

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

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

THE STATE,

RESPONDENT,

V.

DAVID M. BARAJAS,

APPELLANT

APPELLATE CASE NO 2020-000549

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JORGE MARTINEZ-REDIRECT BY MR. WATERS

1 MR. HODGE: No further questions, Your Honor.

2 THE COURT: Any redirect?

3 MR. WATERS: Just very, very briefly, Your
4 Honor.

5 REDIRECT EXAMINATION

6 BY MR. WATERS:

7 Q So when you first met him, though, that was in
8 late 2015; is that correct?

9 A Yes, sir.

10 Q And he came into the jail together in December
11 of 2015, correct?

12 A Yes.

13 Q And then you, essentially, spent every day with
14 him living in the same place together for four-month
15 period or however long it was; is that correct?

16 A Yes.

17 Q All right. And --

18 MR. WATERS: Nothing further, Your Honor.

19 THE COURT: All right. You may step down.

20 Anything else?

21 MR. WATERS: One more witness, Your Honor. Your
22 Honor, the State calls Lieutenant Woodring.

23 THE CLERK: Raise your right hand.

24 TYREL WOODRING, after being duly sworn,
25 testified as follows:

TYREL WOODRING-DIRECT BY MR. WATERS (IC)

1 THE CLERK: State your full name.

2 THE WITNESS: Tyrel Allen Woodring.

3 THE CLERK: Please have a chair and adjust the
4 microphone.

5 DIRECT EXAMINATION

6 BY MR. WATERS:

7 Q Lieutenant Woodring, how you doing today?

8 A Good, sir. Thank you.

9 Q You've obviously been involved in the Polar
10 Express case, correct?

11 A Correct.

12 Q Did you, ultimately, have a call to interview
13 David Martinez?

14 A Yes.

15 Q And Mr. Martinez, to be clear, he was indicted
16 in Polar Express, but in a separate part of the
17 conspiracy, not anything to do with the current Defendant;
18 is that right?

19 A That's right.

20 Q All right. Ultimately, were you approached by
21 or was law enforcement approached by Mr. Martinez's
22 attorney saying that he had information that may be
23 relevant to law enforcement's investigation of this
24 Defendant?

25 A Yes, sir.

TYREL WOODRING-DIRECT BY MR. WATERS (IC)

1 Q Did you interview Mr. Martinez?

2 A Yes, sir.

3 Q Was that in January of 2016, does that sound
4 correct?

5 A Yes, sir.

6 Q I think you did a subsequent interview with him
7 as well; is that correct?

8 A Correct.

9 Q When you had that particular interview with him,
10 did he describe knowing Mr. Martinez -- excuse me,
11 Mr. Barajas for the number of months that they were
12 together -- or that they were together in the jail?

13 A Correct.

14 Q Do you recall at that time showing him any
15 photographs or lineup or anything like that?

16 A No, sir.

17 Q Was that because he told you, Hey, I'm with this
18 guy everyday, I know him?

19 A Right. He had a personal relationship with him.

20 Q All right. Ultimately, Mr. Martinez was
21 released out on bond; is that correct?

22 A Correct.

23 Q All right. Did you interface with Mr. Martinez
24 when he went back to the jail to have a conversation with
25 Mr. Barajas?

TYREL WOODRING-DIRECT BY MR. WATERS (IC)

1 A Yes.

2 Q Did you attend that or did Mr. Martinez go
3 alone?

4 A Alone.

5 Q Ultimately, did he come back to you and report
6 the conversation that he had with Mr. Barajas?

7 A He did.

8 Q Were you present during the meeting here
9 recently in preparation for this particular trial?

10 A Yes, sir.

11 Q And at that time, were some photographs of
12 Mr. Barajas shown to the witness?

13 A Yes, sir.

14 Q To Mr. Martinez, excuse me. Was that after or
15 was that -- was that after he had described the individual
16 that he knew, including a distinctive tattoo?

17 A Yes, sir.

18 Q In the course of that conversation, was
19 Mr. Martinez asked do you just know -- do you know this
20 individual or was he told this is that particular
21 individual?

22 A He was asked if he knew the individual in the
23 picture.

24 Q Did he immediately recognize the individual?

25 A He did.

TYREL WOODRING-CROSS BY MR. HODGE (IC)

1 MR. WATERS: Nothing further, Your Honor.

2 THE COURT: Cross-examination.

3 CROSS-EXAMINATION

4 BY MR. HODGE:

5 Q Had Mr. Martinez dealt with David Barajas or a
6 guy named Pelon or a guy named Chavo prior to being locked
7 up?

8 A No, sir.

9 Q So any identification came post-incarceration
10 with the individual that he knew as David Barajas?

11 A Yes, sir.

12 MR. HODGE: No further questions.

13 MR. WATERS: Nothing further.

14 THE COURT: All right. You may step down.

15 All right. Anything else?

16 MR. WATERS: Nothing further, Your Honor.

17 THE COURT: All right. Be glad to hear from
18 you.

19 MR. HODGE: Thank you, Your Honor. This one, I
20 mean, it's obviously different. I don't have a
21 problem with him identifying my client as David
22 Barajas. The issue comes up when he starts using the
23 nicknames Chavo or Pelon, those sort of things. He
24 was -- literally, had zero contact with him prior to
25 going to jail. I would not say that he was not in

1 jail with my client, that's not our -- again, he can
2 identify him from jail, but he has no independent
3 knowledge of any nicknames or any drug interactions
4 or anything else that he may or may not have done
5 outside of what he has read through indictments or
6 whatever has been provided in the jail.

7 So I would say that identifying David Barajas, I
8 don't think there's a issue with. I don't think I
9 can even argue that. But using any nicknames or
10 anything like that, he has no independent knowledge
11 other than what he says my client told him one time,
12 said his nickname was Pelon. But he says he knew him
13 as David Barajas and was incarcerated with David
14 Barajas.

15 THE COURT: But, I mean, I guess, motion in
16 limine is what you're making. I mean, it's based
17 on -- I mean, I don't think I disagree with you as
18 far as anything else, but if he testified that this
19 Defendant told him that was his name, I think that's
20 a little different story than he found it
21 independently from. . .

22 MR. HODGE: Yes, sir. And I just wanted to
23 point that out. Again, I did not --

24 THE COURT: No, I understand.

25 MR. HODGE: I did not question him because of

1 him not identifying him as David Barajas, that's not
2 a question. It's just the other things. So thank
3 you, Judge.

4 THE COURT: All right. Y'all ready to proceed?

5 MR. UNDERWOOD: Yes, Your Honor.

6 THE COURT: All right. If the jury is ready,
7 bring them in.

8 (WHEREUPON, the jury entered open court at
9 approximately 1:46 p.m.)

10 THE COURT: All right. Hope everybody had a
11 good lunch.

12 State call your next witness.

13 MR. WATERS: Thank you, Judge. The State calls
14 Jorge David Martinez.

15 THE CLERK: Please step forward to be sworn in.
16 If you would, raise your right hand.

17 JORGE MARTINEZ, after being duly sworn,
18 testified as follows:

19 THE CLERK: State your name.

20 THE WITNESS: Jorge Martinez.

21 THE CLERK: Please be seated and adjust the
22 microphone.

23 DIRECT EXAMINATION

24 BY MR. WATERS:

25 Q Mr. Martinez, how you doing today?

JORGE MARTINEZ-DIRECT BY MR. WATERS

1 A All right.

2 Q Let me start just with a little background.

3 Where are you from?

4 A Mexico.

5 Q When did you come to the United States?

6 A Back in -- about 35 years ago.

7 Q Thirty-five years ago? Did you move straight to
8 South Carolina or did you go somewhere else first?

9 A Georgia.

10 Q How long were you in Georgia, roughly?

11 A About 20, 25 years?

12 Q And then, roughly, did you come to South
13 Carolina after that?

14 A Yes.

15 Q Roughly, when was that?

16 A Back in 2008, '07.

17 Q When you came to South Carolina, where did you
18 move to?

19 A Greenville.

20 Q All right. Have you lived here in Greenville
21 ever since?

22 A Yes.

23 Q What kind of work were you doing when you came
24 to Greenville?

25 A Car audio and video.

JORGE MARTINEZ-DIRECT BY MR. WATERS

1 Q Car audio and video?

2 A Uh-huh.

3 Q Did you have any business at a flea market as
4 well?

5 A Yes.

6 Q When did that start, roughly?

7 A 2007.

8 Q I'm sorry?

9 A 2007.

10 Q At some point, did you get involved in the drug
11 trade, the methamphetamine business?

12 A Yes.

13 Q Roughly, what year was that?

14 A About 2010.

15 Q All right. And, eventually, you got arrested
16 for that; is that correct?

17 A Yes.

18 Q Eventually, you got indicted for trafficking
19 methamphetamine 400-grams or more?

20 A Right, yes.

21 Q And those charge are still pending; is that
22 correct?

23 A Yes.

24 Q Do you have any plea agreement or are those
25 charges just still pending with no promises whatsoever?

JORGE MARTINEZ-DIRECT BY MR. WATERS

1 A Yeah, they're still pending, no promises.

2 Q Want to be clear, did your drug business have
3 anything to do with this particular case going on here
4 today?

5 A No.

6 Q All right. When were you arrested?

7 A September 1st, 2015.

8 Q 2015?

9 A Uh-huh.

10 Q After you were arrested, where did you go?
11 Where did they take you?

12 A I was in Richland County for two months, then
13 sent me to Greenville County.

14 Q When did you arrive -- when you say Greenville
15 County, you're talking about the Greenville County
16 Detention Center, the jail?

17 A Yes.

18 Q So when did you arrive at the Greenville jail?

19 A November 15th.

20 Q Of 2015?

21 A Yes.

22 Q All right. While you were -- how long did you
23 stay in the Greenville jail?

24 A I was there since 2000 -- since November 15th,
25 2015 to March 16th, 2016.

JORGE MARTINEZ-DIRECT BY MR. WATERS

1 Q So that whole period of time, everyday you were
2 living in the Greenville jail; is that correct?

3 A Yes.

4 Q All right. Did you eventually bond out?

5 A Yes.

6 Q All right. While you were there, did you meet
7 an individual by the name of David Barajas?

8 A Yes.

9 Q How did you come to meet him?

10 A We arrived there like the middle of
11 December 2015.

12 Q All right.

13 A We were just talking.

14 Q So he arrived in the jail as well?

15 A Yes.

16 Q So you were both living together in the same
17 jail; is that correct?

18 A Yes.

19 Q And did y'all start talking?

20 A Yes.

21 Q What was the connection? Why did y'all start
22 talking with one another?

23 A We just started talking in Spanish. Just met
24 there.

25 Q Did y'all both talk together about what you were

JORGE MARTINEZ-DIRECT BY MR. WATERS

1 in for?

2 A Yes.

3 Q How was he introduced to you? What was the name
4 you knew him by?

5 A By David.

6 Q All right. Were you able to see any other
7 information about his full name?

8 A I saw on the bracelet his full name.

9 Q What did it say on it?

10 A David Barajas.

11 Q David Barajas?

12 A (The witness nods.)

13 Q All right. When you talked with Mr. Barajas,
14 did y'all talk about each other's cases and what y'all
15 were in for?

16 A Yes.

17 Q Kind like of like, hey, man, what you in for?

18 A Yes.

19 Q That sort of thing?

20 A (The witness nods.)

21 Q Did Mr. Barajas tell you that he had a nickname?

22 A Yes.

23 Q What was the nickname he told you?

24 A Hecho and Pelon.

25 Q Hecho and Pelon?

JORGE MARTINEZ-DIRECT BY MR. WATERS

1 A Yes.

2 Q Was there any reason why he had the nickname
3 Hecho?

4 A Tattoo on his neck, made in Mexico logo.

5 Q It's the made in Mexico logo?

6 A Yes.

7 Q So what is made in Mexico in Spanish? How do
8 you say that?

9 A Hecho in Mexico.

10 Q So that's why he was known as Hecho?

11 A Yes.

12 Q All right. So how long did you, essentially,
13 live day-to-day in the same jail as Mr. Barajas?

14 A Three to four months.

15 Q Three to four months? Saw him every single day,
16 talked to him almost every single day?

17 A Yes.

18 Q Is that correct?

19 A Yes.

20 Q Do you see the individual that you know as David
21 Barajas or Pelon in the courtroom here today?

22 A Yes.

23 Q Can you point him out for me?

24 A Over there.

25 Q At the Defense table?

JORGE MARTINEZ-DIRECT BY MR. WATERS

1 A Yes.

2 MR. WATERS: Your Honor, can the record reflect
3 the witness has identified the Defendant?

4 THE COURT: Yes, so noted.

5 BY MR. WATERS:

6 Q All right. So you testified before that you
7 guys talking in the jail, you're like, Hey, man, what you
8 in for? What did he tell you about what he was in for?

9 A He just told me he got arrested at the border,
10 then brought to Greenville County Detention Center.

11 Q He got arrested at the border and was brought to
12 Greenville Detention Center?

13 A Yes.

14 Q Did he tell you anything about the kind of
15 business that he was in that got him arrested?

16 A He said he was charged with trafficking
17 methamphetamine 400-grams or more.

18 Q 400-grams or more?

19 A Uh-huh.

20 Q What did he tell you about that trafficking
21 methamphetamine business?

22 A Basically, he just told me how it all started
23 with his cousin, Chema.

24 Q Chema?

25 A Yes.

JORGE MARTINEZ-DIRECT BY MR. WATERS

1 Q All right. Where did he say his cousin, Chema,
2 lived?

3 A In Jonesboro, Georgia.

4 Q Jonesboro?

5 A Yes.

6 Q Do you know what -- is Jonesboro near any major
7 city in Georgia?

8 A Atlanta.

9 Q Atlanta?

10 A Yes.

11 Q So he said it started with his cousin, Chema; is
12 that correct?

13 A Yes.

14 Q What role did he say that Chema had?

15 A Well, he said he was Chema's helper at first, to
16 see Chema's customers.

17 Q What did he say about Chema's customers? Who
18 were the customers?

19 A A guy named Jose Arabe.

20 Q A guy Jose Arabe?

21 A Uh-huh.

22 Q Was one of the customers?

23 A Yes.

24 Q Did he tell you where that customer was located?

25 A In Greenville, South Carolina.

JORGE MARTINEZ-DIRECT BY MR. WATERS

1 Q So Pelon said he was in Atlanta and Jose Arabe
2 was in Greenville; is that correct?

3 A Yes.

4 Q Did he say that Chema had any involvement or
5 relationship with any organized criminal organization? Or
6 crime family?

