th, 2018.

14 Q All right. So this document, Exhibit 69, that
15 shows the whole chain of custody from the time it was
16 brought to the SLED lab until it got to you?

17 A Yes, sir.

18 Q At any point in time, was the drug evidence that
19 you were later able to examine, was it ever tampered with
20 in any way?

21 A No, sir.

22 Q All right. Were all of the seals still intact
23 by the time that evidence had gotten to you?

24 A Yes, sir.

25 Q And you said that you were able to conduct

LAWRENCE ZIVKOVICH-DIRECT BY MR. UNDERWOOD

1 testing on substance; is that correct?

2 A That's correct.

3 MR. UNDERWOOD: Your Honor, if I may publish
4 Exhibit No. 68?

5 THE COURT: You may.

6 (WHEREUPON, State's Exhibit No. 68 was
7 published.)

8 BY MR. UNDERWOOD:

9 Q Mr. Zivkovich, through the course of your
10 examination, what were you able to determine concerning
11 that substance? If you could, just explain what tests you
12 used to determine that.

13 A Yes, sir. So when I first test the substance,
14 what I do is I take it out the package and I weigh it.
15 Once I weigh it, then if it's conducive, I will do a spot
16 test or a chemical test. What that does is -- it's called
17 a presumptive test. It gives you a rough idea of what
18 substances may be in the particular material you're
19 examining. Once I do a spot test, then I take a small
20 amount, they call it an aliquot, and I'll actually test it
21 under instrumentation for confirmation of what substances
22 it may contain.

23 And what I found here was I was given 19
24 ziplock bags that contained a crystal substance. I
25 examined all 19 bags and found them to contain

LAWRENCE ZIVKOVICH-DIRECT BY MR. UNDERWOOD

1 methamphetamine with a total weight of 614.38-grams.

2 Q Now, that weight of 614.38-grams, is that net
3 weight, gross weight? What exactly does that measurement
4 reflect?

5 A It's a net weight of all 19 bags.

6 Q So is that just the substances in the bag not
7 including any containers?

8 A That's correct.

9 (WHEREUPON, State's Exhibit No. 84 was marked
10 for identification only.)

11 BY MR. UNDERWOOD:

12 Q I'm now handing you what's been marked as
13 State's Exhibit 84, do you recognize that?

14 A Yes, this is SLED case L15-02706 that I worked
15 on February 27th, 2015.

16 Q All right. This particular package, is it --
17 does it relate directly to the report that we just
18 reviewed?

19 A Yes, sir.

20 Q So the contents of this bag, is that what you
21 actually tested to come up with that report?

22 A That's correct.

23 Q Is it in a sealed, heat-sealed bag?

24 A Yes, sir. I will put my initials and date, then
25 I seal the bag and put it over a heat seal.

LAWRENCE ZIVKOVICH-CROSS BY MR. HODGE

1 Q Those seals still remain intact?

2 A Yes, sir.

3 MR. UNDERWOOD: Your Honor, at this time, I
4 offer into evidence State Exhibit 84.

5 MR. HODGE: No objection.

6 THE COURT: In without objection.

7 (WHEREUPON, State's Exhibit No. 84 was admitted
8 into evidence.)

9 MR. UNDERWOOD: Thank you, Your Honor, no
10 further questions.

11 THE COURT: Cross-examination?

12 MR. HODGE: Yes, sir, just one or two questions
13 similar to before. May I approach the witness, Your
14 Honor?

15 THE COURT: You may.

16 CROSS-EXAMINATION

17 BY MR. HODGE:

18 Q I'm going to hand you back State's Exhibit 68.
19 The line there with the S, what does that tell you?

20 A It's what we put on our reports, that's the
21 person that was listed as the subject when it was logged
22 in.

23 Q Who's the one on that log in?

24 A It says Sandra Duncan.

25 MR. HODGE: Thank you, no further questions,

LAWRENCE ZIVKOVICH-CROSS BY MR. HODGE

1 Your Honor.

2 THE COURT: Any redirect?

3 MR. UNDERWOOD: No, Your Honor.

4 THE COURT: All right. You may step down.

5 MR. UNDERWOOD: Your Honor, we ask the witness
6 be excused.

7 THE COURT: Any objection?

8 MR. HODGE: No objection.

9 THE COURT: All right. Next witness.

10 MR. UNDERWOOD: Your Honor, could we approach
11 briefly?

12 THE COURT: You may.

13 (WHEREUPON, an off-the-record bench conference
14 was held in the presence of the jury but out of
15 the hearing of the jury.)

16 THE COURT: All right, folks, we have an issue I
17 have to address, but, also, this is a good time for
18 lunch. So I'm going to let y'all break for lunch.
19 If you will be back in your jury room at 1:30. All
20 right. Do not discuss the case. You probably have
21 this memorized. Do not discuss the case, don't do
22 any type of research, don't pay any attention to
23 media coverage. Anybody contact you outside the
24 clerk's office, then let them know. Otherwise, y'all
25 have a good lunch.

1 (WHEREUPON, the jury left open court at
2 approximately 12:03 p.m.)

3 THE COURT: All right, let's go ahead and do
4 this now.

5 MR. WATERS: Your Honor, one of our next
6 witnesses for the afternoon is Alejandro Norena
7 Gonzalez. I believe, based on earlier conversations,
8 we need to have a Neil v. Biggers hearing very
9 briefly on that issue.

10 The State's first witness in this regard will be
11 Captain Jason Wells.

12 THE CLERK: Please come up to the witness stand
13 and raise your right hand.

14 JASON WELLS, after being duly sworn, testified
15 as follows:

16 THE CLERK: Please be seated. Once you're
17 seated, state your name for the record.

18 THE WITNESS: Jason Wells.

19 DIRECT EXAMINATION

20 BY MR. WATERS:

21 Q Captain Wells, you testified before in an
22 in-camera hearing, but, again, you're captain at SLED;
23 correct, in narcotics?

24 A That's correct.

25 Q You're the case agent on this, one of the

JASON WELLS-DIRECT BY MR. WATERS (IC)

1 co-lead case agents on this?

2 A Yes.

3 Q On November 17th, 2015, did you have a call to
4 interview a Alejandro Norena Gonzalez?

5 A I did, yes, sir.

6 Q All right. And in the course of that interview,
7 were you interviewing him about his alleged involvement as
8 a runner working for Eddie Assad in the conspiracy that
9 this trial is about?

10 A Yes.

11 Q And in the course of that particular interview,
12 were you asking Mr. Alejandro about trips that he told you
13 he took to Atlanta?

14 A Yes, sir.

15 Q In the course of that, did he describe, I
16 believe the third trip or a trip that he took which he met
17 an individual known as Pelon?

18 A Yes, that's correct.

19 Q Did he describe Pelon to you at that period of
20 time?

21 A He did.

22 Q Do you recall, just generally, what he described
23 to you at that particular time?

24 A He described Pelon as a Hispanic male in his
25 30s, 6-foot tall, around 188-pounds, with a bald head with

JASON WELLS-DIRECT BY MR. WATERS (IC)

1 a tattoo on his neck.

2 Q This was an individual that he had described to
3 you as somebody that he knew that he had done business
4 with; is that correct?

5 A Yes.

6 Q During his trip to Atlanta?

7 A Yes.

8 Q All right. At that time, did you show him a
9 Facebook photo of an individual?

10 A I did, yes.

11 Q All right. Did you tell him who the individual
12 was or did you just ask him, do you know that individual?

13 A I just asked him if he knew who it was.

14 Q All right. What happened when you asked him
15 that question?

16 A He immediately recognized him as Pelon.

17 Q The individual he had done business with in
18 Atlanta?

19 A Yes, sir.

20 Q Did you in any way suggest to him that that was
21 Pelon or tell him to pick Pelon or anything like that?

22 A No, sir.

23 Q His identification was immediate and certain?

24 A Yes.

25 Q Okay.

JASON WELLS-CROSS BY MR. HODGE(IC)

1 MR. WATERS: Nothing further at this time, Your
2 Honor.

3 THE COURT: Cross-examination.

4 CROSS-EXAMINATION

5 BY MR. HODGE:

6 Q Through your interview with Mr. Gonzalez, did
7 you find out how many times he actually met Pelon?

8 A I believe this was the only time.

9 Q So he met him one time in person?

10 A Yes.

11 Q And then you interviewed him and showed him one
12 picture of an individual?

13 A Yes.

14 Q Did he initial that picture and sign it or
15 anything like that like we've seen in the past?

16 A No, he did not. The reason why, I didn't have
17 one with me. Can I explain?

18 Q Yes, sir.

19 A This was the day of our roundup where we were
20 bringing everybody in and arresting them. And I didn't
21 have any idea that there would be anybody else in the case
22 that would have known Pelon. I did not have my paperwork
23 with me. We were bringing mass amounts of people in to
24 interview them. There were brief interviews before they
25 went into the booking area. It kind of surprised me when

JASON WELLS-CROSS BY MR. HODGE(IC)

1 he said on a trip down there, I met an individual name
2 Pelon. I just happened to have the Facebook photo on my
3 phone. I showed it to him after we discussed it. He
4 said, That's who I'm referring to.

5 Q Okay. That was the only picture that you showed
6 him?

7 A That's it.

8 Q Was the one picture on the phone?

9 A Yes.

10 Q Okay. He didn't know his name at that time? He
11 didn't know name the Pelon, right?

12 A No.

13 MR. HODGE: No further questions.

14 MR. WATERS: Nothing further, Your Honor.

15 THE COURT: All right. Thank you. You may step
16 down.

17 MR. WATERS: Your Honor, next witness for
18 purposes of this hearing is Alejandro Norena
19 Gonzalez.

20 THE CLERK: If you would stop at the witness
21 stand and raise your right hand.

22 ALEJANDRO NORENA GONZALEZ, after being duly
23 sworn, testified as follows:

24 THE CLERK: Please be seated. Once you're
25 seated, state your name for the record.

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. UNDERWOOD (IC)

1 THE WITNESS: My name is Alejandro Norena
2 Gonzalez.

3 DIRECT EXAMINATION

4 BY MR. UNDERWOOD:

5 Q Mr. Gonzalez, how are you doing today?

6 A Good. How are you, sir?

7 Q I'm good. I just want to, for purposes of this
8 hearing, ask you a few questions. Do you recall back in
9 2015 when you were interviewed by Special Agent Jason
10 Wells?

11 A Yes, sir.

12 Q Was that interview in relation to your
13 involvement along with Gordo and others in dealing and
14 supplying methamphetamine?

15 A Yes, sir.

16 Q All right. And did -- during the course of that
17 interview, did Agent Wells ask you about trips that you
18 made to Atlanta?

19 A Yes, sir.

20 Q At some point, did he ask you to describe those
21 trips during that period of time?

22 A Yes, sir.

23 Q Did you mention a third trip and who you went to
24 see that third time on your third trip?

25 A Yes, sir.

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. UNDERWOOD (IC)

1 Q All right. Who did you mention that you went to
2 see?

3 A Barajas, Pelon.

4 Q Pelon?

5 A Yes, sir.

6 Q Did you describe Pelon to Agent Wells?

7 A Yes, sir.

8 Q Was there anything distinctive about him that
9 you described to Agent Wells when you mentioned this name
10 Pelon? Like any identifying marks or anything like that?

11 A Yes, sir, about tattoo right here on his neck.

12 Q What is that -- do you recall what that tattoo
13 looked like or what it says?

14 A I can't tell exactly was the -- what he have on
15 his neck, but, I mean, it was a tattoo. I mean, he had a
16 tattoo right here on his neck.

17 Q On his neck?

18 A Yes, sir.

19 Q Okay. And after you said that you had had these
20 dealings with Pelon and described him, did Captain -- or
21 Agent Wells show you a picture?

22 A Yes, sir.

23 Q Like on his phone, a Facebook picture or
24 something?

25 A Yes, sir.

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. UNDERWOOD (IC)

1 Q Did he tell you who that person was or just ask
2 you if you know this person?

3 A Yeah, he ask me if I know that person in the
4 picture.

5 Q Did you recognize the person?

6 A Yes, sir.

7 Q Who did you recognize?

8 A Pelon.

9 Q How sure were you of that?

10 A How sure what?

11 Q How sure were you of your identification when
12 you saw that photograph?

13 A Uh.

14 Q Like, were you a hundred percent sure?

15 A Yeah, I was a hundred percent sure.

16 Q A hundred percent sure. And was that
17 identification that you made looking at the picture, was
18 that based on your prior dealings with Pelon or was that
19 based on law enforcement or somebody suggesting or giving
20 you the answer?

21 A No, the dealings.

22 Q It was based on your own dealings?

23 A Yes, sir.

24 Q All right. Now, you had gone with that third
25 trip to see Pelon and had that direct contact with him; is

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. UNDERWOOD (IC)

1 that correct?

2 A Yes, sir.

3 Q Had you ever, to your recollection, seen
4 pictures of him on Facebook or anything like that prior or
5 before you had that interview with Captain Wells?

6 A No, sir.

7 Q You don't recall that?

8 A Huh-uh.

9 Q So your opportunity to observe him was during
10 when y'all had a business deal in Atlanta; is that
11 correct?

12 A Yes, sir.

13 Q All right. Do you see the person that you
14 identified as Pelon in this courtroom here today?

15 A Yes, sir.

16 Q All right. Can you point him out?

17 A Him right there.

18 Q He's sitting at the counsel table?

19 A Yes, sir. Yes, sir.

20 Q How confident are you of that identification?
21 Hundred percent?

22 A A hundred percent, yes, sir.

23 Q All right. And that's based on your knowledge
24 and observation of Mr. Barajas at the time you dealt with
25 him?

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. UNDERWOOD (IC)

1 A Can you repeat the question, please?

2 Q That identification you just made is based on
3 your knowledge of Mr. Barajas from your dealings with him
4 back in 2015?

5 A Yes, sir.

6 Q Let me ask you this, last week or two weeks ago,
7 you met with law enforcement in anticipation of this
8 trial; is that correct?

9 A Yes, sir.

10 Q All right. And were you shown a photograph at
11 that time, a Facebook photo?

12 A Yes, sir.

13 Q Did anybody tell you who that was when you were
14 shown the photograph or did you -- were you just asked if
15 you know that person?

16 A Yeah, they just asked if I know that person.

17 Q All right. Did you recognize that person at
18 that time?

19 A Yes, sir.

20 Q Who was that person in that photograph?

21 A Pelon.

22 Q Okay. How confident were you of that
23 identification?

24 A A hundred percent.

25 Q All right.

ALEJANDRO NORENA GONZALEZ-CROSS BY MR. HODGE (IC)

1 MR. WATERS: Court's indulgence one moment, Your
2 Honor.

3 THE COURT: Yes, sir.

4 (WHEREUPON, there was a brief pause.)

5 BY MR. WATERS:

6 Q Just so we're clear, do you see the individual
7 that you dealt with back in 2015 involved in the
8 methamphetamine business in this courtroom here today?

9 A Yes, sir.

10 Q That's the individual over at counsel table?

11 A Yes, sir.

12 Q Hundred percent sure?

13 A Yes, sir.

14 Q And that is based on your identification of him
15 based on your dealings with him and not all on any
16 suggestion by law enforcement?

17 A Yes, sir.

18 MR. WATERS: All right. Nothing further, Your
19 Honor.

20 THE COURT: Cross-examination.

21 CROSS-EXAMINATION

22 BY MR. HODGE:

23 Q Mr. Gonzalez, is it your testimony you only had
24 one actual face-to-face meeting with Pelon in this case?

25 A No, sir. It was -- okay, it was one -- give me

ALEJANDRO NORENA GONZALEZ-CROSS BY MR. HODGE (IC)

1 one second. It was two times.

2 Q Two times you met him?

3 A Yes, sir.

4 Q When was that?

5 A The exact date, I don't know the date. But it
6 was the third with him and after that, past couple months,
7 and I went down again with Luis, Luis Flores, and saw him
8 again. And that's it.

9 Q All right. And do you remember what year that
10 was?

11 A Back in 2015, yeah, close to that. I can't
12 remember exact year when was it.

13 Q At that time, you were working for Eduardo
14 Assad; is that right?

15 A For who?

16 Q Assad, Gordo?

17 A Yes, sir.

18 Q That's who you were running for?

19 A Yes, sir.

20 Q And when you saw Pelon the one or two times in
21 maybe 2015, do you remember what he was wearing?

22 A To be honest, no. I mean, normal shirt, you
23 know, but, I mean, I can't even tell you exactly what
24 color, no.

25 Q Okay. And you, up until you were shown a

ALEJANDRO NORENA GONZALEZ-REDIRECT BY MR. WATERS (IC)

1 Facebook photo, had not seen Pelon and/or David Barajas
2 since then, right?

3 A No, sir.

4 Q Okay. And you recognized him immediately?

5 A Yes, sir.

6 MR. HODGE: No further questions.

7 THE COURT: Any redirect?

8 MR. WATERS: Very briefly, Your Honor.

9 REDIRECT EXAMINATION

10 BY MR. WATERS:

11 Q Just real quick. So there was one time that you
12 told Jason Wells about where you went to Atlanta?

13 A Yes, sir.

14 Q Then there was a subsequent time after that that
15 you went to see Pelon with Luis Flores?

16 A Yes, sir.

17 Q Both of those were trips to Atlanta?

18 A Yes, sir.

19 Q Both of those times, the individual that you've
20 identified sitting at the table over there is the person
21 that you met with?

22 A Yes, sir.

23 Q Hundred percent sure?

24 A Hundred percent sure.

25 MR. WATERS: Thank you. Nothing further, Your

ALEJANDRO NORENA GONZALEZ-REDIRECT BY MR. WATERS (IC)

1 Honor.

2 THE COURT: You may step down.

3 All right anything else? That was a no?

4 MR. WATERS: No further witnesses.

5 THE COURT: All right.

6 MR. HODGE: Your Honor, just very briefly, the
7 same argument I made before. He met him one time.
8 In this case, had no initial dealings with him, was
9 literally a go-between, picking up and dropping off,
10 whatever the case may be. Had possibly five minutes
11 of interaction time. And then is shown a video
12 after -- shown a picture after saying Pelon. He's
13 already brought up the name Pelon and is shown one
14 photo on a phone. I mean, he might have well said,
15 is this who you know as Pelon kind of thing.

16 So again, I think it's suggestive. I understand
17 the Court's previous ruling, but, essentially, the
18 same argument. In this case, I feel like it's a
19 little less associated and intermingled together.

20 THE COURT: All right. I think looking at the
21 totality of the circumstances that there is a finding
22 of reliability. So I'm going to -- I'm going to
23 allow the testimony about the identification.

24 MR. HODGE: Thank you.

25 THE COURT: All right. Be ready to go back at

1 1:30.

2 (WHEREUPON, State's Exhibit No. 85 was marked
3 for identification only.)

4 THE COURT: And I guess I need to put this on
5 the record, too, that the Defendant has had an
6 interpreter throughout this trial, from the beginning
7 of the day to the end of today, interpreting for him.
8 I just wanted to put that on the record.

9 (WHEREUPON, a lunch break was taken.)

10 (WHEREUPON, State's Exhibit No. 86 was marked
11 for identification only.)

12 THE COURT: All right, State ready?

13 MR. UNDERWOOD: Yes, sir, Your Honor.

14 THE COURT: The Defense ready?

15 MR. HODGE: Yes, sir, Your Honor.

16 THE COURT: All right, interpreter ready?

17 THE INTERPRETER: Yes, sir, Your Honor.

18 THE COURT: All right, jury ready.

19 (WHEREUPON, the jury entered open court at
20 approximately 1:37 p.m.)

21 THE COURT: All right, ladies and gentlemen,
22 hope everybody had a good lunch. The next witness,
23 it's my understanding is going to be testifying in
24 Spanish. So this witness will be testifying through
25 an interpreter. And I know, at least, one of y'all

1 indicated that you spoke Spanish. It's real
2 important, though, that you accept the translation
3 presented by the interpreter even if you may disagree
4 with what they said. And the reason for that is so
5 that the entire jury accepts the same interpretation
6 of that. So please accept that translation as the
7 interpreter gives. These are certified interpreters
8 appointed by the Court.

9 So with that being said, you may call your next
10 witness.

11 MR. WATERS: Thank you, Your Honor. May it
12 please the Court, the State calls Alejandro Norana
13 Gonzalez.

14 THE CLERK: Please step forward. Raise your
15 right hand.

16 ALEJANDRO NORENA GONZALEZ, after being duly
17 sworn, testified as follows:

18 (WHEREUPON, the following testimony was
19 translated through the interpreter.)

20 THE CLERK: Please state your name.

21 THE WITNESS: Alejandro Norena Gonzalez.

22 THE CLERK: Please be seated and speak into the
23 microphone.

24 THE COURT: And let me explain to you, too, and
25 I realize that you can speak some English. But since

1 we're having an interpreter, you need to go through
2 the interpreter and not respond directly to the
3 question.

4 THE WITNESS: Okay, that's fine.

5 THE COURT: Okay. Mr. Waters, you may proceed.

6 MR. WATERS: Thank you, Your Honor.

7 DIRECT EXAMINATION

8 BY MR. WATERS:

9 Q Mr. Gonzalez, how are today?

10 A Good. How are you? I'm sorry -- very well.

11 Q All right. Tell us, where were you born?

12 A I was born in [indiscernible] Colombia.

13 Q When did you come to the United States?

14 A In 2009.

15 Q How old were you when you came here?

16 A I was 14 years old.

17 Q Did you come with your family?

18 A Yes, sir.

19 Q When you came to the United States, where did
20 you move to?

21 A First, we were in Atlanta. We stayed there for
22 two days. After that, we moved to Taylors here in South
23 Carolina.

24 Q All right. So did you go to high school in
25 South Carolina?

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 A Yes, sir.

2 Q What high school did you go to?

3 A Greer High School.

4 Q What year did you graduate, or did you graduate?

5 A I graduated in 2014.

6 Q All right. Did you play any sports in high
7 school?

8 A Yes, soccer.

9 Q Soccer?

10 A Yes, sir.

11 Q All right. After you graduated, did you
12 continue to play soccer with friends, like on the weekend
13 for a pickup game or whatever?

14 A Yes. On the weekends.

15 Q On the weekends. Do you know an individual by
16 the name of Luis Flores?

17 A Yes, sir.

18 Q How do you know Mr. Flores?

19 A Through a female friend that I went to high
20 school with.

21 Q All right. Did you ever play soccer with Luis
22 Flores?

23 A No, I met Luis when he was a spectator watching
24 a football game at the high school that I was going to.

25 Q By football, are you talking about soccer?

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 A Yes, I'm referring to soccer.

2 Q So it was a soccer game that you and Luis became
3 acquainted?

4 A Yes. We met at that game and we got to --
5 that's when my friend introduced me to him. Then later
6 on, I saw him at my friend's house, the same one that
7 introduced me at a social gathering. Then we spoke a
8 little bit longer.

9 Q All right. Did y'all become friends?

10 A Not immediately, but we did see each other on
11 several occasions and then later on, we became friends.

12 Q Once you became friends, did you hang out
13 together, go to places, restaurants, things like that
14 together?

15 A Yes, sir. As soon as we start hanging out, we
16 would go to different places together, like to go out to
17 eat. We used to go and get tacos. We used to often sit
18 at a restaurant call Twin Peaks and another restaurant
19 that we used to go to called Quaker. We used to go there,
20 mostly Twin Peaks.

21 Q Do you know an individual which went by the
22 nickname Gordo?

23 A Yes, sir.

24 Q How did you meet the individual named as Gordo?

25 A Well, Luis had talked to me about a friend of

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 his that he was supposedly an electrician. Yeah, then we
2 need to go to restaurant. And there came a time where we
3 were at the restaurant eating lunch and he said, you know,
4 Gordo's going to come here because he's on his lunch
5 break. That's how I met Gordo.

6 Q Did Gordo have any other names that he went by
7 to your knowledge? Nicknames or real name or anything?

8 A Well, when I met him, I knew him as Gordo. Then
9 for work purposes, he was known as Jose.

10 Q When you say work purposes, let's go ahead and
11 jump ahead, what was the work purpose that you had with
12 Gordo, also known as Jose?

13 A Well, the work that he had as an electrician,
14 the people that knew him at his work, he was Jose for
15 them.

16 Q All right. Did you start to hang out on
17 occasion with Gordo or Jose?

18 A Well, not directly and not in the beginning. It
19 was kind of like all of us got together. For the most
20 part, it was always at Twin Peaks. Like I would come and
21 Luis was already there with them and I would come later on
22 because I was doing something else.

23 Q Okay. At some point, did Luis ask you to go
24 along on an errand he was running for Gordo?

25 A Yes, but it was much later, later on. I mean,

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 he had told me about things, some things they were doing
2 together. Like he was moving things for him to Atlanta
3 and picking up things from Atlanta. And then later on, I
4 went with Luis.

5 Q All right. So Luis told you that he was moving
6 things and picking up things for Gordo?

7 A Yes. He told me that he was picking up and
8 moving things -- well, not things, methamphetamines?

9 Q Methamphetamines?

10 A Yes, sir.

11 Q Okay. At any point, did Luis -- let me ask you
12 this, was Luis picking up things, money or delivering
13 methamphetamine to people here in South Carolina?

14 A Yes, sir.

15 Q All right. And did you eventually go along on
16 any of those trips to pick up things or deliver things to
17 people in South Carolina?

18 A Yes, sir.

19 Q And can you tell me the names of some of the
20 people that you either picked up or delivered things to in
21 South Carolina?

22 A Dee Dee, Ma, Danny, also Chiva.

23 Q Chiva?

24 A Yes.

25 Q And how do you know Chiva?

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 A The first trip I did with Luis to Atlanta, he
2 started talking to me about this person that uses the
3 nickname of Chiva or known as Chiva. And then after that,
4 it was one time that I met up with him to verify because I
5 had brought from him from Atlanta.

6 Q Where did you meet up with Chiva?

7 A At his house.

8 Q What city or county was that in?

9 A That's in Greenville. I do not know the address
10 precisely, but I know it's near downtown.

11 Q Okay. And I'm just asking was it here in
12 Greenville?

13 A Yes, sir.

14 Q And you delivered methamphetamine from Atlanta
15 to Greenville?

16 A Yes, sir.

17 Q All right. We'll get into that more in a
18 second, but let me back up. How did you first get
19 involved in making deliveries or runs for Gordo? Who
20 asked you first and how did you start getting into the
21 business?

22 A Well, in the beginning was Luis, so would like
23 talk to me about it. Then later on, he explain, you know,
24 things to me. And he say, I'm going to talk to Gordo, see
25 if we can -- that way, you can get in. And that's how I

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 decide to go with Luis to Atlanta.

2 Q All right. When you said that he explained
3 things to you, did he explain to you that you would be
4 picking up money and driving methamphetamine?

5 A Yes, sir. In the beginning, he explained to
6 me -- like he say, in the very beginning, you just going
7 to be picking up the money.

8 Q Okay. At that time, did you know what that
9 money was for?

10 A Yes, sir.

11 Q All right. And what was that money for?

12 A Well, you know, that was money that was owed to
13 Gordo for methamphetamine that he had fronted to some
14 people, that kind of thing. I'm not exactly sure what
15 their deal is.

16 Q So the money was owed to Gordo for
17 methamphetamine?

18 A Yes, sir.

19 Q When you first got involved, roughly, what time,
20 what date, not the exact date, but when were we talking
21 about?

22 A Around 2014 maybe, 2015. 2014.

23 Q 2014?

24 A Yes, sir.

25 Q When you first got involved, was it the trips to

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 Atlanta that you did first or was it to pick up from
2 people like Dee-Dee and Ma and the other people that you
3 mentioned?

4 A I start with Luis here, you know, the purpose
5 was to know who the person that I needed to pick up the
6 money from. And, also, for them to know that I was also
7 allowed to pick up the money when needed.

8 Q And that was here in Greenville?

9 A Yes, sir.

10 Q So you were picking up money that you understood
11 to be methamphetamine payments from Dee Dee in Greenville?

12 A Yes, sir.

13 Q And you were picking up money that you knew to
14 be payment for methamphetamine from Ma in Greenville?

15 A Yes, sir.

16 Q And you were picking up money that you knew to
17 be payment for methamphetamine from Danny in Greenville?

18 A Yes, sir.

19 Q All right. How much money would you pick up
20 from Ma or Dee Dee or Danny for methamphetamine payments
21 in Greenville?

22 THE INTERPRETER: May I clarify a term?

23 THE COURT: Yes.

24 THE WITNESS: Yes, sometimes they would give the
25 money to me tied up with a rubber band. It all

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 depends, sometimes it could have been \$1,000, 2,000,
2 3,000, \$4,000at times.

3 BY MR. WATERS:

4 Q All right. Once you started to pick up money
5 from these individuals and others in Greenville and got
6 involved, did you start to do that for Gordo more and more
7 and more?

8 A Well, it wasn't all the time, it was only when
9 they needed me when they would call me and say, Hey, can
10 you go and pick up that money? But it wasn't all the
11 time, but it wasn't like -- I wasn't available all the
12 time for them. It was sometimes because they would call
13 Luis and Luis wasn't available to do it, so he will call
14 me say, Hey, can you go pick up this money for me?

15 Q All right. Now, you said you started to get
16 involved in the business sometime in 2014. Do you
17 remember what time of year it was? Was it the summer, was
18 it the fall, was it the spring?

19 A It was before summertime.

20 Q Before summertime in 2014?

21 A Yes, sir.

22 Q All right. And to jump ahead, eventually, you
23 were approached by law enforcement; is that correct?

24 A Like they contacting me? Like, what do you
25 mean?

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 Q Did eventually law enforcement come and question
2 with you about your dealings with Gordo and
3 methamphetamine?

4 A When I got busted the first time, yeah, that was
5 the first time that they ask me about that.

6 Q When, roughly, do you remember that happened
7 that you got busted?

8 A That happened in November of 2015.

9 Q So from sometime before the summer of 2014 until
10 well into 2015, were you making methamphetamine pickups
11 and deliveries?

12 A Yes, sir.

13 Q All right.

14 THE INTERPRETER: Your Honor, the interpreter
15 would just like to clarify the years that the
16 prosecutor mentioned about the time period. I may or
17 may not have misspoke, I may or may not have heard.

18 MR. WATERS: I'll ask the question again, Your
19 Honor.

20 THE COURT: All right.

21 BY MR. WATERS:

22 Q So from -- I believe you testified that you
23 started getting involved in the methamphetamine business
24 sometime before or around the summer of 2014, correct?

25 A Yes, sir.

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 Q And you testified that you got busted some time
2 in 2015, correct?

3 A Yes, sir.

4 Q So during that time between the summer of 2014
5 and the time you got busted, were you involved in doing
6 methamphetamine deliveries and money pickups for
7 methamphetamine during that time?

8 A Yes, sir.

9 Q All right. You testified that you picked up
10 money for methamphetamines here in Greenville to the
11 people you mentioned. Did you also delivery packages of
12 methamphetamine to them as well?

13 A Yes. Not all the time, but a few times, yes,
14 sir.

15 Q Do you know how much methamphetamine you were
16 delivering when you delivered methamphetamine?

17 A Exactly, I didn't know. For the most part,
18 there was small bags. To give you example would be like
19 the size of one finger and sometimes the bags would be the
20 size of a cell phone.

21 Q Of a?

22 A Cell phone.

23 Q Cell phone.

24 THE INTERPRETER: Your Honor, would be good time
25 to switch interpreters.

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 THE COURT: All right. We have interpreters
2 that -- they tag team, so.

3 BY MR. WATERS:

4 Q So, ultimately, your role in this
5 methamphetamine conspiracy was as a runner; is that
6 correct?

7 A Yes, sir.

8 Q And how would you get paid, if you got paid?

9 A Yes, sir. Gordo would give me the money. He
10 would hand it to me, be 500, 800, a thousand. Mostly, he
11 did. Sometimes he would tell Luis to give me something,
12 200 or 300, like that.

13 Q And that would be some cash you would receive
14 for assisting or handling with a delivery or a pickup?

15 A Yes, sir.

16 Q You testified before and let's talk about this a
17 little bit, did you eventually take some trips for the
18 methamphetamine organization to Atlanta, Georgia, or the
19 area there?

20 A Yes, sir.

21 Q All right. And how many times do you recall
22 going to Atlanta?

23 A About six times, more or less.

24 Q All right. Let's talk about some of those
25 trips. What do you remember about the first time that you

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 went to Atlanta? Who did you go with and what happened
2 when you were there?

3 A Well, the first time, I went with Luis. We went
4 to a gas station. We were waiting for someone, but that
5 person never showed up. We were there about three or four
6 hours. He made a phone call, said that he didn't show.
7 And then we returned.

8 Q All right. Did you get paid anything for that
9 trip?

10 A No. No, sir, not that I recall.

11 Q All right. And you went along with who?

12 A With Luis Flores.

13 Q Was Luis making phone calls with who you were
14 supposed to meet or were you making the phone calls?

15 A No, it was Luis.

16 Q And do you know who he was calling?

17 A Well, he made a number of calls to Gordo. Also,
18 there was one call I noticed that the screen said Heart
19 Atlanta. He called that number, but there wasn't an
20 answer. But I didn't know who it was at the time.

21 Q Ultimately, y'all didn't pick up anything in
22 Atlanta on that trip to your memory; is that correct?

23 A No, sir.

24 Q All right. What do you recall about the next
25 time that you went to Atlanta? Who did you go with and

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 what happened when you were there?

2 A I returned with Luis to the same location. We
3 waited an hour or two. Then someone called, I don't know
4 who it was. And then he said, All right, we're going to
5 go travel and pick up what we need to take. So we went
6 down the street, I don't know, to go pick it up. There
7 was a pickup truck or an SUV and there was a bag. They
8 gave us a bag. It was like a clothing store bag. And
9 that was it.

10 Q All right. And what was in that clothing store
11 bag?

12 A There was a black bag inside of it. I didn't
13 open it, I didn't do anything with it. He opened it, we
14 saw the black bag. And that was all. It had
15 methamphetamine in it, but I don't know what size. I
16 mean, it was small, but I don't know the weight.

17 Q But you knew it was methamphetamine?

18 A Yes, sir.

19 Q And you knew that was the only reason y'all were
20 there was to pick up methamphetamine from Gordo's contact
21 in Atlanta, correct?

22 A Yes, sir.

23 Q What did y'all do with the methamphetamine that
24 you picked up from Gordo's contact in Atlanta after you
25 left the meet?

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 A We turned around to Greenville. He left me
2 where I had parked my car. Then I don't know where he
3 went. I don't know if he gave the stuff to Gordo or
4 someone else.

5 Q What do you recall about the next time that you
6 went to Atalanta? Who did you go with and what happened
7 while you were there?

8 A At that time, I went along to the same gas
9 station. I was waiting for about three or fours, waiting
10 for a phone call. I didn't get a phone call, so I called
11 Gordo. And I told him, you know, I can't wait any longer.
12 He was like, All right, go.

13 Q How long do you think you waited?

14 A I'd say two and a half, three hours.

15 Q Did you return without making a pickup of any
16 sort?

17 A Yes, sir, I returned with nothing.

18 Q Did you get any payment from Gordo or anyone
19 else involved for your trouble even though the run was
20 unsuccessful?

21 A Yes. He gave me \$800.

22 Q What do you recall about the next time you went
23 to make a run to Atlanta? Who did you go with, if anyone,
24 and what happened when you were there?

25 A Okay. So I went there -- on the phone, the guy

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 told me -- well, Gordo told me where to be and that who
2 was responsible would contact me. And he did and he told
3 me to go to the designated place. Once I got there, there
4 were two people there.

5 Q All right. And what happened when you met the
6 two people who were there?

7 A They gave me a box of soda, 12-pack. It was
8 taped up, but inside there was a small black bag. You
9 could feel it shake inside, inside the box.

10 Q And what, to your knowledge, was inside that
11 particular bag inside the taped up soda box?

12 A Methamphetamine.

13 Q Once you received the taped up soda box with the
14 methamphetamine inside, what did you do then with the
15 methamphetamine?

16 A I returned to Greenville and handed it over to
17 Gordo.

18 Q Did you receive any payment for picking up that
19 methamphetamine from Atlanta and returning it to
20 Greenville?

21 A Yes, sir.

22 Q Do you recall how much it was?

23 A 1,500.

24 Q What do you recall about the next time you went
25 to Atlanta? Who, if anyone, did you go with and what

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 happened while you were there?

2 A Sir, I went alone that time. It was past the
3 airport. I went to the house to pick up methamphetamine.

4 Q And who did you pick up the methamphetamine
5 from?

6 A There at the house was the first time that I had
7 met him, Pelon.

8 Q Do you see Pelon in the courtroom?

9 A Yes, sir.

10 Q Can you point him out, please?

11 A Over there.

12 MR. WATERS: Your Honor, can the record reflect
13 that the witness has identified the Defendant, David
14 Barajas, as the person he got the methamphetamine
15 from?

16 THE COURT: So noted.

17 BY MR. WATERS:

18 Q Did you have any phone calls or anything with
19 the person that you knew as Pelon prior to arriving at the
20 place to pick up methamphetamine from him?

21 A Yes, sir.

22 Q And what did y'all talk about during those phone
23 calls?

24 A Well, I called, I said, Hey, you know, I'm in
25 the area, I'm close. I already had the address.

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 And he said, Yeah, if you just come over
2 here, you know, you come, when you arrive, I'll open the
3 door. Something like that.

4 Q All right. And what happened when you got
5 there?

6 A Well, I entered the house and he said, All
7 right, good. We said our names. Just, basically, that
8 was it, you know. You know, how are you? How was the
9 drive over? After that, he gave me the methamphetamine
10 and then I took it to Greenville.

11 Q All right. Do you remember if you took any
12 money to him or did you just pick up the methamphetamine
13 from Pelon?

14 A I don't remember if I gave him any money. I
15 just honestly don't remember.

16 Q Do you know how much methamphetamine you picked
17 up from the person you know as Pelon?

18 A No, sir, I don't know the exact amount.

19 Q The person Pelon that gave you the
20 methamphetamine, did he have his head shaved or did he
21 have hair like he has right now?

22 A His head was shaved and it was bald.

23 Q It was bald?

24 A Yes.

25 Q Do you recall any tattoos that you saw on Pelon

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 when you went to pick up the methamphetamine from him in
2 Atlanta?

3 A Yes, sir, on his neck.

4 Q After you left the place where you met Pelon,
5 where did you go and what did you do with the
6 methamphetamine that he gave you?

7 A Okay, so I returned to Greenville. And as I was
8 arriving, I called Gordo and asked, What do you want me to
9 do with it? And he told me, Take it to Chiva, take it to
10 him. So I went to Chiva's house, went in, we were in the
11 dinning room. And he took the bags, he opened them up and
12 he placed them on what I think was a scale. I don't know
13 what he did with it. That's all.

14 Q All right. When he took it out and put it on
15 the scale, were you able then to observe what exactly what
16 was inside?

17 A No, I was in the living room. And while he was
18 doing this, he had his back toward me in the dining room.
19 So I did see it was something white, but I didn't get to
20 see it up close.

21 Q All right. Now, you mentioned the name Chiva,
22 was that someone you had met before?

23 A Him, I knew who he was. Luis had told me about
24 him, so did Gordo. I think, I think I saw him -- me and
25 Luis -- he and Luis had to talk about something, I think

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 once before I went to his house.

2 Q All right. Do you know what, if any, connection
3 Chiva has with Gordo?

4 A Yes. Chiva is the father-in-law of -- his
5 father-in-law, his wife's father.

6 Q That being Gordo?

7 A Yes, sir.

8 Q To your knowledge, being involved in your
9 capacity in the business, did Chiva have any involvement
10 with the finances or the money of the methamphetamine
11 operation?

12 A Yes. He would make the deposits and do other
13 things, dealt with the runners.

14 Q Do you know if he was responsible for sending
15 any of the money back to people in Mexico?

16 A Yes, sir. Luis was the one who told me that he
17 sends the money to Mexico.

18 Q Chiva?

19 A Yes, sir.

20 Q Do you know an individual by the name of Juan?

21 A Yes, sir.

22 Q And that's Juan Espinoza?

23 A Yes, sir.

24 Q Do you know what, if any, role that Juan
25 Espinoza had with the methamphetamine operation?

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 A He did the same. Luis, you know, he had been
2 doing it for a long time. You know, when I started, he
3 had been doing it for a long time, going to Atlanta
4 picking up money like this.

5 Q And you're talking about Juan?

6 A Yes, sir.

7 Q Was there another time that you went to Atlanta
8 and met with Pelon who you've identified here today?

9 A Yes, sir.

10 Q All right. And do you recall if Gordo was
11 around at this time or had he sort of disappeared?

12 A By that time, he had disappeared.

13 Q After he disappeared, did Luis sort of increase
14 his role, to your knowledge, a little bit?

15 A Yes, he was responsible since Gordo disappeared.

16 Q And was he dealing with Pelon, to your
17 knowledge, during this time after Gordo had disappeared
18 and Luis was increasing his role?

19 A Yes, sir.

20 Q And were you ever present when Luis was having
21 phone calls with Pelon discussing methamphetamine
22 business?

23 A Sometimes.

24 Q All right. And how did you know that Luis was
25 talking to Pelon, who you've identified as David Barajas

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 in this courtroom?

2 A Because Luis would tell me.

3 Q All right. Were you able to ever observe the
4 cell phone and see the name on there as well?

5 A Yes, sir.

6 Q Okay. After Gordo had disappeared and Luis was
7 taking a greater role, did you ever have occasion to go
8 either alone or with Luis again to Atlanta to see Pelon or
9 David Barajas, who you've identified here in the
10 courtroom?

11 A Yes, sir, I went with Luis.

12 Q All right. And tell me about what happened when
13 you went to Atlanta?

14 A Just that we went to a house. I don't remember
15 where. We went into the house. David Barajas was there.
16 You know, Luis was speaking to David. I guess they were
17 doing the deal. Gordo had disappeared.

18 Q All right. And what was the conversation that
19 you overheard or were part of with Pelon or David Barajas?

20 A Well, I understood that when Gordo disappeared,
21 he owed money. And so Luis was going to go ahead and work
22 so that -- for David so that he could go ahead and pay off
23 the debt.

24 Q Luis was going to work for David Barajas so he
25 could pay off money that Gordo owed; is that correct?

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 A Well, yes. He was going to take Gordo's place.

2 Q Was Pelon or David Barajas, who you've
3 identified in this courtroom as the Defendant, discussing
4 doing additional methamphetamine dealings with Luis and
5 you in the future?

6 A Well, to me directly, no, about doing any deal.
7 Luis told me that he wanted to do a different deal, also,
8 with marijuana. After that, I don't know anymore. I just
9 heard what Luis said. I didn't see anything. All I --
10 you know, I don't know many of the details, just what Luis
11 said.

12 Q All right. But you did overhear Pelon and Luis
13 discussing him assuming the methamphetamine debt of Gordo
14 and getting methamphetamine from Pelon to pay off that
15 debt and to do further methamphetamine work?

16 A Yes, I understood that he was going to take
17 Gordo's place and pay off the money that he had owed so
18 there wouldn't be any problems. Just him pay off what
19 Gordo had and that would be it.

20 Q So that was the agreement that you overheard; is
21 that correct?

22 A Yes, sir, I heard that.

23 Q After that particular conversation took place,
24 was there any delivery of methamphetamine at that
25 particular time?

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 A Well, no, I don't recall. Now that Luis was in
2 charge, I don't know if he gave it to someone. I mean,
3 after things finished, you know, Gordo disappeared.

4 Q All right. After the meeting that you had and
5 the conversation, did you and Luis go out to the car to
6 leave?

7 A Yes, sir.

8 Q And did Pelon come out of the house or did you
9 have any further contact with him before y'all returned
10 back to Greenville?

11 A No, I don't recall. I don't think anyone came
12 out of the house. Luis may have gone back. I left the
13 house and I got in the car and waited until Luis got in.

14 Q All right. Did y'all return to Greenville after
15 that?

16 A Yes, sir.

17 Q All right. Did -- while on the way back, were
18 there any phone calls with Pelon to your recollection?

19 A No, sir.

20 Q And do you recall -- after that, do you recall
21 having any direct dealings with Pelon after that last time
22 that you described?

23 A No, sir.

24 Q Let me ask you, Mr. Gonzalez, have you ever been
25 in any significant trouble before in your life?

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 A No, sir, first time.

2 Q So all of this, being involved with this sort of
3 thing was very, very new to you; is that accurate?

4 A Yes, sir, very new.

5 Q You said that eventually you, ultimately, got
6 busted by law enforcement; is that correct?

7 A Yes, sir.

8 Q And you were, ultimately, charged with some
9 offenses, to include trafficking methamphetamine 400-grams
10 or more; is that right?

11 A Yes, sir.

12 Q And you were, ultimately, charged with arson as
13 well; is that correct?

14 A Yes, sir.

15 Q And have you entered into a plea agreement where
16 you pled guilty to the lesser offense of distribution of
17 methamphetamine and arson third?

18 A Yes, sir.

19 Q All right. Have you been sentenced yet or is
20 that still pending?

21 A It's pending.

22 Q And is it your understanding that pursuant to
23 that plea agreement that you face up to 15 years in prison
24 with no recommendation from the State?

25 A No one has promised me anything and no one has

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 told me anything about that.

2 Q All right. Now, one of the charges that you
3 have in your plea agreement is arson third; is that right?

4 A Yes, sir.

5 Q And was the basis for that arson third in any
6 way related to the methamphetamine business that you've
7 described here today?

8 A Yes, sir.

9 Q All right. And will you explain to the jurors
10 how that arson was related to the methamphetamine business
11 that you've described to them today?

12 A Yes, sir.

13 Q Go ahead, please.

14 A What happened was that Danny owed Gordo money.
15 I don't know how much he owed, but it was a lot. They
16 spoke various times, text messages, telephone calls. They
17 threatened each other. You know, Gordo didn't have an
18 agreement and he didn't have money.

19 Then I was in bed, almost asleep and Gordo
20 called me first. He said, I need you to take care of
21 something for me. I need you to get Luis and Juan to do
22 it.

23 I was like, What?

24 He said, I need you to do something for me.
25 He said, I'm going to hang up and I'm going to call Luis.

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 So after Luis called, he says, Are you
2 coming for us?

3 I was like, I don't even know where we're
4 going.

5 He said, Gordo said you were going to take
6 us there.

7 So I told Gordo, said, Where are we going?

8 And Gordo said, We're going to Danny's
9 house.

10 And I was like, I don't know why, but then
11 they were like we're going to burn down this -- you know,
12 behind the house, this little house kind of like a storage
13 shed. I was scared. I was like, Why we got to do that?

14 Q Is that it?

15 A So I spoke with Luis and the only thing was, you
16 know, Gordo was really angry about everything that had
17 happened. And I felt threatened. No one had made any
18 threats against me, but how he said, You need to go pick
19 them up because they got to do something for me. Like, if
20 I don't do that, like, something could happen to me. So
21 they had to burn this down.

22 Q Who did you pick up, if anyone?

23 A Luis and Juan.

24 Q That's Luis Flores, who you've been talking
25 about, and Juan Espinoza, who you mentioned?

ALEJANDRO NORENA GONZALEZ-DIRECT BY MR. WATERS

1 A Yes, sir.

2 Q All right. And where did y'all go and what did
3 y'all do?

4 A So I went to go pick them up at the house,
5 picked up Luis and Juan at Luis' house. And they had
6 empty gas tanks. Then we took off and we stopped at the
7 gas station so they could fill up tanks. And then we
8 drove over to Danny's house. Then I said --

9 No, Luis said, Listen, go slow. Stop a
10 little before the house in front. We're going to go in.
11 You go on over to the church. Then we'll call you to come
12 back.

13 So a little up further is the church and I
14 parked in the parking lot.

15 Q Okay. And what did Luis and Juan do?

16 A Well, I returned, you know, they called me to
17 come back. And I came and they were coming down like from
18 some trees or brush and they say, Go, go, like they
19 desperate. And they were talking like, Did you see the
20 flames?

21 I didn't see the flames, I just kept
22 driving.

23 THE INTERPRETER: Your Honor, this would be a
24 good time for interpreters to rotate.

25 MR. WATERS: I only have a couple more, Your

ALEJANDRO NORENA GONZALEZ-CROSS BY MR. HODGE

1 Honor.

2 THE COURT: So good time for the lawyers to
3 rotate.

4 MR. WATERS: I don't think it works that way.

5 BY MR. WATERS:

6 Q All right. Is -- from your knowledge and
7 involvement in the methamphetamine organization, is David
8 Barajas over there, who you know as Pelon as well, is he
9 the individual that provided methamphetamine from Atlanta
10 for distribution in Greenville County?

11 A Yes, sir.

12 Q And are you a hundred percent certain of that?

13 A Yes, sir.

14 MR. WATERS: Thank you. Please answer any
15 questions the Defense counsel may have.

16 THE COURT: Cross-examination.

17 MR. HODGE: Thank you.

18 CROSS-EXAMINATION

19 BY MR. HODGE:

20 Q Good afternoon again, Mr. Gonzalez.

21 A Good afternoon.

22 Q You became involved in the drug trade through
23 your friend, Luis, correct?

24 A Yes, sir.

25 Q And you were working with or for a guy named

ALEJANDRO NORENA GONZALEZ-CROSS BY MR. HODGE

1 Gordo; is that right?

2 A Yes, sir.

3 Q And I think you testified you knew Gordo as
4 Jose?

5 A Yes, sir.

6 Q When you were picking up drugs or delivering
7 drugs and money to him, would you call him Jose?

8 A No, sir.

9 Q What did you call him then?

10 A Gordo.

11 Q Who called him Jose?

12 A I think the people that he used to work with as
13 an electrician. The first time that he introduced himself
14 to us, he said, I'm Jose.

15 Q So he introduced himself to you as Jose?

16 A Yes, sir.

17 Q Okay. And you got started initially making runs
18 just in Greenville County; is that right?

19 A Yes, sir.

20 Q And then you started taking trips to Atlanta for
21 Gordo and with or for Flores, Luis?

22 A Yes, sir.

23 Q Did you ever set up any of these transactions?

24 A No, sir.

25 Q Did you ever have any phone calls in relation to

ALEJANDRO NORENA GONZALEZ-CROSS BY MR. HODGE

1 these transactions?

2 A Where I used to talk to Gordo or Luis when I had
3 to go to Atlanta, that's all.

4 Q I think you testified it was your fifth trip to
5 Atlanta where you met a person you knew to be Pelon?

6 A It wasn't on the fifth.

7 Q Which trip was it on?

8 A The fourth one.

9 Q All right. How many trips total did you say you
10 took?

11 A Six, more or less.

12 Q Well, you testified to six. And your first trip
13 you went with Luis, showed up at a gas station and no one
14 showed up; is that right?

15 A Yes, sir.

16 Q Second trip, you went with Luis and someone in
17 an SUV showed up and gave you drugs; is that right?

18 A Yes, sir.

19 Q The third trip, you went alone and sat at a gas
20 station for two to three hours and walked home with
21 nothing -- or drove home with nothing; is that right?

22 A Yes, sir.

23 Q Okay. Then you testified that your fourth trip,
24 you went down, Gordo told you to go, you met two people
25 and they gave you a, I believe you said a soda box taped

ALEJANDRO NORENA GONZALEZ-CROSS BY MR. HODGE

1 with methamphetamine in it?

2 A Yes, sir.

3 Q Were either of those people Pelon?

4 A No, sir. I would like to add something else.
5 It was in the fifth trip after I made with these two other
6 individuals that I met Pelon.

7 Q So it was on the fifth trip?

8 A Yes, sir.

9 Q When you went for that trip, did you know you
10 were meeting a individual named Pelon?

11 A No, not exactly. I was about to arrive there
12 that he called me.

13 Q Pelon called you?

14 A Yes, before Pelon call me, Luis and Gordo called
15 me and ask me how far you from the place. And then soon
16 after, Pelon called me just to kind of like give me
17 instructions how to get to the house.

18 Q So when he called you, when Pelon called you,
19 did you know his name was Pelon at the time?

20 A When he call me, I didn't know that was Pelon.
21 He just told me you were the person -- that I am the
22 person that you are going to meet up with.

23 Q When was the first time you heard the name
24 Pelon?

25 A I can't remember exactly when. I think it was

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1 soon after I arrived that we introduced ourselves. I
2 believe he did tell me you can call me Pelon. If not, it
3 was soon after that.

4 Q Okay. And you testified that Pelon gave you
5 drugs and that you don't recall if you gave him any money;
6 is that right?

7 A Yes, sir.

8 Q And you don't know how much meth or the amount
9 of the drugs that Pelon gave you is what you testified to?

10 A Yes, sir.

11 Q Then you went -- you testified that you went
12 back to Atlanta for a sixth time with Luis, right?

13 A Yes, sir.

14 Q How long after the fifth trip was the sixth
15 trip?

16 A To tell you the truth, I don't remember.

17 Q All right. Do you remember when the fifth trip
18 was?

19 A No, sir, I don't remember the date.

20 Q Do you remember the year?

21 A I'm not quite sure. I can't recall very well,
22 but I believe it was probably in the beginning of 2015.

23 Q Okay. And the sixth trip when you went with
24 Luis, you both went inside a house with Pelon?

25 A Yes, sir.

ALEJANDRO NORENA GONZALEZ-CROSS BY MR. HODGE

1 Q But no drugs or money were exchanged inside the
2 home?

3 A Yes, drugs.

4 Q So you did receive drugs the sixth trip to
5 Atlanta when you and Luis went together?

6 A Yes, we went together and Luis was the one that
7 received the drugs. He was the one to be in charge of
8 everything from then on.

9 Q All right. Did Luis pay any money for those
10 drugs?

11 A I believe that he did. I believe -- I think he
12 did pay some money, but I don't know exactly how much.

13 Q So earlier when you testified ten minutes ago
14 that no transaction occurred on that trip, you were
15 mistaken?

16 A I wasn't asked if something was delivered or
17 not. And now you're asking me in more detail if something
18 was delivered on that date.

19 Q Okay, I guess I misunderstood.

20 A I think so.

21 Q Do you know how much drugs was picked up that
22 day?

23 A No, sir.

24 Q Do you remember what they were packaged in?

25 A In a bag. Inside of that bag, there was another

ALEJANDRO NORENA GONZALEZ-CROSS BY MR. HODGE

1 bag.

2 Q A grocery bag?

3 A Maybe a brown paper bag, I can't remember
4 exactly what type of bag it was.

5 Q Then you testified you were involved in -- or
6 the driver for the arson that occurred; is that right?

7 A Yes, sir.

8 Q And you're involved in that because Gordo called
9 you and said he needed something and you felt threatened,
10 right?

11 A Yes, sir.

12 Q And it's your testimony today that you met Pelon
13 twice, two separate trips to Atlanta in 2015 and were able
14 to identify him immediately from a Facebook photo?

15 A Yes, sir.

16 Q You don't remember any details of any of the
17 transactions that occurred. You don't remember whether
18 payment was exchanged. You don't remember where the house
19 was. You don't remember what month it was. You're not
20 even sure what year it was. But you're 100 percent
21 certain that it was David Barajas seated behind me?

22 A Well, exactly, you know, where the house is, the
23 address is, I do not know. I mean, the name of the city,
24 I mean, I don't know. I wasn't from the area. It's been
25 a long time. One time I do remember was by the airport

ALEJANDRO NORENA GONZALEZ-CROSS BY MR. HODGE

1 and if I recall correctly, the other one was near downtown
2 area, but exact address, I do not know. The amount of the
3 drugs, I do not know that either.

4 Q And the only picture that you were shown to
5 identify was while you were discussing the individual that
6 you knew as Pelon with an agent, right?

7 A The first time that it was shown to me was with
8 the agent when he showed me the picture of him. Yeah, and
9 then the second time that it was shown to me was I had
10 meeting with the person that was asking me the question
11 first. I'm sorry, I can't remember his name. It happened
12 about two weeks ago, he show me a series of photographs.

13 Q When was the first time you heard the name David
14 Barajas?

15 A The first time that I heard that name was when
16 the agent, the officer showed me the picture. And I told
17 him, I do not know that name, I just know him by the
18 nickname.

19 Q So you didn't associate Pelon with a picture of
20 or a name of David Barajas until you were addressing
21 knowing Pelon and they showed you one photo?

22 A Yes, sir.

23 Q Okay. You testified, also, that you have signed
24 and entered into a plea agreement; is that right?

25 A Yes, sir.

ALEJANDRO NORENA GONZALEZ-CROSS BY MR. HODGE

1 Q You were initially indicted in the same
2 conspiracy for trafficking 400-grams or more of
3 methamphetamine as Mr. Assad, as Mr. Barajas and a large
4 number of other individuals, you were included in that
5 same indictment, correct?

6 A Yes, sir.

7 Q And you're aware that under that indictment, you
8 were facing a mandatory minimum of 25 years for your
9 involvement in that conspiracy?

10 A Yes, that's what I heard. But as I told you
11 before, I haven't been sentenced and no one has promised
12 anything.

13 Q Right. But you have entered a plea agreement in
14 which you agree to plead guilty to a distribution of
15 methamphetamine, which doesn't have a minimum sentence,
16 and a maximum that you can receive is 15 years?

17 A Yes, sir.

18 Q And as part of that plea agreement, you are
19 required to cooperate, tell them people you know and
20 testify in court in order for them to uphold this plea
21 agreement, right?

22 A Yes, sir.

23 Q And also in the plea agreement, you understand
24 that if you cooperate and that cooperation leads to
25 convictions and/or other people being charged that the

ALEJANDRO NORENA GONZALEZ-REDIRECT BY MR. WATERS

1 government will take that into account when recommending a
2 sentence for you, right?

3 A Yes, sir.

4 MR. HODGE: I have no further questions, Your
5 Honor. Thank you.

6 MR. WATERS: Very briefly, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. WATERS:

9 Q You were asked about the time period about that
10 sixth trip to Atlanta when you saw Pelon?

11 A Yes, sir.

12 Q And you, ultimately, said yeah, it did occur
13 probably sometime early 2015, correct?

14 A Yes, sir.

15 Q You didn't like write down the date, keep a
16 dairy, anything like that. You're trying to remember what
17 happened five years ago, correct?

18 A Yes, exactly. I never wrote anything down. I
19 never wrote dates down or addresses. And yes, you're
20 right, I'm trying to remember as best as I can things
21 occur five years ago.

22 Q So while you might not remember the exact
23 details of what address you went to and what day it was on
24 and exactly how much meth you may have received or how
25 much -- whether somebody gave some money or not, you do

ALEJANDRO NORENA GONZALEZ-REDIRECT BY MR. WATERS

1 remember 100 percent that the person you were dealing with
2 is the Defendant, David Barajas, over there; isn't that
3 right?

4 A Yes, sir.

5 Q And when you were asked on cross-examination by
6 the other attorney as to whether or not there was a
7 transaction on that sixth trip, the last trip when you
8 went with Luis, you said that there was, correct?

9 A Yes, sir.

10 Q And when you were asked why you didn't say it
11 the first time, you said that you didn't understand when I
12 was doing my direct examination that I asked you that?

13 A Yes, sir. But, you know, the other attorney
14 asked for more details, if there was or there wasn't to
15 what happened.

16 Q Okay.

17 A Yeah.

18 Q And you were asked about when you were
19 interviewed by agents back in 2015, whether or not you
20 made an identification of Pelon over there, correct?

21 A Yes, sir.

22 Q All right. And when you were being interviewed
23 by the agent, you knew of the name Pelon, you just didn't
24 know his real name David Barajas; is that correct?

25 A Yes, sir.

ALEJANDRO NORENA GONZALEZ-REDIRECT BY MR. WATERS

1 Q And when the agent was interviewing you, did he
2 hand the picture to you and say, Is this Pelon? Or did he
3 just hand the picture to you and say, Do you know this
4 person?

5 THE INTERPRETER: Would you repeat that last
6 part of the question?

7 MR. WATERS: Sure.

8 BY MR. WATERS:

9 Q Did the agent, when he showed you the picture,
10 did he say, This is Pelon, right? Or did he say, Do you
11 know this person?

12 A He asked me if I knew that person. He never
13 asked me if I knew that was Pelon.

14 Q So you made that identification based on your
15 own knowledge, not because the agent told you anything,
16 correct?

17 A Yes, sir.

18 Q You were asked about a plea agreement in which
19 you entered into, in which you pled guilty to crimes that
20 carried up to 15 years in prison; is that correct?

21 A Yes, sir.

22 Q And that agreement, also, has a provision in
23 there that you should cooperate with law enforcement,
24 correct?

25 A Yes, sir.

ALEJANDRO NORENA GONZALEZ-REDIRECT BY MR. WATERS

1 Q Does that provision, also, require you to
2 provide truthful cooperation?

3 A Yes, sir.

4 Q What is the only thing that anyone has asked you
5 to do with your testimony here today?

6 A Only that I answer with the truth. I speak the
7 truth.

8 Q That you speak the truth?

9 A Yes, sir.

10 Q Has your testimony here today before this jury
11 been the truth?

12 A Yes, sir.

13 MR. WATERS: Thank you, Your Honor, nothing
14 further.

15 THE COURT: All right, you may step down.

16 We're going to take a break. Don't talk about
17 the case.

18 MR. WATERS: Your Honor, may he be excused?

19 THE COURT: Yes.

20 Any objection?

21 MR. HODGE: No objection, Your Honor.

22 THE COURT: Take an afternoon break and bring
23 you back out shortly.

24 (WHEREUPON, the jury left open court at
25 approximately 3:26 p.m.)

ISAIAS ARIAS-DIRECT BY MR. WATERS (IC)

1 THE COURT: I'm going to call y'all the horse
2 abuser because y'all beat some dead horses out there.

3 (WHEREUPON, a short break was taken.)

4 THE CLERK: Please raise your right hand.

5 ISAIAS ARIAS, after being duly sworn{,}testified
6 as follows:{F}

7 THE CLERK: Please be seated.

8 THE COURT: Do we need an interpreter?

9 MR. WATERS: No, sir, again, I think Mr. Arias
10 speaks in English. I'll just saying there's a
11 possibility that he may need an interpreter as we go
12 on. I think we're going to try it in English.

13 THE COURT: Okay.

14 DIRECT EXAMINATION

15 BY MR. WATERS:

16 Q Mr. Arias, how you doing today?

17 A Doing good, sir.

18 Q All right. As you just heard me say to the
19 judge we're going to try to do our testimony here in
20 English.

21 A Yes, sir.

22 Q Spanish is your primary language; is that right?

23 A Yes, sir.

24 Q If at any time you don't understand my question
25 make sure you stop and say will you please repeat your

ISAIAS ARIAS-DIRECT BY MR. WATERS (IC)

1 question, okay?

2 A Yes, sir.

3 Q Same goes if the defense attorney asks you a
4 question, make sure you understand it and if you need us
5 to rephrase or to explain that word or use a different
6 word then let me know; do you understand that?

7 A Yes, sir.

8 Q And if at some point you're not really having a
9 problem understanding then you just let us know we can get
10 an interpreter for you, okay?

11 A Yes, sir.

12 Q Does that make sense?

13 A Yes, sir.

14 Q All right. This hearing right now is just to
15 talk about the identification; do you understand that?

16 A Yes, sir.

17 Q Do you recall having a interview that was done
18 with you and Lieutenant Tryel Woodring?

19 A Yes, sir.

20 Q The SLED agent?

21 A Yes, sir.

22 Q Okay. And during that time did you describe to
23 the SLED agent some of the dealings that you had?

24 A Yes, sir.

25 Q Did that include dealings with a individual

ISAIAS ARIAS-DIRECT BY MR. WATERS (IC)

1 known as Pelon?

2 A Yes, sir.

3 Q Let me back up. Do you know the individual
4 named as Pelon?

5 A I know his name. And I call him Pelon.

6 Q What is Pelon's real name, do you know that?

7 A David.

8 Q Do you know his last name?

9 A Barajas.

10 Q And where did you first meet him?

11 A California.

12 Q Okay. How did you meet him?

13 A Through his brother.

14 Q His brother?

15 A Yeah his brother presented to me.

16 Q Was his brother a friend of yours?

17 A Yes, my family.

18 Q Is there any sort of family or region of Mexico
19 connection between you and Barajas family?

20 A No my family met his brother in America.

21 Q In America?

22 A Yes.

23 Q Your family from the same place in Mexico?

24 A Same city.

25 Q Same city?

ISAIAS ARIAS-DIRECT BY MR. WATERS (IC)

1 A Yes.

2 Q So did you know David Barajas socially just not
3 anything to do with business but got to meet him that way
4 before there was any discussion of business?

5 A I don't think so.

6 Q When you first met Mr. Barajas was it only to
7 talk business or were you getting to meet him as friends?
8 At a family event or something like that?

9 A Yeah, when I first met him like a visit like
10 friends?

11 Q Like friends?

12 A Yeah, through his brother.

13 Q Through his brother. All right. How many times
14 do you think you had a visit with or ever in the same
15 place as Mr. Barajas before y'all ever discussed any
16 business?

17 A That is the only time I met him there. We start
18 talking about business.

19 Q Was it the same day or later day?

20 A The same day.

21 Q The same day. And you eventually started to
22 discuss business and what was the business arrangement
23 that you discussed? Very quickly, just briefly.

24 A I don't understand.

25 Q Did you discuss business with him?

ISAIAS ARIAS-DIRECT BY MR. WATERS (IC)

1 A Yes.

2 Q What was the business you discussed? What was
3 the agreement?

4 A He wanted to come to move to Atlanta. And I'm
5 to deliver some drugs to him.

6 Q Did y'all agree to do that?

7 A Yes, sir.

8 Q After y'all agree to do that did y'all have a
9 business relationships until this whole case happened?

10 A Yes, sir.

11 Q So this is someone that you knew through your
12 business dealing; is that correct?

13 A Yes, sir.

14 Q When you talked with the agents after you got
15 busted, did they show you a photo line up? A series of
16 pictures?

17 A Yes, sir.

18 Q They did?

19 A Yes.

20 Q All right. And before they showed you those
21 pictures did they tell you who to pick on there?

22 A No. They show me pictures.

23 Q Okay.

24 And, Your Honor, may I approach the
25 witness?

ISAIAS ARIAS-DIRECT BY MR. WATERS (IC)

1 I'm going to show you what's been marked as
2 State's Exhibit 85, do you recognize that document?

3 A Yes, sir.

4 Q All right. And what is this document, what's on
5 here?

6 A The pictures they show me and I pick the picture
7 in the corner.

8 Q There's writing underneath the particular
9 picture, did you write that?

10 A Yes, sir.

11 Q What are those?

12 A My initial, my first name and last name.

13 Q All right. And what about down here, did you
14 write that?

15 A Yes, sir.

16 Q Okay. So you signed this document?

17 A Yes, sir.

18 Q Who did you identify that individual as?

19 A He's David Barajas.

20 Q Is that who you also knew as Pelon?

21 A Yes, sir.

22 Q Did you have any -- when you had business with
23 him were there any other nicknames that he had other than
24 Pelon and Barajas?

25 A No, sir. I call him Pelon.

ISAIAS ARIAS-DIRECT BY MR. WATERS (IC)

1 Q Pelon. All right. And ultimately, did law
2 enforcement -- did any of the officers tell you which one
3 to pick or did you pick that only on your own knowledge of
4 the person you dealt with in this methamphetamine
5 business?

6 A I pick him by myself.

7 Q Okay. Let me ask you this, do you see the
8 individual known as Pelon, known to you as Pelon or David
9 Barajas, in the courtroom here today?

10 A Yes, sir.

11 Q All right. Can you point him out to me?

12 A (The witness complies.)

13 Q You're pointing to the Defendant at the
14 Defendant's table?

15 A Yes, sir.

16 MR. WATERS: Can the record reflect that he's
17 identified the Defendant?

18 THE COURT: Yeah.

19 BY MR. WATERS:

20 Q Just want to be clear I'm pretty sure I asked
21 this but when you made this pick, did you pick because of
22 your own knowledge in your head or did you pick it because
23 somebody told you to pick that?

24 A No, I picked it because I know who is the person
25 in the picture.

ISAIAS ARIAS-CROSS BY MR. HODGE (IC)

1 Q Of your own knowledge?

2 A Yes, sir.

3 MR. WATERS: Nothing further, Your Honor.

4 THE COURT: Cross-examination.

5 MR. HODGE: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. HODGE:

8 Q Can you say your last name for me?

9 A Arias.

10 Q I'm going to try to say it right. Mr. Arias,
11 you said you met Pelon in California, do you remember what
12 year that was?

13 A 2014.

14 Q So you met him in 2014?

15 A Yes, sir.

16 Q And you met him that one time in California
17 through his brother?

18 A Yes, sir.

19 Q And then he moved to Atlanta?

20 A Yes, sir.

21 Q Okay. Once he moved to Atlanta, how often did
22 you see Pelon?

23 A Well, he arrived in the house one time.

24 Q Okay. So one time?

25 A (The witness nods.)

ISAIAS ARIAS-CROSS BY MR. HODGE (IC)

1 Q Okay. Where did you reside? Where did you
2 live?

3 A I lived in Dallas, Dallas, Texas.

4 Q Once you were arrested -- well when were you
5 arrested?

6 A 2015 March.

7 Q Okay. Where were you housed once you were
8 arrested? What jail were you at when you were arrested?

9 A They send me to [indiscernible].

10 Q In Columbia?

11 A Yes, sir.

12 Q Is that where you been from the beginning?

13 A No, sir.

14 Q Okay where else have you been?

15 A They put me in Columbia first then send me to
16 Greenville. From then they send me to Pickens. Then from
17 then they sent me to Columbia again. And I'm in
18 Greenville right now.

19 Q Do you remember when you were in Greenville the
20 first time?

21 A They move me in the same year, 2015.

22 Q How long were you in Greenville that time?

23 A A couple months.

24 Q Did you ever, while you were incarcerated in
25 Greenville, see David Barajas?

ISAIAS ARIAS-CROSS BY MR. HODGE (IC)

1 A Yes, sir.

2 Q Where did you see him at?

3 A The same dorm. They put him in same dorm as me.

4 Q Okay. So y'all were housed together in the
5 exact same dorm.

6 A Yes, sir. First he's another dorm. And they
7 sent him to three A where I'm at.

8 Q And then you did -- the interview that you
9 mentioned earlier, do you remember when that interview
10 was?

11 A With the?

12 Q With the agent, yes, sir.

13 A I don't remember. It's like a long time ago
14 but.

15 Q If I said 2017 does that sound about right to
16 you?

17 A I don't recall the dates. Years.

18 MR. HODGE: Your Honor, may I approach the
19 witness?

20 This is just for identification. I just want to
21 mark this so he can get his his dates. Page one of
22 the identifications.

23 (WHEREUPON, Defendant's Exhibit No. 1 was marked
24 for identification only.)

25

ISAIAS ARIAS-CROSS BY MR. HODGE (IC)

1 BY MR. HODGE:

2 Q I'm now going to hand you what's now been marked
3 as Defendant's Exhibit 1 for purposes of this hearing
4 only. Do you recognize that document?

5 A Yes, sir.

6 Q Are those your initials going down?

7 A Yes.

8 Q And is that your signature there?

9 A Yes.

10 Q Okay. What date is on there?

11 A It's 12/15/17.

12 Q Of 2017?

13 A Yes, sir.

14 Q Is that when you were also shown the pictures
15 that are marked as State's Exhibit 85?

16 A Yes, sir.

17 Q At the same time you filled out this form,
18 correct?

19 A Yes, I filled some form.

20 Q Okay. And at that point in 2017, you had
21 already been arrested and housed at Greenville County for
22 a few months, at least, with Mr. Barajas?

23 A Yes, sir.

24 Q Okay.

25 MR. HODGE: That's all the questions I have.

ISAIAS ARIAS-REDIRECT BY MR. WATERS (IC)

1 Thank you.

2 THE COURT: Redirect?

3 MR. WATERS: Thank you, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. WATERS:

6 Q When you saw Mr. Barajas in the jail when y'all
7 were housed together, did you recognize him?

8 A Yes, sir.

9 Q Did he appear to recognize you?

10 A Yes, sir.

11 Q Did y'all talk to each other some?

12 A Yeah.

13 Q Did y'all talk about the case?

14 A Some.

15 Q What, if anything, did he say?

16 A Basically say Juan say Gordo set me up too.

17 Q Juan said Gordo set me up too?

18 A Yes, sir.

19 Q All right. So he recognized you, y'all had a
20 conversation about your business and you said, Gordo set
21 me up too?

22 A Yes, sir.

23 MR. WATERS: Nothing further, Your Honor.

24 THE COURT: All right, you may step down.

25 Next.

TYREL WOODRING-DIRECT BY MR. WATERS (IC)

1 MR. WATERS: Your Honor, the State calls
2 Lieutenant Tryel Woodring.

3 THE COURT: You're already under oath from
4 earlier this morning.

5 DIRECT EXAMINATION

6 BY MR. WATERS:

7 Q All right. Woodring how you doing today?

8 A I'm doing good, sir, how about you?

9 Q Good. Did you have a call in December of 2017
10 to interview the witness Isaias Arias?

11 A Yes, sir.

12 Q All right. And in the context of that interview
13 did provide you historical information about his dealings
14 with a methamphetamine trafficking organization?

15 A Correct.

16 Q And ultimately did he detail one of the
17 individuals in which he did methamphetamine business as a
18 individual Pelon?

19 A Yes, sir.

20 Q Once he started to describe or in the course of
21 that interview, did you prepare a photo lineup to give him
22 that contained an imagine of David Barajas, the Defendant,
23 in this case?

24 A Our intel analyst did void back to me.

25 Q All right. I'm going to show you what's been

TYREL WOODRING-DIRECT BY MR. WATERS (IC)

1 marked as exhibit 85 to your testimony, do you recognize
2 that particular document marked as for ID?

3 A Yes, sir. That's the line up provided by the
4 intel analyst.

5 Q When you provide that particular lineup to
6 Isaias Arias, did you tell him which one to pick?

7 A No, sir.

8 Q Did you give him any suggestion whatsoever as to
9 which one was Pelon on this?

10 A No, sir.

11 Q Did you tell him definitely, Pelon is in there
12 you got to find him?

13 A No, sir.

14 Q Did he make that choice -- did he make the
15 choice on there, to one that's circled?

16 A Yes, sir.

17 Q Which number is the one that's circled?

18 A Number three.

19 Q Was he the one that wrote on there his initials
20 and signed it at the bottom to your recollection?

21 A Yes, sir.

22 Q All right. And did you suggest to him in any
23 fashion whatsoever which one to pick?

24 A No, sir.

25 Q Did he pick that one to your observation on his

TYREL WOODRING-CROSS BY MR. HODGE (IC)

1 own knowledge and accord?