7 A Yes.

8 Q What did he say?

9 A It was the Familia Michoacan.

10 Q Familia, say the last part.

11 A Michoacan.

12 Q Michoacan? And he said Chema was in that?

13 A Yes.

14 Q And his role to be Chema's helper?

15 A Yes.

16 Q What, if anything, did he say about how the
17 drugs were transported from Atlanta to Jose Arabe in South
18 Carolina?

19 A Jose Arabe used to send one of his runners, Luis
20 Flores, to meet David.

21 Q Okay. Did he describe any other runners that he
22 he had?

23 A That who had?

24 Q That Jose Arabe had that would go to Atlanta?

25 A Luis Flores and another individual, a Columbian

JORGE MARTINEZ-DIRECT BY MR. WATERS

1 guy.

2 Q So you don't remember the guy's name, but he was
3 from what country?

4 A Colombia.

5 Q The country Colombia?

6 A Yes.

7 Q All right. What was the purpose of those
8 runners, they would do what?

9 A Meet with David and pick up the methamphetamine
10 and bring it back.

11 Q Meet with David to pick up the methamphetamine
12 where?

13 A In Atlanta, Georgia.

14 Q And bring it back where?

15 A South Carolina.

16 Q Okay. That's what he told you?

17 A Yes.

18 Q Did he tell you how he thought he got busted?

19 A Yeah. He briefly said that last time he met
20 with Flores, he -- Flores was -- after that, he started --
21 he was followed by SLED.

22 Q So he thought Flores had something to do with
23 it?

24 A Yes.

25 Q Did he have any discussions with you about doing

JORGE MARTINEZ-DIRECT BY MR. WATERS

1 business in the future?

2 A Well, he told me that if I was released before
3 him, I could get in contact with his cousin, Chema, to see
4 if he could start back up the business.

5 Q Okay. Now, at that point, has law enforcement
6 approached you at all about David Barajas or anything to
7 do with the case that's in this courtroom right now?

8 A No.

9 Q And once Mr. Barajas told you any of this
10 information, did you tell it to your attorney?

11 A Yes, I told my attorney.

12 Q Did you, ultimately, provide that information to
13 law enforcement?

14 A Yes.

15 Q So law enforcement didn't come to you about
16 David Barajas, you came to them; is that correct?

17 A Yes.

18 Q All right. And did you, ultimately, provide the
19 information that you've related to this jury here today?

20 A Yes.

21 Q About what he told you about his business?

22 A Yes.

23 Q About what he told you about he thought he got
24 arrested?

25 A Yes.

JORGE MARTINEZ-DIRECT BY MR. WATERS

1 Q Okay. Now, you mentioned that Mr. Barajas and
2 yourself discussed possibly doing business in the future?

3 A Yes.

4 Q And he wanted you to get in touch with who to do
5 that?

6 A His cousin, Chema.

7 Q If you were able to do that, what was the deal?
8 What was in it for him per your discussions?

9 A If I was able to do anything, just go deposit
10 money in his account at the jail.

11 Q Put money on his account at the jail?

12 A Yes.

13 Q So he would have spending money?

14 A Right.

15 Q Were you, ultimately, released before
16 Mr. Barajas?

17 A Yes.

18 Q And, ultimately, did you provide this
19 information to law enforcement?

20 A Yes.

21 Q At this point in time, had you -- law
22 enforcement did not come to you with anything about
23 Mr. Barajas, had they?

24 A No.

25 Q And you hadn't read any paperwork or any

JORGE MARTINEZ-DIRECT BY MR. WATERS

1 information about Mr. Barajas; is that correct?

2 A Right.

3 Q All right. Did law enforcement then in the
4 discussions ask you to go back and meet with Mr. Barajas
5 to talk about the future business that he had discussed
6 with you?

7 A Yes.

8 Q Which law enforcement officer did you have that
9 discussion with?

10 A Agent Woodring.

11 Q Agent Tyrel Woodring?

12 A Uh-huh.

13 Q What, if anything, did y'all do then? Did you
14 go back to see Mr. Barajas?

15 A I went and visit him one time after I got
16 released.

17 Q So you were out?

18 A Yes.

19 Q On bond?

20 A Yes.

21 Q And where did you go visit him?

22 A At the Greenville County Detention Center.

23 Q Tell me what happened. Tell me how it works.

24 A Well, I went there and I asked to see another
25 inmate. Once I got the other inmate on the video

JORGE MARTINEZ-DIRECT BY MR. WATERS

1 conference, told him to let me speak to David for a
2 minute. And he went and got David and I was speaking to
3 him, to David.

4 Q All right. So the way it works is that you're
5 doing it through a video conference?

6 A Yes.

7 Q So you ask for one inmate and then ask that
8 inmate to go get him?

9 A Yes.

10 Q All right. When that -- when you asked for
11 David Barajas and that person came back, who's the person
12 that came back that you then talked to?

13 A Say that again.

14 Q That wasn't a good question. After you had
15 talked to the first inmate and asked him to go get David
16 Barajas, who came back to talk to you?

17 A David Barajas.

18 Q The guy you know as David Barajas?

19 A Yes.

20 Q The guy right over there in the courtroom?

21 A Yes.

22 Q And what did y'all talk about?

23 A Just how was I doing, this and that. He was
24 supposed to try to get me his cousin's number. That was
25 the purpose of me going back to see if he got the number.

JORGE MARTINEZ-DIRECT BY MR. WATERS

1 But he still hadn't got it yet.

2 Q Which cousin are we talking about?

3 A Chema.

4 Q Chema?

5 A Yeah.

6 Q Okay. So he, ultimately, give you a number?

7 A No, he gave me a number to his girlfriend to see
8 if I can get in touch with her and get it.

9 Q After that, was that the extent of the
10 conversation or did y'all talk about anything else?

11 A After that, no. After that, he told me just to
12 put some money on his account at the jail.

13 MR. WATERS: Your Honor, may I approach the
14 witness?

15 THE COURT: You may.

16 BY MR. WATERS:

17 Q I'm going to show you what's been marked as
18 State's Exhibit 123. Do you recognize that particular
19 document?

20 A Yeah, that's a receipt where I put money in his
21 account.

22 MR. WATERS: Your Honor, at this time, I move
23 State's Exhibit 123 into evidence.

24 THE COURT: Any objection?

25 MR. HODGE: No objection.

JORGE MARTINEZ-DIRECT BY MR. WATERS

1 THE COURT: All right, in without objection.

2 MR. WATERS: May I publish, Your Honor?

3 THE COURT: You may.

4 (WHEREUPON, State's Exhibit No. 123 was admitted
5 into evidence.)

6 BY MR. WATERS:

7 Q So while that's warming up, you, ultimately, put
8 how much money on his books?

9 A Twenty dollars.

10 Q Twenty dollars?

11 A Yes.

12 Q And after that, what did you do? After you
13 left, where did you go?

14 A I met back with Officer -- Agent Woodring.

15 Q Did you provide him with this receipt?

16 A Yes.

17 Q Did you tell him what had happened?

18 A Yes.

19 Q Did you give him the information that you had
20 obtained?

21 A Yes.

22 Q Did you have any further involvement in this
23 particular case or any further involvement with
24 Mr. Barajas?

25 A No.

JORGE MARTINEZ-CROSS BY MR. HODGE

1 Q Okay. All right. Give me one second while this
2 is warming up. All right, we're now looking at State's
3 Exhibit 123 and what is this again? What is this again?

4 A It's the receipt where I put money in his
5 account.

6 Q All right. Is the person that you spent
7 day-to-day with in jail for three to four months, that
8 told you about his drug business and tried to get you in
9 touch with his cousin, Chema, to do further drug business,
10 David Barajas, the person in this courtroom here today?

11 A Yes.

12 MR. WATERS: Your Honor, nothing further at this
13 time.

14 THE COURT: Cross-examination.

15 MR. HODGE: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. HODGE:

18 Q Good afternoon, Mr. Martinez. My name is
19 William Hodge, I represent David Barajas. I'm going to
20 ask you a few questions. When was it again that David
21 came into your dorm?

22 A The middle of December 2015.

23 Q December 2015. You've actual given information
24 to law enforcement on a couple of occasions regarding
25 Mr. Barajas, correct?

JORGE MARTINEZ-CROSS BY MR. HODGE

1 A Yes.

2 Q The first time you did it through your lawyer;
3 is that right?

4 A Yes.

5 Q Okay. And do you remember when that was?

6 A Not exactly, but I was incarcerated when that
7 happened.

8 Q All right. Do you remember, roughly, how long
9 you had known David before you called your lawyer or
10 talked to your lawyer about him?

11 A Probably about two months, two and a half
12 months.

13 Q What if I told you it was in January of 2016
14 when you contacted your lawyer about David Barajas, does
15 that sound about right?

16 A Possibility.

17 Q Okay. And how did that conversation with your
18 lawyer happen? Was it on the phone or were you in person?

19 A In person.

20 Q All right. And what was the purpose of that
21 conversation?

22 A I mean, there was no specific purpose or nothing
23 like that.

24 Q The purpose wasn't for you to give him
25 information on Barajas?

JORGE MARTINEZ-CROSS BY MR. HODGE

1 A No, he never asked me to give him information
2 about that.

3 Q I know he didn't you ask you to, you asked him
4 to come meet with you so that you could give him
5 information on David Barajas, right?

6 A Right.

7 Q Okay. Why would you do that?

8 A Why would I do that?

9 Q Why did you do that?

10 A I was hoping to get better treatment for my
11 case.

12 Q Right. You wanted it to help you on your case,
13 right?

14 A Yeah.

15 Q Okay. So you call your lawyer, he comes and
16 talks to you and you give him a page and a half of
17 information on a David Barajas that you had just met in
18 December of 2015, right?

19 A Right.

20 Q And it's your testimony today that all of this
21 information came straight from David Barajas' mouth to
22 you?

23 A Yes.

24 Q He had known you for a month and he gave you all
25 of this information?

JORGE MARTINEZ-CROSS BY MR. HODGE

1 A Right.

2 Q He told you where his house was located?

3 A Yes.

4 Q Told you of transactions that occurred with Luis
5 Flores?

6 A Right.

7 Q Told you about his cousin, Chema, and La Familia
8 cartel in Mexico?

9 A Right.

10 Q And he gave you all that information because
11 y'all stayed in the same dorm?

12 A Yes.

13 Q Okay. He even gave you the street name that he
14 lived on, didn't he?

15 A Yes.

16 Q You had another opportunity to talk to law
17 enforcement regarding David Barajas, right?

18 A What do you mean?

19 Q Well, you actually met with law enforcement on a
20 later date to give more information regarding David
21 Barajas, right?

22 A Possibly, yes.

23 Q Okay. And if I told you that happened in
24 February 2017, you recall that? You met with Agent
25 Woodring?

JORGE MARTINEZ-CROSS BY MR. HODGE

1 A Yes.

2 Q And you didn't just give information on David
3 Barajas in that interview, did you?

4 A Yes.

5 Q Did you talk about someone named Luis Flores?

6 A Yes.

7 Q Who's Luis Flores, do you know?

8 A Yes.

9 Q Had you met him in jail?

10 A Yes.

11 Q How long had you been in jail with Luis Flores?

12 A One day.

13 Q One day?

14 A Yes.

15 Q One day you were in jail with Luis Flores?

16 A Yes.

17 Q And you told law enforcement that Luis Flores
18 told you he had been in the drug business?

19 A Right.

20 Q And that he had dealt with a guy named Arabe?

21 A Right.

22 Q And that he would travel to Atlanta, Georgia to
23 get methamphetamine?

24 A Right.

25 Q And you told them that Flores would buy one to

JORGE MARTINEZ-CROSS BY MR. HODGE

1 two pounds of methamphetamine at a time?

2 A Yes.

3 Q And you told them that Flores often drove an
4 18-wheeler truck or a red Toyota Scion with a hidden
5 compartment in the speaker area to transport money to
6 Atlanta, right?

7 A Right.

8 Q Flores told you all of that in one day?

9 A Yes.

10 Q Okay. Had you ever met him before?

11 A Not till that day.

12 Q Are you a priest?

13 A No.

14 Q Okay. Then comes the information that you gave
15 regarding David Barajas, right?

16 A Yes.

17 Q So you stated that Mr. Barajas -- you told law
18 enforcement that Mr. Barajas told you that he had a
19 methamphetamine customer in Greenville known as Rojo; is
20 that right?

21 A Yes.

22 Q Who is Rojo?

23 A Luis Flores.

24 Q How did you know that?

25 A He told me that.

JORGE MARTINEZ-CROSS BY MR. HODGE

1 Q Who told you that?

2 A David.

3 Q David you told that Rojo was Luis Flores?

4 A Yes.

5 Q Did Luis Flores tell you that his nickname was
6 Rojo?

7 A No.

8 Q Okay. Also, in this conversation, you stated
9 that Barajas told you that Rojo would travel to the
10 Atlanta area and he drove an 18-wheeler or a red Toyota
11 Scion, right?

12 A Yes.

13 Q That's what David Barajas told you?

14 A Right.

15 Q So Flores and Barajas -- Flores, who you had
16 known for one day, and Barajas, who, you know, you were in
17 there for a few months with, gave you exact information on
18 what kind of car Flores drove and where he went, gave you
19 addresses that they went to, the exact numbers of
20 transactions, the exact names for people that they dealt
21 with in the cartel, right?

22 A Yes.

23 Q Okay. You then -- do you remember telling them
24 about the time that Barajas told you that he had a
25 meeting, had a cell with Chema and that Rafael was driving

JORGE MARTINEZ-CROSS BY MR. HODGE

1 a black 2002 Honda sedan and it was being followed by law
2 enforcement? Do you remember that?

3 A Yes.

4 Q And it's your testimony and it was your
5 statement then that Barajas told you that one of the law
6 enforcement agents was Jason from SLED?

7 A Yes.

8 Q How did Barajas know that?

9 A Because he seen Jason before.

10 Q So he knew Jason's name?

11 A When he got arrested, I guess he knew him, met
12 him.

13 Q And he told you how they did it? Went to the
14 grocery store, wired money to Mexico, then traveled to
15 Mexico. Then he told you later on that he could introduce
16 you to his methamphetamine suppliers, right?

17 A Right.

18 Q How long had you known him before he told you
19 that?

20 A Whatever date's on the paper.

21 Q Well, this paper is from 2017. So, clearly, he
22 didn't tell you then because you weren't housed with him
23 in 2017, right?

24 A He told me when I was housed with him.

25 Q How long before he told you this information had

JORGE MARTINEZ-CROSS BY MR. HODGE

1 you been housed with David Barajas?

2 A He told me that during that period I was housed
3 with him.

4 Q Okay. So during the three or four months, maybe
5 months that you were housed with him, he told you all of
6 this?

7 A (There was no response.)

8 Q Right? He told you that if you wanted to get
9 some drugs, you could go to La Catalina's in Forest Park,
10 the exact name of a grocery store, right?

11 A Right.

12 Q Okay. And it's your testimony right now under
13 oath that David Barajas and Luis, who knew you for a day,
14 told you directly all of this information?

15 A Yes.

16 Q That you had no outside source of any of this
17 information?

18 A That's right.

19 Q Did you ever see David Barajas with papers and
20 documents while he was in jail?

21 A No.

22 Q Not once?

23 A No.

24 Q Did you ever translate anything for David
25 Barajas?

JORGE MARTINEZ-CROSS BY MR. HODGE

1 A No.

2 Q So you're telling me that you never once went
3 over the discovery in this case with David Barajas?

4 A I never did see the discovery until I got out.

5 Q Until you got out?

6 A My discovery.

7 Q Not once while you were in jail did you go over
8 the discovery, the information, all of the names that you
9 have mentioned in your voluntary statements given to law
10 enforcement, a letter written to your attorney with exact
11 addresses, numbers, transactions and everything else? You
12 didn't review and had never seen any discovery that David
13 Barajas had in his possession while he was incarcerated
14 with you?

15 A There was no discovery to be seen. He didn't
16 have nothing like that. None of the paperwork.

17 Q Not once did he ever ask you to translate
18 anything for him?

19 A No.

20 Q Outside of being incarcerated with David Barajas
21 and Luis Flores, I guess, you have no independent
22 knowledge of anything that occurred before you met him,
23 right?

24 A Right.

25 Q You had never met David Barajas before?

JORGE MARTINEZ-REDIRECT BY MR. WATERS

1 A Right.

2 Q Never even heard the name?

3 A Right.

4 Q And yet, within a month, he told you every sin
5 he had committed in the drug business?

6 A Right.

7 Q And within a day, Luis Flores told you
8 everything he had done in the drug business?

9 A Right.

10 MR. HODGE: No further questions, Your Honor.

11 THE COURT: Redirect?

12 MR. WATERS: Thank you, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. WATERS:

15 Q You were just asked on cross-examination about
16 the first time that you talked to law enforcement about
17 David Barajas and you mentioned that it was in January of
18 2016; is that correct?

19 A Right.

20 Q And you were still incarcerated at that time; is
21 that right?

22 A Yes.

23 Q You didn't have any paperwork in this case; is
24 that correct?

25 A Correct.

JORGE MARTINEZ-REDIRECT BY MR. WATERS

1 Q You were still in jail?

2 A Right.

3 Q All right. Let me ask you this, is it common in
4 prison for Spanish-speaking Hispanic males to congregate
5 together?

6 A Yes.

7 Q And talk with one another?

8 A Yes.

9 Q Is that common?

10 A Yes.

11 Q Is it very common for guys to talk about, hey,
12 what you in for, man? What you in for? Tell me what's
13 up. What do you know about this? Is that very common?

14 A Yes.

15 Q So it's not uncommon for people to discuss their
16 cases in prison, particularly, with people that they're
17 associating with because they share a common heritage and
18 a common language?

19 A Right.

20 Q That happens all the time?

21 A Yes.

22 Q Might not be smart to talk about your case, but
23 people do it all the time; is that right?

24 A Yes.

25 Q Is that what happened here?

JORGE MARTINEZ-REDIRECT BY MR. WATERS

1 A Yes.

2 Q All right. And not only that, he was talking
3 with you about possibly doing work in the future to try to
4 put you in touch with his cousin, Chema, correct?

5 A Correct.

6 Q So it wasn't just hey, tell me about your case,
7 it was like hey, man, you're in for meth, too, we can
8 maybe work together?

9 A Right.

10 Q Is that right?

11 A Yes.

12 Q Is that, essentially, what happened?

13 A Yes.

14 Q And you're in a lot of trouble, you know that,
15 right?

16 A Yes.

17 Q And you testified, you're hoping for the best;
18 is that right?

19 A Yes.

20 Q But despite the fact that you're hoping for the
21 best, has anybody promised you anything?

22 A No.

23 Q What is the only thing that anyone has ever
24 asked you to do in this courtroom today?

25 A Tell the truth.

JORGE MARTINEZ-REDIRECT BY MR. WATERS

1 Q Is what you've told the truth?

2 A Yes.

3 MR. WATERS: Nothing further, Your Honor.

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

6 MR. WATERS: Your Honor, we ask the witness be
7 excused.

8 THE COURT: Any objection?

9 MR. UNDERWOOD: No objection.

10 THE COURT: All right.

11 MR. UNDERWOOD: Your Honor, there's a legal
12 matter to resolve.

13 THE COURT: All right, folks, step back to your
14 jury room and we'll bring you back out shortly.
15 Don't discuss the case.

16 (WHEREUPON, the jury left open court at
17 approximately 2:05 p.m.)

18 THE COURT: All right, yes.

19 MR. UNDERWOOD: Your Honor, I believe there's a
20 Biggers challenge to that identification of the
21 Defendant by the next witness, which is Luis Flores.
22 So at this time, we call our first witness for the
23 Biggers hearing, Luis Flores.

24 THE COURT: All right.

25 THE CLERK: Please come forward to be sworn in,

1 sir. If you would, raise your right hand.

2 LUIS FLORES, after being duly sworn, testified
3 as follows:

4 THE CLERK: State your full name.

5 THE WITNESS: Luis Flores.

6 THE CLERK: Be seated and adjust the microphone,
7 if you would.

8 DIRECT EXAMINATION

9 BY MR. UNDERWOOD:

10 Q Good afternoon, Mr. Flores. Mr. Flores, you're
11 charged in this case; is that right?

12 A Yes.

13 Q Is that for -- were you originally charged for
14 trafficking methamphetamine by conspiracy?

15 A Yes.

16 Q As part of that, have you already pled guilty in
17 this case?

18 A Yes, I did.

19 Q And upon being approached by law enforcement,
20 were you agreeable from the beginning to cooperate with
21 law enforcement?

22 A Yes, sir.

23 Q Have you provided information to law enforcement
24 as well as helped to identify certain individuals that
25 were involved in your case?

LUIS FLORES-DIRECT BY MR. UNDERWOOD (IC)

1 A Yes, I did.

2 Q Are you familiar with an individual that you
3 knew as Pelon?

4 A Yes, sir.

5 Q How do you know Pelon?

6 A I dealt with him a couple times.

7 Q When you say a couple times, does that mean two
8 or more than once?

9 A More than once.

10 Q What was the nature of your dealings with him?

11 A Going to pick up.

12 Q Pick up what?

13 A Meth.

14 Q Where did you go to pick up meth for him?

15 A Atlanta.

16 Q Where in Atlanta?

17 A Off 285. Some where down by the airport.

18 Q Was it always the same place?

19 A No, it was a couple different places.

20 Q So there's the airport. Where else?

21 A The airport or another house by a museum.

22 Q Was there any other place in Georgia you went?

23 A An apartment complex.

24 Q Did you meet with the person that you knew as
25 Pelon at each one of those locations?

LUIS FLORES-DIRECT BY MR. UNDERWOOD (IC)

1 A Yes.

2 Q Did you ever meet with the person you knew as
3 Pelon in South Carolina?

4 A Yes, I did.

5 Q Where was that?

6 A At the state line.

7 Q Was that also for the purpose of picking up
8 methamphetamine?

9 A Yes.

10 Q At the locations that you mentioned in Georgia,
11 did you go to any of those locations more than once?

12 A Yes.

13 Q During any of those encounters, did you ever
14 have a chance to hang out and talk for a few minutes or
15 did you just walk up, pick something off the ground and
16 leave?

17 A Just a regular three-to-five-minute
18 conversation.

19 Q So you'd have a conversation each time?

20 A I mean, just to talk.

21 Q Did you have an opportunity to, after you began
22 cooperating with law enforcement, conduct a controlled
23 payment to the person you knew as Pelon?

24 A Yes.

25 Q What happened in that particular encounter?

LUIS FLORES-DIRECT BY MR. UNDERWOOD (IC)

1 A I drove down with law enforcement from here to
2 Atlanta and met with law enforcement from Atlanta and
3 waited for the money. And then went to the apartment
4 complex.

5 Q What happened at the apartment complex?

6 A I walked in, handed him the money. And he was
7 counting money for quite a while because it was all in
8 ones and fives.

9 Q So you were with -- was the person you knew as
10 Pelon with you that whole time?

11 A Yeah, he was there.

12 Q Were you engaged talking with him while counting
13 all this money?

14 A Yeah, with him.

15 Q You say that was over a considerable period of
16 time?

17 A Yeah, it was a while.

18 Q During all those occasions, have you had an
19 opportunity to see Mr. Pelon?

20 A Yes.

21 Q All right. Did you ever notice if he had any
22 distinctive markings or tattoos?

23 A Yes.

24 Q What kind of markings or tattoos did he have?

25 A He had a tattoo on his neck. He had like in

LUIS FLORES-DIRECT BY MR. UNDERWOOD (IC)

1 Spanish something on his neck. And another tattoo -- I
2 can't remember what arm, I don't know if it's the right or
3 left, got like a tribal tattoo.

4 Q What kind of clothes was he wearing for you to
5 be able to see that?

6 A One of the times before, he was wearing a tank
7 top.

8 Q All right. As part of your cooperation with law
9 enforcement and trying to identify the person you knew as
10 Pelon, first of all, did you know him by any other names?

11 A No, I didn't.

12 Q All right. Did you ever know his real name at
13 that time?

14 A No.

15 Q In an effort to help law enforcement identify
16 him, did they ever show you any photographs?

17 A Yes.

18 Q All right. Was it a group of photographs or
19 single photographs?

20 A Single.

21 Q When they would show you those photographs, what
22 was the question that they asked you?

23 A If I knew the person that was in the picture.

24 Q Did they indicate to you that you should know
25 the person or who it was?

LUIS FLORES-DIRECT BY MR. UNDERWOOD (IC)

1 A No.

2 Q They just asked, Do you know this person?

3 A Yeah.

4 Q In just a moment, I'm going to show you two
5 exhibits. But first, the person you knew as Pelon, is he
6 here in the courtroom today?

7 A Yes.

8 Q Where is he?

9 A Over there.

10 MR. UNDERWOOD: Your Honor, I'd ask the record
11 to reflect that he's indicated the Defendant, David
12 Barajas.

13 THE COURT: So noted.

14 BY MR. UNDERWOOD:

15 Q I'm handing you State's Exhibit 125 and 126, do
16 you recognize those?

17 A Yes.

18 Q Are those the photographs that were shown to you
19 by law enforcement?

20 A Yes.

21 Q All right. When you saw those photographs, did
22 you know who the person was?

23 A Yes, sir.

24 Q Did you have to think about it or did you
25 immediately know?

LUIS FLORES-DIRECT BY MR. UNDERWOOD (IC)

1 A No, I was a hundred percent sure.

2 Q Who was the person in each of those photographs?

3 A Pelon.

4 Q Did you mark those pages in any way?

5 A Yes, I did.

6 Q How?

7 A I put my initials on them.

8 Q All right. So that indicates that you have
9 identified this person as Pelon?

10 A Yes, sir.

11 Q Same as on -- Exhibit 125, is it the same on
12 126?

13 A Yes, sir.

14 Q Now, on Exhibit 125, when it was shown to you,
15 that photograph, was it as it appears right now? Did you
16 see all this other information on the page?

17 A There was no writing on it and it was covered up
18 with two different pieces of paper, one on top and one on
19 bottom.

20 Q So are you referring to all that area that's
21 typed was covered at the time?

22 A It was covered up like that with another piece
23 of paper down here. There was no writing on the paper.

24 Q You're 100 percent confident about the
25 identifications, that the person in both of these

LUIS FLORES-CROSS BY MR. HODGE (IC)

1 photographs and the person sitting at that table right
2 there is the person you know as Pelon?

3 A Yes, sir.

4 MR. UNDERWOOD: No further questions, Your
5 Honor.

6 THE COURT: Cross-examination.

7 MR. HODGE: Briefly, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. HODGE:

10 Q Mr. Flores, my name is William Hodge, I
11 represent David. I think you testified you didn't know
12 his real name, had never known his real name; is that
13 right?

14 A Uh-huh.

15 Q How many times had you met the person that you
16 knew as Pelon?

17 A I'd say anywhere around five, six times.

18 Q Five or six times. Prior to being shown those
19 pictures, when was the last time you had met with him?

20 A When was the last time -- can you repeat that?

21 Q Yeah. Before you were shown those pictures,
22 when was the last time you had seen who you knew as Pelon?

23 A It's been years.

24 Q I mean, the first time you saw those pictures,
25 how long had it been? When you initially identified those

LUIS FLORES-REDIRECT BY MR. UNDERWOOD (IC)

1 pictures as the person you knew as Pelon, how long had it
2 been since you had seen him?