2 A Correct.

3 MR. WATERS: Nothing further at this time, Your
4 Honor.

5 THE COURT: Cross-examination.

6 CROSS-EXAMINATION

7 BY MR. HODGE:

8 Q Did you show him any other photo lineup that
9 day?

10 A No, sir.

11 Q You were just there for that one? That one
12 photo line up is the only one that you showed him while
13 you were there?

14 A I was there to interview because he could
15 provide additional information.

16 Q And that additional information was regarding
17 Pelon?

18 A An additional conspirators.

19 Q But you were in the process -- you were asking a
20 lot of questions regarding Pelon and interviewing him
21 regarding his knowledge of Pelon and who he was, right?

22 A Correct. And additional people.

23 Q All right. And did you type up that statement,
24 that report?

25 A Yes, sir.

TYREL WOODRING-CROSS BY MR. HODGE (IC)

1 MR. HODGE: No further questions.

2 MR. WATERS: Nothing further, Your Honor.

3 THE COURT: All right, you may step down.

4 MR. WATERS: No further witnesses, Your Honor.

5 THE COURT: All right.

6 MR. HODGE: Same argument as before, Your Honor.

7 I don't want to bother you with it, but.

8 THE COURT: You know, I think that, you know,
9 based on the testimony here of his kind of knowledge
10 and experience with the Defendant, I believe that
11 under the factors that I must apply that there's
12 reliability issues, I think makes it reliable.
13 Actually, in looking at those photos, I don't believe
14 it was suggestive either. So I'm going to allow the
15 identification.

16 MR. HODGE: Thank you, Your Honor.

17 MR. WATERS: Thank you, Your Honor.

18 THE COURT: Y'all ready to proceed?

19 MR. WATERS: Yes, sir, Your Honor.

20 MR. HODGE: Yes, sir.

21 THE COURT: I guess we have the same issue as
22 yesterday with one juror about five o'clock. So she
23 seemed very serious about that, so.

24 MR. WATERS: All right.

25 (WHEREUPON, the jury entered open court at

1 approximately 4:00 p.m.)

2 THE COURT: All right, ladies and gentlemen, the
3 break was a little bit long. We had some things we
4 had to go over. But at this time, the State would
5 call their next witness.

6 MR. WATERS: Thank you, Your Honor. The State
7 calls Isaias Arias.

8 THE CLERK: Raise your right hand, please.

9 ISAIAS ARIAS, after being duly sworn, testified
10 as follows:

11 THE CLERK: Be seated, state your name, please.

12 THE WITNESS: Isaias Arias.

13 THE CLERK: Please have a seat, sir.

14 DIRECT EXAMINATION

15 BY MR. WATERS:

16 Q Mr. Arias, how you doing today?

17 A Good, sir.

18 Q All right. A couple things before we get
19 started is English your primary language or is Spanish
20 your primary language?

21 A Spanish.

22 Q All right. We're going to try to do this
23 testimony in English, but if at any time I ask a question
24 that you don't understand or I use a word that you don't
25 understand, then just stop and ask me to rephrase it or

ISAIAS ARIAS-DIRECT BY MR. WATERS

1 explain the word that I'm using. Does that make sense?

2 A Yes, sir.

3 Q Same thing goes if the Defense or anyone else
4 ask you a question, if you don't understand it, then you
5 let us know, okay?

6 A Yes, sir.

7 Q If at some point, you have a problem and it's
8 just getting to be too much, if we need to use an
9 interpreter, you let us know, all right?

10 A Yes, sir.

11 Q If you would, just real quick, where were you
12 born?

13 A California.

14 Q How old are you?

15 A Thirty.

16 Q Okay. Did you grow up in California or did you
17 grow up somewhere else?

18 A I grow up in Mexico. Born in California, but
19 grew up in Mexico.

20 Q At some point, did you return back to
21 California?

22 A Yes, sir.

23 Q How old were you when that happened?

24 A Teenage.

25 Q Teenage?

ISAIAS ARIAS-DIRECT BY MR. WATERS

1 A Yes.

2 Q Did you come back for good or did you just come
3 back for visits?

4 A Come for good.

5 Q Who were you living with when you came back as a
6 teenager?

7 A My mom and my dad.

8 Q And where were y'all living when you returned
9 back?

10 A We living in Moreno Valley first. I go to high
11 school there.

12 Q Okay.

13 A Then we moved to San Bernardino.

14 Q To where?

15 A San Bernardino.

16 Q And where did y'all move from there? Where did
17 you move from there?

18 A I moved from there to Texas, Dallas, Texas.

19 Q How old were you when you moved to Dallas?

20 A About 18, still teenage.

21 Q What kind of work were you doing at that age
22 when you moved to Dallas?

23 A Body work, panel work, cars. I worked in a
24 shop.

25 Q All right. You had an automotive shop or worked

ISAIAS ARIAS-DIRECT BY MR. WATERS

1 in one?

2 A Yes, sir.

3 Q All right. At some point, did you start to do
4 some business that wasn't just automotive?

5 A Yes, sir.

6 Q What kind of business was that?

7 A Selling drugs.

8 Q What kind of drugs?

9 A Methamphetamine.

10 Q Tell us very quickly how you got involved with
11 selling methamphetamine.

12 A Everything was going bad in the world, in the
13 shop, I needed extra money.

14 Q Needed extra money?

15 A Yes, sir.

16 Q How did you first get involved? Who was your
17 first contact in the methamphetamine business?

18 A Javier.

19 Q Javier?

20 A (The witness nods.)

21 Q Where does Javier stay?

22 A Mexico.

23 Q What, if anything, would he provide you? How
24 did Javier help your business? What was he giving you?

25 A Drugs.

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1 Q How were those drugs coming to you?

2 A He -- through somebody over there and that
3 person delivered to me.

4 Q All right. Were they bringing it across the
5 border?

6 A Pretty sure.

7 Q How old were you when you first got involved in
8 selling methamphetamine, do you think?

9 A I'm like 20 years old.

10 Q Okay. When you first started selling
11 methamphetamine, where were you selling it, what location?

12 A Dallas.

13 Q So in Texas?

14 A (The witness nods.)

15 Q All right. Did you continue to occasionally go
16 to California to visit family?

17 A Yes, sir.

18 Q And at some point, did you go to visit family
19 and meet David Barajas?

20 A Yes, sir. I go visit my family in San
21 Bernardino. And his brother is family friend and I just
22 decided to go see his brother. And that's when I met him.

23 Q So David Barajas' brother was a family friend.
24 You went to visit the brother and got introduced to David
25 Barajas?

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1 A Yes, sir.

2 Q Is that correct?

3 A Yes, sir.

4 Q That time you met David Barajas, did y'all have
5 any discussion about maybe working together?

6 A The day when I met him, in the beginning, we was
7 friends. Then at that time of the end of the day, we
8 talked about do some business.

9 Q What kind of business do you mean?

10 A Selling drugs.

11 Q What kind of drugs do you mean?

12 A Methamphetamine.

13 Q So you spent the day just being friends, hanging
14 out and eventually towards the end of the day started to
15 discuss doing drug business?

16 A Yes, sir.

17 Q What was the nature of your discussion? What
18 was the plan that y'all came up with, if any?

19 A He used to live in Atlanta. So I tell him we
20 can work with each other. So he go back to move to
21 Atlanta and I go back to Texas. So I deliver drugs to
22 him, that way, he can give it to Gordo.

23 Q Okay. Was Gordo someone you knew at this point
24 to your recollection?

25 A We met Gordo later after he already moved to

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1 Atlanta.

2 Q All right. So the agreement was, was that the
3 drugs would come from Mexico to Texas where you were and
4 then you would get the drugs to Atlanta and then he would
5 get the drugs to Gordo, correct?

6 A Yes, sir.

7 Q That was the agreement that y'all discussed; is
8 that correct?

9 A Yes, sir. But in the beginning, we still met
10 Gordo, so we move the drugs in Atlanta.

11 Q So you're moving the drugs in Atlanta?

12 A Yeah, we started doing that when we met Gordo.

13 Q And how did Gordo add to what was going to
14 happen? How did that change the agreement? What was
15 Gordo's role? What was Gordo supposed to do?

16 A Sell the drugs.

17 Q Where was he supposed to sell them?

18 A Greenville.

19 Q Greenville here?

20 A Yes, sir.

21 Q So, ultimately, became that the drugs come to
22 Texas, you would get the drugs to David Barajas in
23 Atlanta?

24 A To Pelon.

25 Q To Pelon. And then the drugs would then go to

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1 Gordo, who would sell them in Greenville?

2 A Yes, sir.

3 Q And that was the agreement?

4 A Yes, sir. On the beginning, the agreement is
5 like I'm going to deliver the drugs to him in Atlanta.

6 But then, we met Gordo and we started dealing with him.

7 Q I understand. Okay. Now, when Pelon went to
8 Atlanta, did you do anything to help get him moved in
9 somewhere?

10 A Yes, sir.

11 Q Get him a house?

12 A Yes, sir.

13 Q Tell the jury about that.

14 A I helped him to -- with money so he can rent a
15 house in Jonesboro, Atlanta.

16 Q All right. Did that, in fact, happen? Did you
17 help get him a house?

18 A Yes, sir.

19 Q Were there any other people in Atlanta or
20 anywhere else who were involved with the methamphetamine
21 business? Like did Pelon have any other people in Atlanta
22 that you knew about?

23 A I'm pretty sure he know some other people, but I
24 don't know the people.

25 Q Okay. All right. Now, we've talked about that

ISAIAS ARIAS-DIRECT BY MR. WATERS

1 you met Pelon or David Barajas through his brother, who
2 was a family friend, correct?

3 A Yes, sir.

4 Q And y'all discussed, ultimately, doing business,
5 correct?

6 A Yes, sir.

7 Q Ultimately, that started to happen, correct?

8 A Yes, sir.

9 Q Do you see the individual that's known to you as
10 Pelon, that's known to you as David Barajas in the
11 courtroom here today?

12 A Yes, sir.

13 Q All right. Can you point him out for us,
14 please?

15 A (The witness points.)

16 Q In the middle there?

17 A Yes, sir.

18 MR. WATERS: Your Honor, can the record reflect
19 that the witness has identified David Barajas, also
20 known as Pelon?

21 THE COURT: So noted.

22 MR. WATERS: Thank you, Your Honor.

23 BY MR. WATERS:

24 Q All right. How did y'all, ultimately, come to
25 meet Gordo? Who hooked you up with Gordo?

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1 A Javier, the guy in Mexico.

2 Q Is he sort of the boss?

3 A Kind of.

4 Q All right. Did he provide you with a phone
5 number or how did that work? Explain it to the jurors,
6 please.

7 A They sent me a phone number and -- the phone
8 number to talk to the guy. Supposedly, they say he a good
9 worker. I send the phone number to Pelon. That way, he
10 can supply him -- that way, he can supply Gordo.

11 Q So you sent Pelon Gordo's phone number?

12 A Yes, sir.

13 Q All right. When this deal started to work with
14 Gordo, what time period are we at at this point?

15 A Around what time? What year?

16 Q What year to the best of your recollection?

17 A I say at the end of 2014, at the beginning of
18 2015.

19 Q So late 2014?

20 A (The witness nods.) Yes, sir.

21 Q All right. Have you ever -- let me ask you
22 this, did Pelon have a nickname for you?

23 A I call him Pelon.

24 Q Let me ask you this, did Gordo have a nickname
25 for you that he called you?

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1 A He called me Chico or Primo or.

2 Q Okay. So he called you Chico, one of things he
3 called you?

4 A Yes.

5 Q Do you know an individual who went by the name
6 of Chema?

7 A I don't know that person, but I hear that
8 person.

9 Q Tell me what you heard about Chema and how you
10 heard about him.

11 A That he's Pelon's partner, kind of partner.

12 Q That was Pelon's partner?

13 A (The witness nods.)

14 Q Was that his partner in Atlanta?

15 A Yes, sir.

16 Q To your knowledge and involvement in this, was
17 that his partner in the methamphetamine business?

18 A Yes, sir.

19 Q All right. Did, to your knowledge, Pelon supply
20 some methamphetamine to Gordo?

21 A Yes.

22 Q And, ultimately, did you arrange to have any
23 drugs to come from Texas into South Carolina?

24 A Yeah.

25 Q Did you start to have drugs delivered from

ISAIAS ARIAS-DIRECT BY MR. WATERS

1 Texas --

2 A Yes, sir.

3 Q -- to Pelon and Gordo?

4 A Yes, sir.

5 Q Okay. And at some point, was there any
6 disagreement between you and Pelon over the business?

7 A Yes, sir.

8 Q And tell the jurors what that disagreement was
9 about. How did y'all get into a disagreement with your
10 partnership?

11 A I give him some drugs, but the drugs are no
12 good. So we have argument about nobody want to really buy
13 that one. So we try to move it out, the drugs, we don't
14 have it. We start argument. I tell him, you know what,
15 just throw the drugs away. Because we start arguing with
16 each other. I say to him, You want to throw it away, just
17 throw it away. Eventually, I guess he threw it away.

18 Q So the argument was over who was going to have
19 to pay for that or account for those drugs?

20 A That too.

21 Q All right. Did y'all have, like, any code words
22 that you used to describe like a kilo or a half kilo or
23 things like that?

24 A Medica.

25 Q Medica?

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1 A Half kilo.

2 Q Half kilo of what?

3 A Methamphetamine.

4 Q Did you have any name for kilo of
5 methamphetamine?

6 A I mean, you can call it different ways, but you
7 [indiscernible] -- you can call it [indiscernible], use
8 different codes.

9 Q All right. About how much money were you
10 selling a kilogram of methamphetamine for? What was the
11 price back then in 2015?

12 A I don't remember for sure, but I want to say
13 between 11, 13, something like that, around -- no more
14 than 15.

15 Q Eleven to \$15,000?

16 A Yes, sir.

17 Q All right. When you and Pelon had that
18 disagreement over the half kilogram, was it because he,
19 ultimately, had thrown it away?

20 A Yes, sir.

21 Q All right. Were y'all arguing over the money?

22 A Yes, we arguing about the money and -- yes.

23 Q All right. At this point, did Gordo owe some
24 money to you and Pelon and was there any discussion about
25 that as well?

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1 A Yes, sir.

2 Q And do you remember how much was owed and what
3 the discussion was between you and Pelon?

4 A He owed me, like -- he owed, like, 2,000 for
5 some weed I sent it to him, marijuana.

6 Q Right.

7 A And, like, 5,500 for some methamphetamine.

8 Q Was part of that owed to you and part of that
9 owed to Pelon?

10 A Yeah.

11 Q Or what was that deal?

12 A Well, the 5,500 is for Pelon for some other drug
13 deal we did before.

14 Q All right. What kind of drugs was the 5,500?

15 A Methamphetamine.

16 Q Methamphetamine?

17 A (The witness nods.)

18 Q Did Pelon provide Gordo with drugs just from you
19 or did he have his own sources that he provided drugs as
20 well?

21 A I'm pretty sure he -- his partner got their own
22 way, too.

23 Q Would that be Chema?

24 A Yes.

25 Q Is that what you remember?

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1 A He had a partner, Chema.

2 Q To your knowledge, Chema provided Pelon with
3 drugs as well?

4 A Yes, sir.

5 Q Was your arrangement that even if Chema provided
6 some of the drugs that you were still supposed to get a
7 cut or a piece?

8 A Yes, sir.

9 Q And was that part of the disagreement that you
10 had with Pelon as well over your business?

11 A Kind of too.

12 Q Explain it to the jurors, if you can.

13 A Every time I give the drugs to Pelon, he
14 supposed to sell it to Gordo because Gordo is, basically,
15 the customer. So he going to get a cut for -- every time
16 we have deal with Gordo, he going to get a cut. So with
17 mine, the drugs I sent to him, with Chema drug or whatever
18 he did his own way, I get a little bit of cut too.

19 Q You're supposed to get a little cut too?

20 A Yes, sir.

21 Q Did y'all ever argue that you weren't getting
22 your cut of drugs he got from Chema? Do you recall that
23 or did that not happen?

24 A No, we argued more for the half kilo. It's like
25 no good, half kilo no good. We had argument about that

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1 one because he threw it away. What he tell me.

2 Q So we're at a point where y'all have been doing
3 some deals, Pelon's been doing some deals through Chema as
4 well and all that's going to Gordo to sell in Greenville,
5 correct?

6 A Yes.

7 Q And at some point, you and Pelon get into a
8 disagreement over a half a key that supposedly wasn't good
9 quality, correct?

10 A Yes.

11 Q All right. In the context of -- or in the
12 environment of all that going on, did you have any
13 communications with Gordo about bringing some
14 methamphetamine to Greenville?

15 A Yes.

16 Q All right. Who called -- did Gordo call you,
17 you call him, how do you recall that going down?

18 A Really, I supposed to send the drugs to Pelon.

19 Q Right.

20 A So he can supply more [indiscernible]. But we
21 start argument about the half kilo and, basically, we
22 started argument on the phone. He not answer anymore of
23 the phone calls and just decided to come all the way here
24 to deliver the drugs to Gordo.

25 Q All right. So, initially, those drugs were

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1 supposed to go to Pelon, then go to Gordo, but because
2 y'all were having the argument and he wasn't responding to
3 you, you decided to bring them directly?

4 A Yes, sir.

5 Q All right. And did you have a number of calls
6 and communications with Gordo as you made the arrangements
7 to bring that methamphetamine to Greenville? Did you have
8 phone calls with Gordo about that?

9 A Yes.

10 Q All right. And I'm going to show you what's
11 been marked as State's Exhibit 29, 30, 31, 32, 33, 34, 35,
12 36 and 37. And if you could, just take a look at those
13 real quick.

14 A (The witness complies.) Yes, sir.

15 Q Do you recognize those?

16 A Yes, sir.

17 Q Are these, in fact, phone calls between you and
18 Gordo?

19 A Yes, sir.

20 Q Is that talking about the deal where you decided
21 to bring the drugs direct to Greenville?

22 A Yes, sir.

23 Q The drugs that were initially supposed to go to
24 Pelon as part of the deal you and Pelon had, correct?

25 A Yes, sir.

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1 Q How do you know that these are all those calls?

2 A My initials, the date when I signed it.

3 Q Okay. So you had a chance to review all of
4 these, correct?

5 A Yes, sir.

6 Q And are all these true recordings? Are all of
7 them true?

8 A Yes, sir.

9 Q All right. I promise I'm not going to play all
10 of them. Before I do that, though, do you recall sitting
11 down with your attorneys and police officer this morning
12 going through those calls again?

13 A Yes, sir.

14 Q Was the point of that to make some summaries of
15 those calls as opposed to having to play them all here
16 today?

17 A Yes, sir.

18 Q Did you, in fact, work with that agent to come
19 up with a summary of all those calls on here?

20 A Yes, sir.

21 Q Are these summaries accurate of what you were
22 talking about on those calls?

23 A (The witness reviews the document.) Yes, sir.

24 Q All right. And you didn't put down in these
25 summaries every single thing, every single little thing

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1 that was talked about during these calls, you just kind of
2 hit some of the highlights for purposes of this testimony
3 today; is that correct?

4 A Yes, sir.

5 Q All right.

6 MR. WATERS: Your Honor, at this time, I would
7 offer State's Exhibit 86 into evidence.

8 THE COURT: Any objection?

9 MR. HODGE: No objection, Your Honor.

10 THE COURT: All right.

11 (WHEREUPON, State's Exhibit No. 86 was admitted
12 into evidence.)

13 MR. WATERS: Permission to publish, Your Honor?

14 THE COURT: Yeah.

15 (WHEREUPON, State's Exhibit No. 86 was
16 published.)

17 BY MR. WATERS:

18 Q All right. I'm going to, just in the interest
19 of time -- hold on a second. All right, we're talking
20 about this first file that says audio file 26. And the
21 summary reads: This call is from Gordo to Chico. Gordo
22 is asking for drugs. Chico responds that he has 2.5 kilos
23 coming. Chico then tells Gordo that he wants Gordo to
24 send a driver to him to get the drugs. Chico made contact
25 with Pelon, parentheses, Barajas, and Chico was advised

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1 that Barajas threw an amount of drugs away. Chico advised
2 that he wanted his money and monies for Pelon.

3 Chico advised that he finished talking
4 about Barajas. He then wanted to know about the money
5 transaction. Chico then backed up and stated that they
6 would talk about the moneys after he got the drugs. Gordo
7 advised Chico that he has seen the monies and that people
8 are ready to buy. Chico advised that if they keep doing
9 business that he would allow Gordo to ride with him and
10 get the drugs at his price.

11 Did I -- is that an accurate summary of
12 that particular call? True, is that true?

13 A Yes, sir.

14 Q And that's not every detail, but that's a
15 summary of some of it, correct?

16 A Yes, sir.

17 Q Is that correct, I'm asking you?

18 A Yes, sir.

19 Q All right. Turning over to the next page,
20 continuing on with that. Chico advised that as soon as he
21 gets paid, then Gordo can send a driver back with him to
22 Texas to get another load of drugs. Gordo then asked if
23 he had contacts in Atlanta. Chico advised that he did,
24 but he needed to check and that it may be a couple of
25 days. Chico advised that Gordo pushed him to find drugs

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1 in Atlanta because he was out.

2 Is that the truth, the remainder of that
3 summary of that particular call?

4 A Yes, sir.

5 Q That is true?

6 A Yes, sir.

7 Q All right. Moving on the next call, which is
8 No. 35. Chico advised Gordo and advised -- Chico calls
9 Gordo and advised that he received the two cows and one
10 medic. Code words for two kilos and one half kilo.

11 Is that true?

12 A Yes, sir.

13 Q All right. Chico advised that he had the drugs,
14 however, the two kilos had small crystals and the half
15 kilo had good crystals. Chico advised that Chico could
16 bring the same crystals and that they could make them
17 bigger at Gordo's house. Then they talked about coming
18 Monday for the delivery. Gordo then talked about making
19 the crystals bigger and that he wanted to learn how to
20 make them bigger in case he needs to do this for future
21 drugs that have small crystals. He advised that the old
22 lady had the money and then he had to get off the phone
23 because the old lady was calling him.

24 Is that true?

25 A Yes, sir.

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1 Q All right. What's the thing about the old lady?
2 Can you explain that to me real quick?

3 A I guess somebody they called him, a customer,
4 one of his customers.

5 Q So he was talking about an old lady that had
6 money?

7 A Yes.

8 Q That's Gordo saying one of his customers was an
9 old lady that had money; is that correct?

10 A Yes, sir.

11 Q And, again, on all these calls that you marked,
12 State's 29 through 37, those were all calls that you
13 listened to and recognized as your voice and Gordo's
14 voice; is that correct?

15 A Yes, sir.

16 Q All right. Moving on to Exhibit 37 -- or excuse
17 me, call number 37. Chico advised Gordo that he needed
18 the money that was owed to him for the weed. Gordo
19 advised that he would pay him as soon as he sees him.
20 Gordo advised that Gordo needs to pay Barajas \$5,500 for
21 the drugs from before and Gordo needs to give Chico \$2,000
22 for the weed. And it says there, it says 550 in Spanish
23 for the \$5500.

24 Was that a code that really meant \$5500?

25 A Yes, sir.

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1 Q All right. And then two pesos.

2 That meant \$2,000?

3 A Yes, sir.

4 Q Chico advised Gordo that he needed \$2,000 for
5 the car expenses.

6 Was that expenses that you wanted to pay
7 for the trip to come to South Carolina?

8 A Yes, sir.

9 Q Gordo advised that he will make it easy, just
10 bring the drugs in liquid form because he had somebody
11 that could prepare it, cook it. They continued to talk
12 over about the same things in regards to travel and drug
13 prep. They then talked about making sure that Pelon gets
14 his money and that everybody is on the same page. Chico
15 then advised Gordo to make sure he sends Chico the money
16 for travels. Then Gordo starts splitting me, Chico and
17 Pelon apart and potentially cause problems between Chico
18 and Pelon.

19 Is that a true summary of that particular
20 call?

21 A Yes, sir.

22 Q And that doesn't have every detail in it, but
23 that's a summary, correct?

24 A Yes, sir.

25 Q Couple things on this one just real quick.

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1 We've heard a couple times that there was some discussion
2 about processing the drugs or that the crystals weren't
3 big enough. Can you explain to the jurors why that was an
4 issue and y'all kept talking about that?

5 A Because the drugs that are real -- the shards
6 that are real little, people, they like -- they want big
7 shards. And the drugs are real little. So on that one,
8 Gordo tell me he got somebody that was going to stretch it
9 and bring it back, cook it back, that way we can make it
10 longer.

11 Q So the customers like the big, long chunks,
12 correct?

13 A Yes, sir.

14 Q All right. And one of the keys was all crumbled
15 up?

16 A Two.

17 Q Two keys were crumbled up? But you can go
18 through a process and cook it and make it into the nice
19 big chunks that people like?

20 A Yes, sir.

21 Q That's what y'all are talking about?

22 A Yes, sir.

23 Q All right. And then in the last sentence, it
24 says: Gordo then starts splitting me, Chico and Pelon
25 apart and causing problems.

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1 Was that part of the argument that you and
2 Pelon were having over half key was no good?

3 A Yes, sir.

4 Q How was the conversation going to your
5 recollection that was sort of splitting you apart?

6 A Because when I hear this phone call record, I
7 mean, kind of match what's going on. And I figure Gordo
8 set me up and trying to put me against Pelon.

9 Q So that part is you figuring out later that
10 that's what was going on?

11 A Yes, sir.

12 Q All right. Moving on the call that was 62. I'm
13 going to read it. Chico advised Gordo that people in
14 Mexico called him and told him to call Pelon and to give
15 Pelon Gordo's phone number in order for Pelon to give
16 drugs to Gordo, half kilo. Then Chico reads a message
17 from his people in Mexico to Gordo about what to do.
18 Gordo then says to that, that message must have been for
19 his father-in-law. Chico then tells Gordo that the
20 message was for him and not his father-in-law. Gordo
21 advised that he was in Atlanta picking up a dog and that
22 he wanted to pick up some drugs. Turning over to the next
23 page, and wanted to know if Chico could have someone
24 deliver drugs to him.

25 Is that a true summary of that particular

ISAIAS ARIAS-DIRECT BY MR. WATERS

1 call?

2 A Yes, sir.

3 Q That's not every detail, but just a summary; is
4 that correct?

5 A Yes, sir.

6 Q Okay. There's some discussion about Gordo's --
7 is that Gordo's father-in-law; is that correct?

8 A Yes, sir.

9 Q Do you remember his name at all?

10 A Gordo father-in-law?

11 Q Yeah.

12 A Chiva.

13 Q Chiva?

14 A Yeah, but I never met him in person.

15 Q Okay. All right. Moving on to call number 65.

16 Chico called Gordo and stated that he talked to his guy in
17 Atlanta and that he has nothing, drugs, in order to throw
18 him off. However, that Chico had the two and a half
19 kilos. They then talked again about recooking and making
20 the drugs to have larger crystals. They then talked about
21 meeting in a restaurant and talking business so there's no
22 problem. They talked about the drugs that Pelon threw
23 away. They, Chico and Gordo, continue to talk about how
24 they were going to do business.

25 Is that a true summary of that particular

ISAIAS ARIAS-DIRECT BY MR. WATERS

1 call?

2 A Yes, sir.

3 Q Not every single detail, but just a summary; is
4 that correct?

5 A Yes, sir.

6 Q All right. Are these calls, at this point, now
7 taking place when you are on the road driving from Texas
8 to Greenville?

9 A That one.

10 Q That one is?

11 A (The witness nods.)

12 Q Okay. And on your way to Greenville, did you
13 have a number of calls where you called Gordo and y'all
14 discussed where you were and then talked more about
15 business; is that correct?

16 A (There was no response.)

17 Q Let me rephrase. When you were driving from
18 Texas to Greenville, did you occasionally call Gordo and
19 y'all talk business?

20 A Yes.

21 Q And some of these calls are that; is that
22 correct?

23 A Yes. And he trying to see where I'm at.

24 Q He's trying to see where you are?

25 A Yes.

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1 Q To know when you're going to arrive?

2 A Yes.

3 Q All right. Before we get to that, when you
4 left -- when you left Dallas, what, if any -- did you have
5 any drugs with you?

6 A Yes.

7 Q What did you have?

8 A Methamphetamine.

9 Q And how much?

10 A Two kilos and a half.

11 Q Where did you put them?

12 A In the tire, the extra tire.

13 Q The extra tire?

14 A Yes, sir.

15 Q And did anyone go with you from Dallas to
16 Greenville?

17 A Yes, sir.

18 Q Who went with you?

19 A Ramone.

20 Q Who is Ramone? How is he connected to you?

21 A He worked with me in the shop. He used to work
22 with me in the shop.

23 Q Did you ask him to go along with you to
24 Greenville or how did that work?

25 A I asked him if he can come with me and I give

ISAIAS ARIAS-DIRECT BY MR. WATERS

1 him some money.

2 Q All right.

3 A If he help me.

4 Q And so before you left, did you package or hide
5 the drugs in the extra tire?

6 A Yes, sir.

7 Q Okay. And where did y'all put the extra tire
8 after you hid the drugs in them?

9 A In bottom of the truck. The bottom of the
10 truck.

11 Q The bottom of the truck?

12 A (The witness nods.)

13 Q Okay. And as you were driving to Greenville,
14 you were making some of these phone calls to Gordo,
15 correct?

16 A Yes, sir.

17 Q All right. Moving on now, Gordo called Chico
18 and asked where he was. They talked about travels and
19 possible arrivals. Is that y'all's discussion when you're
20 going to get there for a meeting?

21 A Yes, sir.

22 Q Moving on to 66, is that one a true summary, not
23 every detail, but a true summary of that call?

24 A Yes, sir.

25 Q Moving on to call identified as 69, it says:

ISAIAS ARIAS-DIRECT BY MR. WATERS

1 Gordo called Chico and continued to check on his travels.

2 Is that a quick summary of that call?

3 A Yes, sir.

4 Q And then 74, Gordo called and advised that he
5 was going to send him the address to the restaurant.

6 Chico then asked Gordo if he had somewhere he, Chico,
7 could go in order to remove the drugs from the car. Gordo
8 then tells Chico that they need not talk so much over the
9 phone. And that was the end of that call.

10 Is that a true summary?

11 A Yes, sir.

12 Q Not every detail, but a summary?

13 A Yes, sir.

14 Q All right. Once you got to Greenville, where
15 did you go from there? Did you have a meeting with Gordo?

16 A When I hit Greenville, right here, he sent me
17 the address for the restaurant and I met him at the
18 restaurant.

19 Q You met him at a restaurant?

20 A I met him first in the restaurant.

21 Q What kind restaurant was it, what kind of food?

22 A Spanish food.

23 Q Spanish food? Mexican food?

24 A Yes, in front of the mall. It's in front of the
25 mall.

ISAIAS ARIAS-DIRECT BY MR. WATERS

1 Q It's in front of the mall?

2 A Yes.

3 Q Did you meet Gordo there?

4 A Yes, sir.

5 Q Did y'all go inside?

6 A Inside the restaurant.

7 Q Who went inside the restaurant?

8 A Gordo and another person. I guess, he's an
9 agent.

10 Q He was an agent? You didn't know he was an
11 agent at the time?

12 A No, sir.

13 Q All right. How was he introduced to you, this
14 other person?

15 A His friend.

16 Q His friend?

17 A His partner.

18 Q His partner. Did Ramone come inside with you?

19 A No, he stayed in the truck. He kind of sick
20 throwing up the way here.

21 Q So he had an upset stomach, a sick stomach?

22 A He keeping throwing up the whole way to South
23 Carolina.

24 Q All right. When y'all were in the restaurant,
25 did you talk business with Gordo and the friend that he

ISAIAS ARIAS-DIRECT BY MR. WATERS

1 introduced to you?

2 A Yes.

3 Q Did y'all talk business about maybe you taking
4 drugs direct from Dallas to Greenville and bypassing
5 Pelon?

6 A Yes, sir.

7 Q All right. Was that the discussion you had with
8 them?

9 A We discussed some business like that.

10 Q All right. Well, you tell me. Was that --

11 A Yes. Yes.

12 Q All right. So you were mad enough at this point
13 that you wanted to just cut Pelon out and have direct
14 line to Gordo; is that correct?

15 A Yes, sir.

16 Q After y'all -- did y'all eat dinner there or
17 lunch? Did you eat food?

18 A Yeah, after, we eat food.

19 Q All right. And where did you go after that?

20 A Like a storage, police storage. Well, my friend
21 and me, we pull in the truck reverse and kind of go into
22 the little room, the storage.

23 Q All right. What did you do once you went into
24 the storage area?

25 A We pull the truck back, we start pulling the

ISAIAS ARIAS-DIRECT BY MR. WATERS

1 extra tire down and give the tire to Gordo.

2 Q You gave it to Gordo?

3 A Yes, sir.

4 Q All right. I'm going --

5 MR. WATERS: May I approach the witness, Your
6 Honor?

7 THE COURT: You may.

8 BY MR. WATERS:

9 Q I'm going to show you what's been marked as
10 State's Exhibit 71 through 78. And I want you to take a
11 quick look through those and see if you recognize them.

12 A Yes, sir.

13 Q Do you recognize those?

14 A Yes, sir.

15 Q What do they show?

16 A The extra tire with the drugs inside.

17 MR. WATERS: Your Honor, may I publish these?
18 They're already in evidence at this time.

19 BY MR. WATERS:

20 Q Exhibit 71, is that the tire that you packaged
21 the drugs in?

22 A Yes, sir.

23 Q Another view of it?

24 A (The witness nods.)

25 Q Another view of it?

ISAIAS ARIAS-DIRECT BY MR. WATERS

1 A (The witness nods.)

2 Q Another view of it?

3 A Yes.

4 Q Do you recognize that?

5 A Yes, sir.

6 Q Is that how you packaged the drugs before you
7 left Dallas?

8 A Yes, sir.

9 Q And we see sort of three little things there,
10 what is which, can you tell? Or do you remember?

11 A Two is -- the big one is -- each one's a kilo
12 and the little one is half a kilo.

13 Q All right. Another picture of the same thing?

14 A Yes, sir.

15 Q Do you recognize that?

16 A Yes, sir.

17 Q Does that look like how you packaged the drugs
18 before you left?

19 A Two kilos and half kilo.

20 Q Seventy-eight, same thing?

21 A Yes, sir.

22 Q After you gave the spare tire to Gordo, where
23 did you go from there? What was the next thing that
24 happened?

25 A Gordo take me to hotel. That way, can wait for

ISAIAS ARIAS-DIRECT BY MR. WATERS

1 him.

2 Q All right. Was he promising to bring you the
3 money once he sold the drugs?

4 A Yes, sir.

5 Q Did you and Ramone stay at the hotel?

6 A Yes, sir.

7 Q How long did y'all -- what did y'all do the next
8 day? Did you go anywhere?

9 A Yes, sir.

10 Q Where did you go?

11 A To the mall.

12 Q All right. So you're staying in Greenville at
13 this point; is that correct?

14 A Yes, sir.

15 Q Eventually, were you approached by law
16 enforcement, by the police?

17 A Yeah, I caught -- I get caught by the police.

18 Q You got caught by the police?

19 A Yes, sir.

20 Q Were you arrested for trafficking in
21 methamphetamine?

22 A Yes, sir.

23 Q And, ultimately, you were indicted on this case;
24 is that correct?

25 A Yes, sir.

ISAIAS ARIAS-DIRECT BY MR. WATERS

1 Q You were indicted for trafficking in
2 methamphetamine 400-grams or more; is that correct?

3 A Yes, sir.

4 Q And with that particular charge, you're facing a
5 sentence -- or were facing a sentence of 25 years in
6 prison; is that right?

7 A Yes, sir.

8 Q And you've entered into plea agreement; is that
9 correct?

10 A Yes, sir.

11 Q And with that plea agreement, you've pled guilty
12 to a lesser included offense of trafficking
13 methamphetamine 28 to 100-gram; is that correct?

14 A Yes, sir.

15 Q And the recommendation in that is -- from the
16 State is going to be between 12 and 20 years, is that your
17 understanding?

18 A Yes.

19 Q Not what you might get, but that's just a
20 recommendation from the State?

21 A Yes, sir.

22 Q Did that agreement require you to also cooperate
23 with law enforcement?

24 A I don't know.

25 Q You don't remember?

ISAIAS ARIAS-DIRECT BY MR. WATERS

1 A I don't remember.

2 Q All right. This isn't the first time you've
3 been in trouble either, is it? Have you got in trouble
4 before?

5 A Yes, sir.

6 Q Did you get in trouble in Texas?

7 A Yes, sir.

8 Q What did you get in trouble for there?

9 A 3-grams of methamphetamine.

10 Q And when -- do you remember when you had that
11 charge?

12 A Two thousand -- around 2010, something like
13 that. I know it's in December. I don't remember if
14 it's -- yes, 2010.