3 A Four or five years.

4 Q Okay. When were you shown those pictures?

5 A Back in -- I don't know the exact date.

6 Q Is there a date on them? 2015, does that sound
7 right? So when was the time you had seen who you say is
8 Pelon, this guy, prior to June 4th, 2015? How long had it
9 been?

10 A At least, a year or months.

11 Q A year or a month?

12 A Months.

13 Q Okay.

14 MR. HODGE: No further questions.

15 THE COURT: Redirect.

16 MR. UNDERWOOD: Briefly, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. UNDERWOOD:

19 Q Mr. Flores, do you remember when law enforcement
20 approached you about cooperating with the case?

21 A Yes, I do.

22 Q When that happened, did you agree to do that
23 controlled payment that we just discussed a moment ago?

24 A Yes.

25 Q Was that in May of 2015?

LUIS FLORES-REDIRECT BY MR. UNDERWOOD (IC)

1 A I can't remember the exact date, but.

2 Q All right. Was that prior to the date that you
3 were shown those photographs?

4 A Yes, sir.

5 Q All right. The date on these photograph is
6 June 4th; is that right?

7 A Yes, sir.

8 Q 2015?

9 A Yes.

10 Q All right. This was after you went on that
11 controlled payment we talked about; is that right?

12 A Yes.

13 Q All right. Did you do more than one controlled
14 payment?

15 A No, just one payment.

16 Q Just the one. Was that the last time that you
17 had seen the person you knew as Pelon before you were
18 shown these photographs?

19 A Yes, sir.

20 MR. UNDERWOOD: All right, nothing further, Your
21 Honor.

22 THE COURT: All right. You may step down.

23 MR. UNDERWOOD: Your Honor, the State's next
24 witness is Captain Jason Wells.

25 THE CLERK: Please raise your right hand.

JASON WELLS-DIRECT BY MR. UNDERWOOD (IC)

1 JASON WELLS, after being duly sworn, testified
2 as follows:

3 THE CLERK: Please state your full name.

4 THE WITNESS: Jason Wells.

5 DIRECT EXAMINATION

6 BY MR. UNDERWOOD:

7 Q Captain Wells, as an investigator in this case,
8 did you have an opportunity to participate in an operation
9 involving Luis Flores as a confidential informant?

10 A Yes, I did.

11 Q And the particular operation I'm speaking of,
12 was that a controlled payment to a person known as Pelon
13 that happened in Georgia?

14 A Yes.

15 Q All right. And did that happen on, I believe it
16 was around May 14th or so of 2015?

17 A Yes. I've got it here in front of me somewhere.
18 May 14, 2015.

19 Q All right. And was that an operation -- again,
20 that was targeting the person that was known to the
21 confidential informant as Pelon?

22 A Yes.

23 Q Following that, did you take steps to attempt to
24 identify Pelon?

25 A Yes, I did.

JASON WELLS-DIRECT BY MR. UNDERWOOD (IC)

1 Q All right. And as a result of the efforts you
2 undertook, were you able to find two photographs of the
3 Defendant in this case, David Barajas?

4 A I did, yes. The first photo I ever saw of him
5 was sent to me by one of the HSI task force agents working
6 on the case there. And it was the driver's license photo
7 that has previously been seen. That was the first photo I
8 ever saw.

9 Q Did you also obtain a series of Facebook
10 photographs as well?

11 A Yes, I did.

12 Q Did you show the driver's license photograph as
13 well as one of the Facebook photographs to Mr. Flores at a
14 later date?

15 A Yes.

16 Q I show you what's been marked as State's
17 Exhibits 125 and 126. Are those the two photographs you
18 showed to Luis Flores?

19 A Yes, I did.

20 Q Agent Wells -- excuse me, Captain Wells, at the
21 time that you presented those photographs to Mr. Flores,
22 what did you ask him as far as the identification was
23 concerned?

24 A Merely, just do you recognize the person in the
25 photo?

JASON WELLS-CROSS BY MR. HODGE (IC)

1 Q And what was his response?

2 A Yes. He immediately recognized him as the
3 individual he knew as Pelon.

4 Q How confident did he appear to be?

5 A A hundred percent confident.

6 Q As to Exhibit 125, was all the typed-faced font
7 that's on that sheet of paper, was all that covered up at
8 the time you showed the photograph?

9 A Yes.

10 Q Was that to protect the integrity of the
11 identification?

12 A Yes, that's just so there's no identifying
13 information on the page. He just saw the photograph.

14 Q At any time, did you suggest to Mr. Flores who
15 the person was in the photographs?

16 A No.

17 Q At any time, did you suggest that he should know
18 the person in the photographs?

19 A No.

20 MR. UNDERWOOD: Nothing further, Your Honor.

21 THE COURT: Cross-examination.

22 CROSS-EXAMINATION

23 BY MR. HODGE:

24 Q Was that the only two photos that you showed,
25 Captain Wells? That you recall?

JASON WELLS-CROSS BY MR. HODGE (IC)

1 A Yeah, I just don't recall.

2 Q But there was no photo lineup or anything given
3 to him like it was to Arias like we discussed yesterday?

4 A No. I just have to go with what's on the
5 documentation in the report.

6 MR. HODGE: Okay, no further questions.

7 THE COURT: Redirect?

8 MR. UNDERWOOD: Nothing further, Your Honor.

9 THE COURT: All right. You may step down.
10 Thank you.

11 MR. HODGE: Judge, just out of formality, it's
12 the same argument. It was very suggestive being the
13 only picture. I understand the factors in your
14 previous ruling, but.

15 THE COURT: Again, I'm not sure this -- in light
16 of the testimony, I think it meets the standard of
17 Biggers to allow it to be the identification to go
18 forward.

19 MR. HODGE: Thank you, Your Honor.

20 THE COURT: Counsel, can y'all approach just
21 briefly? Scheduling. Going to take a five-minute
22 break.

23 (WHEREUPON, an off-the-record bench conference
24 was held.)

25 (WHEREUPON, a short break was taken.)

1 THE COURT: Let me ask if this makes any --
2 well, I don't think it will. There's no additional
3 transportation issues of anybody at SCDC, right?

4 MR. UNDERWOOD: No, Your Honor.

5 THE COURT: Okay. Because effective
6 immediately, there's no more transporting. I just
7 got an email about it from court administration.
8 They've received SCDC's report that as of --
9 effective immediately, there will be no transporting
10 for 30 days.

11 All right. Are we ready to proceed?

12 MR. UNDERWOOD: Yes, Your Honor.

13 THE COURT: Defendant ready?

14 MR. HODGE: Yes, Your Honor.

15 THE COURT: All right.

16 (WHEREUPON, the jury entered open court at
17 approximately 2:35 p.m.)

18 THE COURT: All right, ladies and gentlemen, we
19 are still in the State's case. The State will call
20 their next witness.

21 MR. UNDERWOOD: Thank you, Your Honor. The
22 State calls Luis Flores.

23 THE CLERK: Please step forward to be sworn in.
24 Raise your right hand, if you would.

25 LUIS FLORES, after being duly sworn, testified

1 as follows:

2 THE CLERK: Please be seated adjust the
3 microphone, sir.

4 DIRECT EXAMINATION

5 BY MR. UNDERWOOD:

6 Q Good afternoon, Mr. Flores.

7 A Hi.

8 Q Can you move that microphone a little bit
9 closer? Thank you. Mr. Flores, how old are you, sir?

10 A Thirty.

11 Q Where are you from?

12 A Mexico.

13 Q How long you been in South Carolina?

14 A I was nine years old when I came to South
15 Carolina, so 20 years, 21 years.

16 Q Twenty, 21 years or so?

17 A (The witness nods.)

18 Q How far did you go in school?

19 A Dropped out when I was in 11th grade.

20 Q Do you have a job?

21 A Yes, I do.

22 Q Where do you work?

23 A Schedl Automotive.

24 Q Judging by your shirt, is it fair to say you
25 just got off work?

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 A Yeah, I just got off of work.

2 Q What do you do there?

3 A I do a little bit of everything. I unload tires
4 and wheels. And I just moved to a different position.

5 Q What's that position?

6 A Moving all the trailers, doing the swap outs.

7 Q Who does your company do business with? What
8 kind of business is it?

9 A BMW.

10 Q Is that making wheels and tires for BMW?

11 A Yeah, we mount and balance the tires for BMW.

12 Q Now, Mr. Flores, did you have the opportunity to
13 get involved in the methamphetamine business?

14 A Yes, I did.

15 Q How long ago was that?

16 A Has to be seven years, six years ago.

17 Q Who got you involved in the methamphetamine
18 business?

19 A A buddy of mine.

20 Q Who was that?

21 A Juan Espinoza.

22 Q How do you know Juan Espinoza?

23 A We've known each other since the fifth grade.

24 Q So you've been school friends?

25 A Yes, sir.

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 Q How did he get you involved?

2 A Well, the very first time, I just rode with him
3 to Pleasantburg Home Depot to pick up some money.

4 Q Did you know why he was picking up money at the
5 time?

6 A I had no clue.

7 Q Did you find out later?

8 A Yes.

9 Q How did you find out?

10 A He wanted me to start helping him.

11 Q Helping him do what?

12 A Pick up money.

13 Q Do you know why he was picking up money at that
14 point when he was asking you to help?

15 A Yes.

16 Q How did you find out?

17 A He wanted me to meet Gordo?

18 Q Who's Gordo?

19 A I guess, the guy in charge.

20 Q Did you meet this guy Gordo?

21 A Yes, I did.

22 Q Where did you meet him?

23 A I met him at a restaurant.

24 Q What happened at that meeting?

25 A He wanted me to help him pick up money. Talked

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 about picking up money.

2 Q Did he tell you what the money was for?

3 A Not at the time.

4 Q Did you ask?

5 A Yes.

6 Q But he didn't tell you?

7 A No.

8 Q Did you agree to do it any way?

9 A Not at the time.

10 Q What happened that changed your mind?

11 A Just easy money.

12 Q You were in it for the money?

13 A Yes.

14 Q Did you ever use methamphetamine?

15 A No, sir.

16 Q So you just got involved in the business for
17 money?

18 A Yes, sir.

19 Q How long was it before you changed your mind?

20 A A couple weeks.

21 Q What happened when you changed your mind?

22 A I called Juan and told him I would do it.

23 Q Then what happened?

24 A Then they sent me to pick up money.

25 Q Who sent you?

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 A Well, Juan called Gordo and Gordo would tell
2 Juan to tell me where to go.

3 Q So did you go pick up some money?

4 A Yes, I did.

5 Q Where did you go, do you remember?

6 A Ma.

7 Q Who's Ma?

8 A I went to some lady named Ma.

9 Q What's Ma look like?

10 A She's an older lady.

11 Q What happened when you went to Ma that first
12 time?

13 A Picked up money from her.

14 Q What kind of dollar amounts are we talking
15 about?

16 A Five, six thousand dollars.

17 Q Is that the only time you ever met Ma?

18 A No, I went to her a couple of times.

19 Q When you say a couple, do you mean two or you
20 mean more times?

21 A About two, three times.

22 Q All right. Was it always for that same amount
23 of money?

24 A Yes.

25 Q What other kinds of jobs did you do for Juan and

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 for Gordo?

2 A I started driving to Atlanta.

3 Q Why did you drive to Atlanta?

4 A To pick up a kilo.

5 Q Kilo of what?

6 A Of meth.

7 Q Let's talk about that. The very first time you
8 went, did you go by herself or did you go with someone
9 else?

10 A I went by myself.

11 Q How was it arranged?

12 A Gordo told me to go to Atlanta and gave me a
13 number. As I got closer to Atlanta, I called the number
14 so I could know where to go.

15 Q Is that what happened?

16 A Yes.

17 Q All right. What happened when you called the
18 number?

19 A The guy told me where to go.

20 Q Who told you where to go?

21 A It was the first time, just different people.

22 Q All right. But was it the person you were
23 supposed to be meeting with?

24 A Yes.

25 Q Where did they tell you to go?

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 A I think the very first time, it was like a dirt
2 road towards -- near Atlanta.

3 Q Did you go to the dirt road?

4 A Yes, I did.

5 Q What happened when you got there?

6 A Kind of just made an exchange of -- gave me the
7 kilo.

8 Q Again, that's a kilo of what?

9 A Of meth.

10 Q Did you give him money for it?

11 A No, I didn't.

12 Q Do you know if someone else paid him?

13 A It was all set up from Gordo.

14 Q So it was set up, all you were supposed to do
15 was go pick it up?

16 A Yes.

17 Q Where did you go once you got the kilo of meth,
18 what did you do with it?

19 A I drove back to Greenville.

20 Q Then what did you do with it?

21 A I gave it back to Gordo.

22 Q Did you see what he did with it?

23 A No, I didn't.

24 Q Did you get paid for that?

25 A Yes, I did.

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 Q Do you remember how much?

2 A It was like a thousand dollars or little more
3 than that, \$1200.

4 Q Is that the only time you went to Georgia?

5 A No, I went back.

6 Q Did you go back multiple times?

7 A Yes.

8 Q Was this all at the direction of Gordo or on
9 your own?

10 A Gordo.

11 Q Who are some of the different people -- well,
12 let me ask you this question, did you always meet with the
13 same person?

14 A No, I didn't.

15 Q How many different people did you pick up from
16 that you remember?

17 A Three, four.

18 Q So, at least, three or four?

19 A Yes.

20 Q Do you remember the names of any of the people
21 that you picked up methamphetamines from?

22 A I remember one of the guys named Chencho.

23 Q Let's talk about Chencho. How did you first
24 meet Chencho?

25 A First time I went to pick up, pick up some

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 money?

2 Q Do you remember where that was?

3 A Somewhere in Atlanta, in an apartment complex.

4 Q Do you remember where in Atlanta the apartment
5 complex was?

6 A Off of 275.

7 Q Now, in that particular transaction, did you
8 just drop off money or was it an exchange?

9 A Took money and brought a kilo back, kilo of
10 meth.

11 Q Is that the only time you've ever dealt with
12 Chencho? Or were there more times?

13 A It was two or three times.

14 Q You met with him two or three times?

15 A Yes.

16 Q All right. What about the next time, what
17 happened?

18 A I went back and took about the same amount of
19 money.

20 Q Do you remember how much money?

21 A About eight to ten thousand dollars.

22 Q Eight to ten thousand dollars?

23 A Yes.

24 Q Did you get a kilo the second time?

25 A Yes.

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 Q What about a third time?

2 A That same transaction happened. I went down
3 there and gave him some money and came back with a kilo of
4 meth.

5 Q Did you always go to the same place to meet him?

6 A Yes.

7 Q Who set up the trips? Was it you or someone
8 else?

9 A Gordo.

10 Q Did Chencho always have the methamphetamine
11 ready for you or did anybody bring it to him?

12 A I can't remember if it was the second time or
13 the third time where someone else brought it to him.

14 Q Do you know who that person was?

15 A Just knew that he went by Guardo.

16 Q Can you describe Guardo?

17 A About early 30's, light-colored skin, spikey
18 hair. He was wearing sunglasses, couldn't really see his
19 face.

20 Q Did you see where Guardo came from?

21 A I have no idea.

22 Q Was this inside or outside?

23 A This was inside an apartment?

24 Q Was that the only time you've ever seen Guardo?

25 A Yes, sir.

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 Q Do you know Guardo's real name?

2 A No.

3 Q Do you know anything else about Guardo?

4 A No, sir.

5 Q Any other individuals that you remember going to
6 Georgia to pick up methamphetamine from?

7 A Yes, sir.

8 Q Who?

9 A Pelon.

10 Q Let's talk about Pelon.

11 A All right.

12 Q How did you meet Pelon?

13 A It was set up through Gordo to go and pick up
14 meth from him.

15 Q All right. When you say it was set up by Gordo,
16 please explain exactly what happened.

17 A I was told to go downtown -- go down Atlanta,
18 pick up methamphetamine from him.

19 Q What were you supposed to do when you got to
20 Atlanta?

21 A Get a kilo from him.

22 Q How did you know where to go?

23 A When I got closer, I called him. He told me
24 where to go.

25 Q At that time, did you know what his name was?

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 A Not the first time.

2 Q What happened -- well, where did he tell you to
3 go the first time?

4 A The first time was by the -- it was a house by
5 the airport.

6 Q Did you know how to get there?

7 A No, I didn't.

8 Q Did you get directions or how did you get there?

9 A When I got to downtown Atlanta is when I made
10 the call and told him where I was and he told me where to
11 go.

12 Q So you went to a house by the airport?

13 A Yes, but before going to the house, I stopped by
14 like a shopping center.

15 Q Then what happened at the shopping center?

16 A He pulled up to the shopping center and I
17 followed him to the neighborhood.

18 Q What happened when you got to -- was it a house
19 or an apartment?

20 A It was a house.

21 Q What happened when you got to the house?

22 A We parked, went inside. Was there for a couple
23 of minutes, then gave me a kilo of meth, then drove back.

24 Q Did you engage in any conversation with him?

25 A No. It was no longer than five, ten minutes.

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 Q Five, ten minutes?

2 A Yeah.

3 Q Was anyone else there?

4 A The very first time, Chema was there.

5 Q So how do you know that the other person's name
6 was Chema?

7 A Because that's what he called him.

8 Q That's what who called him?

9 A Pelon.

10 Q How did you know Pelon's name was Pelon? Did he
11 introduce himself?

12 A No.

13 Q How did you know his name was Pelon?

14 A Just kind of what I heard from everybody else.

15 Q So at that time, he didn't introduce himself as
16 Pelon?

17 A No.

18 Q You found out later his name was Pelon?

19 A Yes.

20 Q All right. And there was a person there that
21 you heard referred to as Chema?

22 A Yes.

23 Q What was Chema doing?

24 A He was just, I guess you can say, hanging out
25 with him.

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 Q Were they discussing business?

2 A Yes.

3 Q Do you remember what they were saying?

4 A No, I can't remember exactly what they were
5 saying.

6 Q What was the -- what was the inside of the house
7 like?

8 A Very empty.

9 Q All right. Did it appear that anyone was living
10 there?

11 A No. They just had kind of like canned food in
12 the kitchen.

13 Q Was there any furniture in the house?

14 A No.

15 Q So on that particular transaction, were you able
16 to get a kilo of methamphetamine?

17 A Yes, sir.

18 Q Did you deliver any money for it?

19 A No.

20 Q So did you get it on credit? Or were you just
21 picking up for someone else?

22 A I was just picking up what Gordo told me, just
23 go get.

24 Q What did you do with the kilo of meth once you
25 got it?

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 A I drove back to Greenville.

2 Q Then what did you do with it?

3 A Gave it to Gordo.

4 Q Did you see what Gordo did with it?

5 A I have no idea.

6 Q Is that the only time you went to that house by
7 the airport?

8 A Yes, sir.

9 Q So you never went back to that house by the
10 airport, is that what you're saying?

11 A I don't remember if I went back.

12 Q Well, let me ask you this way, were there any
13 other locations where you went to meet the person that you
14 came to know as Pelon?

15 A Yes.

16 Q What were those other locations?

17 A Met him at the state line.

18 Q On the Georgia side or the South Carolina side?

19 A The border.

20 Q Tell us about that particular transaction. How
21 was it set up?

22 A It was set up just to go meet him.

23 Q By who?

24 A By Gordo.

25 Q Did Gordo tell you where to go or did he just

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 say start driving and then call?

2 A Yes.

3 Q Who did you call Gordo or Pelon?

4 A I made a phone call to him.

5 Q Who's him?

6 A Pelon.

7 Q Did you make that phone call?

8 A Yes, I did.

9 Q What were you told?

10 A Actually, go to -- pull up to a gas station.

11 Q Was that gas station on the South Carolina side?

12 A Yes, sir.

13 Q What happened when you got to the gas station?

14 A Did the exchange and then drove back to

15 Greenville, gave the kilo to Gordo.

16 Q Did you pay any money at that time?

17 A No, sir.

18 Q But you picked up a kilo of meth?

19 A Yes, I did.

20 Q You gave it to Gordo?

21 A Yes, I did.

22 Q What happened to it after that?

23 A I have no idea.

24 Q Did you ever see what Gordo did with the

25 methamphetamine after you dropped it off to him?

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 A No, sir.

2 Q Were there any other locations where you went to
3 and met Pelon?

4 A No, that's when Gordo went missing.

5 Q So Gordo went missing. What happened when Gordo
6 went missing?

7 A I got a phone call from Pelon.

8 Q How did -- how long was it after Gordo went
9 missing that you got this phone call from Pelon?

10 A About a month or two.

11 Q What was said in that phone call?

12 A That Gordo had went down there and got a kilo
13 from him. And that he had heard that he had got a kilo
14 from someone else, too, and he never paid him.

15 Q So who was telling you that?

16 A Pelon.

17 Q So Pelon told you on the phone that first, Gordo
18 had gotten a kilo from Pelon. And then second, that Gordo
19 got a kilo from someone else, too; is that right?

20 A Yes.

21 Q Did you say that Gordo didn't pay either one of
22 them for those two kilos?

23 A Yeah. Pelon said, I don't know what's going on
24 because I haven't seen him or heard from him.

25 Q Then what was discussed?

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 A That money needed to be paid to him.

2 I say, Where you want me to give you money
3 from? I don't even know where he's at if you're telling
4 me the truth.

5 Q So what were you supposed to do?

6 A So gather up some money and went down there.

7 Q Is that what you did?

8 A Yeah.

9 Q Where did you get the money?

10 A From Dee Dee.

11 Q Dee Dee one of your customers?

12 A Yes.

13 Q What did you do once you got the money?

14 A I called him, told him I had some money.

15 Q Who is him?

16 A Pelon.

17 Q Then what happened?

18 A So he told me where to go.

19 Q Where did he tell you to go?

20 A To a house by the museum in Atlanta.

21 Q All right. So is this a different house than
22 the one you described earlier?

23 A Yes.

24 Q What happened when you got to the house near the
25 museum in Atlanta?

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 A I drove down there and gave him some money.

2 Q How much money, do you remember?

3 A Like \$8,000.

4 Q Did you just give him the money and leave? What
5 else happened?

6 A I got a half of meth -- half a kilo from them.

7 Q So half a kilo of methamphetamine?

8 A Yes.

9 Q When you say them, who else was there?

10 A At the time, it was Vicente with him.

11 Q Who's Vicente?

12 A Some guy that was with him. I didn't know his
13 name at the time.

14 Q By that time, did you know Pelon's name?

15 A Yeah.

16 Q In all these encounters you had with the person
17 you referred to as Pelon, was there, at least, a few
18 minutes of conversation every time?

19 A Just a couple minutes. It was never -- I was
20 never there for long.

21 Q But each of these times you've talked about, did
22 you meet with Pelon face-to-face?

23 A Yes, I did.

24 Q So this most recent occasion discussed, the
25 first time you go to this house near the museum, so you

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 got half a kilo, what did you do with that half a kilo?

2 A Drove it back to Greenville.

3 Q What did you do with it?

4 A Gave it to Dee Dee.

5 Q The whole thing?

6 A Yes.

7 Q How long was it before you got paid for it?

8 A It was a couple of weeks.

9 Q What happened after you got the money?

10 A I called him back.

11 Q Called who back?

12 A Pelon.

13 Q What happened in that conversation?

14 A Got another half from him.

15 Q Where did you go to get that?

16 A At the same house.

17 Q So this same house, this is the one by the
18 museum?

19 A Yes, sir.

20 Q So did you go to that house multiple times?

21 A Yes.

22 Q On the second occasion when you went, did you
23 get the half a kilogram?

24 A Yes, I did.

25 Q Was anyone else there?

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 A No, that time, he was by himself.

2 Q What did you do with that half a kilo?

3 A I drove back and gave it to Dee-Dee.

4 Q How long was it before you were able to come up
5 with the money to get more?

6 A A couple weeks.

7 Q What did you do then?

8 A Called him back, got a whole.

9 Q All right. When you say him, we're talking
10 about who?

11 A I called Pelon back.

12 Q And this time, you were going to get a whole
13 kilo?

14 A Yes.

15 Q Where did you go this time? Still that same
16 house?

17 A Yes.

18 Q What happened when you got there?

19 A Gave him some money, he gave me the kilo.

20 Q This is still methamphetamine?

21 A Yes.

22 Q Did you ever buy any different drugs from him?

23 A No, sir.

24 Q What did you do with that kilo?

25 A Drove back, give it to Dee Dee.

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 Q Same process?

2 A Same process, yeah.

3 Q Did you go back to that house again after that?

4 A No, that's when I was approached by the police.

5 Q So you were approached by the police. Did you
6 agree to cooperate at that time?

7 A Yes, I did.

8 Q What kind of things did you agree to do to
9 cooperate?

10 A Just told them whatever I can help out with.

11 Q So you were approached by the police. Were you
12 eventually charged?

13 A Yes.

14 Q And did you enter a plea agreement with the
15 State?

16 A Yes, I did.

17 Q All right. As part of that plea agreement, do
18 you recall that you had two trafficking charges for
19 trafficking methamphetamine?

20 A Yes.

21 Q You also have an arson third degree charge; is
22 that right?

23 A Yes.

24 Q All right. Is it your understanding as part of
25 that plea agreement the trafficking charges were reduced

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 to distribution?

2 A Yes, sir.

3 Q Do you understand that the State's not making
4 any recommendation whatsoever as to your sentence?

5 A Yes, sir.

6 Q What are your obligations under that agreement?

7 A You repeat that again?

8 Q As far as the plea agreement is concerned, what
9 are you supposed to do as far as your cooperation?

10 A Help as much as I can.

11 Q By doing what?

12 A Give them all information that I know.

13 Q All right. Specifically, what are you supposed
14 to say?

15 A I don't know what you're asking.

16 Q Has anyone told you what you're supposed to say
17 when you come in this courtroom?

18 A No one's told me any.

19 Q Does your plea agreement say you have to testify
20 truthfully?

21 A Yes.

22 Q Only truthfully, do you understand that?

23 A Yes, sir.

24 Q Now, Mr. Flores, when you started cooperating
25 with law enforcement, did you agree to work as a

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 confidential informant?

2 A Yes. Is that CI means?

3 Q Yes. Is that what you call it, a CI?

4 A CI, whatever CI means, I don't know. I heard it
5 so many times, the CI thing kind of stuck in my head.

6 Q So you agreed to be a CI?

7 A Yes.

8 Q All right. Was there an operation involving the
9 person you know as Pelon?

10 A Yes, sir.

11 Q What were you agreeing to do in that situation?

12 A We made a couple phone calls to him.

13 Q For what purpose?

14 A Pay him out. Pay the amount of money that I
15 owed him.

16 Q So you still owed Pelon money at that time?

17 A Yes.

18 Q Do you remember how much?

19 A Like \$5,000 or four, four or \$5,000.

20 Q What was the arrangements that you made -- well
21 first, with law enforcement, you mentioned there were some
22 phone calls. How did those phone calls go? Were you by
23 yourself when you made them?

24 A No, it was with Jason Wells.

25 Q And did they try to record all those calls?

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 A Yeah, they had like a little -- like a little
2 reorderer looking thing with a little microphone.