15 Q All right. After you got arrested, did you get
16 taken to jail?

17 A That time?

18 Q Yeah.

19 A Yes.

20 Q All right. And you've been in jail ever since?

21 A This time, yes.

22 Q This time?

23 A This time.

24 Q All right. When you were in jail after you got
25 arrested, did you ever run into or see Mr. Barajas?

ISAIAS ARIAS-DIRECT BY MR. WATERS

1 A In Greenville, when they move me to Greenville
2 the first time.

3 Q All right. Did you recognize him?

4 A Yes.

5 Q Did he recognize you?

6 A Yes, sir.

7 Q And did y'all talk to each other?

8 A Yes, sir.

9 Q What did you talk about?

10 A About Gordo set us up.

11 Q Gordo set us up?

12 A (The witness nods.)

13 Q So y'all discussed the case, correct?

14 A Yeah, kind of.

15 Q All right. Eventually, did you sit down and
16 have an interview with the police?

17 A Yes, sir.

18 Q And during that interview, did you describe to
19 the police some of your operations with the
20 methamphetamine business?

21 A Yes, sir.

22 Q And did you describe to them your dealings with
23 Pelon or David Barajas?

24 A Yes.

25 Q And at that time, did the police show you a

ISAIAS ARIAS-DIRECT BY MR. WATERS

1 photo lineup and ask if you knew anybody who was -- if you
2 recognized anybody in that lineup?

3 A Yes, sir.

4 Q Did the police tell you to pick anyone in that
5 lineup or did you pick anyone of your own knowledge?

6 A It be one from my own knowledge.

7 Q Did they tell you that definitely there was
8 somebody in there or did they just tell you, ask you do
9 you recognize anybody in here?

10 A They ask me if I know somebody.

11 Q Okay.

12 MR. WATERS: Your Honor, can I approach the
13 witness?

14 THE COURT: You may.

15 BY MR. WATERS:

16 Q I want to show you what's been marked as Exhibit
17 85 for identification. Do you recognize this particular
18 document?

19 A Yes, sir.

20 Q What is that?

21 A The picture of Pelon.

22 Q All right. And is this the identification of
23 the photo lineup that you did?

24 A Yes, sir.

25 Q How do you know that that's the one that you

ISAIAS ARIAS-DIRECT BY MR. WATERS

1 did?

2 A My initials and my name.

3 Q And you circled this one under number three; is
4 that correct?

5 A Yes, sir.

6 Q All right. Did you sign it down here at the
7 bottom?

8 A Yes, sir.

9 Q Did anybody tell you which one to pick or did
10 you pick that one by yourself?

11 A By myself.

12 MR. WATERS: Your Honor, at this time, I would
13 move State's Exhibit 85 into evidence.

14 MR. HODGE: Just previous objection.

15 THE COURT: All right, over Defendant's
16 objection, it will be admitted as Exhibit what?

17 MR. WATERS: 85, Your Honor.

18 THE COURT: All right, 85 is admitted.

19 (WHEREUPON, State's Exhibit No. 85 was admitted
20 into evidence.)

21 MR. WATERS: May I publish?

22 THE COURT: Yes.

23 (WHEREUPON, State's Exhibit No. 85 was
24 published.)
25

ISAIAS ARIAS-DIRECT BY MR. WATERS

1 BY MR. HODGE:

2 Q All right. Is this where you picked out an
3 individual that you know as Pelon or David Barajas?

4 A Yes, sir.

5 Q That's where you put your initials?

6 A Yes, sir.

7 Q Is that where you signed it down here at the
8 bottom?

9 A Yes, sir.

10 MR. WATERS: Court's indulgence one moment.

11 (WHEREUPON, there was a brief pause.)

12 BY MR. WATERS:

13 Q Let me show you one other exhibit. I want to
14 show you what's been marked as Exhibit 19 and previously
15 admitted into evidence. Do you recognize that?

16 A Yes, sir.

17 Q And how do you recognize that?

18 A My initials.

19 Q All right. You put your initials on there?

20 A I write on the top.

21 Q What did you write on there?

22 A Gordo, Pelon and the other boys talking, Chema.

23 Q Okay.

24 MR. WATERS: All right. Court's indulgence one
25 moment.

ISAIAS ARIAS-DIRECT BY MR. WATERS

1 (WHEREUPON, there was a brief pause.)

2 MR. WATERS: All right. Your Honor, may I
3 publish Exhibit 19? It's already in evidence at this
4 time.

5 THE COURT: You may.

6 MR. WATERS: Thank you.

7 (WHEREUPON, State's Exhibit No. 19 was
8 published.)

9 BY MR. WATERS:

10 Q All right. Do you recognize the voices on that
11 particular phone call?

12 A Yes, sir.

13 Q Who are the voices that you recognize?

14 A Gordo is the loud one, and Pelon, the other
15 person.

16 Q Pelon the other person?

17 A (The witness nods.) Yes, sir.

18 Q All right, one final question. Is the
19 individual that you set up in a house in Atlanta and had
20 methamphetamine transactions with from Dallas to Atlanta
21 to Greenville that's on this phone call that you
22 identified in this particular line up, is all that
23 individual David Barajas or Pelon over there?

24 A Yes, sir.

25 Q And are you a hundred percent sure?

ISAIAS ARIAS-DIRECT BY MR. WATERS

1 A Yes, sir, a hundred percent.

2 MR. WATERS: Nothing further at this time, Your
3 Honor.

4 THE COURT: Counsel, y'all approach for a
5 second.

6 (WHEREUPON, an off-the-record bench conference
7 was held in the presence of the jury but out of
8 the hearing of the jury.)

9 THE COURT: Will the jury have a problem if we
10 went to 5:30? Does anybody have a problem or need to
11 make a phone call?

12 JUROR: I do need to make a phone call, but I
13 don't have a problem.

14 THE COURT: All right. We're going to take a
15 short break. You can make a phone call. Then from
16 what the attorney tells us, let us finish with this
17 witness. So take a break. Make your phone call,
18 just let us know as soon as you've made that phone
19 call. Don't discuss the case.

20 (WHEREUPON, the jury left open court at
21 approximately 4:52 p.m.)

22 THE COURT: All right, the State ready?

23 MR. UNDERWOOD: Yes, sir.

24 THE COURT: Is the Defense ready?

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

ISAIAS ARIAS-CROSS BY MR. HODGE

1 THE COURT: Okay. When the jury is ready, tell
2 them to come on in.

3 (WHEREUPON, the jury entered open court at
4 approximately 5:00 p.m.)

5 THE COURT: Thank you, ladies and gentlemen.
6 So at this time cross-examination.

7 MR. HODGE: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. HODGE:

10 Q I'm going to ask you again, please say your name
11 for me so that I don't mess it up too bad.

12 A Isaias Arias.

13 Q Arias?

14 A Arias.

15 Q All right. Good afternoon again, Mr. Arias.
16 Got just a few questions for you. I'm kind of going to
17 start from the beginning where you started your story
18 before, is that okay?

19 A Yes, sir.

20 Q You said that you were born in California; is
21 that right?

22 A Yes, sir.

23 Q Then you grew up in Mexico?

24 A Yes, sir.

25 Q What part of Mexico did you grow up in?

ISAIAS ARIAS-CROSS BY MR. HODGE

1 A Michoacan.

2 Q Okay. Then you moved back to California as a
3 teenager, right?

4 A Yes, sir.

5 Q And I think you said you began selling meth
6 around the age of 20?

7 A Yeah, I got caught at the age of 20 with
8 3-grams.

9 Q Where were you living at at that point?

10 A Dallas.

11 Q You were in Texas at that point?

12 A Yes, sir.

13 Q Who was supplying you with meth?

14 A At that point?

15 Q Yes.

16 A I just get it from people on the corner, just
17 3-grams.

18 Q Okay. Once you started getting heavy into it in
19 Dallas, who was your supplier?

20 A Javier.

21 Q Javier. Is he in Texas?

22 A No, Mexico.

23 Q He's in Mexico?

24 A Yes, sir.

25 Q Does he have a nickname?

ISAIAS ARIAS-CROSS BY MR. HODGE

1 A Javier, Poncho, Fransico.

2 Q Fransico, Poncho, Fransico?

3 A It's the same name like -- how can I say? When
4 you calling somebody a name and you can say it different
5 ways.

6 Q Sure.

7 A Everything mean the same.

8 Q Have you ever heard the name Chacas?

9 A Chacas.

10 Q Chacas?

11 A Yes, I heard about that name.

12 Q How would you spell that?

13 A Chacas, C-H -- C-H-E-C-A-S.

14 Q And you said you have heard that name?

15 A (The witness nods.)

16 Q Where have you heard that name?

17 A From Pelon.

18 Q Pelon has told you Chacas?

19 A Yes, sir.

20 Q Okay. You don't know anybody personally named
21 Chacas?

22 A I never met nobody. I know that person name.

23 Q And you never bought drugs or received
24 methamphetamine from anyone named Chacas?

25 A No, sir.

ISAIAS ARIAS-CROSS BY MR. HODGE

1 Q Okay. Have you ever heard the name Chencho?

2 A No, sir.

3 Q No? You don't recognize that name at all?

4 A No.

5 Q What about Chato?

6 A Chato?

7 Q Chato.

8 A Chato?

9 Q Uh-huh. No? Guardo?

10 A (The witness shook his head.)

11 Q You ever heard the name Cheno?

12 A Cheno? (The witness shook his head.)

13 Q Have you ever heard the name Chema?

14 A Yes.

15 Q And that was the one that you said you heard
16 through Pelon; is that right?

17 A Yes, sir.

18 Q Okay. How many -- when you were dealing,
19 selling methamphetamine out of Texas, how many people were
20 working for you?

21 A Only him in Atlanta.

22 Q So you only had one supplier in Atlanta?

23 A I only delivered it to him in Atlanta.

24 Q You personally delivered it to him?

25 A Yes.

ISAIAS ARIAS-CROSS BY MR. HODGE

1 Q Okay. And then you met Gordo; is that correct?

2 A Yes, they pass me -- the people in Mexico, they
3 send me the phone number to him. I send the phone number
4 to him, that way he contact Gordo, that way we started.

5 Q You said the people in Mexico. Who gave you the
6 number to --

7 A Javier.

8 Q Javier or Fransico?

9 A Yes, sir.

10 Q Same guy, right?

11 A Yes, sir.

12 Q When did you personally, if at all, when did you
13 start dealing directly with Gordo?

14 A The first time with Gordo? First time ever?

15 Q Yes.

16 A This is the first time.

17 Q Okay. So the first time you met him was at the
18 Mexico restaurant?

19 A Yes, sir.

20 Q That was the first transaction you had ever done
21 with him in person?

22 A First time I come to South Carolina, too, first.

23 Q Had you had anyone come to South Carolina for
24 you?

25 A Deliver to him?

ISAIAS ARIAS-CROSS BY MR. HODGE

1 Q Uh-huh.

2 A He uses two -- he got two driver. He sent two
3 drivers to him to pick the drug I sent to him.

4 Q Okay. It's your testimony that Pelon was the
5 only person that you used to sell any methamphetamine in
6 Georgia?

7 A In Atlanta.

8 Q Okay. You went through the summaries, and I'm
9 going to hand you, just so you have them in front of you,
10 what's been marked Exhibit 86. These are your words; is
11 that right?

12 A My words and Gordo.

13 Q But I'm saying the summary is your summary of
14 phone calls between you and Gordo?

15 A Yes, sir.

16 Q Do you know Gordo's real name?

17 A Eduardo.

18 Q Eduardo Assad, does that sound right to you?

19 A Assad.

20 Q So these are your summary of phone calls that
21 occurred between you and Gordo?

22 A Yes, sir.

23 Q In these summaries that are your words, you
24 refer to Pelon, right, as Barajas; is that right?

25 A No, I refer -- I don't call him Barajas, I call

ISAIAS ARIAS-CROSS BY MR. HODGE

1 him Pelon on the phone calls.

2 Q So in the phone calls, you never hear the name
3 Barajas, correct?

4 A I mean, I know David.

5 Q That's in the phone calls?

6 A It's not in the phone calls.

7 Q That's what I mean, in the phone call that you
8 were summarizing?

9 A Yeah, I only call him Pelon.

10 Q That's all you call the person that you're
11 referring to in the phone calls is Pelon?

12 A Yes, sir.

13 Q So when the word Barajas appear on your summary
14 there, that's just you now referring to him as Barajas,
15 correct?

16 A Yes.

17 Q That's not what was said on the phone calls five
18 years ago, right?

19 A No, phone call, I say Pelon.

20 Q And you refer to him as Pelon; is that right?

21 A (The witness nods.)

22 Q Does Gordo refer to him as anything?

23 A I mean, it's just like I -- I really don't know.
24 I only call him Pelon. I'm pretty sure Gordo call him,
25 too, Pelon. It was five years ago.

ISAIAS ARIAS-CROSS BY MR. HODGE

1 Q So you didn't hear Gordo call him any other
2 names other than Pelon, right?

3 A (The witness shook his head.) They got their
4 own nickname, I guess.

5 Q And then again on the second page, just the same
6 question real quick because I want to make sure that it's
7 clear for the jury. And I'm looking at the one --

8 MR. HODGE: May I approach, Your Honor?

9 THE COURT: You may.

10 BY MR. HODGE:

11 Q This one here, the 400037?

12 A Yes.

13 Q In there, it says, Chico advised that Gordo
14 needs to pay Barajas \$5500.

15 Is that right?

16 A 550.

17 Q Right.

18 A 5,500.

19 Q The name Barajas was added by you when you were
20 using it as a summary yesterday or this morning, right?

21 A Yes.

22 Q The name Barajas was not used by you during that
23 phone call, right?

24 A No, sir.

25 Q And that phone call is still Pelon?

ISAIAS ARIAS-CROSS BY MR. HODGE

1 A Still Pelon.

2 Q Did you ever talk to Gordo about teaching him
3 how to cook up the meth?

4 A Yes, sir.

5 Q You were going to show him how to do it?

6 A Yes, sir.

7 Q How did you learn how to do it?

8 A I mean, they tell me through the phone.

9 Q There was instructions through the phone?

10 A Yes, sir.

11 Q Were you worried about that? And you said in
12 here that Pelon and you had that disagreement; is that
13 right, over some drugs?

14 A Yes, sir.

15 Q And that you felt Gordo was trying to put you
16 two against each other?

17 A Yeah. I mean, I figure it out when I hear the
18 phone calls really.

19 Q And now you know it's because he had already
20 been busted by police?

21 A He's got much pieces.

22 Q Right. And he was, essentially, setting you
23 both up at the same time?

24 A Yes. Pulling us against each other.

25 Q Have you ever heard of La Familia cartel?

ISAIAS ARIAS-CROSS BY MR. HODGE

1 A Yes.

2 Q Are you a member of La Familia cartel?

3 A No, sir.

4 Q So your nickname Chico, did that come from being
5 a part of a cartel?

6 A No, sir.

7 Q Where did you get the name Chico?

8 A He called me that?

9 Q Who did?

10 A Gordo.

11 Q So he made that name up for you?

12 A It's what he called me.

13 Q Did he tell you why?

14 A I don't know.

15 Q Do you know why you called him Gordo?

16 A Because the people in Mexico, Javier, he tell me
17 that's how they call him, Gordo.

18 Q Okay.

19 MR. HODGE: Can I have just a second, Your
20 Honor?

21 THE COURT: Yes, sir.

22 (WHEREUPON, there was a brief pause.)

23 BY MR. HODGE:

24 Q I'm almost done, Mr. Arias. I promise. Once
25 you set Pelon up in Atlanta, did you ever travel back to

ISAIAS ARIAS-CROSS BY MR. HODGE

1 Atlanta?

2 A I drive to Atlanta when I met Gordo.

3 Q Right, but you didn't go back to Atlanta to
4 visit Pelon, right?

5 A I visit one time when he already got his house.

6 Q The initial time --

7 A Yeah.

8 Q -- that you've already addressed?

9 A Yeah.

10 Q Then you did not see him again in person until
11 you said, I think, when you were incarcerated at
12 Greenville County Detention Center; is that right?

13 A Yes, sir.

14 MR. HODGE: One more second, Your Honor.

15 (WHEREUPON, there was a brief pause.)

16 BY MR. HODGE:

17 Q And just to be clear, you're saying that you
18 were not a part of a cartel?

19 A Yes, sir, I'm not.

20 Q Right. And Pelon, who you say is David Barajas,
21 was working for you?

22 A We work with each other.

23 MR. HODGE: Okay. Nothing further, Your Honor.

24 THE COURT: Redirect?

25 MR. WATERS: Thank you, Your Honor.

ISAIAS ARIAS-REDIRECT BY MR. WATERS

REDIRECT EXAMINATION

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BY MR. WATERS:

Q You met Pelon through a family friend, his brother, correct?

A Yes, sir.

Q And you got hooked up with Gordo from the people in Mexico who called you and said that's the guy you need to get the drugs to, right?

A Yes, sir.

Q And your arrangement was to get the drugs from Texas to Atlanta and then Pelon would get them to Gordo; is that correct?

A Yes, sir.

Q Is that what was going on?

A Supposedly.

Q While y'all had some disagreements, that was what was supposed to go on when you were taking that two and a half kilos up through the tire; is that correct?

A Yes, sir.

Q You even talked on these phone calls while you were on the way saying hey, we've got to pay Pelon his money and I need my money and all the rest of it?

A Yes, sir.

Q And you were trying to call him and he wouldn't -- Pelon wouldn't answer you, correct?

ISAIAS ARIAS-REDIRECT BY MR. WATERS

1 A Yes, sir.

2 Q And at some point, you decided I'm just going to
3 go straight to Greenville and take care of this myself?

4 A Yes, sir.

5 Q All right. So you were trying to get away from
6 the original agreement because you were getting frustrated
7 with him?

8 A Yes, sir.

9 Q But that doesn't change the fact that y'all were
10 partners prior to that, correct?

11 A Yeah.

12 MR. WATERS: Nothing further, Your Honor.

13 THE COURT: All right, you may step down.

14 All right, ladies and gentlemen, we are going to
15 break for the day. So begin at nine o'clock in the
16 morning. So it doesn't look like -- talking to the
17 attorneys, it doesn't look like we're going to be
18 through with this tomorrow, so we'll probably going
19 into Monday. Just letting you know that. Otherwise,
20 I will see you in the morning.

21 Our rules, don't discuss the case among
22 yourselves or family or friends. Don't do any type
23 of research about the case. Don't pay any attention
24 to any media coverage and if anybody contacts you
25 other than somebody from the clerk's office, please

1 let the bailiffs know. See you at nine o'clock in
2 the morning.

3 (WHEREUPON, the jury left open court at
4 approximately 5:15 p.m.)

5 THE COURT: All right, anything else from the
6 State?

7 MR. UNDERWOOD: Not at this time, Your Honor.

8 THE COURT: Anything form the Defense?

9 MR. HODGE: No, Your Honor.

10 THE COURT: All right, see y'all at nine o'clock
11 in the morning.

12 (WHEREUPON, the proceedings were concluded for
13 the day to be reconvened on March 13, 2020.)
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1 March 13, 2020

2 (WHEREUPON, State's Exhibits Nos. 87-117 were
3 marked for identification only.)

4 THE COURT: All right, State ready?

5 MR. UNDERWOOD: Yes, Your Honor.

6 THE COURT: All right, the Defense ready?

7 MR. HODGE: Yes, sir.

8 THE COURT: All right, bring the jury in.

9 (WHEREUPON, the jury entered open court at
10 approximately 9:14 a.m.)

11 THE COURT: All right. Good morning, ladies and
12 gentlemen, I hope everybody had a good evening.

13 Housekeeping matters. One thing is that y'all got
14 menus for lunch today. And the reason is that we're
15 trying to get as much done today as possible.

16 Therefore, I figured it would be a short lunch if we
17 brought lunch in. I know somebody had to run an
18 errand and that's fine, too. We'll work around that.
19 But we've also got to be a little flexible.

20 I also realize that, you know, the elephant in
21 the room is now with everything crazy going out
22 there, we're monitoring everything as far as closures
23 and stuff like that. But what it looks like -- I
24 mean, we're trying to figure this out. It looks like
25 this case could go into Monday. We realize if it

1 does go into Monday, then we need to make sure it
2 gets finished on Monday.

3 With that being said, if things move a little
4 faster today, then it may be that we can get a little
5 further than we thought today. So we have to be a
6 little flexible. I will have discussions with you
7 and make sure that y'all are involved in any final
8 decisions that we do make.

9 My goal, the way it looks now, we're going to
10 have a short lunch with the plan that we would finish
11 at four o'clock today. It's been a long week for
12 everybody, especially y'all. So y'all could head on
13 home by four o'clock since we're coming back Monday
14 anyway. But that's kind of my plans right now. That
15 may change, but I'll talk with y'all before we make
16 those changes.

17 So with all that being said, I will now ask the
18 State to call their next witness.

19 MR. UNDERWOOD: Thank you, Your Honor. May it
20 please the Court. The State calls Douglas Robinson.

21 THE CLERK: Please step forward to be sworn in,
22 Mr. Robinson. Place your left hand on the Bible and
23 raise your right hand.

24 DOUGLAS ROBINSON, after being duly sworn,
25 testified as follows:

1 THE CLERK: Please state your full name, sir.

2 THE WITNESS: Douglas Robinson.

3 THE CLERK: Please have a chair, thank you.

4 DIRECT EXAMINATION

5 BY MR. UNDERWOOD:

6 Q Hi, good morning, Mr. Robinson. If you would,
7 please introduce yourself to the jury, explain to them
8 where it is that you work and what you do, please.

9 A Yes, sir. My name again is Douglas Robinson.
10 I'm employed with the South Carolina Law Enforcement
11 Division, commonly known as SLED. I've been there for
12 just about 12 years now. For the first ten years, I
13 performed analysis on general submissions of controlled
14 substances with the drug analysis department. In the last
15 two years approximately, I've been tasked with heading up
16 the THC quantitation and suspected cannabis submissions,
17 so my focus has shifted a little bit. But for the time
18 period we're discussing today, the first ten years of my
19 career was analysis and general submissions of controlled
20 substances.

21 Q And, essentially, is that you test substances to
22 find out if they're illegal drugs?

23 A Yes, we test any submissions that are suspected
24 to contain controlled substances statewide.

25 Q What education and training do you have to

DOUGLAS ROBINSON-DIRECT BY MR. UNDERWOOD

1 qualify you to do that job?

2 A I received my Bachelor of Science in chemistry
3 from the University of South Carolina. After graduating,
4 I spent approximately three years in the environmental
5 chemistry field performing chemical analysis. Upon
6 starting with SLED, I received law and legal training from
7 the South Carolina Criminal Justice Academy, as well as
8 in-house training in the analysis of controlled substances
9 through the drug analysis department. I've also attended
10 the Drug Enforcement Administration's forensic chemist
11 seminar.

12 Q Have you had the opportunity to be qualified as
13 an expert witness in circuit court in South Carolina
14 before?

15 A Yes, sir.

16 Q Approximately how many times?

17 A Thirty-four.

18 Q In what field?

19 A Drug analysis.

20 MR. UNDERWOOD: Your Honor, at this time, the
21 State would offer the witness as an expert witness in
22 drug analysis and identification.

23 THE COURT: Any objection or voir dire?

24 MR. HODGE: None, your Honor.

25 THE COURT: All right, ladies and gentlemen, as

DOUGLAS ROBINSON-DIRECT BY MR. UNDERWOOD

1 I told y'all before, when somebody has been qualified
2 as an expert, then they can testify as to their
3 opinions and conclusions in their field. And you can
4 give it the weight and the value that you deem
5 appropriate.

6 And this individual has been qualified as an
7 expert in chemical and drug analysis and
8 identification?

9 MR. UNDERWOOD: Yes, Your Honor.

10 THE COURT: All right, you may proceed.

11 MR. UNDERWOOD: Thank you, Your Honor.

12 BY MR. UNDERWOOD:

13 Q Mr. Robinson, did you have an opportunity to
14 examine some substances associated with the case number
15 L15-02812?

16 A Yes, sir.

17 Q All right. I'm going to approach you with --
18 show you State's Exhibit No. 87, do you recognize that
19 document?

20 A I do.

21 Q What exactly is that we're looking at?

22 A This is a copy of an internal chain of custody
23 from SLED, dealing with the lab number L15-02812 generated
24 and released for court proceedings.

25 Q What is the purpose of maintaining that

DOUGLAS ROBINSON-DIRECT BY MR. UNDERWOOD

1 document?

2 A The internal chain tracks any evidence brought
3 to our laboratory from the time it's submitted to the
4 laboratory throughout any location or personal exchange
5 all the way through the time it is then retrieved from the
6 local agency that submitted it.

7 Q Is that something that's kept in the ordinary
8 course of business?

9 A Yes, sir.

10 Q That's to maintain the integrity of the
11 evidence?

12 A Certainly, yes, sir.

13 MR. UNDERWOOD: Your Honor, at this time, I
14 would move into evidence State's Exhibit 87.

15 THE COURT: Any objection?

16 MR. HODGE: No, Your Honor.

17 THE COURT: All right, in without objection.

18 (WHEREUPON, State's Exhibit No. 87 was admitted
19 into evidence.)

20 BY MR. UNDERWOOD:

21 Q And Mr. Robinson, as a result of conducting tests
22 on that evidence, were you able to produce a report?

23 A I did.

24 Q I'm going to now hand you what's been marked as
25 State's Exhibit No. 88, do you recognize that?

DOUGLAS ROBINSON-DIRECT BY MR. UNDERWOOD

1 A I do.

2 Q What is that?

3 A This is a copy of the report that I generated
4 for this case after analysis was complete.

5 MR. UNDERWOOD: Your Honor, at this time, I move
6 into evidence State's Exhibit No. 88.

7 THE COURT: Any objection?

8 MR. HODGE: No objection.

9 THE COURT: All right, in without objection.

10 MR. UNDERWOOD: Permission to publish, Your
11 Honor?

12 THE COURT: Yes.

13 (WHEREUPON, State's Exhibit No. 88 was admitted
14 into evidence.)

15 (WHEREUPON, State's Exhibit No. 88 was
16 published.)

17 BY MR. UNDERWOOD:

18 Q While that's warming up, a few other questions.
19 Mr. Robinson, when suspected drug evidence comes to the
20 lab and it's a rather large amount, does that change the
21 way that sometimes it is stored by the lab personnel and
22 by the analyst both coming into the lab as well as after
23 it's tested?

24 A The storage procedures aren't necessarily
25 different. Evidence can be submitted in virtually any

DOUGLAS ROBINSON-DIRECT BY MR. UNDERWOOD

1 type of packaging as long as it's sealed and the integrity
2 of the seals are intact when it enters our lab and as it
3 passes through the chain of custody.

4 Q All right. In this particular instance, was it
5 a rather large amount of suspected drug evidence?

6 A Relative to most submissions, yes.

7 Q All right. So as a result, how did you
8 repackage that evidence once you were finished examining
9 it?

10 A All evidence that we work is generally packaged
11 either into the original container it was submitted in or
12 into a new container that's sealable, most commonly in a
13 ziplock bag. The ziplock bag prevents any kind of
14 cross-contamination after analysis is complete. In this
15 particular case -- may I refer to my notes?

16 Q Yes, please.

17 A In this particular case, the evidence was placed
18 back into the original outer packaging it was brought to
19 the lab in. The inner packaging, the immediate packaging
20 of the substance was changed in order to create that
21 barrier from cross-contamination.

22 Q All right. Do you recall what the original
23 packaging was that had to be changed?

24 A Yes. The outer packaging was just a box to
25 contain various items. And within this case, there were

DOUGLAS ROBINSON-DIRECT BY MR. UNDERWOOD

1 three items that were heavily wrapped. We had to take
2 that packaging off. There was also a latent print
3 assignment attached to this request. So we had to remove
4 that packaging to forward it to another department for
5 analysis.

6 Q All right. And is that part of the reason why
7 it was repackaged the way you did it after your testing?

8 A Well, it was repackaged again to simply prevent
9 any kind of cross-contamination.

10 Q All right. I'm going to show you what's been
11 marked as State's Exhibits 89 through 93. Do you
12 recognize those photographs?

13 A So these photographs are a series that depicts
14 the evidence in this case post-analysis. So in the
15 packaging that was added during the analysis or directly
16 after analysis, therefore, they're in ziplock bags. In
17 some of the pictures, the case number is not obvious, but
18 in several, the analysis case number is clearly marked on
19 the bag, which we would standard procedurally do during
20 analysis to identify the substance.

21 Q All right. Is that how the drug evidence would
22 appear inside the box that was then later resealed?

23 A Yes, sir.

24 MR. UNDERWOOD: Your Honor, at this time, I
25 would move into evidence State's Exhibits 89 through

DOUGLAS ROBINSON-DIRECT BY MR. UNDERWOOD

1 93.

2 THE COURT: Any objection?

3 MR. HODGE: No, no objection.

4 THE COURT: All right, without objection.

5 (WHEREUPON, State's Exhibits Nos. 89-93 were
6 admitted into evidence.)

7 BY MR. UNDERWOOD:

8 Q Now, if I can begin with State's Exhibit 87, is
9 the chain of custody document we were just talking about a
10 moment ago?

11 A Yes, sir.

12 Q All right. If you could, just explain very
13 quickly how this evidence made its way to you once it came
14 to the lab?

15 A Certainly. If we just start at the top, the
16 very first line under item one, we have a submission line
17 that reads submitted by on March 3rd, 2015, at 11:37.
18 Aaron Rawl with the South Carolina Law Enforcement
19 Division submitted this evidence. Therefore, he brought
20 it physically to the lab. This was the first time it
21 entered in the doors of the lab. When this happens, the
22 evidence is logged in. This process creates a SLED lab
23 number, a SLED analysis case at this point. So this would
24 have been when the chain of custody was first created. At
25 this time, the evidence case was created by Jennifer

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1 Acock.

2 At the time, she was a technician within
3 the drug -- I'm sorry, the evidence control department.
4 You can see it was created on the same date at the same
5 time. The same time, it's stamped at 11:37. The second
6 entry on the second half of the document then reads
7 evidence room, drug evidence intake storage. Also, the
8 same time stamp. Once this case was created, it was
9 entered into her custody first because she was the
10 technician creating the case, then it was immediately
11 transferred into a secure storage facility within evidence
12 control.

13 The evidence stayed there for approximately
14 three months, at which time, on June 4th, the same
15 technician, Jennifer Acock, pulled that evidence at my
16 request for pick up. She then transferred that evidence
17 to me one minute later. It stayed in my custody until
18 9/24/15, at which time, I returned the evidence to
19 evidence control. It was then transferred to a secure
20 location again, that's the SLED's state grand jury return
21 shelf. It's just a different specific location within the
22 same secure area within evidence control. It was then,
23 ultimately, retrieved from there and returned to the
24 agency, at the very bottom, Millie Agervall, from SLED.

25 Q Is that in order to bring it to court following

DOUGLAS ROBINSON-DIRECT BY MR. UNDERWOOD

1 the analysis?

2 A I would assume so.

3 Q All right. Now, during the course of this
4 evidence moving throughout the SLED lab, at any time, was
5 it tampered with, affected, anything of that nature?

6 A So the evidence stays under the original seal in
7 the condition it was brought into the lab until I start
8 analysis. That's one of the things we verify prior to
9 analysis. It's, obviously, opened, unsealed during my
10 analysis. Then as soon as my initial analysis is
11 complete, meaning once the initial testing is done and
12 samples have been taken for confirmatory analysis, the
13 evidence is then resealed. So it's unsealed for a very
14 short period of time in my direct control. Then it's on
15 top of that stored in a secured location. It's either
16 stored in the evidence control department or in a secured
17 vault within the drug analysis department.

18 Q And as far as your analysis is concerned, could
19 you please explain to the jurors what types of tests you
20 use and what you do to measure the substance?

21 A Certainly. Once evidence -- once the packaging
22 has been opened, the outer packaging in this case, the
23 box, evidence is sorted and itemized based on the type of
24 evidence and similarity between the items. Once this is
25 accomplished, each item will be tested independently and

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1 separately allowing for only one piece of evidence to be
2 opened at any given time.

3 Per item, the testing generally follows
4 removal of packaging, a net weight minus that packaging
5 taken for the substance. It will then undergo an
6 indicative test. An indicative test simply gives us an
7 idea of what may be present. They are useful to dictate
8 what type of confirmatory analysis may take place.

9 Once we have that result, we do then move
10 to confirmatory analysis to identify the substance to the
11 exclusivity of all other substances. That's why it's a
12 confirmatory test. We can say specifically this is what
13 the substance was.

14 Q Now, specifically in this case, did you conduct
15 those tests?

16 A Yes, sir.

17 Q Were you able to draw any conclusion as to what
18 the substance was?

19 A I did.

20 Q I publish Exhibit No. 88. Is this your report
21 that we just spoke of?

22 A Yes, sir.

23 Q All right. What were you able to determine?

24 A So, this was, ultimately, separated into three
25 items. Item number 1.1 -- item number 1, being the box

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1 that we discussed. 1.1 was described as duct tape
2 containing multiple layers of packaging containing ziplock
3 bag, containing plastic wrap, containing ziplock bag,
4 containing the ziplock containing the crystal substance.
5 The result of this item was methamphetamine C2 found in
6 the sample tested, the one tested. Net weight 498-grams
7 7,685 grains. Item 1.2 is duct tape containing multiple
8 layers of packaging, containing ziplock bag, containing
9 plastic wrap containing ziplock bag, containing ziplock
10 bag containing crystal substance. Results methamphetamine
11 C2 found in the sample tested, one tested. Net weight
12 992-grams, 15,308 grains.

13 Q All right. The reference of C2, does that mean
14 it's a Schedule II controlled substance?

15 A That's correct.

16 Q These weights that you're giving, is that the
17 weight of the actual substance itself without any
18 containers?

19 A Correct. This is just the crystal substance
20 after all packaging is removed.

21 Q Then on to the next page.

22 A Item 1.3, also, described as duct tape
23 containing multiple layers of packaging, containing
24 ziplock bag, containing plastic wrap containing ziplock
25 bag, containing ziplock bag containing crystal substance

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1 results methamphetamine C2 found in the sample testing,
2 the one tested. Net weight 988-grams, 15,246 grains.

3 Q Now, moving on to State's Exhibit 89. Is that a
4 photograph of the substance? I know that's a little
5 bright on the reflection. Is that the substance that you
6 tested?

7 A Yes. This is -- again, this depicts the outer
8 packaging, the box, as well as the three ziplock bags used
9 to contain the crystal substance. It is a little fuzzy,
10 but inside each one of these are shards of clear, almost
11 glass-looking substance.

12 Q Go to Exhibit 90 and see if there's a little bit
13 better view there on that photo. Is this the shards that
14 you were describing?

15 A That would probably be the best depiction I've
16 seen so far, yes. You can see them a little bit at the
17 bottom there. This is a top down view of the box
18 containing the three bags, one being towards the bottom
19 and then two on top.

20 Q Then Exhibit 91, is this the label on the box to
21 identify the match with the substance inside?

22 A Yes, sir.

23 Q Ninety-two, another top view again. The glare
24 makes it a little hard to see. Is this the same
25 substance?

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1 A Yes, sir. Again, we got three large bags. And
2 you can see the top of the zipper kind of folding around
3 to the left side of the picture here. This is three large
4 bags inside the box. Just another top down picture.

5 Q Then Exhibit 93?

6 A Same thing. Top down view of the three bags
7 sitting on top of the box with the case label at the top
8 left corner of the picture.

9 MR. UNDERWOOD: Your Honor, at this time, I
10 would also offer in evidence State's Exhibit 94.

11 THE COURT: Any objection?

12 MR. HODGE: No objection.

13 THE COURT: Without objection.

14 (WHEREUPON, State's Exhibit No. 94 was admitted
15 into evidence.)

16 MR. UNDERWOOD: Thank you. No further
17 questions, Your Honor.

18 THE COURT: Cross-examination.

19 MR. HODGE: Very briefly, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. HODGE:

22 Q Those pictures you were just looking at, when
23 were those pictures taken, do you know?

24 A I'm not aware.

25 Q Do you recognize that carpet?

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1 A It looks very similar to the courtroom.

2 Q So these pictures weren't taken by you, right?

3 A That's correct.

4 Q Were you here when they were taken earlier today
5 or yesterday?

6 A I was not.

7 Q Two quick questions. This is the drug report
8 that you provided, Exhibit 88. The last line under drug
9 analysis, what does that line indicate?

10 A It just list the suspect as FNULNU a/k/a, quote,
11 Chico. This is the listed suspect as it was submitted to
12 the laboratory.

13 Q And that's what these drugs allegedly came from,
14 Chico, correct?

15 A That's attached to the case file as it's logged
16 into the system.

17 Q And you have no independent knowledge other than
18 that as to who possessed, sold or controlled these drugs,
19 right?

20 A That's correct.

21 MR. HODGE: No further questions.

22 THE COURT: Any redirect?

23 MR. UNDERWOOD: None, Your Honor. We ask that
24 the witness be excused.

25 THE COURT: Any objection?

SANDRA DUNCAN-DIRECT BY MR. UNDERWOOD

1 MR. HODGE: No objection.

2 THE COURT: All right. Thank you. You may step
3 down.

4 Call your next witness.

5 MR. UNDERWOOD: Your Honor, the State calls
6 Sandra Duncan.

7 THE CLERK: Step forward, please, ma'am. If you
8 would, place your left hand on the Bible there as
9 best you can. Face me if you would, please.

10 SANDRA DUNCAN, after being duly sworn, testified
11 as follows:

12 THE CLERK: Please state your full name.

13 THE WITNESS: Sandra Darlene Duncan.

14 THE CLERK: Ms. Duncan, please have a chair and
15 speak into the microphone.

16 DIRECT EXAMINATION

17 BY MR. UNDERWOOD:

18 Q Good morning, Ms. Duncan.

19 A Good morning.

20 Q Ms. Duncan, let's kind of introduce yourself a
21 little bit. Where are you from?

22 A Greenville.

23 Q Greenville. Have you lived in Greenville, South
24 Carolina, your whole life?

25 A Yes.

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1 Q Ms. Duncan, please forgive for being rude, how
2 old are you, ma'am?