3 Q So you conducted some phone calls that the
4 police recorded with who?

5 A With Jason Wells.

6 Q No, who were you calling?

7 A Pelon.

8 Q What arrangements were made in those phone
9 calls?

10 A Just tell him that I was trying to get the
11 money.

12 Q And by telling him you're getting the money, who
13 are you talking to? Talking about? Who's him?

14 A Pelon.

15 Q So you told Pelon you're trying to gather up the
16 money?

17 A Yes.

18 Q Did you make arrangements to pay Pelon?

19 A Yes.

20 Q But really, that was the operation with the
21 police; is that right?

22 A Yes.

23 Q How did that operation go down?

24 A I make a couple phone calls to him, tell him
25 that I was trying to hurry up. Gathering the money as

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 much as I can, as fast as I can. And then we finally had
2 them to go down there with state police and SLED.

3 Q You say you went down there, where did you go?

4 A Somewhere in Atlanta.

5 Q Were there other law enforcement people there
6 other than SLED?

7 A Yes. Police from Atlanta. HSI, I think that's
8 how they go by, or SII or something, some name like that.

9 Q So there were agents from Georgia and,
10 particularly, HSI?

11 A Yeah, I think that's what they're called.

12 Q All right. When you got down to Georgia, what
13 happened when you first got down there?

14 A We went to their office, like the headquarters.

15 Q What happened there?

16 A They had a big meeting.

17 Q What did you do?

18 A I sat in an empty room for about an hour, bored.

19 Q So what happened when your hour of boredom was
20 over?

21 A I guess it was time to go pay, but we sat in
22 another parking lot for another three hours.

23 Q Why were you waiting in the parking lot for
24 three hours?

25 A Because these guys were still trying to get the

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 money to pay Pelon.

2 Q Were they eventually able to get the money?

3 A Yes.

4 Q Was there anything remarkable about the money
5 that they got for you?

6 A Yes.

7 Q What about it?

8 A It was a bunch of ones and fives.

9 Q How much money was it?

10 A It was like five, \$4,000.

11 Q And it was all in ones and fives.

12 A And I told them it looked so suspicious to pay
13 him in ones and fives.

14 Q Was it decided to go ahead with the operation
15 anyway?

16 A They didn't care.

17 Q Who didn't care?

18 A Atlanta police. They said money was money, so
19 he was going to take it.

20 Q Did they wire you up in any way?

21 A Yes, they ripped a hole in my shorts and I was
22 wired.

23 Q Explain that, what happened?

24 A First, I got searched. And they pulled my
25 pocket, right pocket out and cut a hole in my inside of

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 the pocket. And I had like a key fob for a car, real
2 small, a little piece of wire. And kind of just told me
3 not to tap on my leg because it will ruin the whole
4 recording thing.

5 Q All right. So after you got wired up and you
6 got your thousands of dollars in ones and fives, what
7 happened next?

8 A Well, they searched my car, like -- I don't know
9 why they searched my car, but they searched my car and I
10 finally got to drive to the place.

11 Q All right. What happened when you got to the
12 place? Where was it? Was this the same house you'd been
13 to before?

14 A No, this was in another location.

15 Q Do you remember where it was?

16 A I don't remember exactly where, but it was
17 somewhere in Atlanta, too.

18 Q Was it a house?

19 A It was an apartment.

20 Q All right. What happened when you got to the
21 apartment?

22 A Well, I called him to -- I mean, it was actually
23 not too far from the house from the museum.

24 Q All right. So what happened when you got there?

25 A I walked in and just told him, Hey, how you

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 doing, like a normal person. Just, hey, I'm here. So he
2 was like --

3 Q Who greeted you at the door?

4 A Pelon did.

5 Q All right. Was anyone else there?

6 A Yes.

7 Q Who?

8 A Vicente.

9 Q Is this the same Vicente you talked about
10 earlier?

11 A Yes.

12 Q So what happened when you got inside?

13 A We was counting ones and fives.

14 Q Did it take a long time to count thousands of
15 ones and fives?

16 A I'd say about 45 to an hour, forty-five minutes
17 to an hour.

18 Q Did you engage in any conversation during that
19 time while you're counting all that money?

20 A Just complaining about where did I get ones
21 from. And my story was I got the money from a stripper.
22 That's the thing they keep telling me. I mean, where else
23 do you get ones from?

24 Q So during that time, did you have any discussion
25 with Pelon about business?

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 A Yes.

2 Q What was said?

3 A Well, he was telling me if I was going to get
4 more meth for him. But state police from Atlanta told me
5 not to get no dope.

6 Q They tell you why?

7 A No idea why.

8 Q So you were offered more meth, but you were told
9 to turn it down?

10 A Yes.

11 Q Was there any other discussion about your
12 business dealings with Pelon?

13 A No. He mentioned about buying a ticket, bus
14 ticket to go back home.

15 Q Where was back home?

16 A Mexico.

17 Q So at one point, he's asking you if you want to
18 buy more meth, then he saying he's leaving the country?

19 A Yeah. And I asked him, Who am I going to be --
20 if I was to keep buying, who was I going to be dealing
21 with.

22 Q What did he tell you?

23 A That Vicente and/or Chema.

24 Q Is that referencing the same Chema that you
25 mentioned earlier?

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 A Yeah. He gave me their numbers.

2 Q Was there any other discussion about future
3 business other than that?

4 A No, that was it.

5 Q So what happened when you were finally finished
6 counting all the money?

7 A I told him I would call him when I was ready.
8 And I just left.

9 Q All right. Is that the last time that you have
10 seen Pelon?

11 A Yes, sir.

12 Q The person that you know as Pelon, the person
13 that you bought multiple kilograms of methamphetamine from
14 and the person that you went and did that controlled
15 payment to, is he in the courtroom?

16 A Yes.

17 Q Where is he?

18 A He's over there sitting next to his attorney.

19 MR. UNDERWOOD: Your Honor, I'd ask the Court to
20 recognize that the witness identified the Defendant,
21 David Barajas.

22 THE COURT: All right, so noted.

23 BY MR. UNDERWOOD:

24 Q Now, Mr. Flores, rewinding a little bit. Before
25 Gordo disappeared, other than going to Atlanta, what kind

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 of work did Gordo have you doing?

2 A Picked up money.

3 Q From who?

4 A From Ma.

5 Q Who else?

6 A And Dee Dee.

7 Q Anyone else? Or are they your primary pickups?

8 A Danny Black.

9 Q Anyone else?

10 A That's it.

11 Q Did you ever get asked to do anything else for
12 Gordo?

13 A Yeah, one occasion, he told me to go burn down
14 two sheds.

15 Q Tell the jury about that. How did that happen?

16 A Well, he called me, Gordo called me and told me
17 that I needed to ride with Juan and Alejandro and to go to
18 Danny Black's house and burn down his two sheds.

19 Q Did he tell you why?

20 A No idea.

21 Q Did you do it?

22 A I do remember he owed him money.

23 Q I'm sorry.

24 A He owed him money.

25 Q Who owed who money?

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 A Danny Black, he owed Gordo money.

2 Q So did you start a fire there?

3 A Alejandro picked me up because he lived closer
4 to my house and then we went and picked up Juan. And we
5 filled up some gas tanks and then we drove to Danny
6 Black's house. And me and Juan got out the car and went
7 in the backyard and threw gasoline on the two sheds and we
8 lit it up. We lit it up.

9 Q Did you ever talk to Gordo about it afterwards?

10 A He called us.

11 Q What was said?

12 A Did we make sure it was on fire?

13 I was like, Yeah. Oh, it was on fire.

14 Q Now, you mentioned somebody, Alejandro, who is
15 that?

16 A Alejandro Norena.

17 Q How was he involved in your organization?

18 A He helped me.

19 Q How did you meet him?

20 A He's always been a friend of mine since high
21 school.

22 Q So you said that he would help you, help you do
23 what?

24 A Collect money.

25 Q Was that while you were working for Gordo or

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 after Gordo disappeared?

2 A It was with Gordo and I think one time after
3 Gordo went missing.

4 Q Did Alejandro ever go to Atlanta?

5 A Yes.

6 Q To do what?

7 A Pick up meth.

8 Q Do you know who he was picking meth up from?

9 A I have no idea.

10 THE COURT: Counsel, approach just a second.

11 (WHEREUPON, an off-the-record bench conference
12 was held in the presence of the jury but out of
13 the hearing of the jury.)

14 BY MR. UNDERWOOD:

15 Q I'm going to show you what's been marked as
16 State's Exhibits 127, 128, 129, 130, and 131. Do you
17 recognize each of those documents?

18 A Yes, I do.

19 Q Are those photographic lineups that you were
20 shown by law enforcement to help identify those who were
21 involved in the organization?

22 A Yes.

23 Q All right. And on each of those, was the
24 procedure, essentially, they would show you a group of
25 photos and ask if you knew anyone?

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 A Yes.

2 Q If you knew someone, what did you do?

3 A I circled and initialed it.

4 Q All right. And on each of these exhibits that I
5 just showed to you, were you able to make a positive
6 identification?

7 A Yes.

8 Q Were you certain on each one of those
9 identifications?

10 A I was a hundred percent sure.

11 MR. UNDERWOOD: Your Honor, at this time, I
12 would seek to admit Exhibits 127, 128, 129, 130 and
13 131.

14 THE COURT: Any objection?

15 MR. HODGE: No objection.

16 THE COURT: Okay, in without objection.

17 (WHEREUPON, State's Exhibits Nos. 127-131 were
18 admitted into evidence.)

19 BY MR. UNDERWOOD:

20 Q Were you also shown any single photographs?

21 A Yes.

22 Q Who were those photographs of?

23 A Pelon.

24 Q When those photographs were shown to you, was it
25 suggested who that person was in the photos?

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 A No.

2 Q Were you able to identify who was in the
3 photographs?

4 A Yes.

5 Q How confident were you that the person in those
6 photographs was Pelon?

7 A A hundred percent.

8 Q Let me show you what's been marked as State's
9 Exhibit 125 and 126, do you recognize those?

10 A Yes, I do.

11 Q Are those the single photographs you were shown
12 as the person that you identified as Pelon?

13 A Yes, sir.

14 Q All right. Are those annotated by your
15 initials?

16 A Yes, sir.

17 Q Okay. Were you confident on those
18 identifications?

19 A Yes, sir.

20 MR. UNDERWOOD: Your Honor, at this time, I
21 would seek to enter into evidence State's 125 and
22 State's 126.

23 THE COURT: Any objection?

24 MR. HODGE: Just previous objection, Your Honor.

25 THE COURT: Okay. So noted. Admitted subject

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 to your objection.

2 MR. HODGE: Thank you, Your Honor.

3 MR. UNDERWOOD: Permission to publish, Your
4 Honor?

5 THE COURT: Yes, sir.

6 (WHEREUPON, State's Exhibits Nos. 125 & 126 were
7 admitted into evidence.)

8 BY MR. UNDERWOOD:

9 Q Exhibit 131, who is this person that we're
10 looking at right here that you identified?

11 A Chiva.

12 Q Who is Chiva?

13 A Later on, I found out that was Gordo's
14 father-in-law.

15 Q Was he involved in the organization?

16 A Yes, he was.

17 Q How?

18 A Well, hand over -- I hand -- gave him some money
19 a couple of times.

20 Q At whose direction?

21 A Gordo.

22 Q All right. State's 130, who is that?

23 A Alejandro Norena.

24 Q Is that the same Alejandro you mentioned a
25 moment ago?

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 A Yes.

2 Q State's 129, who is that?

3 A Gordo, Arabe. I know him by a couple names.

4 Q What other names did you know him by?

5 A I knew him by Jose, Jose, Gordo, Arabe, Cali,
6 Poppy.

7 Q What name did you primarily use?

8 A I called him either Jose or Gordo or Arabe. I
9 used all three.

10 Q State's 128, who is that?

11 A Dee Dee.

12 Q State's 126, who is that?

13 A Juan.

14 Q State's 125, who is that?

15 A Pelon.

16 Q And 126?

17 A Pelon.

18 Q Is that the person that sold methamphetamine to
19 you in given amounts on multiple occasions?

20 A Yes, sir.

21 Q Now, I want to show you what's been marked as
22 State's Exhibit 124. Do you recognize that?

23 A Yes, sir.

24 Q Is that a disk that contains the controlled
25 calls and the controlled purchase -- excuse me, the

LUIS FLORES-DIRECT BY MR. UNDERWOOD

1 controlled payment that you described earlier?

2 A Yes, sir.

3 Q Have you had a chance to review that?

4 A Yes, sir.

5 Q Was it a full and accurate recording for each of
6 those items?

7 A Yes, sir.

8 Q How did you annotate that on the disk?

9 A It was taken out and signed it with a mark.

10 Q You signed it?

11 MR. UNDERWOOD: Your Honor, at this time, I
12 would seek to admit State's Exhibit 124.

13 THE COURT: Any objection?

14 MR. HODGE: No objection.

15 THE COURT: Okay.

16 (WHEREUPON, State's Exhibit No. 124 was admitted
17 into evidence.)

18 BY MR. UNDERWOOD:

19 Q Mr. Flores, the conversations that you had with
20 Pelon, were any of them ever in English?

21 A No, they were always in Spanish.

22 Q Does that include the controlled calls and the
23 controlled purchase recording?

24 A Yes.

25 Q All right. So was that all in Spanish?

LUIS FLORES-CROSS BY MR. HODGE

1 A Yes, sir.

2 Q All right. So rather than playing Spanish and
3 you've already described what was said, whose voices do we
4 hear in those different recordings?

5 A You hear mine and his. And, obviously, before
6 the phone call was Jason, Jason Wells.

7 Q All right. And during the time of the payments,
8 whose voices do we hear?

9 A Pelon and then you hear Vicente in the
10 background.

11 MR. UNDERWOOD: No further questions, Your
12 Honor.

13 THE COURT: Cross-examination.

14 MR. HODGE: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. HODGE:

17 Q Mr. Flores, you testified that Juan Espinoza was
18 the one who got you in this business; is that right?

19 A Yes, sir.

20 Q And he did that by introducing you to Gordo?

21 A Yes, sir.

22 Q Had you known Gordo before then?

23 A No, sir.

24 Q Okay. Do you know -- does Gordo have any other
25 nicknames?

LUIS FLORES-CROSS BY MR. HODGE

1 A Yes, sir.

2 Q What are those?

3 A Arabe, Jose, Poppy, Cali that's all I know.

4 Q Do you know his real name?

5 A No, sir. Well, now I do after I got arrested.

6 Just know his last name, I don't know his first name.

7 Q Okay. You said that you had gone to Atlanta to
8 pick up two or three times Chiva's methamphetamine from
9 Chencho?

10 A Yes, sir.

11 Q Do you know Chencho's real name?

12 A No, I never knew his name.

13 Q Okay. Then you testified about Pelon, how many
14 times did you say you had gone to pick up from Pelon?

15 A I say about three to five times.

16 Q Three to five times. And in your initial
17 interview with law enforcement, did you tell them about
18 all of those times?

19 A Yes, I did.

20 Q So you testified that you went to the house near
21 the airport on, at least, three occasions, is that what
22 you testified to early?

23 A Three or two times or something like that.

24 Q And you picked up how much when you went there?

25 A Kilo.

LUIS FLORES-CROSS BY MR. HODGE

1 Q How long would you be there while you picked it
2 up?

3 A No longer than five to ten minutes.

4 Q Five to ten minutes. Okay. Then you met him at
5 the border one time; is that right?

6 A Yes, sir.

7 Q Was that just one meeting at the border?

8 A Yes, sir.

9 Q How much did you get from him then?

10 A A kilo.

11 Q How long did that interaction last?

12 A No longer than five, ten minutes.

13 Q Do you remember what he was driving?

14 A Just a little green little car, import.

15 Q So the person you picked up from was driving a
16 green car?

17 A Yes, sir.

18 Q You testified that Gordo went missing and you
19 assumed his debt, right?

20 A Yes.

21 Q Or Pelon wanted you to assume his debt?

22 A Yes, sir.

23 Q Did Gordo have debts with anybody else?

24 A I guess, I don't know. I mean, that's just what
25 he told me.

LUIS FLORES-CROSS BY MR. HODGE

1 Q Okay. And so you then went back down to Atlanta
2 and met with Pelon again after Gordo had disappeared. And
3 now we know he's arrested, right?

4 A I didn't know he was arrested, went missing, got
5 shot, I don't know what happened.

6 Q All right. But now you know that he had been
7 arrested?

8 A Yeah, now I know.

9 Q So you went back down and got half a kilo of
10 meth from Pelon?

11 A Yes.

12 Q Okay. Then you were the CI for this controlled
13 money deal?

14 A Yes, sir.

15 Q And you said it was ones and fives and you were
16 worried it would be suspicious?

17 A Yeah.

18 Q What do you mean worried that it would be
19 suspicious?

20 A Because I never paid him ones and fives. It was
21 always 20's, 50's and 100's.

22 Q But they didn't care that you were worried about
23 it being suspicious?

24 A They didn't give a shit. Excuse my words, but
25 they didn't care.

LUIS FLORES-CROSS BY MR. HODGE

1 Q That's kind of what I was getting at. Okay. So
2 then you said you went in and just gave them the money,
3 right, and he offered you drugs. Did you see any drugs
4 that day?

5 A No, I didn't get or see anything.

6 Q Okay. Had you ever met the person you referred
7 to as Chema?

8 A I seen him twice.

9 Q Okay. Then you've seen Vicente, this other
10 individual, twice; is that right?

11 A Yeah.

12 Q Okay. And I think -- just to be clear, these
13 other individuals -- I don't want to go through each one,
14 but these other individuals that you identified in these
15 photo lineups, you had six pictures to pick from and you
16 circled the one that you knew to be that individual, those
17 are the people you dealt with on a regular basis, right?

18 A Yes, those are the people I knew.

19 Q I mean, Gordo, obviously, you dealt with all the
20 time?

21 A Yeah.

22 Q Juan, all those guys, you saw a lot of times
23 over the course your dealings, your transactions, right?

24 A Yes, sir.

25 Q Okay. And then your testimony is that with

LUIS FLORES-REDIRECT BY MR. UNDERWOOD

1 Pelon, that you -- did you only know him as Pelon?

2 A Yeah.

3 Q You didn't have another name for him?

4 A No.

5 Q Did Gordo have another nickname for him?

6 A No.

7 Q You never heard another name?

8 A Me and Alejandro, it was Pelon, Pelon, Pelon,
9 Pelon.

10 Q Okay.

11 A Never knew a nickname for him or never knew what
12 they called him.

13 Q And you didn't know his real name, right?

14 A No, sir.

15 Q When did you learn his real name?

16 A When I got arrested. I had a big piece of paper
17 with, I don't know, 50, 70 names in there.

18 Q Right. So when you saw the indictment and you
19 saw Pelon sitting next to the name David Barajas, that's
20 when you put two and two together that that's who that
21 was?

22 A Yes. I mean, I knew his name, I guess.

23 MR. HODGE: No further questions.

24 THE COURT: Any redirect?

25 REDIRECT EXAMINATION

LUIS FLORES-REDIRECT BY MR. UNDERWOOD

1 BY MR. UNDERWOOD:

2 Q Mr. Flores, is the person you know as Pelon the
3 Defendant in this case, David Barajas?

4 A Yes.

5 Q Is he the person that you got multiple kilograms
6 of methamphetamine and brought it back to South Carolina
7 from?

8 A Yes, sir.

9 MR. UNDERWOOD: No further questions, Your
10 Honor.

11 THE COURT: You may step down.

12 Call your next witness.

13 MR. UNDERWOOD: Your Honor, the State calls
14 Captain Jason Wells.

15 Your Honor, we ask this witness be excused.

16 THE COURT: Any objection?

17 MR. HODGE: No objection.

18 THE COURT: All right.

19 THE CLERK: Please raise your right hand, if you
20 would.

21 JASON WELLS, after being duly sworn, testified
22 as follows:

23 THE CLERK: Please state your name.

24 THE WITNESS: Jason Wells.

25 THE CLERK: Please be seated, adjust the

JASON WELLS-DIRECT BY MR. UNDERWOOD

1 microphone, if you would, please.

2 DIRECT EXAMINATION

3 BY MR. UNDERWOOD:

4 Q Good afternoon, Captain Wells.

5 A Good afternoon.

6 Q Please explain to the jury very briefly where it
7 is you work and what you currently do?

8 A I am a captain over the narcotics division with
9 the South Carolina Law Enforcement Division.

10 Q And how long have you worked for SLED?

11 A Roughly, 15 years.

12 Q Were you working for SLED in 2015 during the
13 time of this investigation?

14 A Yes.

15 Q In what capacity then?

16 A During this case, I was a special agent.

17 Q What does that mean to be a special agent?

18 A That's a field agent who is actively working
19 investigations.

20 Q And were you one of the agents assigned to this
21 investigation?

22 A Yes.

23 Q In that role, did you participate in a number of
24 controlled operations utilizing a confidential informant
25 named Eduardo Assad?

JASON WELLS-DIRECT BY MR. UNDERWOOD

1 A Yes, I did.

2 Q All right. And can you just list those
3 operations, please?

4 A With Eduardo Assad, we had an operation where we
5 purchased approximately two kilos of methamphetamine from
6 Chencho, who has been identified as Marcelo Cruz. We had
7 an operation where we did a reverse on a girl named
8 Michelle Collier for a couple of kilos of methamphetamine.
9 We had an operation -- hang on a second. I got them all
10 outlined on a page here.

11 Q Well, I'll help you out, Captain Wells. Did you
12 have the opportunity to do an operation where there was
13 methamphetamine purchased from someone in Texas?

14 A Yes. Chico, who is Isaias Arias?

15 Q Did you participate in that as well?

16 A Yes, I did.

17 Q Was there an occasion where you were involved in
18 a controlled purchase of methamphetamine from a person
19 that the confident informant identified as Chavo?

20 A Yes. That occurred in the Atlanta, Georgia
21 area.

22 Q All right. Now, Agent Wells, I want to focus
23 specifically on that.

24 A Okay.

25 Q Were you part of that operation?

JASON WELLS-DIRECT BY MR. UNDERWOOD

1 A Yes.

2 Q Did you travel to Georgia?

3 A Yes.

4 Q What was your role in that operation?

5 A Well, whenever we go out of state, we're in a
6 support role. And I was matched up with a -- I don't
7 remember exactly who it was in the vehicle that I rode
8 with, but it was somebody who was affiliated with HSI,
9 which is Homeland Security Investigations. It was either
10 one of their sworn agents or a task force agent. And I
11 listened to the wire and just performed surveillance from
12 a distance.

13 Q Now, Captain Wells, from your perspective, what
14 took place following the controlled transaction itself?
15 What did you do and what did you observe?

16 A Well, our plan was to stay in the area and if
17 anyone left the residence where the transaction occurred,
18 we were going to follow them. So we did follow a vehicle
19 around for a couple of hours that day. And so that
20 vehicle was a, it was a silver Hyundai Accent. And so we
21 followed it around. And it went to a few of these, like a
22 Hispanic small grocery store. What the consensus was
23 among the agents was that the thought was that they were
24 making these payments. That was commonly done, after a
25 drug transaction, they would go in these places and make

JASON WELLS-DIRECT BY MR. UNDERWOOD

1 payments that would go to Mexico.

2 Q Agent Wells, were there any efforts made at that
3 time during the surveillance to identify either the
4 vehicle or the persons in it?

5 A Well, Homeland Security, as one of the agents
6 who came earlier this week and testified, they had an
7 investigation going as well into Chema, which was one of
8 the people allegedly in this Hyundai Accent. And during
9 the surveillance, we were all at a traffic light with this
10 car. And I did make a suggestion, can we pull this car
11 over and identify the two people who are in it? And they
12 just did not want to do that. You know, I don't know if
13 they thought it would jeopardize their investigation, but
14 they just made the decision not to pull the car over at
15 that time.

16 Q Did you have any sort of consolation prize to
17 get information to identify those people?

18 A Well, I mean, we left that day not knowing
19 exactly who it was, I mean, other than what the informant
20 testified to us.

21 Q Did -- sorry, I didn't mean to interrupt you.

22 A Go ahead.

23 Q Did anyone with SLED or other local South
24 Carolina law enforcement or HSI or anyone, did anyone
25 document and try to run the vehicle information that you

JASON WELLS-DIRECT BY MR. UNDERWOOD

1 were following?

2 A Yes. So after this, I did obtain the Georgia
3 DMV information from the HSI agents I was working with,
4 and they informed me that the vehicle tag was registered
5 to a David Barajas.

6 Q Did you seek any other information in an attempt
7 to identify who was involved in that transaction, as far
8 as the residence where the transaction took place?

9 A Yes. So also -- so with the information, when
10 we obtained the name of David Barajas, an agent from HSI
11 sent me his DMV photo. That's the first time I had ever
12 seen a photo of David Barajas. His photo, basically,
13 matched the description that I had previously received
14 from Luis Flores when I had first interviewed him, which
15 was months earlier. Shaved head, around the same height
16 and weight.

17 So with that name, we have a -- South
18 Carolina has a fusion center with intelligence analysts
19 that can, basically, run down information. If we have a
20 name, they can look up any kind of address that has ever
21 been linked to that name. They can find phone numbers for
22 us. So I asked our intelligence analyst to run this name,
23 David Barajas, and see what she could come up with. And
24 the name David Barajas was linked to the address in
25 Jonesboro, Georgia where this transaction occurred. And

JASON WELLS-DIRECT BY MR. UNDERWOOD

1 that link was -- it says on the report, it was made
2 through a utility service.

3 Q Now, Agent Wells, using that bit of
4 intelligence, how did you proceed to attempt to identify
5 the person that during the transaction was known as Chavo?

6 A Well, at that time, I did a little bit of social
7 media investigation. I started with Facebook. I did find
8 a Facebook page for David Barajas. And the first thing I
9 noticed on the Facebook page, there were photos of an
10 individual there that seemed to match the driver's license
11 photo. The person seemed a little bit older in the
12 Facebook photos than the driver's license photo. But one
13 telling thing is that in the Facebook photos, the person
14 showed their tattoos. And I noticed the tattoo that says
15 Made in Mexico on the right side of the individual's neck.
16 And I remembered that's how Luis Flores described this
17 individual months before the first time I ever interviewed
18 him.

19 Q So once you acquired those photographs, did you
20 show them to several witnesses who claimed to have known
21 the person at that time was identified as Chavo or Pelon?

22 A Yes.

23 Q All right. When you showed those to the
24 witnesses, with any of them, did you ever suggest who the
25 person was in the photographs?

JASON WELLS-DIRECT BY MR. UNDERWOOD

1 A No.

2 Q Did you ever suggest that they should know the
3 person in the photographs?

4 A No, I didn't.

5 Q How would you describe the confidence level of
6 each of the witnesses that made that identification?

7 A They were all 100 percent confident that it was
8 the person they knew as by Pelon. One of them knew him as
9 Chavo.

10 Q Are there other individuals that were suspects
11 in this case that are still yet to be identified?

12 A Yes. We have not positively identified Chema,
13 Chacas, Tolini. I know those were three individuals I can
14 think of off the top of my head we have not identified.

15 Q As far as Chema's concerned, what efforts were
16 made in an attempt to further identify him?

17 A And Guardo, that was that another one.

18 Q As far as Chema, did you ever relay that
19 information to any other authorities for assistance?

20 A Yeah, to Homeland Security. They have shown me
21 a photo of that person, but we have not been able to get
22 him identified.

23 Q But the information that you had in your case
24 was forwarded to HSI for them to further investigate?

25 A Yes.

JASON WELLS-CROSS BY MR. HODGE

1 Q What about Guardo, were attempts made to
2 identify him?

3 A Yes. The description matched -- well, I say
4 matched, it was a close description to the person,
5 Vicente, that came up earlier. But when we showed
6 photographs, nobody recognized that person.

7 Q So there were situations where photographs were
8 shown to people and they said no, that is not the person?

9 A Right.

10 Q Agent Wells, do you have any reason to doubt any
11 of the identifications that have been made linking the
12 nicknames Pelon or Chavo to the Defendant in this case,
13 David Barajas?