3 A Seventy-one.

4 Q What kind of jobs have you done throughout your
5 life?

6 A I worked for myself. I was a paint contractor
7 and we did ceramic tile.

8 Q What other kind of work have you done?

9 A After that, I flipped houses. I did
10 construction.

11 Q So you were the kind of flipper like HGTV style?

12 A Yes.

13 Q Did you, also, maintain several rental
14 properties as part of that flipping operation?

15 A Yes.

16 Q Ms. Duncan, do you have any children?

17 A I have five boys.

18 Q Who are they?

19 A Stewart, Jamie, Dameon, Brandon and Chandler.

20 Q Now, if we could, let's focus on your son
21 Dameon. What's Dameon's full name?

22 A Christopher Dameon Smith.

23 Q Now, Ms. Duncan, are you aware of your son
24 becoming involved in the methamphetamine trade?

25 A Yes, sir.

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1 Q In fact, was he a part of this case that you,
2 yourself, were involved in?

3 A Yes, sir.

4 Q To your knowledge, how did he become involved in
5 selling methamphetamine?

6 A I was told he was selling for Jose.

7 Q When did you become aware that Dameon was
8 selling methamphetamine?

9 A After he was -- he had been out on federal
10 parole -- yeah, parole. And after he went back into
11 federal again, they came -- Jose came to my home and told
12 me that Dameon had owed him money and that his debt was
13 now mine.

14 Q So let's break that down a little bit. So at
15 one point in time, your son, Dameon, was in federal
16 prison?

17 A Yes.

18 Q And then he was out on some type of parole,
19 supervised release?

20 A Yes, he was.

21 Q Then he had to go back to prison?

22 A Yes.

23 Q And during that time in the middle, is that when
24 Dameon was involved in selling methamphetamine as it
25 relates to this case?

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1 A I didn't know it at the time, but that's what I
2 was told, yes.

3 Q You mentioned the name Jose, who is Jose?

4 A (There was no response.)

5 Q How do you know Jose?

6 A Jose came to my home right after Dameon went
7 back to prison and knocked on my door and introduced
8 himself.

9 Q What does Jose look like?

10 A He's a little shorter than me, stocky, Mexican,
11 young.

12 Q Now, do you know if that's his real name?

13 A No.

14 Q Speak up just a little bit.

15 A No. No, I don't. I heard him called something
16 else.

17 Q What else have you heard him called?

18 A I don't remember. I know it started with a C.
19 But I know -- and I don't know his last name. He never
20 told me his last name.

21 Q Tell the jury what happened when the person you
22 know as Jose came to your house the first time.

23 A He introduced himself, told me that Dameon owed
24 him about \$60,000 and that the debt was mine. I, of
25 course, laughed at him and told him I didn't owe him

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1 anything. He informed me that that's not the way it
2 works. When you owe the Mexican cartel money, the family
3 needs to pay if they can't. So I told him I wasn't going
4 to pay anything. I don't owe it.

5 He said, Oh, yes, you will. He said, If
6 you don't, we're going to come after your family.

7 I proceeded to tell him that come on, I'm
8 an old woman, I'll get you first.

9 He went, No, that's not the way it works.
10 We'll go after your heart first. Dameon will be the
11 easiest one to get to. Said, Things like that happen all
12 the time. In the shower, you just die. He said -- then
13 he proceeds to tell me where all my children lived. Said
14 that their wives would die, their children will die, down
15 to their dogs. Then he told me the name of dogs. So I
16 believed him.

17 Q When Jose came to you, was he alone?

18 A Yes.

19 Q All right. Did he ever come to you with someone
20 else?

21 A On numerous occasions, yes. Other young men.

22 Q Was there ever an older gentleman that came with
23 him?

24 A No, sir.

25 Q Did you ever meet any older gentleman with him?

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1 A One time.

2 Q Who was that?

3 A He referred to him as Uncle. Never knew a name.

4 Q Was that sometime later or was that shortly
5 after that first meeting?

6 A No, that was much later.

7 Q So when Jose comes to you and says that you owe
8 this debt, did you pay him the money?

9 A No, sir, I didn't.

10 Q What did you do instead?

11 A I went to work for him. Oh, he gave me the
12 option of paying within the week or -- well, within the
13 days, not -- he didn't give me a week. He just said to
14 pay or you'll go to work for me selling meth.

15 Q Did you choose to sell meth rather than pay him?

16 A Yes, I did.

17 Q Why?

18 A Well, at the time, I did not have the money. We
19 were going through a recession. My husband was bedridden.
20 To tell you the truth, selfish, I guess. I thought, well,
21 hell, you know, can sell this meth to him, make money and
22 get out. It didn't work out that way.

23 Q So you planned to get into business, pay the
24 debt, make some money and get out?

25 A Yes, sir. I was paying \$1250 an ounce and was

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1 selling it for 14. I wasn't making much money.

2 Q How did the first -- well, did you agree to
3 start selling methamphetamine for Jose right then and
4 there or was it sometime later?

5 A No, he gave me a day to think about it.

6 Q So what happened when they day was over?

7 A He brought me meth that day. He knew I was
8 going to do it.

9 Q And how much meth did he bring you, do you
10 remember?

11 A Six ounces.

12 Q What did you do with those six ounces of
13 methamphetamine?

14 A I gave them to another young man to sell.

15 Q Had you been involved in selling methamphetamine
16 before that?

17 A No, I never even seen meth before that.

18 Q So how did you know to find people to sell meth
19 to?

20 A A friend of Dameon's.

21 Q So that's how you got in the network, through
22 Dameon's friends?

23 A Yes.

24 Q Was that person able to sell the
25 methamphetamine?

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1 A Yes, sir.

2 Q Do you remember who that was?

3 A Billy Bright.

4 Q Did Billy Bright continue to sell
5 methamphetamine for you after that transaction?

6 A Yes, sir.

7 Q For approximately how long?

8 A About three months.

9 Q After you got that first delivery of, you said
10 six ounces?

11 A Yes, sir.

12 Q How long was it before you got more
13 methamphetamine from the person you knew as Jose?

14 A Jose came to the house approximately every other
15 day to get money. As soon as that was sold, he brought
16 more. He always had it with him.

17 Q When he brought more, was it always the same
18 amount or did it --

19 A At first, it was six ounces each time. Then it
20 just gradually got larger.

21 Q How much larger?

22 A At the time of my arrest, it was supposed to
23 have been a kilo.

24 Q So at that point, you're up to getting a kilo at
25 a time?

SANDRA DUNCAN-DIRECT BY MR. UNDERWOOD

1 A Yes, sir.

2 Q In addition to Mr. Bright, were there other
3 individuals that you sold methamphetamine to?

4 A Oh, yes, sir.

5 Q Who was after Mr. Bright?

6 A Michelle Collier, Michelle Collins, Jason
7 Larkin, Honey.

8 Q Who's Honey?

9 A Uh.

10 Q What's his real name?

11 A I'm not sure. Scruggs.

12 Q How do you know this person called Honey?

13 A He was the friend of my son.

14 Q Which son?

15 A Dameon's.

16 Q Do you know why he was called honey?

17 A Because he is a dancer and he's gay and when he
18 performed, he used the name Honey.

19 Q So that was a drag stage name?

20 A Yes. And again, selling dope, you rarely use
21 someone's real name. They usually use another name, like
22 Honey or Cowboy or Country, those kinds of names.

23 Q Why is that?

24 A So that people don't remember who they really
25 are.

SANDRA DUNCAN-DIRECT BY MR. UNDERWOOD

1 Q So is that a way of trying to prevent from
2 getting caught?

3 A Yes, sir.

4 Q You mentioned a nickname Country, did you know
5 somebody who went by Country?

6 A Oh, yes.

7 Q Who was he?

8 A I'm nervous, I'm sorry. Names are hard for me.
9 Holmes, Gary Holmes.

10 Q How did you know him?

11 A Oh, I knew him from Dameon, before Dameon went
12 back to prison. But I didn't know him for a long time.

13 Q So what was the relationship between you and
14 Mr. Holmes, who also went by Country?

15 A He bought from me, but he was sporadic. He had
16 his own person that he bought through in Georgia.

17 Q Who else did you sell methamphetamine to for
18 them to resell?

19 A I remember -- I said Justin, didn't I?

20 Q I don't know. Who's Justin?

21 A Justin is from Charleston.

22 Q So there's Justin from Charleston and you
23 mentioned Honey. Is there a connection between Justin in
24 Charleston and Honey?

25 A They were friends. And -- they were friends.

SANDRA DUNCAN-DIRECT BY MR. UNDERWOOD

1 Q What about as far as the meth business is
2 concerned, is there a connection between the two of them?

3 A They both bought from me.

4 Q Was either one of them arrested?

5 A Oh, yes. Both of them were arrested.

6 Q All right. Let's talk about Honey's arrest. Do
7 you know the circumstances of that?

8 A When he got arrested in Charleston?

9 Q Yes, ma'am.

10 A Yes. I had sent a number of ounces down to
11 Justin. And Honey took them for me and he got arrested
12 while he was in Charleston.

13 Q So while he was on the way to Justin, he got
14 arrested?

15 A Yes.

16 Q What happened to that methamphetamine when he
17 was arrested? Did he lose all of it?

18 A Yes, it was confiscated.

19 Q So what did that mean for your business?

20 A Well, I wasn't making much money on each ounce.
21 Everybody that worked for me, they were getting it on the
22 front. So eventually, after Jose would find out who they
23 were, they ended up coming to me getting four or five
24 ounces and never coming back and then wanted to work for
25 Jose. I always was in debt. I was always in debt. At

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1 that time, I was in real bad debt because I had lost that
2 ten ounces.

3 Q You mentioned the word front, what does that
4 mean?

5 A I give them the dope and then after they sell
6 it, they pay me back.

7 Q So was there a particular problem between you
8 and Jose after that shipment that Honey got arrested for
9 was lost?

10 A Oh, yeah. I owed them about -- well, at that
11 time, about \$25,000. And they were really, really upset.
12 And I told them, I said, Well, you know, you need to eat
13 this just like I'm having to do it. And they -- no, they
14 weren't going to do it. They wanted Honey to meet them at
15 a park right off of Woodruff -- not Woodruff Road,
16 Rutherford Road. And Honey was going to go to that
17 meeting and I wouldn't let him.

18 Q Why not?

19 A Because I was afraid they were going to kill
20 him.

21 Q Who are they that you refer to?

22 A Well, I didn't know that Uncle was going to be
23 there. It was just Jose. And then after I told Jose that
24 I wasn't going to let Honey go, he said, Well, Uncle said
25 that he has to come.

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1 I said, No, I'll go.

2 So I went and I met Uncle at that time.

3 That was the only time I ever met him.

4 Q Who is Uncle?

5 A I do not know his name.

6 Q What do you know about him?

7 A Nothing, except what Jose had told me. Jose
8 always said that his father was over the cartel in Mexico
9 and that Uncle ran the business here and he worked for
10 him.

11 Q So did you end up having this meeting at the
12 park?

13 A Yes, I did.

14 Q What happened at that meeting?

15 A They demanded that I pay, at least, \$14,000 by
16 the end of the week.

17 Q Then what?

18 A I'm sorry?

19 Q Was there anything else to the meeting or did
20 they just say just pay us money and y'all walked away?

21 A Oh, no, no, no, no. They -- I was at my wits
22 end, I said, you know, I don't care anymore. You can kill
23 me. Then they just reminded me that that's not the way it
24 went down.

25 Q How did they remind you?

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1 A Oh, you want me to tell what he did?

2 Q Yes, what happened?

3 A He took his finger--

4 Q Who is he?

5 A Jose. He was talking to Uncle, but he was
6 speaking -- I would say something and then he would repeat
7 it in Spanish to Uncle. And I told him, I said, Look, I'm
8 through. I can't do this anymore. You can go ahead and
9 kill me. I'm just tired of this. It's killing me.

10 And he said, No, that's not the way it
11 works.

12 And he took his finger and he pointed it at
13 these children on the playground like he was shooting. He
14 said, That's the way I'm going to kill your grandchildren
15 first.

16 I'm sorry.

17 Q Now, Ms. Duncan, during this meeting, the person
18 that you refer to as Uncle, how did you know that he was
19 to be called Uncle?

20 A Because Jose said, This is Uncle.

21 Q During the meeting, did the person you call
22 Uncle ever speak English?

23 A Never.

24 Q So during that meeting, was Jose translating for
25 Uncle?

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1 A Yes.

2 Q So after that encounter, what did you do?

3 A I went home. I sold a truck, I sold some paint
4 equipment. Luis, which is one of Jose's friends that came
5 with him sometime and he would pick up money when Jose was
6 out of town or whatever. He brought me an ounce of
7 methamphetamine and said for me to sell it and to use that
8 money to pay Jose back and I could pay him later. So he
9 gave me that. Then I found out through Country of another
10 guy that was selling dope. And I went to him and asked
11 him if he could front me some. And he did. And it was
12 bad stuff and some people got sick. And I ended up having
13 to get that back from them. But the guy, he bought it
14 back, so I didn't end up losing on that one. But I ended
15 up getting the money. I got \$14,000 by the end of week.
16 I used my husband's social security and my social security
17 and I got the money and I paid him.

18 Q So after that debt was paid, were you cut off or
19 were you back in business?

20 A No, I was back in business again.

21 Q So then you continued to sell methamphetamine
22 for Jose?

23 A Yes.

24 Q Let's talk about some of the other people that
25 you would sell to. You mentioned Mr. Bright, Michelle

SANDRA DUNCAN-DIRECT BY MR. UNDERWOOD

1 Collins, Michelle Collier?

2 A Barry Underwood.

3 Q Let's talk about Barry Underwood. Who's Barry
4 Underwood to you? How do you know him?

5 A I met him through Billy Bright.

6 Q How did that take place?

7 A Oh, he just brought him over to the house and
8 said that he was a friend of his and that he would be able
9 to sell a lot. And he did, he sold through me after
10 Billy. Billy got six ounces from me and I never saw him
11 again.

12 Q So did you have to go into debt for those six
13 ounces, too?

14 A I was constantly in debt. It was like this
15 person would get one or two and he wouldn't come back.
16 This one would get four and he wouldn't come back. It was
17 just constantly. Every week, I was just more in debt,
18 more in debt, more in debt.

19 Q Is that because you weren't moving the meth or
20 because you were getting it out on front and not getting
21 paid?

22 A Yes, I was putting it out on front. I didn't
23 know that you were supposed to get paid up front.
24 Michelle -- when I started selling, I didn't even know
25 how -- I didn't know how to even break it up. He just

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1 brought me this stuff. And Michelle came and got me and
2 she took me to a little head store and bought a scale and
3 baggies and showed me how to weigh it up.

4 She said, This is the way you do it, you
5 front out ounces and you get paid when it gets through.

6 So that's what I did.

7 Q Now, you mentioned that Barry Underwood would
8 sell a lot, what's a lot to you?

9 A At that time, I was getting probably a pound.
10 And he would take half of it and he would sell half and
11 then I would give him the other half and then he would
12 sell that.

13 Q Do you remember how long you dealt with Barry
14 Underwood?

15 A Not really, but it was months.

16 Q All right. Why did you stop dealing with Barry
17 Underwood?

18 A Because he came and got -- well, he was getting
19 four ounces at a time, at that time. And he had gotten --
20 no, he was up to six ounces then when he got arrested.
21 And he lost all of that. And they came in on his house
22 and found it.

23 Q You said they came in on his house, who are you
24 talking about?

25 A The police.

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1 Q All right.

2 A He lived in -- out near Greer somewhere, near
3 going like toward North Carolina out of Greer. But
4 anyway, he lost that.

5 And so, he came to me and said, Look, I'm
6 good for this and I'll make it up to you.

7 And I give him more. And I never heard
8 from him after that.

9 Q Do you remember how much more you gave him that
10 time?

11 A I gave him -- I don't think I gave him but four
12 ounces then.

13 Q So he owed you for six ounces and you gave him
14 four more. Did he ever pay you for those ounces?

15 A No, he went to work for Jose.

16 Q How do you know that?

17 A Jose told me he did.

18 Q Did Barry Underwood know Jose before that?

19 A No, not that I know of. Jose went behind my
20 back. He knew -- he would always ask who I was dealing
21 with, who I was dealing with. And every time, he would go
22 behind my back and he would get them to sell for him.

23 Q So he stole your customers?

24 A Yes, sir.

25 Q Or boys, however you want to look at it, he

SANDRA DUNCAN-DIRECT BY MR. UNDERWOOD

1 stole them from you?

2 A Yes, sir.

3 Q So Barry Underwood owed you for ten ounces, how
4 did you make up that debt?

5 A I didn't. And, actually, when the people that
6 would owe me and I would get further behind, I'd tell Jose
7 so and so owes me, so and so owes me. He said he would
8 help me collect, but he never did. Instead, he went and
9 got them to start working for him. Just kept me in debt.
10 But he never said anything about it. I mean, you know, it
11 was okay for me to be in debt. The only time he ever come
12 after me was when I lost those ten in Charleston.

13 Q That's when he came with Uncle?

14 A Yes.

15 Q What else do you know about Barry Underwood and
16 his methamphetamine dealing? Do you know anything about
17 what he did with Jose after he stopped working for you?

18 A No.

19 Q You know someone named Dee Dee?

20 A That was his girlfriend.

21 Q Was she involved in selling methamphetamine for
22 you?

23 A No, not for me.

24 Q Do you know if she was involved in selling
25 methamphetamine for anyone else?

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1 A Only hearsay.

2 Q Who is Danny Black?

3 A Danny Black was introduced to me by Country as a
4 really stand-up guy. He did, he stood up and got me four
5 ounces.

6 Q Did he become one of your customers?

7 A Yes, sir.

8 Q What was your business relationship with him
9 like?

10 A Terrible. He was short the first time he came
11 back to pay me, got more and I never saw him again. It
12 was like a two-time deal and that was it.

13 Q Do you know if he remained in business after you
14 cut him off?

15 A I did not know this until Jose comes and tells
16 me that he had been arrested for burning Danny Black's,
17 one of his buildings at his mother's house.

18 And I said, Well, why did you do that?

19 Were you trying to get my money back for me?

20 No, he went to work for me. He owed me
21 money.

22 So I knew that he was working for Jose.

23 Q Now, Ms. Duncan, I know you mentioned that you
24 had a number of customers. We've talk about some of the
25 ones that were selling large amounts. Did you also break

SANDRA DUNCAN-DIRECT BY MR. UNDERWOOD

1 it down into small amounts to sell to other people, too?

2 A I didn't for the first six months or so, but
3 after a while, I did.

4 Q Now, do you remember when this started? When
5 Jose first came to you, do you have any idea, roughly,
6 when that was?

7 A April of '14.

8 Q April of 2014?

9 A I think it was '14. '13 or '14. I think it was
10 '14. I'm not sure, but I know it was April because that's
11 when Dameon went back to prison.

12 Q So, but there are numerous other people that you
13 sold methamphetamine to, is that what you're saying?

14 A Yes.

15 Q And by the time you got up to the larger amounts
16 where you were getting pounds and kilos at a time, in
17 addition to giving large amounts to other sellers, did you
18 sell directly to smaller buyers and users? Did you break
19 it down into small amounts?

20 A Yeah, I have.

21 Q How small would you typically break it down?

22 A I guess just grams.

23 Q So you would break it down that small to sell?

24 A I have, but mostly, mostly, it was ounces.

25 Q Now, Ms. Duncan, you mentioned that Jose had

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1 other people that worked for him. Did you ever have any
2 interactions with any of them? I think you mentioned
3 someone named Luis.

4 A Luis was just a cousin. He always introduced
5 them as his cousins coming into the business. There was
6 Luis and then there was another one that came a few times.
7 And then I asked about him and he said he had quit. Then
8 there was a third that I called Baby Face. I never knew
9 his name. And he came sporadically. I never had any
10 dealings with him. The only one I really had any dealings
11 with was Luis.

12 Q So with these guys that you're referring to as
13 the cousins, did they come by themselves or did they come
14 with Jose or both?

15 A Luis came by himself. The other two would also
16 come with Jose.

17 Q And what would they typically do when they would
18 come to see you, these cousins?

19 A They were just like body guards. You know, they
20 came, rarely talked. Stood on the porch while Jose came
21 in and did his business.

22 Q Did you ever get anything from them or give
23 anything to him?

24 A Not to those two, only Luis.

25 Q And what was the nature of your dealings with

SANDRA DUNCAN-DIRECT BY MR. UNDERWOOD

1 Luis?

2 A Luis would pick up money when Jose would call
3 and tell me that he was out of town and he was going to
4 send Luis over to pick up money. Or -- and then Luis has
5 brought me ounces before.

6 Q So Luis has brought you meth and he's picked up
7 money from you?

8 A Yes, sir.

9 Q And the other two cousins --

10 A No.

11 Q -- would just come with Jose?

12 A Yes.

13 Q Now, Ms. Duncan, at some point, did things go
14 wrong for you as far as this business is concerned? Did
15 you ever have a point where you were cut off from Jose?

16 A Yes, when I lost those ten ounces.

17 Q Were you then able to get back in the business,
18 though?

19 A After I paid him back.

20 Q Were you still in business with Jose up until
21 the point when you got --

22 A Arrested.

23 Q -- approached by the police?

24 A Yes. as a matter of fact, I had just gotten a
25 shipment the night before.

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1 Q Let's tell the jury a little bit about what
2 happened on that occasion. So, on that particular
3 occasion, on that delivery when he brought that to you,
4 tell the jury what happened as best you can recall.

5 A He brought it to me that night. I cut it up
6 into ounces and I was working at my husband's house on
7 Cook Street. And I went over that night for some reason
8 and I don't know why I did it. But for some reason, I
9 went over there that night and I put it in the duct in the
10 master bathroom. The ductwork in the master bathroom.

11 Q How was it packaged?

12 A Into ounces.

13 Q The following day, what happened as far as your
14 interaction with the police?

15 A I was taking my son to school. And after I
16 dropped him off, they stopped me.

17 Q And what happened?

18 A They took me to SLED headquarters and talked to
19 me.

20 Q Did you agree to cooperate with them at that
21 time?

22 A I did.

23 Q And what did that corporation mean? What were
24 you're going to do?

25 A (There was no response.)

SANDRA DUNCAN-DIRECT BY MR. UNDERWOOD

1 Q Did you give them information?

2 A I gave them the dope.

3 Q All right. Let's talk about that. So how
4 exactly did you do that?

5 A Told them where it was.

6 Q Did you go with them?

7 A Yes.

8 Q All right. How many people went with you to
9 retrieve that?

10 A Oh, good Lord. A bunch. There were, I don't
11 know, a lot of men. I told the guys that were working at
12 the house that they were building inspectors.

13 Q So how did you retrieve the methamphetamine to
14 give to the police?

15 A I went to the house with them. I told them
16 where it was. I got a ladder and I got up on it, I pulled
17 it out and handed it to them.

18 Q So you gave it directly to one of the police
19 officers?

20 A Yes, sir.

21 Q And that methamphetamine that you handed over
22 that day, you said you got that directly from the guy you
23 called Jose?

24 A Jose. The night before.

25 Q Did you also agree to provide information to the

SANDRA DUNCAN-DIRECT BY MR. UNDERWOOD

1 police about the people you had dealt with?

2 A Yes.

3 Q Did you do so? Did you give interviews and tell
4 your story?

5 A Yes, sir, I did.

6 Q Did they ask you -- I'll come back to that. So,
7 Ms. Duncan, obviously, based on your attire, you've been
8 arrested in this case, right?

9 A I beg your pardon?

10 Q You've been arrested in this case, right?

11 A Yes.

12 Q You've been charged?

13 A Yes, I've been in jail four years, four months.

14 Q In fact, you've already pled guilty to charges
15 as part of this case?

16 A Yes, I have, 15 to 20 years.

17 Q You understand that you could have faced more
18 time than that, but you decided to accept a plea; is that
19 right?

20 A I didn't think I had a hundred years to give
21 you.

22 Q And as part of that plea agreement, did you
23 agree to cooperate?

24 A Yes, sir, I did.

25 Q And you understand that as part of that plea,

SANDRA DUNCAN-DIRECT BY MR. UNDERWOOD

1 that your sentence is going to be reduced from what it
2 would have been based on what you were charged with you;
3 is that right? You pled to some lower charges?

4 A I pled 15 to 20 instead of a hundred.

5 Q As far as your cooperation is concerned,
6 Ms. Duncan, what does that agreement require for you to
7 do?

8 A To testify in court.

9 Q Specifically, what are you supposed to say?

10 A The truth.

11 Q Now, Ms. Duncan, as the case proceeded and you
12 realized how many charges you had, did you come to realize
13 that law enforcement had been purchasing methamphetamine
14 from you for some time?

15 A I knew when he -- I knew when he came to the
16 house that he was a cop. As a matter of fact, I told him
17 he was.

18 Q But you still sold to him anyway?

19 A Yes.

20 Q Why?

21 A Because I didn't care.

22 Q Now, Ms. Duncan, as part of your cooperation
23 with law enforcement after you were arrested, did they ask
24 you to identify some of the people that you were dealing
25 with?

SANDRA DUNCAN-DIRECT BY MR. UNDERWOOD

1 A Yes, they did. They showed me pictures.

2 Q Now, a number of the photographs that they
3 showed you, was it usually a single person or was it a
4 number of pictures all on one page?

5 A A number of pictures. I think there were eight
6 on a page, I think.

7 Q Could it have been six? Let me show you a few
8 exhibits here. Is this about five years ago when this
9 happened?

10 A Yes.

11 Q So I want to show you what's been marked as
12 State's Exhibits 95, 96, 97 and 98. Do you recognize each
13 of these?

14 A Yes. That's Jose.

15 Q Do you recognize the pages that I'm showing you?

16 A Oh, yes.

17 Q And the procedure when they would show you one
18 of these, what question did they ask you?

19 A They asked me if I knew anyone on that page.

20 Q Did they suggest to you who you should know or
21 if you knew anybody at all?

22 A No, they just asked me. And if I knew them, I
23 initialed it and signed it.

24 Q And beginning with Exhibit 95?

25 A That's where I initialed.

SANDRA DUNCAN-DIRECT BY MR. UNDERWOOD

1 Q Those are your initials? All right. And
2 Exhibit 96, are these your initials?

3 A Yes.

4 Q Ninety-seven, are these your initials?

5 A Yes.

6 Q Ninety-eight, are these your initials?

7 A Yes.

8 Q And that procedure you just described, is that
9 what happened on each of these?

10 A Yes.

11 MR. UNDERWOOD: Your Honor, at this time, I
12 would move State's Exhibit 95, 96, 97 and 98 into
13 evidence.

14 THE COURT: Any objection?

15 MR. HODGE: No objection.

16 THE COURT: In without objection.

17 MR. UNDERWOOD: Permission to publish, Your
18 Honor?

19 THE COURT: Yes.

20 (WHEREUPON, State's Exhibits Nos. 95-98 were
21 admitted into evidence.)

22 BY MR. UNDERWOOD:

23 Q Now, Ms. Duncan, was there also a time when
24 there was a person that you knew that they showed you a
25 single photograph?

SANDRA DUNCAN-DIRECT BY MR. UNDERWOOD

1 A (The witness nods.)

2 Q What did they ask you at that point?

3 A If I knew him.

4 Q I'm going to show you what's been marked State's
5 Exhibit 99, do you recognize that?

6 A Barry Underwood.

7 Q Is this your signature?

8 A It is.

9 MR. UNDERWOOD: Your Honor, at this time, I
10 would move State's Exhibit 99 into evidence.

11 THE COURT: Any objection?

12 MR. HODGE: No objection, Your Honor.

13 (WHEREUPON, State's Exhibit No. 99 was admitted
14 into evidence.)

15 BY MR. UNDERWOOD:

16 Q So, Ms. Duncan, beginning on Exhibit 96, these
17 are your initials right here?

18 A They are.

19 Q Who is this person that you circled?

20 A Jose.

21 Q And then are these signatures of the agents down
22 here on the date that you did it?

23 A Yes.

24 Q All right. And here where it says that you
25 identified the picture as Jose, is that the person you

SANDRA DUNCAN-DIRECT BY MR. UNDERWOOD

1 told them it was?

2 A That's who I told them.

3 Q Exhibit 96, where your initials are, who is this
4 person?

5 A Luis.

6 Q That's Luis? Is that one of the cousins?

7 A Yes.

8 Q Again, your signature and the signature of the
9 agents on the date that it happened?

10 A It is.

11 Q Exhibit 97, who did you identify here?

12 A A cousin.

13 Q He's one of the cousins?

14 A Yes.

15 Q Is he the one that you call Baby Face or is he
16 the other one?

17 A No, he's the other one.

18 Q Is he the one that you mentioned earlier had
19 quit?

20 A Yes. He's the one they said quit.

21 Q State's Exhibit 98, who did you identify here?

22 A That's the one I always called Baby Face. He
23 was really young.

24 Q He was really young?

25 A Yeah.

SANDRA DUNCAN-CROSS BY MR. HODGE

1 Q Then Exhibit 99?

2 A Barry Underwood.

3 Q All right. When you identified Barry Underwood
4 from just this one single photograph, did they tell you
5 who this was?

6 A No, they did not.

7 Q How were you able to identify him? Was it
8 because it was someone that you already knew?

9 A Yeah. That's who I sold dope to.

10 MR. UNDERWOOD: Thank you, Ms. Duncan, that's
11 all the questions I have. Please answer any
12 questions the Defense counsel has for you.

13 THE COURT: Cross-examination.

14 MR. HODGE: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. HODGE:

17 Q Good morning, Ms. Duncan. My name is William
18 Hodge and I represent the Defendant, David Barajas, in
19 this case. I'm just going to ask you a few questions
20 about your testimony today, okay?

21 A (The witness nods.)

22 Q And I'm going to start with Jose. You don't
23 know Jose by any other name, right?

24 A I heard him called another name, but I didn't
25 know him by that.

SANDRA DUNCAN-CROSS BY MR. HODGE

1 Q Gordo, have you ever heard the name Gordo?

2 A No, it wasn't that.

3 Q You ever heard the name Cali?

4 A Cali.

5 Q So that's it, that's the one you knew. All
6 right, I knew I'd find it. And the person in this picture
7 that the jury saw, this is your person that you knew as
8 Jose, right?

9 A Yes.

10 Q And also as Cali?

11 A Yes.

12 Q But you had never heard the nickname Gordo?

13 A No.

14 Q You ever heard the name Eduardo Assad?

15 A No.

16 Q So Jose was your handler, if you want to say
17 that?

18 A Yes.

19 Q Is that right? Is that how you described him?
20 He was your boss, so to speak?

21 A Yes.

22 Q Okay. And you said Jose came to you initially
23 because your son owed a debt to, who he described, as the
24 cartel; is that right?

25 A Yes, sir.

SANDRA DUNCAN-CROSS BY MR. HODGE

1 Q Okay. And he said his dad was the boss of the
2 cartel?

3 A Yes, he did.

4 Q Did he give you a name?

5 A No.

6 Q Ever heard the name Chacas?

7 A No.

8 Q Checas, Chacas, you ever heard that name?

9 A (The witness shook her head.)

10 Q And you said he told you that if you didn't pay
11 that you would pay?

12 A I would pay.

13 Q That your family would suffer if you didn't pay
14 your son's drug debt, right?

15 A Yes, sir.

16 Q Because at this time, you didn't have a drug
17 debt, right?

18 A No.

19 Q You had never sold drugs in your life, right?

20 A No, sir.

21 Q Okay. Did you know your son was dealing drugs?

22 A No, sir.

23 Q Were you involved at all in his drug trade prior
24 to that day?

25 A No, sir.

SANDRA DUNCAN-CROSS BY MR. HODGE

1 Q So Jose, who we know as Cali, shows up at your
2 house and tells you it's now your problem?

3 A Yes, sir.

4 Q Did he have a firearm on him? Did he have a
5 gun?

6 A Not that I saw.

7 Q You ever see him carry a gun?

8 A Yes, sir.

9 Q Did he ever threaten you with a gun?

10 A No, sir.

11 Q Okay. But you said that if he -- he told to
12 you -- and I want to make sure I get this right. He told
13 you that if you didn't do what you had to do to pay the
14 debt of your son, in which you didn't even know was
15 involved in this trade, that he would kill every member of
16 your family right down to their dogs?

17 A Yes, sir.

18 Q Okay.

19 A And he said that I would be the last one.

20 Q That's what Jose said to you?

21 A Yes, sir.

22 Q Or Cali?

23 A Cali.

24 Q All right. So, I'm guessing, based on that
25 statement to you, it was not your idea to start selling

SANDRA DUNCAN-CROSS BY MR. HODGE

1 drugs, was it?

2 A No, sir.

3 Q You didn't come to him with this plan to start
4 selling drugs for the Mexican cartel, did you?

5 A No, sir.

6 Q You didn't come up with this brilliant idea or
7 way for you to make money by selling methamphetamine, did
8 you?

9 A No, sir.

10 Q Okay. Did you feel you had a choice in the
11 matter?

12 A At the time, I didn't.

13 Q Did you have a choice from what he was telling
14 you?

15 A I should have done something different. I
16 should maybe have sold a house or something, went to a
17 bank, I don't know.

18 Q But he said you had to work it off, you had to
19 get him that money and you saw this as the only way out,
20 right?

21 A It was the coward's way out, but, yes.

22 Q Sure. But at the time, you felt you had no
23 choice, right? You did what you had to do to protect your
24 family?

25 A Yes, sir.

SANDRA DUNCAN-CROSS BY MR. HODGE

1 Q So he got you into the drug business. You find
2 a way, which is incredible to me, but you find a way by
3 using your son's contacts to then turn it into, at least,
4 a sustainable operation in bits and pieces, right?

5 A Yes, sir.

6 Q You weren't making money hand over fist, were
7 you?

8 A When they picked me up, I only owed \$52,000.

9 Q That's how much you owed?

10 A (The witness nods.)

11 Q I think you testified that you were constantly
12 in debt to Jose and who you believed was his father and to
13 who you knew as Uncle?

14 A Yes.

15 Q Constantly in debt?

16 A Constantly.

17 Q And you were constantly in debt because Jose
18 would tell you that you owed him money and then go steal
19 your customers, right?

20 A Yes, sir.

21 Q So then they would start dealing with him and
22 cut you completely out of the equation, right?

23 A Yes, sir.

24 Q Leaving you in debt to Jose even more?

25 A Yes, sir.

SANDRA DUNCAN-CROSS BY MR. HODGE

1 Q Okay. You testified that one time when you
2 were, I think you said the ten ounces that Honey got
3 caught with down in Charleston, that was the biggest
4 dispute you had or biggest disagreement you had with Jose
5 over that money that you were going to owe, right?

6 A I owed him more than that.

7 Q Right, but that's when it started, right?

8 A That's when he got really angry.

9 Q That put him over the top?

10 A Yes.

11 Q So because of someone else getting caught by law
12 enforcement, Jose again, came to your house?

13 A Yes.

14 Q And pointed and I'll call it a finger gun, but
15 pointed a finger at children on the playground?

16 A (The witness nods.)

17 Q Telling you that every single one of them would
18 die before you ever --

19 A No.

20 Q Before you ever die?

21 A No, he said that that could be my grandchildren.

22 Q Right.

23 A Yeah, but he -- he said that I would be the last
24 one so I could suffer.

25 Q This is the second time that he's told you he

SANDRA DUNCAN-CROSS BY MR. HODGE

1 would kill your grandchildren?

2 A Yes.

3 Q Now, you said earlier that he was translating
4 for Uncle. But this is Jose telling you these things,
5 right?

6 A Yes. I don't know what he was saying to him. I
7 don't speak Mexican, so -- I mean, Spanish. I don't
8 understand it. But he was talking mmm, mmm, mmm, and then
9 he would come back with whatever he said he said.

10 Q Okay. So you found a way again to pay back, at
11 least, most of that debt to keep Jose from harming you or
12 your family, right?

13 A Or going after Honey.

14 Q Or going after someone else, right. And at that
15 point, he was still going and taking your customers,
16 right?

17 A (The witness nods.)

18 Q Even after all of that?

19 A Even after that. Is when I found out about
20 Danny Black.

21 Q And you -- I think you alluded to, but you found
22 out that people in the drug business were not stand-up
23 individuals, right?

24 A No.

25 Q Okay. Now, you started off, I think you said,

SANDRA DUNCAN-CROSS BY MR. HODGE

1 with smaller amounts; is that right, you were getting
2 smaller amounts from Jose? When did you start getting
3 large quantities from him?

4 A I started -- I'd only gotten like the last three
5 or four shipments. I got a kilo, or close to.

6 Q Okay. So the last three or four shipments is
7 when it really blew up for you as far as how much he was
8 giving you; is that right?

9 A Right.

10 Q Okay. And you said -- so during those last
11 three, you were getting a kilo, roughly?

12 A Roughly.

13 Q Before that, what was the largest amount you had
14 gotten before the last three transactions that you had
15 with Jose?

16 A Most of the time, it was a pound.

17 Q A pound.

18 A A pound at a time. A pound at a time.

19 Q Okay. How often were you getting that pound?

20 A As soon as I could pay him off. Sometimes it'd
21 be a week, sometimes it'd be a half a week, sometimes it's
22 be more.

23 Q Okay. So we'll say, at least, once a week?

24 A Probably.

25 Q On average, if you half a week some and a little

SANDRA DUNCAN-CROSS BY MR. HODGE

1 bit over a week some?

2 A Probably.

3 Q Okay. So about once a week, you were getting a
4 pound. How long did that go on, do you remember?

5 A No, I don't.

6 Q And I think you identified another gentleman on
7 here that wasn't on a photo lineup, this guy here, Barry
8 Underwood. You said he was one of your -- how would you
9 describe what he was to you, initially, before you got
10 upset with him?

11 A Before I got what?

12 Q Didn't you say he also went and worked for Jose?

13 A Oh, yeah.

14 Q He didn't pay you for the last shipment he got
15 from you, right?

16 A Exactly.

17 Q So prior to that happening, him leaving you or
18 stiffing you for your money, how often did you see Barry
19 Underwood?

20 A Twice a week.

21 Q Twice a week for how long? How many times twice
22 a week would you see him?

23 A I don't know. But months.

24 Q Okay. So several -- over the course of several
25 months, you would see the individual that you were shown

SANDRA DUNCAN-CROSS BY MR. HODGE

1 one picture of, but you had seen him twice a week over the
2 course of several months, right?

3 A Right.

4 Q So he was an easy face to identify when they
5 said do you know this guy right here?

6 A Oh, yes, I knew him.

7 Q Okay. Did Barry Underwood have a nickname?

8 A No.

9 Q You just called him Barry Underwood?

10 A Barry Underwood.

11 Q Okay. Did you ever know where Jose or Cali was
12 getting his drugs?

13 A He said he was getting them from Atlanta, but I
14 don't know.

15 Q Okay. Did you ever know who he said he was
16 getting them from? Did he ever give you a name or
17 anything like that?

18 A No. No. He told me he was top dog.

19 Q He told you he was second in command of the drug
20 cartel?

21 A Well, third.

22 Q Third in command, that's right, because his
23 uncle then. Got you, okay.

24 I don't have any further questions. Thank
25 you, Ms. Duncan.

BARRY UNDERWOOD-DIRECT BY MR. WATERS

1 THE COURT: Redirect?

2 MR. UNDERWOOD: No further questions, Your
3 Honor.

4 THE COURT: All right. You may step down.

5 Everybody good over here?

6 All right. Call your next witness.

7 MR. WATERS: Thank you, Your Honor. We call
8 Barry Underwood.

9 THE CLERK: Please step forward to be sworn in,
10 if you would. Stand over here by the Bible right
11 here. Raise your right hand.

12 BARRY UNDERWOOD, after being duly sworn,
13 testified as follows:

14 THE CLERK: Please state your full name.

15 THE WITNESS: Barry Underwood.

16 THE CLERK: Please be seated and adjust the
17 microphone.

18 DIRECT EXAMINATION

19 BY MR. WATERS:

20 Q State your name, please, if you would.

21 A Barry Underwood.

22 Q Mr. Underwood, how are you doing today?

23 A I'm all right.

24 Q All right. Let's just get a little background.

25 Where are you from? Where do you live?

BARRY UNDERWOOD-DIRECT BY MR. WATERS

1 A Greer, South Carolina.

2 Q Lived there all your life for the most part?

3 A Yes, sir.

4 Q Go to high school there?

5 A I went to Burns.

6 Q What year did you graduate?

7 A Eighty-five.

8 Q And over the years, what sort of work have you

9 done?

10 A Body fender repair.

11 Q Is that for automotive body repair?

12 A Yes, sir.

13 Q You haven't always just done body repair,

14 though, for money, have you?

15 A No, sir.

16 Q Over the years, you've had your fair share of

17 trouble, is that fair to say?

18 A Yes, sir.

19 Q And what happened in 2004?

20 A I got busted for methamphetamine, trafficking.

21 Q Trafficking methamphetamine?

22 A Yes, sir.

23 Q All right. And how long had you been dealing in

24 methamphetamine before you got busted in 2004, roughly?

25 A Four, five years maybe.

BARRY UNDERWOOD-DIRECT BY MR. WATERS

1 Q Okay. And after you got that particular charge,
2 did you go to prison?

3 A Yes, sir, I did.

4 Q Did you, ultimately, get out of prison?

5 A Yes, sir, I did.

6 Q What year did you get out of prison?

7 A 2010.

8 Q 2010. After you got out of prison in 2010, did
9 you try to walk the straight and narrow or did you get
10 back right into the methamphetamine gang?

11 A No, sir, I tried to do right thing.

12 Q Did that last or did it not last?

13 A Well, I got turned down by every government
14 agency for any kind of help or support, so I went back to
15 dealing drugs.

16 Q What year do you think it was when you got back
17 into dealing drugs?

18 A Probably 2012.

19 Q 2012?

20 A Maybe, yeah.

21 Q Do you remember who you were dealing with in
22 2012 when you first kind of got back into it?

23 A Yeah, a buddy of mine, Potter.

24 Q Potter?

25 A Yeah.

BARRY UNDERWOOD-DIRECT BY MR. WATERS

1 Q And did Potter eventually -- did you make
2 contact with whoever was supplying Potter?

3 A Yes, sir.

4 Q Who was that?

5 A Dameon Smith.

6 Q Dameon Smith?

7 A Yes.

8 Q Do you know who his mother is?

9 A Just Ma.

10 Q Ma?

11 A Yeah, that's what she goes by is Ma.

12 Q What year do you think it was when you made
13 contact with Dameon Smith?

14 A 2013.

15 Q 2013?

16 A Yeah.

17 Q And how much meth were you purchasing from him
18 around that time?

19 A Quarter ounce, maybe half ounce, somewhere in
20 there.

21 Q How often would that be?

22 A A couple times a week, maybe.

23 Q How many times were you buying roughly that
24 amount of drugs per week? How many months went by before
25 anything changed with regard to your meth dealings?

BARRY UNDERWOOD-DIRECT BY MR. WATERS

1 A It was a short period, probably three to six
2 months.

3 Q What, if anything, happened to Dameon?

4 A I think he got -- he got violated, probation
5 violation or something like that and had to go do some
6 time. And I got in touch -- well, his mother got in touch
7 with me.

8 Q And that would be Ma?

9 A Yeah.

10 Q What, if anything, did you and Ma talk about?

11 A Well, he owed me money. And she --

12 Q Dameon owed you money?

13 A Yes, sir.

14 Q Why did Dameon owe you money if he was supplying
15 you?

16 A I was about money, he was about, I guess,
17 partying.

18 Q Partying?

19 A Yeah. So he'd come back and buy back from me.

20 Q What he had sold you?

21 A Yeah.

22 Q So he owes you a little bit of money. Do you
23 remember about how much it was?

24 A I think was \$2200, 2,000, something like that.

25 Q So Ma reached out to you?

BARRY UNDERWOOD-DIRECT BY MR. WATERS

1 A Yeah.

2 Q Tell me what the conversation was.

3 A Well, she wanted me to go to work for her.

4 And -- but it was going to go up on the price. But,
5 eventually, pay me back what Dameon owed me.

6 Q What Dameon owed you?

7 A Yeah, what Dameon owed me.

8 Q Will you fix that mic just a little bit so it's
9 not pointing right at your mouth. You don't have to get
10 right up on it. That's perfect. So did you start doing
11 business with Ma?

12 A Yes.

13 Q How much weight were you getting from Ma at that
14 point?

15 A Ounce maybe a week, ounce or two.

16 Q All right. Do you remember what the price was?

17 A Maybe 13, \$1300 an ounce, something like that.

18 Q Okay. What year, roughly, are we talking about?

19 A 2013. Early '13 to late 2013.

20 Q When you would re-up or get more drugs from Ma,
21 how would the transaction, typically, go? Would you go to
22 her house, would she meet you somewhere else? What would
23 happen?

24 A Both. I'd go to her house. Most of the time,
25 she would come to mine.

BARRY UNDERWOOD-DIRECT BY MR. WATERS

1 Q Okay. The times that you went to her house or
2 any time, did you see her in possession of any significant
3 quantity of methamphetamine?

4 A Yes, sir.

5 Q Give me an example of what you recall seeing.

6 A She showed me probably a kilo, probably,
7 roughly.

8 Q Okay. How many times did you see that kind of
9 weight you think?

10 A With her, once that amount, you know, one time.

11 Q Okay. Go ahead and help yourself to water.

12 A Thank you, sir. I appreciate it. Thank you.

13 Q All right. How long did you deal with Ma before
14 anything changed with the business?

15 A Less than six months.

16 Q All right. What, if anything, changed as far as
17 how your particular meth business was going?

18 A I got introduced to Jose. That's how I know him
19 by.

20 Q Tell me about your first meeting with Jose, how
21 did that go down?

22 A Well, Ma, undoubtedly, she said she got shorted
23 some drugs. She told Jose one number, then when she seen
24 him in person, and I was there, she said another number.
25 And, you know, I seen he caught that. And I didn't have

BARRY UNDERWOOD-DIRECT BY MR. WATERS

1 no partners, I don't like partners. And we both walked
2 outside and I told him, I said, I know you're aware of
3 what she said and I'm no part of that. Because he tried
4 to say you and her partners. I said, No, no.

5 Q So there was some disparity between the weight
6 that Ma was referring to and what she had told you?

7 A Yeah, what she told him.

8 Q Do you remember what kind of weight we were
9 talking about?

10 A Thirty something ounces.

11 Q Okay. So you decide to -- y'all were at Ma's
12 house together?

13 A Yes, sir. Separate cars, but, yeah, we were
14 talking together.

15 Q Did you after that have a conversation with
16 Jose?

17 A Yes, sir.

18 Q Tell me about that conversation.

19 A I just stressed how we're not partners and could
20 we do business, just him and I. That's where it started.

21 Q All right.

22 A He agreed.

23 Q Did you start to buy from Jose?

24 A Yes, sir.

25 Q How much were you buying from Jose at that

BARRY UNDERWOOD-DIRECT BY MR. WATERS

1 point?

2 A A kilo at a time.

3 Q Do you remember how much you were paying?

4 A Yeah, a thousand dollars an ounce, \$36,000.

5 Q How would you pay Jose for that?

6 A \$5,000 three times a week.

7 Q Three times a week?

8 A Yes, sir.

9 Q Typically, were you dealing directly with Jose
10 or did you deal with anybody on his behalf at this point
11 in time?

12 A Just Jose.

13 Q Just Jose?

14 A Yes, sir.

15 Q All right. Did Jose have any family members
16 that were introduced to you as part of the business?

17 A Yeah. He had an uncle.

18 Q That was introduced to you as Uncle?

19 A Yes, that's what I know him as, Uncle.

20 Q How did you meet Uncle?

21 A They invited me to a place they all hang out
22 behind Cherrydale, some Mexican restaurant.

23 Q Okay. And what happened there?

24 A I got introduced to Uncle. And, you know, I
25 guess, Uncle run this side of the business and Jose run

BARRY UNDERWOOD-DIRECT BY MR. WATERS

1 that side of the business. But when Jose left, Uncle
2 introduced me to his wife and kids and his daughter, which
3 Jose introduced me as his wife.

4 Q What did that lead you to conclude the actual
5 relationship was?

6 A Uncle was his father-in-law.

7 Q Was his father-in-law?

8 A Yeah.

9 Q What were you told that Uncle's role in the
10 business was?

11 A Something like an enforcer, you know.

12 Q All right. Do you know a person by the name of
13 Dee Dee or Delonda Werschay?

14 A Yes, sir.

15 Q How do you know her?

16 A I used to date her.

17 Q At this period of time when you're dealing with
18 Jose, were you doing any methamphetamine transactions with
19 Dee Dee?

20 A Yes, sir.

21 Q All right. Were you supplying her?

22 A Just a little, yes.

23 Q User amounts?

24 A Yeah.

25 Q About how long did you deal direct with Jose

BARRY UNDERWOOD-DIRECT BY MR. WATERS

1 with the amounts you mentioned until things changed?

2 A About six months.

3 Q About six months?

4 A Yes, sir.

5 Q And that was at that rate you were talking
6 about, paying him \$5,000 three times a week?

7 A Yes, sir.

8 Q What, if anything, happened to change -- well,
9 let me ask you this, did you and Jose get into a
10 disagreement about money?

11 A Yes, sir, we did.

12 Q All right. Did he accuse you of owing money
13 that you didn't think you owed?

14 A Yes, sir.

15 Q All right. Did you have a motorcycle at the
16 time?

17 A Yes, sir.

18 Q Ultimately, did that motorcycle disappear?

19 A It got stolen, yes, sir.

20 Q And to your knowledge, was that done by the
21 individuals you were dealing with because of their thought
22 that you owed a drug debt?

23 A Yeah, Jose told me he got it.

24 Q All right. After that particular disagreement
25 happened, did you have any sort of conversation with

BARRY UNDERWOOD-DIRECT BY MR. WATERS

1 anyone that changed the way the meth business was running?

2 A Yeah. Jose and Uncle met with me and Dee Dee
3 and sort of stripped me of my business as far as dealing
4 goes and put her in charge.

5 Q Put her in charge?

6 A Yeah.

7 Q All right. Who all was present at that
8 particular meeting?

9 A Just Uncle, Jose and myself.

10 Q What, if anything, were you told at that
11 meeting?

12 A That she was over me and if I need anything, go
13 to her.

14 Q So after that, did she start receiving the
15 weight of methamphetamine from Jose?

16 A Yes, sir.

17 Q And then would she provide you with
18 methamphetamine?

19 A Yes, sir, sometimes.

20 Q After Dee Dee got involved, did you -- aside
21 from Uncle and Jose, of course, did you meet any other
22 individuals that were runners or were otherwise involved
23 with Jose and the methamphetamine business?

24 A Yeah, a couple. I mean, I don't remember their
25 names, but yes, sir.

BARRY UNDERWOOD-DIRECT BY MR. WATERS

1 Q And were -- can you just generally describe
2 them?

3 A Mexican, young, well-dressed.

4 Q All right. What, if anything, was their role?

5 A Just picking up money.

6 Q Who would they pick up money from to your
7 knowledge?

8 A Me or Dee Dee.

9 Q Or Dee Dee?

10 A Yes.

11 Q All right.

12 MR. WATERS: May I approach the witness, Your
13 Honor?

14 THE COURT: You may.

15 BY MR. WATERS:

16 Q Let me show you what's been marked as Exhibits
17 100, 101 and 102. Take a look at those and see if you
18 recognize those?

19 A Yes, sir.

20 Q What are these, just generally?

21 A Six Mexican men.

22 Q Are these lineups that were shown to you by law
23 enforcement?

24 A Yes, sir.

25 Q All right. Did you pick an individual out on

BARRY UNDERWOOD-DIRECT BY MR. WATERS

1 these lineups?

2 A Yes, sir, I did.

3 Q How do you know these are the ones that you
4 picked out?

5 A They have my initials on them.

6 Q Did anyone suggest to you which one to pick or
7 did you pick those of your own knowledge?

8 A I picked them of my own knowledge.

9 MR. WATERS: Your Honor, at this time, I would
10 move State's Exhibit 100, 101, and 102 into evidence.

11 THE COURT: Any objection?

12 MR. HODGE: No objection, Your Honor.

13 MR. WATERS: Permission to publish, Your Honor?

14 THE COURT: You may.

15 (WHEREUPON, State's Exhibits Nos. 100-102 were
16 admitted into evidence.)

17 BY MR. WATERS:

18 Q Looking at State's Exhibit 100, what is depicted
19 here?

20 A That's Jose.

21 Q That's Jose?

22 A Yes, sir.

23 Q Is that your initials at the top?

24 A It is.

25 Q And looking at Exhibit 101, who is that?

BARRY UNDERWOOD-DIRECT BY MR. WATERS

1 A That's Uncle.

2 Q All right. Did you make that selection?

3 A Yes, sir.

4 Q Those are your initials on there?

5 A Yes, sir.

6 Q Exhibit 102, who is that?

7 A That's Dee Dee.

8 Q Did you make that selection?

9 A Yes, sir, I did.

10 Q And those are your initials?

11 A Yes, sir.

12 Q Thank you.

13 Get the lights, please.

14 You, of course, were charged in this case
15 for trafficking methamphetamine 400 grams or more; is that
16 correct?

17 A Yes, sir.

18 Q Have you entered into a plea agreement in this
19 particular case?

20 A Yes, sir, I have.

21 Q And, ultimately, you have pled guilty to
22 trafficking methamphetamine 28 to 100-grams and then five
23 counts of distribution of meth; is that correct?

24 A Yes, sir.

25 Q And you're facing recommendation from the State

BARRY UNDERWOOD-DIRECT BY MR. WATERS

1 of 10 to 15 years on those charges?

2 A Yes, sir.

3 Q All right. Do you know a person by the name of
4 Danny Black?

5 A Yes, sir.

6 Q How do you know Danny Black?

7 A He was working for Dee Dee. That was her
8 upcoming star.

9 Q Did you have any direct deals with him or you
10 just knew that he was working with Dee Dee because of your
11 association with Dee Dee?

12 A I had a little bit of dealings with him.

13 Q Yeah.

14 A On a small, small level.

15 Q Did you and Dee Dee eventually -- you and Dee
16 Dee were dating each other for a while; is that correct?

17 A Correct.

18 Q Did y'all eventually break up?

19 A Yes, sir.

20 Q And did -- to your knowledge, did police conduct
21 some undercover purchases from you?

22 A Yeah.

23 Q Ultimately, did that lead to your arrest?

24 A Uh-huh. Yes, sir.

25 Q As a result of that arrest, did you decide to

BARRY UNDERWOOD-CROSS BY MR. HODGE

1 cooperate with the police?

2 A Yes, sir.

3 Q And provide information?

4 A Yes, sir.

5 Q Is that what you're doing here today?

6 A Yes, sir.

7 MR. WATERS: Court's indulgence one moment.

8 (WHEREUPON, there was a brief pause.)

9 MR. WATERS: Nothing further, Your Honor.

10 THE COURT: Cross-examination.

11 MR. HODGE: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. HODGE:

14 Q Good morning, Mr. Underwood.

15 A Good morning.

16 Q You and I have never met. My name is William
17 Hodge, I represent David Barajas in this case. I've just
18 got a couple of questions for you. Jose was your source
19 for methamphetamine, right?

20 A Correct.

21 Q From day one, right? Once you got involved
22 through Ma, you knew it was coming from him and then you
23 started dealing directly with him, right?

24 A Yes, sir.

25 Q Do you know him by any other name?

BARRY UNDERWOOD-CROSS BY MR. HODGE

1 A No, sir.

2 Q You just knew him as Jose? You never heard him
3 called anything else?

4 A No.

5 Q Did you call him Jose to his face?

6 A Yes.

7 Q That's how you referred to him?

8 A (The witness nods.)

9 Q Okay. And you testified that once Ma was cut
10 out of the middle, you were getting a kilogram at a time
11 from him?

12 A Yes, sir.

13 Q How often was that?

14 A Once a month, probably.

15 Q Okay. And you said you would pay him in
16 installments?

17 A Yes, sir.

18 Q Is that as you got rid of it, you would send him
19 his cut kind of thing?

20 A Yeah. I mean, I have to have it Mondays,
21 Wednesdays and Fridays.

22 Q So he made sure you had it?

23 A Right.

24 Q Did he ever threaten you or anything?

25 A No, sir.

BARRY UNDERWOOD-CROSS BY MR. HODGE

1 Q No? You said you thought Uncle was sort of the
2 enforcer, what do you mean by that? What made you think
3 that?

4 A That's what Jose led me to believe.

5 Q So Jose told you that Uncle was his enforcer?

6 A For their family group, whatever.

7 Q Okay. Did Jose ever tell you that he was part
8 of a cartel or anything?

9 A No, sir.

10 Q Okay. Never told you that?

11 A No, sir.

12 Q All right. And then I think you testified that
13 you were in charge for a while, getting one kilogram at a
14 time from him, and then he put Dee Dee in charge?

15 A Correct.

16 Q What led to that?

17 A I don't understand what you mean.

18 Q Why did he put Dee Dee -- why did he fire you
19 and put Dee Dee in the top?

20 A We had a big disagreement. And I don't know
21 what his ulterior motive was for Dee Dee, but that's the
22 way it happened.

23 Q You had a big disagreement with Jose?

24 A Yes, sir.

25 Q About money?

BARRY UNDERWOOD-CROSS BY MR. HODGE

- 1 A Yeah.
- 2 Q Money that he said you owed him?
- 3 A Yeah, which I didn't.
- 4 Q Then he stole your motorcycle?
- 5 A Correct.
- 6 Q Then he demoted you, put Dee Dee in charge?
- 7 A Correct.
- 8 Q Okay. Were you still selling at that point?
- 9 A Yeah, a little.
- 10 Q Just on the side for Dee Dee?
- 11 A On the side for myself.
- 12 Q Did you find another supplier?
- 13 A No, I just got it from Dee Dee.
- 14 Q So you were buying from Dee Dee?
- 15 A Yeah.
- 16 Q Okay. I think you said you met a few other
- 17 runners, is what you called them?
- 18 A I guess, yeah.
- 19 Q How many times did you deal with them?
- 20 A Just a couple of times. I didn't know them.
- 21 And he would send them there, go wherever I was supposed
- 22 to meet him at.
- 23 Q How often would you see Jose?
- 24 A Once or twice a week.
- 25 Q So was he usually the one coming to pick money

BARRY UNDERWOOD-CROSS BY MR. HODGE

1 up from you?

2 A Yes, sir.

3 Q All right. He didn't want anybody else messing
4 with his money, right? He clearly didn't trust anybody,
5 right?

6 A Right.

7 MR. HODGE: No further questions, Your Honor.

8 THE COURT: Any redirect?

9 MR. WATERS: No.

10 THE COURT: All right. You may step time.

11 This is a good time for a break.

12 MR. WATERS: May this witness be excused, Your
13 Honor?

14 THE COURT: Any objection?

15 MR. HODGE: No objection.

16 THE COURT: All right, you can be excused.

17 THE WITNESS: Thank you, sir.

18 THE COURT: All right, ladies and gentlemen, you
19 can step back in your jury room. Do not discuss the
20 case. We'll bring you back out in just a few
21 minutes.

22 (WHEREUPON, the jury left open court at
23 approximately 10:49 a.m.)

24 THE COURT: All right. Be at ease for ten
25 minutes.

BARRY UNDERWOOD-CROSS BY MR. HODGE

1 (WHEREUPON, a short break was taken.)

2 THE COURT: All right, please be seated. When
3 we took a break, one of the jurors indicated that
4 because of the testimony and various names that have
5 been thrown out, that she realized that one of these
6 people, she did have a connection -- may have a
7 connection with and based on that, she would not be
8 able to go forward as a juror. I have talked to her
9 in the presence of our clerk, my law clerk and the
10 bailiff. She also indicated that when she realized
11 that she did not go back into the jury room and
12 actually was separated and hasn't any discussion with
13 anybody about anything or even that she even knew
14 some of those people. But she did indicate that she
15 was unable to go forward. I discussed this with the
16 attorneys and realized that because of that, we would
17 not be able to allow her to continue.

18 So therefore, we will be dismissing No. 196 from
19 the jury. There are two alternates. And we will
20 randomly select, we got both the numbers in a cup.
21 If you would fold them and put them in here. I will
22 ask our clerk to draw out. All right.

23 All right, if you will draw two alternates -- or
24 draw one alternate.

25 THE CLERK: Your Honor, John Scott, Juror No.

1 102.

2 THE COURT: Okay. All right. So Mr. Scott will
3 be promoted.

4 All right. Any questions or objection from the
5 State?

6 MR. UNDERWOOD: No, Your Honor.

7 THE COURT: Any objection or questions from the
8 Defense?

9 MR. HODGE: No, Your Honor.

10 THE COURT: All right. Are we ready to proceed?

11 MR. WATERS: Your Honor, may I have just one
12 moment to mark a few additional exhibits?

13 THE COURT: Yes, sir.

14 MR. WATERS: Thank you.

15 THE COURT: And I will explain to the jury that
16 one of the jurors was not available to go forward and
17 not say anything further on that.

18 Okay. You said 102, but I think it was 103.

19 THE CLERK: 103, correct, Your Honor.

20 (WHEREUPON, State's Exhibits Nos. 118-123 were
21 marked for identification only.)

22 MR. WATERS: Thank you, Your Honor, the State is
23 ready to proceed.

24 THE COURT: The Defense ready?

25 MR. HODGE: Yes, Your Honor.

1 THE COURT: All right. Bring them in.

2 (WHEREUPON, the jury entered open court at
3 approximately 11:22 a.m.)

4 THE COURT: All right. Mr. Scott, you have been
5 promoted. Let me explain that. You can move over
6 now.

7 Let me just kind of tell you, one of your fellow
8 jurors realized that she knew one the people
9 mentioned and she just did not feel that she could go
10 forward. And that's why we have alternates -- you
11 can sit down. That's what we have alternates for.
12 And so then we randomly -- from the two alternates,
13 we randomly selected one of you to take her place.
14 So that's just kind of what happened there, so. And
15 she didn't want to talk to anybody about that, but
16 she wanted to tell y'all she enjoyed the week with
17 you. So with that being said, now, we will go
18 forward.

19 The State, you will call your next witness.

20 MR. UNDERWOOD: Thank you, Your Honor, the State
21 calls Delonda Werschay.

22 THE CLERK: Please step forward to be sworn in.
23 Raise your right hand.

24 DELONDA WERSCHAY, after being duly sworn,
25 testified as follows:

1 THE CLERK: Please state your full name.

2 THE WITNESS: Delonda Werschay.

3 THE CLERK: Ms. Werschay, please have a seat in
4 the chair and adjust the microphone. Speak into the
5 microphone.

6 DIRECT EXAMINATION

7 BY MR. UNDERWOOD:

8 Q Good morning, Ms. Werschay.

9 A Good morning.

10 Q Ms. Werschay, where are you originally from?

11 A Mississippi.

12 Q How did you end up in South Carolina?

13 A I had family up here.

14 Q How far did you go in school?

15 A I have almost two semesters left for my

16 Bachelor's, but that was a long time ago.

17 Q Now, Ms. Werschay, at some point in your life,
18 did you get involved with using methamphetamine?

19 A Yes.

20 Q How long ago was that?

21 A I was still in Mississippi the first time I did
22 it.

23 Q Did you continue to use methamphetamine when you
24 came to South Carolina?

25 A No. It was later after I was here.

DELONDA WERSCHAY-DIRECT BY MR. UNDERWOOD

1 Q So were you clean for a while?

2 A Yes, sir.

3 Q Did you then begin to use it again?

4 A Yes.

5 Q That was in South Carolina?

6 A Uh-huh.

7 Q How long ago was that?

8 A I don't know, maybe 15, 17 years, 18 years.

9 It's been a long time.

10 Q How long did you continue to use
11 methamphetamine?

12 A Until I got in trouble.

13 Q All right. So until you got in trouble with
14 this case?

15 A Yes.

16 Q Okay. Do you know an individual named Barry
17 Underwood?

18 A Yes.

19 Q How do you know him?

20 A I dated him.

21 Q Are you aware of Barry Underwood being involved
22 with buying and selling methamphetamine during that
23 relationship?

24 A Yes.

25 Q How do you know about it?

DELONDA WERSCHAY-DIRECT BY MR. UNDERWOOD

1 A I knew about it because I was dating him.

2 Q Were you ever present when it would happen?

3 A Yeah.

4 Q Did you ever meet who his supplier was?

5 A I did.

6 Q What was that?

7 A It was Jose, or that was the name I knew him by,
8 and Uncle. I don't know his real name.

9 Q You mentioned you would be present during some
10 of Barry Underwood's transactions. How much
11 methamphetamine would you see him with at a time?

12 A I mean, I'm not sure it was a kilo, may have
13 been 32, 36 grams -- I mean, ounces.

14 Q So 32 to 36 ounces at a time?

15 A Yeah.

16 Q How often would you see him with that amount of
17 methamphetamine?

18 A He met him pretty regularly.

19 Q What's pretty regularly to you? How often are
20 we talking about?

21 A A couple weeks maybe. Every couple weeks. I
22 mean, he sold more than that. He was supposed to give
23 them money so he would meet them, not to get more
24 methamphetamine, but to distribute the money exchange.

25 Q So what's your understanding of how the

DELONDA WERSCHAY-DIRECT BY MR. UNDERWOOD

1 operation worked between Barry Underwood and his supplier
2 who you knew as Jose? How did their transactions take
3 place?

4 A I mean, I don't know exactly. They came to my
5 house one time. I know about that transaction. But he
6 would meet him somewhere. Then Barry had his own place,
7 so he would go to his place. He lived in a little trailer
8 and they would go there, too.

9 Q Did Barry Underwood ever have any problems with
10 his supplier, Jose, or the person you referred to as
11 Uncle?

12 A Yes.

13 Q What were those problems?

14 A He wasn't paying him what they thought he was
15 supposed to be paying them. So that's when they came to
16 my house and that's how I met them.

17 Q Tell the jurors about that particular account.
18 What happened that day?

19 A I got a knock on my door. The two guys were
20 there, which was Jose and Uncle. And they seemed like
21 nice guys or whatever. They asked to see Barry. They
22 came inside. And immediately, the three of them went to
23 the basement. Five, ten minutes after that, then I went
24 downstairs, you know, to see what was going on. And they
25 were saying that he had -- that Barry owed them a pretty

DELONDA WERSCHAY-DIRECT BY MR. UNDERWOOD

1 good bit of money, I'm not sure exactly how much. They
2 wanted him to keep doing that for them, but they didn't
3 trust him with the money, so would I -- then they talked
4 amongst themselves in Spanish a little bit and asked if I
5 would be willing to take the meth and then, I guess, give
6 it to Barry, then I would pay them.

7 Q So did they kind of place you as the
8 intermediary between them and Barry?

9 A Yeah.

10 Q Did you agree to do that?

11 A I did.

12 Q Is that the only time you ever met with both
13 Jose and Uncle together?

14 A No, I met them a few times.

15 Q So you've seen each of them several times?

16 A Uh-huh.

17 Q All right. Did they give you methamphetamine
18 that very day?

19 A I don't think they did that day at the basement.
20 I don't recall. I don't think so.

21 Q When did they begin to give you methamphetamine?

22 A I mean, shortly after that, probably within a
23 few days of that.

24 Q When they would bring -- did they bring it to
25 you or did you go to them?

DELONDA WERSCHAY-DIRECT BY MR. UNDERWOOD

1 A I usually met them. They have brought it to me
2 before, but I usually met them.

3 Q Where would you meet them?

4 A At the store or a restaurant or a shopping
5 center.

6 Q Who would you meet with to pick up
7 methamphetamine?

8 A It was usually -- in the beginning, it was Jose
9 and Uncle. I had met with a couple other people, too, but
10 it was usually Jose and Uncle in the beginning. And then
11 it turned into Luis and Alejandro.

12 Q When you would get resupplied with the
13 methamphetamine from Jose or his workers, how much did you
14 get at a time?

15 A The same Barry was getting, about 32, 36 ounces.
16 Or it ended up being, that's where it quickly ended up
17 being that.

18 Q So did it start off slower than that?

19 A It started off with less than that, like, maybe
20 five ounces, something at a time, but it quickly went to
21 being a lot more.

22 Q How often would you be resupplied?

23 A Every maybe two, three weeks.

24 Q Every two or three weeks?

25 A Maybe, yeah.

DELONDA WERSCHAY-DIRECT BY MR. UNDERWOOD

1 Q Did you have to pay for the methamphetamine at
2 the time you got it or did you get it on credit?

3 A On credit.

4 Q Is there a term for that?

5 A On credit, I guess.

6 Q So when you would get methamphetamine, what did
7 you do with it?

8 A I locked it into a lockbox safe.

9 Q Did you sell it yourself?

10 A I sold a little bit of it. I mostly sold it to
11 Barry.

12 Q How much money did you have to pay per shipment
13 of methamphetamine, do you remember?

14 A I didn't pay it up front like for a shipment. I
15 just paid them -- like, sometimes I would maybe give them
16 \$500 and sometimes, I would give him \$5,000 dollars.

17 Q So did you pay as you were selling it?

18 A Uh-huh.

19 Q Who did you pay the money to?

20 A It was usually Jose. Then it started becoming
21 Luis.

22 Q Why did you -- did ever stop dealing with Jose
23 and the person you called Uncle?

24 A I dealt with Jose up until the time that he,
25 like, disappeared. I don't know what happened to him at

DELONDA WERSCHAY-DIRECT BY MR. UNDERWOOD

1 that point. I assumed he got arrested.

2 Q What happened after that?

3 A And then I was -- dealt with Luis and Alejandro.

4 Q So Jose disappeared and then you dealt directly
5 with Luis?

6 A Yeah, because those two had been working along
7 side with Jose.

8 Q When you were being supplied by Luis, how much
9 methamphetamine would you get at a time?

10 A It wasn't as much, like, maybe five to ten
11 ounces maybe.

12 Q Was it always that amount or did you ever get
13 more or less?

14 A I never got, like, as much as I was. I never
15 got a kilo or anything from Luis. It varied. It could be
16 ten or 15. It varied. I didn't get as much, but -- I
17 mean, it varied every time. Like, he might give me three
18 or four ounces or he might give me ten. He might give me
19 15. I really don't recall, it's been a long time.

20 Q So each of those numbers you just threw out,
21 those are all referring to ounces?

22 A Yes, I'm sorry.

23 Q All right. When did you stop dealing with Luis?

24 A When I got in trouble.

25 Q So is that the reason you stopped dealing with

DELONDA WERSCHAY-DIRECT BY MR. UNDERWOOD

1 him, you were caught by the police?

2 A That's the reason why it all stopped.

3 Q Now, Ms. Werschay, obviously, mentioned that you
4 were in trouble with the police. Were you charged in this
5 case as well?

6 A Yeah.

7 Q And as part of that, have you actually entered a
8 guilty plea?

9 A I have.

10 Q And as part of that plea, did you agree to plead
11 guilty to a lesser charge than what you were originally
12 charged with?

13 A Yeah.

14 Q So you were originally charged with one level of
15 trafficking and you were able to plead to a lower level of
16 trafficking; is that right?

17 A Yes.

18 Q And as part of that plea, is it your
19 understanding that the State is going to be recommending
20 that your sentence be capped at 12 years?

21 A That's what I'm assuming.

22 Q What are the requirements of you as part of that
23 plea agreement?

24 A Stay out of trouble and if you guys needed me, I
25 agreed to come to do this if you needed me to.

DELONDA WERSCHAY-DIRECT BY MR. UNDERWOOD

1 Q When you say come to do this, what does that
2 mean?

3 A To come and testify, tell my story or tell the
4 truth. I don't know.

5 Q So is that what you're required to do, to come
6 here and tell the truth?

7 A The truth, yeah.

8 Q Now, Ms. Werschay, after law enforcement
9 originally approached you, did they ever ask for your help
10 in identifying other people who were in the organization?

11 A Yes.

12 Q Did they show you a set of pictures?

13 A Yes.

14 Q When they would show you pictures, what
15 questions did they ask you?

16 A Do you know any of these people?

17 Q All right. Did they ever indicate who the
18 people were?

19 A No, I had to pick out the person and circle the
20 person and initial my name next to it.

21 Q Ms. Werschay, I'm going to show you a few
22 exhibits here, Exhibits 103, 104, 105, 106 and 107. Do
23 you recognize all of those?

24 A I do.

25 Q Speak into the microphone, please.

DELONDA WERSCHAY-DIRECT BY MR. UNDERWOOD

1 A This one is Luis and this one is Jose. This one
2 is Uncle, Alejandro and Juan.

3 Q Are all of these the photo lineups that you were
4 shown?

5 A I'm sorry, this one is Juan.

6 Q Are all of these the photo lineups that you were
7 shown?

8 A Yes.

9 Q When you made the identification to law
10 enforcement, were you certain of those identifications?

11 A Absolutely.

12 MR. UNDERWOOD: Your Honor, at this time, I
13 would ask that Exhibits 103, 104, 105, 106, 107, all
14 be admitted into evidence.

15 THE COURT: Any objection?

16 MR. HODGE: No objection, Your Honor.

17 THE COURT: All right without objection.

18 (WHEREUPON, State's Exhibits Nos. 103-107 were
19 admitted into evidence.)

20 MR. UNDERWOOD: Permission to publish, Your
21 Honor?

22 THE COURT: You may.

23 BY MR. UNDERWOOD:

24 Q So, Ms. Werschay, did you ever fall into debt
25 with the people that you were being supplied

DELONDA WERSCHAY-DIRECT BY MR. UNDERWOOD

1 methamphetamine from?

2 A Did I fall into debt with them? No, I got
3 accused of it one time, but I didn't actually fall into
4 debt with them.

5 Q Were there any other people other than Barry
6 Underwood that you sold methamphetamine to?

7 A Yeah, there was a guy named Danny Black, a lady
8 named Mary, a lady named Christy.

9 Q All right. And how often you deal with Danny
10 Black?

11 A I guess it lasted about six, I don't know a few
12 month, six months maybe, maybe a little bit longer, I'm
13 not sure. And I saw him every day, every other day
14 probably during that time.

15 Q And how much would you sell to him at a time?

16 A Usually, an ounce.

17 Q So you'd sell him an ounce every time?

18 A Uh-huh.

19 Q Did he ever fall into debt to you?

20 A No, I don't think so.

21 Q Do you know if Danny Black ever had any dealings
22 with Jose?

23 A I know that he tried to. He and Luis tried to
24 do it, like, without me or without Jose at one point.

25 Q So Luis tried to have dealings directly with

DELONDA WERSCHAY-DIRECT BY MR. UNDERWOOD

1 Danny Black?

2 A Uh-huh.

3 Q Do you know if Jose ever did?

4 A He said he didn't.

5 Q Who said he didn't?

6 A Jose said he didn't. He didn't like Danny.

7 Q Did he say why he didn't like Danny?

8 A No, he just said he didn't like his character.

9 Q Do you know of any dealings at all other than
10 you mentioned with Luis concerning Danny Black or anyone
11 else to get methamphetamine?

12 A I don't think so.

13 Q Do you know a Sandra Duncan?

14 A I know the name after all this occurred. I saw
15 her name.

16 Q All right. But did you know her prior to being
17 in trouble?

18 A I knew that Barry saw her. I didn't know her.

19 Q When you said Barry saw her, what do you mean by
20 that?

21 A I mean, she dealt with Barry some. I know that
22 she dealt with Jose. I know that just because he told me
23 that.

24 Q Who told you that?

25 A Jose told me that he used to work with her.

DELONDA WERSCHAY-DIRECT BY MR. UNDERWOOD

1 Q And by work with, what does that mean?

2 A Sell drugs to her.

3 Q Those drugs being methamphetamine?

4 A Yeah.

5 Q All right. Our machine has warmed up here.

6 Publish Exhibit 103. Are these your initials?

7 A They are.

8 Q All right. As you speak, if you would turn
9 toward the microphone.

10 A I'm sorry.

11 Q All right. And is this the person that you
12 identified as Alejo?

13 A Yes.

14 Q All right. Were you certain of that
15 identification when you made it?

16 A Yes.

17 Q All right. Exhibit 104, are these your
18 initials?

19 A Yep.

20 Q Is this the person that you identified as Juan?

21 A It is.

22 Q Were you certain of that identification when you
23 made it?

24 A Yes.

25 Q All right. What was Juan's involvement in this?

DELONDA WERSCHAY-DIRECT BY MR. UNDERWOOD

1 A Juan was with Jose when I first met him and he
2 was what he called a runner, I guess. He would pick up
3 money or drop something off.

4 Q And what was -- what was Alejo's role?

5 A Pretty much the same thing. I don't know -- I
6 don't remember if Alejo ever dropped -- I don't know how
7 you say it, if he ever dropped any methamphetamine off to
8 me. I know that he picked up money.

9 Q All right. Was that for Jose?

10 A Uh-huh. Well, it was for Jose and for Luis. I
11 mean, he was almost always with Luis.

12 Q All right. Exhibit 107?

13 A That's Luis.

14 Q This is the person you know as Luis?

15 A Yes, sir.

16 Q These are your initials?

17 A Yes, sir.

18 Q All right. You were confident with that
19 identification?

20 A Yes.

21 Q Is this the same Luis that was a runner for Jose
22 and then took over for Jose when he disappeared?

23 A Yes.

24 Q State's Exhibit No. 7 -- or excuse me, 106. Are
25 these your initials?

DELONDA WERSCHAY-DIRECT BY MR. UNDERWOOD

1 A Yes.

2 Q And is this the person that you identified as
3 Jose?

4 A Yes.

5 Q How confident were you in that identification?

6 A That's Jose. Yes, I was confident.

7 Q Any doubt that's Jose?

8 A Yeah, that's Jose.

9 Q Okay. Then State's Exhibit 105, are these your
10 initials?

11 A Yes.

12 Q All right. And is this the person that you
13 identified as Uncle?

14 A Yes, it is.

15 Q All right. How often would you deal with Uncle?

16 A He was there only in the beginning. And he was
17 with -- just with Jose. I didn't see him with the other
18 guys. Just say the first few months maybe that he was
19 there. I probably met him ten times, seven, eight, nine,
20 ten times, something like that.

21 Q Now, when you would deal with him or meet with
22 him, where would that be?

23 A At Barry's house. At my house. At my house
24 that one time he came to my house. Usually at Barry's. I
25 had a storage room, I met them there a couple of times.

DELONDA WERSCHAY-DIRECT BY MR. UNDERWOOD

1 Q Where is the storage room?

2 A It's in -- I guess, it's a Greer address.

3 Q Is that in the Greenville County part of Greer
4 or the Spartanburg side?

5 A Greenville.

6 Q And your residence, is that in Greenville?

7 A Yeah, Greenville County.

8 Q Yes.

9 A Yes.

10 Q Did the person that you referred to as Uncle
11 ever speak English to you?

12 A No. As far as I know, he didn't speak English.
13 Or he didn't in front of me. He took pictures and usually
14 left. He didn't stick around.

15 Q You said he took pictures, pictures of what?

16 A Of the container of meth.

17 Q Why did he do that, do you know?

18 A I'm not sure.

19 Q And you mentioned that he disappeared after the
20 first few months?

21 A Yeah.

22 Q Do you know why?

23 A No, I don't. I assume, they had a falling --
24 because they had told me one time that if Uncle ever came
25 to my house and asked me to work with him or to do

DELONDA WERSCHAY-CROSS BY MR. HODGE

1 anything with him, to tell him -- to make sure I told him
2 no. So I just -- I don't know, I guess I never thought --
3 I just figured they had had a falling out or something. I
4 don't know.

5 MR. UNDERWOOD: Thank you, Ms. Werschay. That's
6 all the questions I have. Please answer any
7 questions opposing counsel has.

8 THE WITNESS: Okay.

9 THE COURT: Cross-examination.

10 CROSS-EXAMINATION

11 BY MR. HODGE:

12 Q Still morning. Good morning, Ms. Werschay, how
13 are you?

14 A I'm good.

15 Q I've just got a couple questions for you. You
16 said you identified Jose in that photo lineup; is that
17 right?

18 A Yes, sir.

19 Q How many times had you met with Jose over the
20 course of your entire dealings, would you say?

21 A A lot.

22 Q A lot?

23 A Uh-huh. A lot of times.

24 Q More than 20?

25 A More the 20.

DELONDA WERSCHAY-CROSS BY MR. HODGE

1 Q More than 50?

2 A Probably.

3 Q Okay.

4 A Probably close to it, yeah.

5 Q Okay. And you also identified, you call him
6 Luis?

7 A Uh-huh.

8 Q Okay. How many times would you say you met with
9 or saw Luis?

10 A About the same. A lot.

11 Q Okay. Then you said Alejo was also someone that
12 you were able to identify in the photo lineup. How often
13 would you see him?

14 A He was a little less, because he was -- he
15 didn't come in until towards the end.

16 Q Okay. More than ten, though?

17 A Yeah, more than ten, definitely.

18 Q Okay. Then, finally, I think there was one more
19 identification and that was Uncle; is that right?

20 A Uh-huh.

21 Q You said you had only seen Uncle maybe eight or
22 nine times, roughly?

23 A Roughly.

24 Q All right. That was at the beginning of your
25 interaction?

DELONDA WERSCHAY-CROSS BY MR. HODGE

1 A Yeah, that was in the beginning.

2 Q Did you know Jose by any other name?

3 A No. I saw a piece of paper one time that had --
4 I don't even remember what -- actually, a different name
5 on it that I knew -- you know, I gave it back to him and
6 said, Unless you want everybody to know that your real
7 name is not Jose, you know. I always thought it was Jose
8 until that day. And then I continued to call him Jose
9 after that.

10 Q Where did you see that at?

11 A He had met with some -- met with his attorney
12 about something to do with Danny Black. They were arguing
13 about a shed or something like that. So he showed me that
14 piece of paper that he met with him.

15 Q All right. So it was after this case had
16 already started?

17 A No.

18 Q Before the case had started?

19 A Yeah.

20 Q So you had not been arrested at that point?

21 A When I saw his name?

22 Q When you saw that name?

23 A Right.

24 Q But don't remember what name it was?

25 A It was Eduardo maybe.

DELONDA WERSCHAY-CROSS BY MR. HODGE

1 Q Eduardo Assad?

2 A I think that was it, yes.

3 Q But you never knew him as Gordo or anything like
4 that?

5 A I still continued to call him Jose.

6 Q Jose is what you called him to his face, in
7 person, any time you dealt with him?

8 A Uh-huh.

9 Q Okay. Did you know Uncle by any other name?

10 A No.

11 Q Have you ever heard the name Chiva?

12 A No.

13 Q You ever heard the name Chato?

14 A I don't think so.

15 Q Chico?

16 A I don't think so.

17 Q Okay. I won't name any more.

18 Thank you. No more questions.

19 THE COURT: All right, any redirect?

20 MR. UNDERWOOD: Nothing further, Your Honor.

21 THE COURT: All right.

22 MR. UNDERWOOD: Your Honor, we'd ask that the
23 witness be excused.

24 THE COURT: Any objection?

25 MR. HODGE: No objection.

DANNY BLACK-DIRECT BY MR. WATERS

1 THE COURT: All right, you may be excused.

2 MR. WATERS: Your Honor, the State calls Danny
3 Black.

4 THE CLERK: Please step forward here to be sworn
5 in. Raise your right hand to be best of your
6 ability.

7 DANNY BLACK, after being duly sworn, testified
8 as follows:

9 THE CLERK: Please state your name.

10 THE WITNESS: Danny Black.

11 THE CLERK: Please be seated and adjust the
12 microphone.

13 DIRECT EXAMINATION

14 BY MR. WATERS:

15 Q Mr. Black, how you doing today?

16 A Doing good, sir.

17 Q I see you're in a jumpsuit. Where are you
18 currently living?

19 A Greenville County Detention Center.

20 Q Detention center?

21 A Yes, sir.

22 Q How long you been there?

23 A Thirty-seven months.

24 Q Thirty-seven months. All right. Let's go back
25 a little bit from that, though. Very quickly, where are

DANNY BLACK-DIRECT BY MR. WATERS

1 you from?

2 A Greenville.

3 Q Greenville?

4 A Yes, sir.

5 Q Grow up here your whole life?

6 A Yes, sir.

7 Q Go to high school here?

8 A Half a year.

9 Q Half a year?

10 A Yes.

11 Q What year did you leave high school?

12 A Ninth grade.

13 Q Ninth grade?

14 A Yes, sir.

15 Q Roughly, what year was that?

16 A Eighty-nine.

17 Q Eight-nine?

18 A I'm sorry, I'm sorry, not '89. '87.

19 Q Eighty-seven. How old are you now?

20 A I'm 49.

21 Q All right. At some point in your life, did you
22 get involved with methamphetamine?

23 A Yes, sir.

24 Q Did you get involved dealing or just using it
25 first?

DANNY BLACK-DIRECT BY MR. WATERS

1 A Using it first.

2 Q Roughly, how old were you when that happened?

3 A I was in my 20's, early 20's.

4 Q So we're talking about the 90's, something like
5 that?

6 A Yes, sir.

7 Q At some point, did you move from just dealing or
8 maybe doing some accommodation sales to doing more
9 involvement with methamphetamine dealing?

10 A Yes, sir.

11 Q Roughly, when did that happen?

12 A 2013, '12 or '13.

13 Q All right. Tell me who you first got involved
14 with in receiving drugs that you were then selling?

15 A Jonathan Riddle.

16 Q All right. How long did you deal with him do
17 you think?

18 A A little over a year.

19 Q Okay. Do you know a person known as Ma?

20 A Yes, sir.

21 Q Ultimately, did you get into any methamphetamine
22 transactions with her?

23 A Yes, sir.

24 Q Tell me how that happened. How did you sort of
25 transition from Riddle to Ma?

DANNY BLACK-DIRECT BY MR. WATERS

1 A I got away from him. I was looking for some
2 dope. And a guy that I knew, I got him to go get me some.
3 And when he went, the guy he went to get it from ripped
4 him off. And I went to get my money back and he didn't
5 have it, but he told me he could introduce me to somebody
6 that could put me on work.

7 Q Who was that?

8 A That was Ma.

9 Q So did he set up that meeting?

10 A Yes.

11 Q And did you meet with Ma?

12 A Yes, sir.

13 Q What was the nature of y'all's discussion or
14 agreement?

15 A That I would start selling for her and the price
16 and all.

17 Q All right. Do you recall what the price was?

18 A Thirteen hundred an ounce.

19 Q Did you start to receive methamphetamine from Ma
20 at 1300 an ounce?

21 A Yes, sir.

22 Q What time period of time, roughly, are we
23 talking about?

24 A This is January 2014?

25 Q Fourteen?

DANNY BLACK-DIRECT BY MR. WATERS

1 A Uh-huh.

2 Q All right. How much weight were you moving at
3 that point?

4 A At that point, nothing. I just got back in,
5 like I said, with her.

6 Q Okay. That's what I mean, when you started
7 dealing with Ma?

8 A Oh, I'm sorry. Four ounces, the first time I
9 met her.

10 Q Okay. Did you move that successfully?

11 A Half of it.

12 Q What happened after that?

13 A The other half, Jerry Holmes had got, he didn't
14 want to pay for it. So I went with her to confront him
15 and get the money. And we got the money. From there, we
16 supposed to start stepping up, but she lied to me and went
17 behind my back and was dealing with somebody else in the
18 same neighborhood I was in. So I got away from her at
19 that point.

20 Q All right. When you said you were supposed to
21 start stepping up with Ma, what does that mean?

22 A Getting more weight. Moving more weight.

23 Q Doing more business together?

24 A Yes.

25 Q Ultimately, you found out that she was dealing

DANNY BLACK-DIRECT BY MR. WATERS

1 with somebody else and you didn't like that, so what
2 happened after that? Did you get involved in the meth
3 business some other way?

4 A Yes.

5 Q How did that happen?

6 A Through a guy name Dale Pace.

7 Q Did he introduce you to someone?

8 A Yes, sir.

9 Q Who was that?

10 A Dee Dee Werschay.

11 Q And, roughly, what time period are we talking
12 about?

13 A This is probably late February, early March of
14 2014.

15 Q Did you go meet with Dee Dee?

16 A Yes, sir.

17 Q Tell me the nature of y'all's discussion and
18 agreement.

19 A Sat down and talked about started doing business
20 together.

21 Q What was the agreement? How much business did
22 you start doing?

23 A One to two ounce, at first, a day. And it grew
24 from there.

25 Q Do you remember what the price was?

DANNY BLACK-DIRECT BY MR. WATERS

1 A I think it was around 12, 1300.

2 Q And how much -- once y'all got going, how much
3 weight were you moving?

4 A I was moving around 15 to 20 ounces a week.

5 Q So again, we're talking about how long, what
6 months?

7 A This is from March until around end of July.

8 Q All right. And that's 2014?

9 A Yes, sir.

10 Q Did you ever have occasion to meet Dee Dee's
11 supplier?

12 A Yes, sir.

13 Q And how did you meet the supplier?

14 A This was in June of 2014. Kind of been moving
15 so much weight for her, they wanted to meet. And I went
16 with her to a storage building that she had rented. And
17 we met there.

18 Q Okay. Who did you meet with?

19 A It was Jose and a guy that he said was his
20 uncle.

21 Q All right. So the person was introduced to you
22 as Jose?

23 A Yes.

24 Q Tell me what, if anything, happened there at the
25 storage unit.

DANNY BLACK-DIRECT BY MR. WATERS

1 A When I met with him, his uncle that he called
2 him, brought a kilo in and weighed it and left.

3 Q Kilo of what?

4 A Methamphetamine.

5 Q And what happened next?

6 A We were discussing, just talking. And during
7 the process of talking, I cut a kilo into ounces.

8 Q What were you discussing?

9 A Basically, his supply. I mean, he could supply
10 all that I could move for her, that nature.

11 Q Who was saying that?

12 A Jose.

13 Q Jose was saying that?

14 A Yes.

15 Q You said Uncle was the one who delivered the
16 kilo.

17 A Yes, he said uncle.

18 Q Did you have any conversation with him?

19 A No.

20 Q Was that the only time you ever saw him or were
21 there other times?

22 A That's the only time.

23 Q Okay. Did anything else happen to you in June
24 of 2014?

25 A Yes, I got a trafficking charge.

DANNY BLACK-DIRECT BY MR. WATERS

1 Q You got busted in a motel?

2 A Yes. Quality Inn off Pleasantburg.

3 Q With some weight?

4 A Yes, sir.

5 Q Do you remember how much it was, roughly?

6 A Thirty seven-grams.

7 Q Do you remember where that dope had come from,
8 that meth?

9 A I got it from Dee Dee.

10 Q From Dee Dee?

11 A Yes, sir.

12 Q And did you subsequently get out on bond?

13 A Yes, sir.

14 Q Did you end your meth dealings or did you keep
15 going?

16 A I continued.

17 Q All right. And how much were you moving at this
18 point? Was it still coming through Dee Dee?

19 A Yeah, still coming through Dee Dee at this
20 point.

21 Q How much weight?

22 A It was 15 to 20 ounces a week.

23 Q Did something eventually happen to your
24 knowledge and involvement in the business between Dee Dee
25 and Jose?

DANNY BLACK-DIRECT BY MR. WATERS

1 A Yes. She got to where she wasn't making her
2 payments, she was behind. And Jose came to me saying that
3 Dee Dee said I owed her money was the reason she couldn't
4 pay. And I called her, put her on speaker phone with Jose
5 present and asked her what I owed her.

6 And she said nothing.

7 Then he knew that she was lying to him.

8 Q So did you start to deal direct with Jose at
9 that point?

10 A We met at Twin Peaks and discussed this and from
11 there, I started dealing with him directly.

12 Q What, if anything, did Jose tell you at Twin
13 Peaks?

14 A We discussed prices and when would I start.

15 Q Did he say he could supply you with
16 methamphetamine?

17 A Yes, sir.

18 Q Is that what happened?

19 A Yes, sir.

20 Q What time period are we talking about when you
21 had this interaction?

22 A This went from July until probably August, late
23 August to September.

24 Q Of 2014?

25 A Yes, sir.

DANNY BLACK-DIRECT BY MR. WATERS

1 Q All right. And how much do you think you were
2 moving at this point?

3 A Four to 16 ounces a week.

4 Q Do you remember what the price was?

5 A It was around 11, 1200.

6 Q So it had gone down a little bit?

7 A Yes, sir.

8 Q When you were dealing with Jose, did you always
9 do your transactions with him or did he have over
10 individuals?

11 A He had a couple of runners that I dealt with.

12 Q Who were those people?

13 A Luis Flores and Alejandro.

14 Q Was that the only two you met or do you recall
15 anybody else?

16 A That's the only two that I met.

17 Q Okay. And what was their role in this?

18 A They would bring it to me and collect money.

19 Q They would bring methamphetamine to you?

20 A Yes, sir.

21 Q And collect money?

22 A Yes, sir.

23 Q You said one of individuals was Luis?

24 A Yes, sir.

25 Q Did you ever have any conversation with Luis

DANNY BLACK-DIRECT BY MR. WATERS

1 about the drug business that you were involved in?

2 A Yes, sir.

3 Q And did Luis tell you where the drugs were
4 coming from?

5 A He said he had to go to Atlanta to pick it up.

6 Q Go to Atlanta?

7 A Yes, sir.

8 Q Okay. Ultimately, did you end up having a
9 disagreement with Jose?

10 A Yes. It got to where he wasn't keeping me
11 supplied with dope. And the people I was supplying wasn't
12 paying me and ended up owing him money. I couldn't pay
13 him. And we got in an altercation from there and was
14 doing business no longer.

15 Q Did anything happen as a result of that
16 altercation?

17 A Yes, sir. He burned a couple of buildings that
18 I had on my parent's property.

19 Q These are outbuildings?

20 A Yes, sir.

21 Q Okay. And how do you know that it was him that
22 did it?

23 A He had admitted to it. According to a SLED
24 officer, he admitted it to. Plus, he texted me talking
25 about the house would be next and stuff.

DANNY BLACK-DIRECT BY MR. WATERS

1 Q So I'm asking you how you knew from him?

2 A Oh, he texted me.

3 Q Okay. That was prior to any discussion with law
4 enforcement?

5 A Yes.

6 Q At some point, you got approached by law
7 enforcement again; is that correct?

8 A Yes, sir.

9 Q Did you agree to cooperate and provide
10 information?

11 A Yes, sir.

12 Q During that interaction with law enforcement,
13 were you shown some photo lineups?

14 A Yes, sir.

15 MR. WATERS: May I approach the witness, Your
16 Honor?

17 THE COURT: You may.

18 BY MR. WATERS:

19 Q I'm going to show you what's been marked as
20 State's Exhibit 118, 119, 120, 121 and 122. Take a look
21 at those and see if you recognize them?

22 A Yes, sir.

23 Q Were these the lineups that were shown to you?

24 A Yes, sir.

25 Q When you were shown these lineups, did law

DANNY BLACK-DIRECT BY MR. WATERS

1 enforcement suggest to you who to pick or did you pick
2 these on your own?

3 A I picked these on my own.

4 Q How do you know these are the ones that you were
5 shown?

6 A Got them initialed.

7 Q Is that your writing on there?

8 A Yes, sir.

9 Q Okay.

10 MR. WATERS: Your Honor, at this time, I would
11 move into evidence State's 118, 119, 120, 121, and
12 122.

13 THE COURT: Any objection?

14 MR. HODGE: No, Your Honor.

15 THE COURT: Without objection.

16 MR. WATERS: May I publish, please, Your Honor?

17 THE COURT: You may.

18 (WHEREUPON, State's Exhibits Nos. 118-122 were
19 admitted into evidence.)

20 BY MR. UNDERWOOD:

21 Q I'm going to start with 119. Can you see the
22 screen there?

23 A Yes, sir.

24 Q All right. Did you make an identification on
25 this lineup?

DANNY BLACK-DIRECT BY MR. WATERS

- 1 A Yes, sir.
- 2 Q Who is that you indicated?
- 3 A Jose.
- 4 Q Okay. Did you do this circle and initials?
- 5 A Yes, sir.
- 6 Q Did you write this down here?
- 7 A Yes, sir.
- 8 Q Okay. State's 120, do you recognize this?
- 9 A Yes, sir.
- 10 Q Did you make an identification?
- 11 A Yes, sir.
- 12 Q Who did you identify?
- 13 A Ma, Sandra Duncan.
- 14 Q Is that your circles and initials?
- 15 A Yes, sir.
- 16 Q That's what you wrote down here?
- 17 A Yes, sir.
- 18 Q And a hundred percent means?
- 19 A Positive.
- 20 Q Hundred percent sure?
- 21 A Yes, sir.
- 22 Q State's 121, you recognize this?
- 23 A Yes, sir.
- 24 Q Who did you identify on this one?
- 25 A Luis.

DANNY BLACK-DIRECT BY MR. WATERS

1 Q Did you make the circle right here?

2 A Yes, sir.

3 Q I see you started to draw a circle right here,
4 but then X'd out and picked this one; is that correct?

5 A Yes, sir.

6 Q After you made that correction, you're still a
7 hundred percent sure that was Luis?

8 A Yes, sir.

9 Q All right. 122, did you make an identification
10 on this?

11 A Yes, sir.

12 Q Which one did you pick?

13 A Number four?

14 Q Who did you identify as that?

15 A Alejandro.

16 Q And how sure were you?

17 A Seventy-five percent.

18 Q So not a hundred percent sure, but you thought
19 that looked like Alejandro to your memory; is that
20 correct?

21 A Yes, sir.

22 Q And then, finally, State's 118, what did you say
23 as to this one?

24 A I really wasn't sure, but number four favored
25 Uncle.

DANNY BLACK-DIRECT BY MR. WATERS

1 Q That looked like Uncle to you, but you weren't a
2 hundred percent certain?

3 A Yes, sir.

4 Q Is that correct?

5 A Yes, sir.

6 Q Okay. You've, ultimately, entered into a plea
7 agreement in this case; is that correct?

8 A Yes, sir.

9 Q And pursuant to that particular plea agreement,
10 you were initially charged with trafficking
11 methamphetamine 400-grams or more?

12 A Yes, sir.

13 Q And, ultimately, you pled guilty to trafficking
14 meth 28 to 100 and -- two counts of trafficking meth 28 to
15 100 grams with a recommended cap of 15, is that your
16 understanding?

17 A Yes, sir.

18 Q And pursuant to that plea agreement, did you
19 also agree to provide cooperation with the police?

20 A Yes, sir.

21 Q Is that what you're doing here today?

22 A Yes, sir.

23 MR. WATERS: Court's indulgence one moment.

24 (WHEREUPON, there was a brief pause.)

25 MR. WATERS: Nothing further at this time, Your

DANNY BLACK-CROSS BY MR. HODGE

1 Honor.

2 THE COURT: All right, cross-examination.

3 MR. HODGE: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. HODGE:

6 Q Good afternoon, Mr. Black. How are you?

7 A Fine. How are you?

8 Q You and I have never met, my name is William
9 Hodge. I represent David Barajas seated behind me here.
10 You've never met Mr. Barajas, have you?

11 A Yes, we --

12 Q Where did you meet him at?

13 A We were in jail together.

14 Q In Greenville County?

15 A Yes, sir.

16 Q Detention Center?

17 A Yes, sir.

18 Q Prior to being locked up, had you ever met him?

19 A No, sir.

20 Q I'm just going to ask you a couple of quick
21 questions. Number one, you said you started off working
22 for a guy named Jonathan Riddle; is that right?

23 A Yes, sir.

24 Q Then you got set up with Ma?

25 A Yes, sir.

DANNY BLACK-CROSS BY MR. HODGE

1 Q Who set up the meeting with Ma?

2 A Jerry Holmes.

3 Q Jerry Holmes?

4 A Yes, sir.

5 Q How did you know Jerry Holmes?

6 A He ripped a guy off that went to get an ounce of
7 dope from him and that's how I met him. I went over there
8 to get my money back.

9 Q Okay. So you knew Jerry Holmes through the drug
10 trade and Jerry Holmes had dealt with Ma before?

11 A Yes.

12 Q So he told you this is who you can go to?

13 A Yes.

14 Q She will give you dope that you can sell?

15 A Yes.

16 Q Then you said Ma lied to you?

17 A Yes.

18 Q And you stopped doing business with her?

19 A Yes, sir.

20 Q So then you started going to work for Dee Dee;
21 is that right?

22 A Yes, sir.

23 Q And then Dee Dee lied to you?

24 A No --

25 Q Or lied on you, sorry?

DANNY BLACK-CROSS BY MR. HODGE

1 A Yes, sir.

2 Q Lied on you?

3 A Yes, sir.

4 Q Told Jose that you took her money?

5 A That I wasn't paying her.

6 Q That you took Jose's money really, right?

7 A Yes.

8 Q And at that point, you said, enough, I'm cutting
9 out the middle man and started dealing directly with Jose?

10 A Well, basically, he said he was cutting out the
11 middle man and come directly to me.

12 Q So then you stopped dealing with Dee Dee, Ma or
13 anybody else and you were going straight to Jose?

14 A Yes, sir.

15 Q And Jose is the guy that you identified in the
16 lineup over there. I don't remember what exhibit number
17 it was, but Jose -- you knew Jose and had dealt with him
18 before, right?

19 A Yes, sir.

20 Q That's him right there?

21 A Yes, sir.

22 Q Do you know Jose's real name?

23 A Eduardo Assad.

24 Q When did you learn that?

25 A Through the indictment.

DANNY BLACK-CROSS BY MR. HODGE

1 Q Through the piece of paper that you were given
2 when you were charged?

3 A Yes, sir.

4 Q Okay. And it had the nicknames written out
5 beside it?

6 A Yes.

7 Q And it shows you on that nickname the real name
8 right next to it?

9 A Yes.

10 Q And that's how you learned, was getting that
11 indictment, right?

12 A Yes.

13 Q Okay. Before that, had you ever heard the name
14 Eduardo Assad?

15 A No, sir.

16 Q You just knew him as Jose?

17 A Yes, sir.

18 Q Did you have any other nicknames for him?

19 A No.

20 Q You ever heard of Gordo?

21 A I've heard it, but I didn't know it was Jose.

22 Q But you saw it on that indictment you got,
23 correct?

24 A Yes.

25 Q You also identified a couple other individuals,

DANNY BLACK-CROSS BY MR. HODGE

1 Luis and Alejandro?

2 A Yes.

3 Q How often did you see Luis or Alejandro?

4 A I seen Luis a couple times a week. Alejandro,
5 once every couple of weeks or so.

6 Q Okay. And over the course of your dealings with
7 Jose and these other two individuals, how many times would
8 you say you saw Alejandro?

9 A Maybe three times.

10 Q Three times?

11 A Yeah.

12 Q All right. So you only dealt with him for about
13 four weeks?

14 A Yes, yes, two or three.

15 Q Okay. But you saw him three times over the
16 course of three to four weeks --

17 A Yes.

18 Q -- timeframe?

19 A Yes.

20 Q And Luis or Luis -- do you call him Luis or
21 Luis?

22 A Luis.

23 Q Okay. Luis. You saw Luis how many times?

24 A I would see him two to three times a week.

25 Q And that was over the course of how long?

DANNY BLACK-CROSS BY MR. HODGE

1 A That was from July into September.

2 Q Okay. So a little bit longer with Luis?

3 A Yes, he was the main person that I seen.

4 Q Is that because he was the one who was bringing
5 the drugs and getting the money from you?

6 A Yes, sir.

7 Q So he was your main go-to, so to speak?

8 A Yes.

9 Q How many times had you seen Jose?

10 A I had seen Jose probably seven, eight times.

11 Q Okay. Then you had a sit-down conversation with
12 Jose in the Twin Peaks restaurant?

13 A Yes, sir.

14 Q How long did that conversation last?

15 A We was there probably about an hour. We ate
16 while we was there.

17 Q Okay. And how long had you known Jose prior to
18 that?

19 A I had met him on a couple of occasions.

20 Q Okay. And then I think you were shown one final
21 group of pictures of six individuals. And you didn't
22 identify anyone in this lineup as somebody that you 100
23 percent knew, right?

24 A Exactly.

25 Q And you thought you might recognize number four,

DANNY BLACK-CROSS BY MR. HODGE

1 but didn't know for sure?

2 A No.

3 Q Okay. Now you're saying that you believe that
4 to be Uncle, right?

5 A Yes.

6 Q Okay. But you'd only seen Uncle one time?

7 A Exactly.

8 Q So it was hard to pick him out of that lineup?

9 A Yes, it is.

10 Q Okay. Jose -- last series of question, I
11 promise. You testified that Jose said you owed him some
12 money?

13 A Yes.

14 Q Did you owe him money?

15 A Yes, I did.

16 Q Okay. So because you owed him money, he came
17 and burnt some buildings on your property?

18 A He had it done is what he said.

19 Q Had it done?

20 A Yes.

21 Q But he admitted that to you?

22 A Yes.

23 Q Did he tell you that to intimidate you, you
24 think?

25 A I believe so, yeah.

LEWIS STOERTZ-DIRECT BY MR. UNDERWOOD

1 Q He was trying to get his money, right?

2 A Yeah.

3 Q And he told you if you don't pay him his money,
4 your house is next?

5 A Yes.

6 Q You got a family, Mr. Black?

7 A Yes, I do.

8 Q Were they living in that house?

9 A Yes, they were.

10 MR. HODGE: No further questions, Your Honor.

11 THE COURT: Any redirect?

12 MR. WATERS: No, sir, Your Honor.

13 THE COURT: All right. You may step down.

14 All right, next witness.

15 MR. UNDERWOOD: Your Honor, the State calls

16 Lewis Stoertz.

17 THE CLERK: Please step forward to be sworn in.

18 Please raise your right hand.

19 LEWIS STOERTZ, after being duly sworn, testified
20 as follows:

21 THE CLERK: Please state your name.

22 THE WITNESS: Spencer Lewis Stoertz.

23 THE CLERK: Please be seated.

24 DIRECT EXAMINATION

25 BY MR. UNDERWOOD:

LEWIS STOERTZ-DIRECT BY MR. UNDERWOOD

1 Q Good afternoon, Agent Stoertz.

2 A Good afternoon.

3 Q Please introduce yourself to the jury and tell
4 them where you work and what you do there.

5 A Lewis Stoertz, I work at SLED as a narcotics
6 investigator, been there for a little over four years now.
7 Before that, I did three years with State Highway Patrol.

8 Q Did you have a minimal amount of involvement
9 with this particular case involving David Barajas?

10 A Yes, very minimal.

11 Q Did you have an occasion to go and see
12 Mr. Barajas sometime after his arrest at the detention
13 center?

14 A I did at the Alvin S. Glenn Detention Center.

15 Q What was the purpose of that meeting?

16 A To photograph Mr. Barajas and his tattoos.

17 Q Was that to compare against -- what was the
18 reason for that?

19 A Captain Jason Wells asked me to go take pictures
20 and I went to the jail and took pictures. I have no idea
21 why.

22 Q I'm going to show you what's been marked as
23 State's Exhibits 114-B, 115, 116, 117, do you recognize
24 those?

25 A Yes, sir.

LEWIS STOERTZ-DIRECT BY MR. UNDERWOOD

1 Q All right. Are those the photographs that you
2 took?

3 A They are.

4 Q Are these fair and accurate representations of
5 Mr. Barajas as you saw him that day?

6 A Yes.

7 MR. UNDERWOOD: Your Honor, at this time, I
8 would move State's Exhibits 114-B, 115, 116 and 117
9 into evidence.

10 THE COURT: Any objection?

11 MR. HODGE: No objection.

12 THE COURT: All right, in without objection.

13 MR. UNDERWOOD: Thank you, Your Honor.

14 (WHEREUPON, State's Exhibits Nos. 114-B through
15 were admitted into evidence.)

16 MR. UNDERWOOD: Thank you, Agent Stoertz.

17 That's all the questions I have for you.

18 MR. HODGE: No questions, Your Honor.

19 THE COURT: All right. Thank you, you may step
20 down.

21 THE WITNESS: Thank you.

22 MR. UNDERWOOD: Your Honor, I ask that the
23 witness be excused.

24 THE COURT: Any objection?

25 MR. HODGE: No objection.

JUAN ESPINOZA-DIRECT BY MR. WATERS

1 MR. WATERS: Your Honor, the State calls Juan
2 Espinoza.

3 Court's indulgence, Your Honor.

4 THE CLERK: Please step forward to be sworn in,
5 sir. Right here. If you would raise your right
6 hand.

7 JUAN ESPINOZA, after being duly sworn, testified
8 as follows:

9 THE CLERK: Please state your name.

10 THE WITNESS: Juan Espinoza.

11 THE CLERK: Mr. Espinoza, have a seat there,
12 please.

13 DIRECT EXAMINATION

14 BY MR. WATERS:

15 Q Mr. Espinoza, how you doing today?

16 A Good, how are you?

17 Q I'm well, I'm well. Let's start with a little
18 background information, where you from?

19 A Originally, I was born in California. I was
20 living there until about I was seven years old, then I
21 moved to South Carolina. And been here just about my
22 whole life now.

23 Q Since you were seven years old?

24 A Yes, sir.

25 Q Did you go to high school here?

JUAN ESPINOZA-DIRECT BY MR. WATERS

1 A Yes, I did. I went to Wade Hampton High School.

2 Q What year did you graduate?

3 A 2009.

4 Q Okay. Did you go to any school after that or
5 what?

6 A Yes, I did. I went to trade school. I
7 completed automotive certificates and also welding
8 certificates. And that's currently what I do.

9 Q Automotive and welding?

10 A No, I'm actually a welder and I'm a pipe fitter.
11 I've worked at Purina plant in Georgia and Lake Hartwell.

12 Q That's your current employment?

13 A Yes, sir.

14 Q If you would, put that mic just a little bit
15 more towards your mouth. Yeah, that's perfect. Do you
16 know an individual by the name of Gordo?

17 A Yes, I do.

18 Q How do you know Gordo?

19 A I met him through somebody I went to school with
20 and played soccer. His name was Mario. He's actually his
21 brother-in-law. And we were playing soccer together at
22 first and that's how I ended up meeting him. Then I met
23 him later on and he told me about, you know, if I could do
24 him some favors and pick up some money for him.

25 Q All right. Did he offer to pay you some money

JUAN ESPINOZA-DIRECT BY MR. WATERS

1 for that?

2 A Yes, he did.

3 Q And that was Gordo?

4 A Yes, sir.

5 Q Is that the only name you knew of him or did you
6 know any other names?

7 A He used to also go by Arabe.

8 Q Arabe? And what does that mean in Spanish?

9 A It's like Arabic.

10 Q Did you ever learn his real name?

11 A No, I did not.

12 Q So you knew him as Gordo or Arabe?

13 A Yes.

14 Q He asked you if you wanted to make some extra
15 money?

16 A Yes, he did.

17 Q All right. What was the proposition that he had
18 for you?

19 A So the proposition he had for me was for me to
20 go pick up money from individuals and he would give me
21 money based off the amount I picked up.

22 Q And what time frame, roughly, do you recall that
23 this sort of started?

24 A It was probably like 2011, 2010, 2011.

25 Q Did you start to do that?

JUAN ESPINOZA-DIRECT BY MR. WATERS

1 A Yes, I did.

2 Q And how would you know which individuals to go
3 see and pick up money?

4 A He would tell me who to go pick up money from
5 and where to pick up money from.

6 Q At this point in time, were you delivering
7 anything or just picking up money?

8 A No, I was just picking up money, sir.

9 Q How much money were you picking up?

10 A Just depends on which individual it was from.
11 It could range anywhere from couple hundred dollars to
12 \$10,000 from people or a little bit more, depending on who
13 the person was.

14 Q At this point in time, were you delivering
15 anything or just picking up money?

16 A No, I was just picking up money, sir.

17 Q Did that go on for a while?

18 A Yes, it did.

19 Q At some point, did you figure out what was up
20 with these money pickups?

21 A Yeah. First, you know, he did construction, so
22 he did electrical work. So he said it was just work that
23 he was doing on the side and I would pick up the money for
24 him because he was busy. But later on, I saw it was
25 bigger amounts and I kind of figured. I asked him what it

JUAN ESPINOZA-DIRECT BY MR. WATERS

1 was and he told me. You know, he said it was drug money.

2 I was like okay. He said I wouldn't get in trouble

3 because it just picking up money.

4 Q That's what Gordo told you?

5 A Yes, sir.

6 Q Did he tell you what type of drugs at this

7 point?

8 A No, he did not.

9 Q All right. Do you know a person by the name of
10 Luis Flores?

11 A Yes, I do.

12 Q How do you know him?

13 A We actually went to school together. And at the
14 time, my mother was -- she had cancer, so that's why I
15 needed extra money. He was working with me and he also
16 needed extra money, so I kind of told him, you know, about
17 Gordo. And then Gordo met him and he started, you know,
18 doing runs for him.

19 Q Doing the same thing?

20 A Yes, sir.

21 Q Now, you said your mom had cancer and that's why
22 you needed the extra money?

23 A Yes, sir.

24 Q Trying to support her?

25 A Yes, sir. She actually passed away in 2012.

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1 Q At this point, by the time Luis got involved,
2 were you just still picking up money or had you moved to
3 delivering packages?

4 A No, I was picking up money. Once he started
5 picking up, after a while, probably a month later, he
6 asked me if I wanted to make more money because by that
7 time, he also found out my mom had terminal cancer. So I
8 had to move her from place to place, like, we took her to
9 Houston, different places. It was going to cost more
10 money. So he also told me if I wanted to go pick up, you
11 know, just packages, I'd make a lot more money doing that
12 than going to pick up money weekly.

13 Q All right. Were you talking about picking up
14 packages where?

15 A He told me -- the first one was actually going
16 to be in Atlanta. So he said, you know, pick up one and
17 then see where we go from there. So I did, I picked up
18 two from Atlanta and one from Clemson.

19 Q What time period, to the best of your
20 recollection, do you think it was when you made your first
21 trip to Atlanta?

22 A It was actually going to be about five or six
23 months after I was picking up money. So around 2011,
24 2012.

25 Q All right. How many times do you think you went

JUAN ESPINOZA-DIRECT BY MR. WATERS

1 to Atlanta?

2 A I went about two or three times.

3 Q Can you describe those trips to Atlanta for us?

4 A Yeah, sure. The first one, he actually -- I met
5 him before going to work. He was -- he told me if I could
6 go after work.

7 I said I would, but I didn't have money.

8 So he gave me money for gas and food. And
9 he said, you know, he would give me the phone number to go
10 to. Just to start driving, call him when I was driving
11 towards Atlanta.

12 So when I got off work, I started driving
13 towards Atlanta. I called him. He said, You know what, I
14 need you to go towards this exit, which was exit 137, if
15 I'm not mistaken, on 85. He said, Just drive towards
16 Atlanta.

17 Once I was getting towards Atlanta, he gave
18 me an actual address of a church, where he just said to go
19 there and meet with somebody and somebody was going to
20 give me something for him. The first time. So I went,
21 met up with a Hispanic male, can't really recall too much,
22 you know, how he looks like, but it was at a church. He
23 came out and gave me a package.

24 And then he said, You know, I didn't have
25 to give him nothing or nothing. But I called Gordo as

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1 soon as I got the package.

2 And he said, Okay, that's fine. Everything
3 go good?

4 I was like, Yeah, you know. I wasn't
5 expecting nothing to go bad.

6 He said, Okay, that's fine. Just go ahead
7 and come home and bring it to me.

8 So I did.

9 Q Okay. Can you describe the package?

10 A Yeah. It was like a Tupperware, clear
11 Tupperware. It was rolled up in plastic and it was inside
12 of a bag.

13 Q All right. Did you know what was inside the
14 Tupperware?

15 A At that time, I did.

16 Q What was inside it?

17 A Crystal meth.

18 Q Meth?

19 A Yes, sir.

20 Q Did you know the weight you were picking up or
21 you just knew it was meth?

22 A No, I just knew it was meth. And by the --
23 seeing the Tupperware, it was probably about a pound or
24 so.

25 Q Tell me about the next time you went to Atlanta.

JUAN ESPINOZA-DIRECT BY MR. WATERS

1 A The next time was -- you know, it was about a
2 month later. He told me -- he was like, Hey, you want to
3 make some money?

4 And I was in need, so I said yes.

5 He said, Can you go to Atlanta again? He
6 said it the same thing.

7 I told him the same thing again. I said, I
8 don't have any money for gas or nothing, can you give it
9 to me? He gave me money for gas. And at that time, he
10 told me that, you know, that since Luis was running money,
11 he said Luis should go with me so then he can -- I could
12 show him how I was picking it up and he could do it.

13 So I said, Sure.

14 So both of us ended up going. We went to a
15 Mexican store beside a Burger King in Atlanta about the
16 same exit. We got there. Same thing, we called him, we
17 told him we were there.

18 He said, Okay, give me about a couple
19 minutes. He ended up making a phone call and I guess he
20 talked to whoever. Then he called me again and said, Hey,
21 you know, the guy's going to meet you right beside the
22 Burger King, you know, what kind of car you are in? And
23 he pulled up in a pickup truck, like a little S10. And he
24 pulled up to the car and he gave me the bag and said, Have
25 a good day. And that was it.

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1 Q Was it the same guy? Do you remember any other
2 guy?

3 A Yeah, it was a different guy. He had longer
4 hair. Hispanic male, about 5'6".

5 Q What do you recall about the package you
6 received?

7 A That one was actually in a gift bag. So it was
8 actually in a gift bag and it had like -- it looked like a
9 present. It had, like, tissue paper inside of it. Same
10 thing, when we got in the car, I opened it up, make
11 sure -- you know, see what was in it. And I called him.
12 Same thing, it was Tupperware.

13 Q Okay. What was inside the Tupperware?

14 A Same thing, crystal meth.

15 Q Meth?

16 A Yes, sir.

17 Q Any other trips to Atlanta?

18 A No. After that, I did one more to Clemson. I
19 was actually going to meet right besides the Sonic on, I
20 think it was 123, if I'm not mistaken. So same thing, he
21 told me, he was like, Hey, I got one more run for you to
22 do and then you'll be okay.

23 I said, Okay.

24 So he ended up saying this was going to be
25 closer, it's actually going to be here in Clemson.

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1 So I said, Fine.

2 At the time, I was working in Easley, so I
3 just went after I got off work. I went to Clemson. Same
4 thing, I called him and I said, Hey, you know, I'm at the
5 Sonic.

6 He said, That's fine. Somebody will be
7 there in a minute. He made a call, then called me back.
8 He said, Hey, some X amount of person -- or this person is
9 going to give you a package.

10 I said, Okay.

11 It was just a Hispanic male, same thing.

12 Q Different one?

13 A Yes.

14 Q What can you tell me about the package you
15 received?

16 A Same thing. This was like the first one, it was
17 in a plastic bag and Tupperware. It was blue Tupperware
18 with clear bottom plastic ware.

19 Q All right. Do you know a person by the name of
20 Alejandro?

21 A Yes, I do.

22 Q How do you know him?

23 A He was kind of like a mutual friend. I really
24 don't know him too good. I know he was with Luis Flores.
25 And I know that Luis told me that he was bringing him in

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1 because I was trying to get out already. At the time, I
2 was already getting together with my current wife. Then,
3 you know, we were going to have kids or I was planning to
4 have kids, so I wanted to back out. So at the time, he
5 put him in just to kind of pick up the money, I guess, and
6 then Luis was going to be picking up the drugs.

7 Q Did you tell Gordo that you didn't want to do
8 this anymore?

9 A Yes, I did. I told him I didn't want to be a
10 part of this anymore.

11 He said, Okay. He was like, Well, in that
12 case, you know, since Luis and Alejandro are going to be
13 taking over, you're pretty much clear.

14 And that happened for a couple of months
15 until I got another phone call from him.

16 Q All right. And we'll talk about that in a
17 second. Let's go back to the trips. Do you recall ever
18 making any trips to a church?

19 A Yes.

20 Q Tell me the trips to a church.

21 A So yeah, the church was actually in Atlanta. It
22 was off of, I think 137 is the exit, if I'm not mistaken.
23 We pulled there at a church and there was a house right
24 beside it. The church actually -- that's where the pickup
25 point was. Then the house besides it was where the guy

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1 would always come out and he would he give us package from
2 there.

3 Q Was that one of the trips you've already
4 described or was that a different trip?

5 A That was -- it's the same place, but it was two
6 trips there.

7 Q All right. How many trips total? I mean, are
8 we talking about five at this point?

9 A No, we did three to the church and one to
10 Clemson, so that's four.

11 Q Four trips, all right. I just wanted to make
12 sure. How much did you get paid for making those runs, do
13 you recall?

14 A Yeah, anywhere from thousand to \$1500.

15 Q Who paid you for those?

16 A Gordo did personally.

17 Q Going back to the people that you were -- let me
18 ask you this, do you know a person by the name of Ma?

19 A Yes, I do.

20 Q How do you know Ma?

21 A Ma, I met when I was picking up cash. He was
22 actually getting me to go to her house. She lived over by
23 Cherrydale. I would go and pick up cash from her. I
24 picked up anywhere from about a couple thousand dollars to
25 \$50,000.

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1 Q To \$50,000?

2 A Yes, sir.

3 Q How often do you think you were going to Ma's
4 house?

5 A Couple times a week.

6 Q Do you know an individual by the name of Dee
7 Dee?

8 A Yes, I do.

9 Q How do you know Dee Dee?

10 A Dee Dee was at the same time I was picking up
11 money, she was somebody else I was picking up money. She
12 was actually living in, I think, if I'm not mistaken, it
13 was like TR. And I would meet her at different places as
14 well and pick up, you know, a couple hundred thousand -- I
15 mean, not hundred thousand, a couple thousand dollars from
16 her.

17 Q Okay, couple thousand, not a couple hundred
18 thousand?

19 A Yeah, sorry about that.

20 Q So Ma had the big money, Dee-Dee, a good bit
21 less; is that correct?

22 A Yes, sir.

23 Q How about a person by the name of Barry
24 Underwood, do you know him?

25 A Yes, I do.

JUAN ESPINOZA-DIRECT BY MR. WATERS

1 Q How do you know Barry Underwood?

2 A At the time when I was picking up money from
3 Gordo, he told me he had bought a motorcycle and he had a
4 title to it, he said, if I can help him pick it up. It
5 was a blue Harley Davidson. And we went and we picked it
6 up. It was really nice for what he was driving. You
7 know, I was like something's not right here. Then I asked
8 him and he told me that, you know, that was one of the
9 guys that was working for him. He wasn't paying, so he
10 ended up repoing the motorcycle for like the payment.

11 Q That's what Gordo told you?

12 A Yes, sir.

13 Q Did you have that motorcycle at your house for
14 any period of time?

15 A Yes, I did. It was there parked for about two
16 weeks.

17 Q All right. And you said it was a pretty nice
18 Harley?

19 A Yes, it was.

20 Q Anybody else right now that you remember picking
21 up from?

22 A Yes. I picked up from another person. They
23 used to have a green PT Cruiser. And that was over from
24 the Gray Court area, but I don't remember her name or
25 nothing. Never got it. And I described them to the

JUAN ESPINOZA-DIRECT BY MR. WATERS

1 police officers, but I don't know -- never saw any
2 pictures on them or anything.

3 Q All right. So you did this for a while and then
4 you, I think you testified, that at some point, you were
5 going to start a family and you said, hey, I want to get
6 out of this. And Gordo said, hey, I'm okay with that
7 because I've got Luis and Alejandro; is that right?

8 A Yes, sir.

9 Q Is that correct?

10 A Yes, sir.

11 Q And -- but that wasn't the end of it, was it?

12 A No, it wasn't.

13 Q You testified earlier that you received a phone
14 call, correct?

15 A Yes, I did.

16 Q Tell us about that phone call and what it
17 entailed.

18 A So at the time, I had already got out. I got to
19 know my wife, we got married. We ended up finding out we
20 were going to have a kid. A couple months later, I get a
21 phone call from Gordo. It was kind of like eight o'clock
22 at night. I picked up, I said, you know, Hey, hello. I
23 didn't recognize his number because I didn't have it saved
24 at the time anymore. He told me who he was. I was like,
25 Okay, give me second. I went outside.

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1 I was, like, What can I help you with? You
2 know, I'm done. I don't want to do anything.

3 He explained to me that Luis had lost a lot
4 of money and product that he had with a guy that he was
5 picking up from. I guess he got too friendly with. He
6 said that he needed Luis to do something to prove, you
7 know, that he was still loyal to Gordo. And at the time,
8 he told me, you know, this is going to be your last run.
9 I need you do this for me, this last favor. Once you do
10 this, then you're done. He was like, Because I don't
11 think Luis is going to do it. So he said all we had to do
12 was go burn a shed from the guy that he was picking it
13 from. Because he had --

14 Q That owed the money to Gordo?

15 A Yeah.

16 Q That Luis had gotten a little too friendly with?

17 A Yeah, because they were like -- I don't know, at
18 the time, he told me that they were exchanging like cars,
19 motorcycles, what they had. He let him borrow, but he
20 kind of took off for a long period of time and didn't pay
21 him back. So he knew that he had product in the shed, so
22 he just -- he didn't want to pick up the product, he just
23 wanted it to get burned.

24 Q So what happened?

25 A So he told me that all we had to do was just go

JUAN ESPINOZA-DIRECT BY MR. WATERS

1 burn it up. So me --

2 Q Who went?

3 A It was Alejandro, me and Luis Flores.

4 Q All right. Where did y'all go?

5 A First, we went and got some gas. Then from
6 there, we went to the top of 25, probably -- I'm not sure
7 if it was TR or Easley, but it's by Furman. We went to
8 the house. We looked at it. It was metal. It was about
9 ten o'clock. It was pitch black. We saw the house.
10 Because he -- obviously, Luis knew where the house was
11 located. Once we got there, we saw the shed. The shed
12 was about, I don't know, 500 to a thousand feet away from
13 the house. Because I didn't want to burn anything that
14 was close to a house, I said I wasn't going to do it.
15 When I saw it was kind of far away, he said, you know
16 what, just --

17 I called him and I was like, I'm not sure
18 about this. I don't think I want to do this anymore.

19 He's like, Just go ahead, you're there. Go
20 ahead and help me out. This will clear up and you're not
21 going to owe me anything. You're clear. You're done.

22 Q So did you do it?

23 A Yes, sir. We got out the car. It was me and
24 Luis Flores. We each had some gas. I poured some gas. I
25 didn't want to light it up.

JUAN ESPINOZA-DIRECT BY MR. WATERS

1 I said, I'm leaving.

2 Luis ended up lighting it up. We went to
3 the car and then we took off.

4 Q And who stayed in the car?

5 A Alejandro did.

6 Q All right. Have you ever heard of anyone or do
7 you know of anyone by the name of Chiva?

8 A Yes, sir.

9 Q And how do you know that name?

10 A So the person that actually introduced me to
11 Gordo to Mario, the guy on the high school varsity team,
12 that was his stepfather. That's actually how I met Gordo
13 because they were brother-in-laws. So he was married to
14 one of his sisters, then I ended up finding out that Chiva
15 was Gordo's stepfather.

16 Q So your level or involvement in the
17 organization, did you know any involvement that Chiva had?

18 A No, I did not, sir.

19 Q All right. Now, ultimately, you were approached
20 by law enforcement; is that correct?

21 A Yes, I was.

22 Q Did you agree to provide cooperation and give
23 information on the dealings that you had and the people
24 you dealt with?

25 A Yes, sir. I actually was at work. I was

JUAN ESPINOZA-DIRECT BY MR. WATERS

1 working in North Carolina at the time doing construction.
2 Like I said, that's what I do. And they gave me a call
3 and they said, Hey, we need to talk to you. My wife was
4 actually pregnant at the time, so she was really scared
5 because these are big agents that came to my house. So I
6 said, you know, you just got to back up. I'm not trying
7 to flee or anything. I'll be there shortly. So it took
8 me about an hour and a half, two hours to get home. So I
9 got there, I met with all the agents.

10 They said, Do you know why we're here?

11 I was like, Yeah.

12 Q So you told them what you had been up to?

13 A Yes, sir.

14 Q All right. Did they, ultimately, show you some
15 photographs?

16 A Yes, they did.

17 MR. WATERS: Your Honor, may I approach the
18 witness?

19 THE COURT: You may.

20 BY MR. WATERS:

21 Q I'm going to show you what's been marked as
22 Exhibits 108, 109, 110, 111, 112, 113, 114-A. And if you
23 could just flip through those and see if you recognize
24 those.

25 A Yes, sir.

JUAN ESPINOZA-DIRECT BY MR. WATERS

1 Q Just flip through them first and see if you
2 recognize them.

3 A (The witness complies.) Yes, sir.

4 Q Are those lineups that were shown to you by law
5 enforcement?

6 A Yes, sir.

7 Q Did you make identifications on those particular
8 lineups?

9 A Yes, I did.

10 Q Did anyone in law enforcement or anyone else
11 suggest to you which one to pick or did you make those
12 identifications from your own knowledge?

13 A From my own knowledge.

14 MR. WATERS: Your Honor, at this time, I would
15 move Exhibits 108, 109, 110, 111, 112, 113 and 114-A
16 into evidence.

17 THE COURT: Any objection?

18 MR. HODGE: No objection.

19 THE COURT: All right, in without objection.

20 MR. WATERS: Your Honor, may I publish those?

21 THE COURT: You may.

22 (WHEREUPON, State's Exhibits Nos. 108-114-A were
23 admitted into evidence.)

24 BY MR. UNDERWOOD:

25 Q Let me ask you this while the machine is warming

JUAN ESPINOZA-DIRECT BY MR. WATERS

1 up. You were, ultimately, charged in this case; is that
2 correct?

3 A Yes, sir.

4 Q And you were charged with trafficking
5 methamphetamine 400-grams or more?

6 A Yes, I was, sir.

7 Q And you have entered into a plea agreement; is
8 that correct?

9 A Yes, I have.

10 Q In that plea agreement, you have pled guilty to
11 one count of distribution of meth and one count of arson
12 third?

13 A Yes, sir.

14 Q And the sentences, the possible sentences are
15 anywhere from zero to 15 years; is that correct?

16 A I believe so.

17 Q All right. Does that plea agreement that you
18 entered into, did you also agree to cooperate with the
19 authorities?

20 A Yes, I did.

21 Q All right. See the screen has come up, I'm
22 showing now Exhibit 108, do you recognize that document?

23 A Yes, I do.

24 Q Did you make an identification on that document?

25 A Yes, I did.

JUAN ESPINOZA-DIRECT BY MR. WATERS

1 Q And how do you know that you did?

2 A Because that's my initials on the top.

3 Q Who did you identify there?

4 A Dee Dee.

5 Q I'm going to show you what's been marked as 109
6 and entered into evidence. Did you make an identification
7 here?

8 A Yes, I did.

9 Q Who did you identify here?

10 A That's Ma.

11 Q Okay. I'm going to show you what's been entered
12 as State's Exhibit 110, did you make an identification?

13 A Yes, sir.

14 Q Who did you identify here?

15 A That's Mario father. So he go by Chiva, I
16 believe.

17 Q And did you call him Don Mario?

18 A Yeah, Don Mario.

19 Q All right. And State's 111, did you make an
20 identification here?

21 A Yes.

22 Q Who did you identify?

23 A Gordo.

24 Q This would be State's 112, did you make an
25 identification here?

JUAN ESPINOZA-CROSS BY MR. HODGE

1 A Yes, sir.

2 Q Who is that?

3 A Alejandro.

4 Q State's 113, did you make an identification
5 here?

6 A Yes, sir.

7 Q Who did you identify?

8 A Luis Flores.

9 Q Going back to 110, that is the person that you
10 put as Don Mario, correct?

11 A Yes.

12 Q That's the father of the person who introduced
13 you to Gordo?

14 A Yes.

15 Q Okay. And, ultimately, that was Chiva?

16 A Yes.

17 MR. WATERS: Your Honor, no further questions.

18 Please answer any questions opposing counsel

19 has.

20 THE COURT: All right, cross-examination.

21 MR. HODGE: Very quickly, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. HODGE:

24 Q Good afternoon, Mr. Espinoza. My name is
25 William Hodge. I represent David Barajas.

JUAN ESPINOZA-CROSS BY MR. HODGE

1 A Okay.

2 Q Gordo is the guy who got you involved in all of
3 this, right?

4 A Yes, sir.

5 Q Do you know his real name?

6 A I'm not sure.

7 Q Do you know it now? As you sit there, you don't
8 know his real name?

9 A I'm not sure what his real name still is.

10 Q But you only called him Gordo?

11 A Yes, Gordo or Arabe.

12 Q You ever heard the name Jose?

13 A No.

14 Q You ever heard the name Cali?

15 A Yeah, he used to go by Cali every now and then
16 because he was from California.

17 Q Okay. And Gordo is the one who got you involved
18 just as -- making pickups for money, usually, is what you
19 did, right?

20 A Yes, sir.

21 Q You would go to Ma and Dee Dee and all those
22 people just to pick up money from them?

23 A Yes.

24 Q Then he sent you to Atlanta, I think you said,
25 three times total to Atlanta?

JUAN ESPINOZA-CROSS BY MR. HODGE

1 A Yeah, I went to Atlanta three times, then one
2 time to Clemson.

3 Q Was that always to pick up money?

4 A No, that was just to pick up drugs.

5 Q So that was always to pick up drugs?

6 A Uh-huh.

7 Q So you picked up drugs in Atlanta from a guy at
8 a church?

9 A Uh-huh.

10 Q Then you picked up money from everybody in
11 Greenville?

12 A Yes, sir.

13 Q Okay. And you identified all these individuals
14 in these photo lineups. I'm just going to go through them
15 real quick. You identified this as Dee Dee, right?

16 A Yes, sir.

17 Q How many times did you deal with Dee Dee over
18 the course of your short stint in business there?

19 A Like I said, it was a couple times a week. So I
20 did it for about a month, so I've seen her probably a good
21 amount of times.

22 Q And Ma, same thing?

23 A Same thing.

24 Q Okay. And Gordo, how many times did you see
25 Gordo?

JUAN ESPINOZA-CROSS BY MR. HODGE

1 A I saw him on a regular basis.

2 Q Regular basis?

3 A Uh-huh.

4 Q Luis --

5 A Luis Flores --

6 Q -- Flores. And you were friends with him before
7 you even got involved in the drug trade, right?

8 A Yes.

9 Q But you recognized him and you did him a lot --
10 you were with him a lot even when you were in the drug
11 trade?

12 A Yes, sir.

13 Q Barry Underwood?

14 A Yes.

15 Q Same as Ma and Dee Dee or a little bit less?

16 A A little bit less.

17 Q Did you know his name?

18 A I did not.

19 Q When you identified him here, you didn't know
20 his name, right?

21 A No.

22 Q You just knew he was a guy you picked up some
23 money from a few times, right?

24 A Yes.

25 Q And then you said Alejandro or Alejo, he was the

JUAN ESPINOZA-CROSS BY MR. HODGE

1 last one to sort of be brought into the fold; is that
2 right?

3 A Yeah, that was when I was leaving.

4 Q How many times would you say you hung out with,
5 been around, made deliveries with Alejo?

6 A A good amount of times.

7 Q Good amount, okay.

8 A Uh-huh.

9 Q Then, finally, you got Chiva, who you know as
10 Don Mario, right?

11 A Uh-huh.

12 Q And you were friends with his son?

13 A Yes.

14 Q So have you known Don Mario for a while?

15 A Yeah, I knew him for a while, but I didn't know
16 he was in the business.

17 Q Right, you had no idea he was in drugs, but you
18 had known him for a lengthy period of time prior to making
19 that identification?

20 A Yes, sir.

21 Q All right. Ultimately, you got out and Gordo
22 called you to go burn down this building, right?

23 A Yes.

24 Q I think you stressed that you were very weary of
25 that, weren't you?

JUAN ESPINOZA-REDIRECT BY MR. WATERS

1 A What do you mean by weary?

2 Q Like, you didn't want to go do that?

3 A No, I did not.

4 Q Okay. You did not look forward to something
5 like that?

6 A No, I did not.

7 Q Did you feel that Gordo was pushing you to go do
8 that?

9 A I knew what kind of person he was dealing with,
10 so I didn't want any trouble. Like I said, I was becoming
11 a family man. I didn't want nothing to happen to my
12 family. So I kind of took the position to do that as a
13 last thing and hoping that he would leave me alone.

14 Q So you were afraid that Gordo may harm you or
15 your family?

16 A Yes.

17 Q Okay. And once this was done, once the
18 outbuilding was burned, did he leave you alone?

19 A Yes, he did.

20 Q Okay, good.

21 MR. HODGE: No further questions, Your Honor.

22 Thank you.

23 THE COURT: Any redirect?

24 MR. WATERS: Very quickly, Your Honor.

25 REDIRECT EXAMINATION

JUAN ESPINOZA-REDIRECT BY MR. WATERS

1 BY MR. WATERS:

2 Q You were said you were concerned because you
3 knew what kind of people that Gordo was dealing with; is
4 that correct?

5 A Yes, sir.

6 Q Was that people in Atlanta?

7 A Yes, sir.

8 MR. WATERS: Thank you. Nothing further.

9 THE COURT: All right. You may step down.

10 MR. WATERS: May the witness be excused, Your
11 Honor?

12 THE COURT: Any objection?

13 MR. HODGE: No, sir.

14 THE COURT: All right, you may be excused.

15 All right, this is a good time to break for
16 lunch.

17 Ladies and gentlemen, I think your lunch should
18 be back there. I know one of you had something to
19 do, you want to eat your lunch then go run your
20 errand. When you get back we'll start back at that
21 point. Okay. Don't discuss the case we'll have you
22 back in here. We're going to take 30-45 minutes. We
23 don't want to rush y'all but we want to keep the ball
24 moving.

25 (WHEREUPON, the jury left open court at

JUAN ESPINOZA-REDIRECT BY MR. WATERS

1 approximately 12:39 p.m.)

2 THE COURT: All right. All right, kind of shoot
3 for 15 after 1:00.

4 MR. WATERS: Your Honor, we do have one witness
5 remaining and have a brief Biggers hearing at some
6 point.

7 THE COURT: Okay.

8 (WHEREUPON, a lunch break was taken.)

9 THE COURT: Just to keep y'all posted. One
10 juror has a sick child. I don't know how late we're
11 going to push it because she needs to get it to the
12 doctor.

13 (WHEREUPON, State's Exhibits Nos. 124-131 were
14 marked for identification only.)

15 MR. UNDERWOOD: Your Honor, if I may, there's
16 one matter to put on the record.

17 THE COURT: Okay.

18 MR. UNDERWOOD: Your Honor, during the course of
19 testimony exhibits being entered, we accidentally ended
20 up with two Exhibit 114. So conferred with our court
21 reporter, what we've agreed and we've done, Your
22 Honor, is made one an Exhibit A one Exhibit B. For
23 the record State's Exhibit 114-A is a photo lineup.
24 State's Exhibit 114-B is a photograph of the
25 Defendant's neck tattoo.

JORGE MARTINEZ-DIRECT BY MR. WATERS (IC)

1 THE COURT: Okay. Anything from the Defendant
2 on that issue?

3 MR. HODGE: No, Your Honor.

4 THE COURT: All right.

5 All right, are we ready to do the hearing,
6 Biggers hearing?

7 MR. WATERS: Yes, sir. The state's first
8 witness will be David Jorge Martinez.

9 THE CLERK: Please step forward and be sworn in,
10 sir. If you would you can raise your right hand.

11 JORGE MARTINEZ, after being duly
12 sworn{,}testified as follows:{F}

13 THE CLERK: What is your full name?

14 THE WITNESS: Jorge David Martinez.

15 THE CLERK: Have a seat in the chair,
16 Mr. Martinez and adjust the microphone, please.

17 DIRECT EXAMINATION

18 BY MR. WATERS:

19 Q Mr. Martinez, how are you?

20 A All right.

21 Q You're currently facing methamphetamine
22 trafficking charges; is that correct?

23 A Yes.

24 Q Those are not related to anything to do with the
25 indictment that Mr. Barajas is charged in; is that

JORGE MARTINEZ-DIRECT BY MR. WATERS (IC)

1 correct?

2 A Yes.

3 Q Were you, ultimately, arrested on your
4 methamphetamine charges?

5 A Yes.

6 Q And do you remember roughly when that was?

7 A September 1st, 2015.

8 Q September 1st of 2015. Did you go to Greenville
9 County Detention Center?

10 A Yes.

11 Q At some point, did you become acquainted with an
12 individual by the name of David Barajas?

13 A Yes, sir.

14 Q Where was that?

15 A In the detention center.

16 Q Do you remember roughly when he arrived at the
17 detention center?

18 A Middle of December.

19 Q That would be 2015?

20 A Yes.

21 Q All right. So how long did you stay at the
22 detention center before you were released?

23 A I was with him about three to four months.

24 Q With him at the detention center?

25 A Yes.

JORGE MARTINEZ-DIRECT BY MR. WATERS (IC)

1 Q Did y'all become friendly with one another?

2 A Yes.

3 Q Did y'all speak often?

4 A Yes.

5 Q Were you, essentially, living in the same house,
6 for a lack better term, three, four months, however long
7 it was?

8 A Yes.

9 Q Saw him on a daily basis?

10 A Yes.

11 Q And during the course of that, did any of the
12 conversations that you had with him lead to him describing
13 his drug business to you?

14 A Yes.

15 Q Okay. Now, how was he introduced to you? Do
16 you remember when you first learned his name?

17 A It was just talking.

18 Q What name did you learn him by?

19 A By David.

20 Q David?

21 A Uh-huh.

22 Q Was there anything else he sold that indicated
23 his name to you when you first met him?

24 A [Indiscernible].

25 Q Did he, ultimately, tell you that he had a

JORGE MARTINEZ-DIRECT BY MR. WATERS (IC)

1 nickname or other name he went by?

2 A Yes.

3 Q What was that name?

4 A Chico.

5 Q Did he have any other name?

6 A Pelon.

7 Q Had you already agreed to cooperate with law
8 enforcement on your case, not anything to do with this
9 case?

10 A No.

11 Q Did subsequently you agree to cooperate with law
12 enforcement?

13 A Eventually.

14 Q And had law enforcement at any time approached
15 you about anything to do with Mr. Barajas' case when you
16 actually told them about your conversations with
17 Mr. Barajas?

18 A No.

19 Q All right. So you went to them first, they had
20 not come to you?

21 A Right.

22 Q The person that you told them about who told you
23 about his drug dealings, this was a person that you lived
24 with on a day-to-day basis for three to four months; is
25 that correct?

JORGE MARTINEZ-DIRECT BY MR. WATERS (IC)

1 A Yes.

2 Q Do you see that person here in the courtroom?

3 A Yes.

4 Q Can you point him out for us?

5 A Over there.

6 Q All right. At the Defendant's table?

7 A Yes.

8 Q Any doubt in your mind?

9 A No.

10 MR. WATERS: Your Honor, can the record reflect
11 he's identified the Defendant?

12 THE COURT: Yes.

13 BY MR. WATERS:

14 Q When you went to law enforcement and told them
15 about what Mr. Barajas had told you, at that time, did
16 they show you any photographs or anything like that?

17 A No.

18 Q Did you, ultimately, get released from jail?

19 A Yes.

20 Q Was Mr. Barajas still in jail when you were
21 released?

22 A Yes.

23 Q Did you tell law enforcement that Mr. Barajas
24 had had conversations with you about potentially doing
25 business going forward?

JORGE MARTINEZ-DIRECT BY MR. WATERS (IC)

1 A Yes.

2 Q Was that methamphetamine business?

3 A Yes.

4 Q Did you, ultimately, go back to see Mr. Barajas?

5 A Yes.

6 Q Did you do that with law enforcement's
7 knowledge?

8 A Yes.

9 Q Who was the law enforcement? Do you remember
10 the officer you were working with?

11 A Officer Woodring.

12 Q Officer Woodring? Agent Woodring?

13 A Yes.

14 Q Tell me very quickly, you don't have to go in
15 every detail, but how you went back and had contact with
16 Mr. Barajas.

17 A Well, I went and asked -- on a visit for another
18 inmate, then I ask the inmate to communicate with him.

19 Q Was this by video phone at the jail?

20 A Yes.

21 Q Did he go get Mr. Barajas for you?

22 A Yes.

23 Q Could you see him on the screen?

24 A Yes.

25 Q Was it the person you knew to be David Barajas?

JORGE MARTINEZ-DIRECT BY MR. WATERS (IC)

1 A Yes.

2 Q Did you have a conversation with him about doing
3 additional business?

4 A Yes. When I went back, he supposed to give me
5 the phone number to his cousin, Chema.

6 Q Chema?

7 A Yeah.

8 Q After that happened, did you go back and advise
9 law enforcement of your conversation with Mr. Barajas?

10 A Yes.

11 Q Immediately afterward, correct?

12 A Yes.

13 Q And the person that you had contact with on the
14 video screen, do you see that person in the courtroom?

15 A Yes.

16 Q Same person?

17 A Yes.

18 Q All right. Did you have a meeting with -- in
19 preparation for this trial last week or week before?

20 A Yes.

21 Q And during that conversation, did you describe
22 the individual that you had lived with on a daily basis
23 for three or four months in prison to the individuals that
24 you were being interviewed by?

25 A Yes.

JORGE MARTINEZ-DIRECT BY MR. WATERS (IC)

1 Q All right. Did you also describe -- does he
2 have identifying marks that you're aware of, any tattoos
3 or marks?

4 A Yes.

5 Q Did you describe those?

6 A The tattoo on his neck with made in Mexico logo.

7 Q Do you remember any other ones or is that the
8 only one you remember?

9 A That's the only one I remember.

10 Q Okay. And were you, ultimately, shown a couple
11 of Facebook photos or series of Facebook photos?

12 A Yes.

13 Q When you were shown those photos, did anyone ask
14 you -- tell you who that was or did they just ask you if
15 you knew that person?

16 A Asked me if I knew the person.

17 Q Did you make -- who did you say that was?

18 A David Barajas.

19 Q Any doubt in your mind?

20 A No.

21 Q Was that based on your own independent knowledge
22 or was that based on anything other than your own
23 independent knowledge?

24 A My own independent knowledge.

25 Q All right. And your identification of him in

JORGE MARTINEZ-CROSS BY MR. HODGE

1 this courtroom here today is a hundred percent?

2 A Yes.

3 Q And that's based on living with the guy in jail
4 together for three to four months?

5 A Yes.

6 Q As well as going to see him a second time?

7 A Yes.

8 MR. WATERS: No further questions at this time.

9 THE COURT: Cross-examination.

10 MR. HODGE: Just very briefly, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. HODGE:

13 Q You said you were shown some Facebook photos of
14 David Barajas?

15 A Yes.

16 Q Do you remember when that was?

17 A About a week or week and a half ago.

18 Q Literally, this year?

19 A Yes. I seen some before previously, like in
20 2106.

21 Q But the ones that he's referring to that you
22 identified him as David Barajas were less than two weeks
23 ago?

24 A Yes.

25 Q And you had -- up to that point, you had already

JORGE MARTINEZ-CROSS BY MR. HODGE

1 been housed with David at Greenville County for four to
2 six months?

3 A Yes.

4 Q Okay. Prior to those pictures, had you been
5 shown a photo lineup or anything?

6 A Yes.

7 Q Had you identified anybody there?

8 A Yes.

9 Q Did you provide that to law enforcement or they
10 get you to initial and have you sign it?

11 A Yes.

12 Q Okay. Who did you identify in that lineup?

13 A Excuse me?

14 Q Who did you identify in that lineup?

15 A David Barajas.

16 Q Okay. And you said you had seen some other
17 pictures?

18 A Yes.

19 Q When did you see those?

20 A Back in 2016.

21 Q Whenever you were cooperating with law
22 enforcement?

23 A Yes.

24 Q All right. But you didn't meet David Barajas
25 until after he was incarcerated with you in Greenville

JORGE MARTINEZ-CROSS BY MR. HODGE

1 County, right?

2 A Say that again.

3 Q You didn't meet David Barajas until after he was
4 incarcerated with you in jail?

5 A Yes.

6 Q Is that right? That's the first time you ever
7 laid eyes on him?

8 A Yes.

9 Q And once you met him, how long -- you said four
10 to six months is how long you stayed together?

11 A Yes.

12 Q Have you seen him since you left on that sixth
13 month?

14 A I seen him the second time on the video.

15 Q The video visit. That wasn't during that
16 six-month period? How long after the six-month period was
17 that?

18 A About a week or two after.

19 Q So close in proximity, right?

20 A (The witness nods.)

21 Q Would you say that was still in 2016?

22 A Yes.

23 Q And then you have not seen him again until
24 today?

25 A Right.