14 A I do not, no, sir.

15 MR. UNDERWOOD: All right. Thank you. Please
16 answer any questions that opposing counsel has.

17 THE COURT: Cross-examination.

18 MR. HODGE: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. HODGE:

21 Q Good afternoon, Captain Wells. How are you?

22 A Very good.

23 Q I've just got a few questions for you. The
24 controlled buy that you guys did using your CI with
25 Chencho, who did you use as a CI on that one?

JASON WELLS-CROSS BY MR. HODGE

1 A With Chencho, that would be Gordo Assad.

2 Q Gordo or Jose or whatever his name is, right?

3 A Yes, that's correct.

4 Q And where did that transaction occur?

5 A At the Guadalajara. It's a bus stop, grocery
6 store on White Horse Road in Greenville.

7 Q Okay. Were you able to get any surveillance
8 photos or pictures at any point in time of Chencho?

9 A We did. That is a public area around there.
10 And we weren't comfortable getting very close to it, but
11 we did have an individual who had a camera and was able to
12 get some photos there.

13 Q So law enforcement in its investigation took
14 photos of Chencho during the controlled buy that occurred?

15 A Yes.

16 Q All right. What about for Chico? You did a
17 controlled buy for him. I think that was the one that was
18 in the spare tire; is that right?

19 A Yes. And again, that was in a -- it was at a
20 storage facility, a public place. They actually have
21 surveillance video built into the complex. But I was
22 across the street with a video camera. I videotaped it
23 myself.

24 Q In your video, can you identify individuals such
25 as Chico, along with your undercover agent in your video?

JASON WELLS-CROSS BY MR. HODGE

1 A Yes.

2 Q All right. You can see them in that video,
3 correct?

4 A Yes.

5 Q All right. How -- when did this whole
6 investigation begin? Do you remember how this all began?
7 And you don't have to give me details. I'm just trying to
8 get a timeline.

9 A When? Probably sometime late 2014, maybe.

10 Q Okay. And just rough estimate, how many hours
11 of manpower have you put into this? You and other
12 agencies put into this investigation and into this
13 indictment?

14 A I mean, it was significant.

15 Q A lot of hours?

16 A Yes.

17 Q A lot of people involved?

18 A Yes.

19 Q We've had testimony from, at least, six
20 different agencies, I think, if I'm correct, all involved
21 in this thing, correct?

22 A Yes.

23 Q And the controlled buy that was done using
24 Gordo -- or Assad, I'm sorry, in Atlanta for Chavo, I know
25 that the transaction itself occurred at a home, right?

JASON WELLS-CROSS BY MR. HODGE

1 The drug trade between Assad and Pelon or Chavo?

2 A Yes, it was inside of a residence.

3 Q Inside of a residence?

4 A Yes.

5 Q And I think there was testimony earlier that
6 there was no videotape abilities because you didn't want
7 to put Assad at risk, right?

8 A Well, again, when we go down there, we are
9 working with -- outside of jurisdiction in a support role.
10 And we have to just do what the local agency typically
11 does. And that's the decision that they made.

12 Q Right. And I think you were sitting in here
13 when he testified that safety was their main concern?

14 A Yes.

15 Q I get that. So once the transaction was over
16 and Assad had left the residence and got back in the car
17 with the undercover agent, this silver Hyundai had two
18 Hispanic males that got into it and left that residence,
19 right?

20 A It had two people it in. Whether they were male
21 or female, I don't know.

22 Q So did you see them get in the car?

23 A No, sir.

24 Q There was a large surveillance team being used
25 for this whole thing, right?

JASON WELLS-CROSS BY MR. HODGE

1 A Yes. This is in Atlanta.

2 Q Right. Right. And we've heard a number of
3 people testify that they had certain roles to play during
4 this controlled buy; is that right?

5 A Yes.

6 Q And you were involved in it? You just testified
7 that you were behind the car itself at one point; is that
8 right?

9 A Yes.

10 Q Now, you weren't driving, right?

11 A No, sir.

12 Q You were a passenger and HSI was driving, I
13 assume?

14 A Yes, sir.

15 Q Did you ever see the two individuals that were
16 in that Hyundai stopped at a public place?

17 A Yeah, we saw them stop at a couple of these
18 Hispanic grocery stores type things.

19 Q So they stopped at, at least, two, possibly more
20 public stores, grocery stores, convenience stores,
21 whatever you want to call it and went inside? Got out of
22 the car and went inside?

23 A That's what I heard on the radio.

24 Q Okay.

25 A Now, there was -- I cannot remember ever being

JASON WELLS-CROSS BY MR. HODGE

1 behind them when they pulled up into the parking lot. I
2 mean, when you're doing a surveillance like this,
3 especially after a large drug transaction, police or
4 narcotics agents are typically paranoid to [indiscernible]
5 countersurveillance and individuals doing what's commonly
6 referred to in our business as heat runs, which means --
7 you know, police are paranoid that people think we're on
8 to them. And we did not want to get anywhere near this
9 car. It was kind of a distance surveillance.

10 Q Okay. But you heard through the radio and you
11 now know as chief agent, special agent on this thing, that
12 there were multiple stops made, in which they got out of a
13 car and went into a public location, correct?

14 A Yes.

15 Q Okay. And as far as your investigation goes and
16 as far as HSI and everyone else's investigation goes,
17 there were no photographs or videos taken at all of the
18 two individuals that were in that car?

19 A No, sir.

20 Q Okay. And if there had been, if there had been
21 video or photos of people getting out of that car, we
22 would know right then and there and right now who was
23 driving that car and who was riding as a passenger in that
24 car, right?

25 A I mean, yeah, if we had photos, we would know

JASON WELLS-CROSS BY MR. HODGE

1 definitely who the occupants of the car were.

2 Q You would, at least, know who to be looking for,
3 right? I mean, you would have an idea of what Chema's
4 face looked like, for instance, if Chema was, in fact, in
5 that car, correct?

6 A Yes.

7 Q Okay. There was also the controlled payment
8 that was made that Mr. Flores has testified he said he
9 made to Pelon. Were you involved in that controlled
10 payment as well?

11 A Yes.

12 Q And at any point, I won't go into as much detail
13 as before, but at any point during that operation, were
14 there any photos, videos or anything else taken of the
15 individuals that made that transaction with Flores?

16 A No, sir.

17 Q And had there been, then we would know for a
18 fact who Flores met with in that residence and we would
19 know who, for a fact, this Vicente may be and who Pelon
20 would be, correct? If we had photos from that time, that
21 day, that moment?

22 A Well, with the totality of everything that we
23 have, I'm confident of who Luis met with in there. I
24 don't know who -- well, we know Vicente Galvin, the other
25 individual there, but who he says he met with and then who

JASON WELLS-CROSS BY MR. HODGE

1 the residence comes back to and who the vehicles comes
2 back to that was parked outside, I'm confident that's who
3 was in there.

4 Q Now, you say -- I'm almost done, but you say
5 that there -- the tattoo that was on Pelon's neck, was
6 described by multiple people, at least, as having a tattoo
7 on his neck, one person knew what it said, I think one
8 person did not, but you were aware of all that, right?

9 A Yes, sir.

10 Q Did you ever show any of these individuals other
11 pictures of people with tattoos on their neck?

12 A No, sir. No.

13 Q Did you ever show them a lineup with six
14 individuals that had neck tattoos?

15 A No, I did not.

16 Q Is David Barajas the only person you've ever
17 seen with a neck tattoo?

18 A No, sir.

19 Q All the hours and all the time that was spent on
20 this investigation, the name David Barajas nor the
21 identity of Pelon or Chavo, whichever nickname we use, was
22 not known until a license plate from a car came back as
23 David Barajas, right?

24 A Can you say that one more time?

25 Q Sure. The name David Barajas was not associated

JASON WELLS-CROSS BY MR. HODGE

1 with anything in this case until you got a report run by
2 HSI telling you that the car you followed was registered
3 to David Barajas?

4 A That's correct.

5 Q Because the car is registered to someone or has
6 a license plate on that car, that doesn't mean that's the
7 person driving that car?

8 A It does not mean that, no, sir.

9 Q Doesn't mean that that person is riding in that
10 car, right?

11 A No, sir.

12 Q If we were to have a picture of the individuals
13 that were driving or riding in that car during either of
14 these times that that car was spotted, then we would know
15 who was in that car exactly?

16 A That's correct.

17 Q And so you didn't find out the name David
18 Barajas until you got the license plate run and found out
19 that it was David Barajas and that's when you found his
20 Facebook?

21 A That's correct.

22 Q And of all the pictures on his Facebook, that's
23 the one that you showed to every individual that you asked
24 if they knew him?

25 A That was his profile page on there. And it's a

JASON WELLS-CROSS BY MR. HODGE

1 good shot, front shot of his face and that is the picture
2 I showed them.

3 Q Okay. So in this case, from all of the
4 investigation and law enforcement that was involved, the
5 only individuals who say that that picture and -- that one
6 and the license picture were the only two that were shown
7 to Flores and Assad and Alejo, are coconspirators in this
8 case, right?

9 A Yes.

10 Q And they weren't shown those pictures until they
11 had already made controlled buys or had been working for
12 the government in some fashion, right?

13 A Yes. Because, I mean, we didn't have anybody
14 identified until that point.

15 Q Right. Okay. Then the other individual that
16 identified him did it in a six-person lineup, right?
17 Chico, Chica have a lineup?

18 A Now, going back to your previous question.

19 Q Yes, sir.

20 A Norena Alejandro --

21 Q Alejandro was not involved, you're right. And I
22 was going to correct myself.

23 A Yeah. So I did not have any indication that
24 Alejandro Norena would have ever dealt with this guy
25 before.

JASON WELLS-CROSS BY MR. HODGE

1 Q Right.

2 A And the day that we arrested him, I did a brief
3 interview with him and he said I made these trips to
4 Atlanta and met with this individual named Pelon. When he
5 described him, I didn't have all of my paperwork, my files
6 and everything and I showed him that photograph there on
7 my cell phone.

8 Q Right.

9 A And he said, That's Pelon.

10 Q Right. And that's the photo that you showed
11 him?

12 A Yes.

13 Q Then there was one other, Chico, Isaias Arias, I
14 can't say the last name, who had a six-person lineup I
15 think that we saw earlier this week, right?

16 A Yes.

17 Q And that's because he made that identification
18 some two years after this case was going on, right?

19 A Yeah, I didn't have anything to do with that
20 identification.

21 Q Okay. You personally, prior to that, had never
22 seen David Barajas or Pelon or Chavo or anyone else that
23 may or may not been involved, right?

24 A No, sir.

25 MR. HODGE: No further questions, Your Honor.

JASON WELLS-REDIRECT BY MR. UNDERWOOD

1 THE COURT: Redirect?

2 REDIRECT EXAMINATION

3 BY MR. UNDERWOOD:

4 Q Agent Wells, all of the witnesses that you
5 showed photographs of the Defendant, David Barajas -- let
6 me rephrase that question. All of the witnesses who claim
7 to have dealt with and known Chavo or Pelon that you
8 showed the photographs of David Barajas, did they all
9 positively identify David Barajas as Chavo or Pelon?

10 A Yes.

11 Q Did any of the witnesses who claimed to know
12 Pelon or Chavo say that David Barajas was not Pelon or
13 Chavo?

14 A No, they all knew who he was.

15 MR. UNDERWOOD: Thank you, no further questions.

16 THE COURT: May step down.

17 MR. UNDERWOOD: State rests, Your Honor.

18 THE COURT: All right, ladies and gentlemen, the
19 State has rested their case in chief, which means
20 that's the last of their evidence they presented in
21 their case in chief.

22 Now, I'm going to talk to you a little bit. I'm
23 going to send you back to the jury room to get input
24 from you. My goal is to make sure that we don't
25 inconvenience anything you have scheduled in your

1 private life. And that's for schedule, what I said
2 earlier today. But with that being said, I also need
3 to make sure -- now, it looks like -- didn't look
4 like there was going to be any problem presenting
5 this case to you on Monday.

6 What I need to make sure, though, is if we break
7 for the day, I need to make sure that nobody is going
8 to have a problem on Monday morning regardless of
9 what happens. Because now that this case has
10 started, you've heard the whole case, we have to have
11 all of y'all come back on Monday morning. You know,
12 I realize with all this other stuff swirling out
13 there in the world, as of now, schools have not been
14 closed for Greenville County. And again, that could
15 happen between now and then. And I need -- like I
16 say, regardless of what happens, we need all 13 of
17 y'all to be back here Monday morning if that's what
18 we're going to do. I'm just saying that because,
19 really, my priority is to make sure that this case
20 gets tried and that y'all have an opportunity to
21 deliberate. And it takes 12 people to do that.

22 So I'm going send you back, just discuss to make
23 sure that there's no issues that need to be brought
24 to the Court's attention. If not, then like we said
25 four o'clock, we're going to be leaving here. But I

1 wanted to make sure y'all know how important that was
2 and to make sure at this point -- because it is very
3 unusual for us to have to break over a weekend and
4 then come back on Monday. So I just kind of wanted
5 to have these comments, this conversation with you
6 before we broke for the day.

7 So at this point, I'm going to ask that you go
8 back to your jury room. Don't discuss anything about
9 the case, but make sure that everybody is okay
10 with -- again, I'll tell you, the option is if
11 somebody says I absolutely can't be back Monday, then
12 the option is continue into the evening. And
13 that's -- I'm just kind of letting y'all -- I told
14 y'all I'd have a conversation about any decision. So
15 y'all discuss that and make sure that's okay with you
16 before we release you. If you'll send a note back to
17 the bailiff, that will be fine. Thank you.
18 Regardless, I'll have you come back in and give you
19 final instructions.

20 (WHEREUPON, the jury left open court at
21 approximately 3:51 p.m.)

22 THE COURT: All right. Anything else from the
23 State?

24 MR. UNDERWOOD: No, Your Honor.

25 THE COURT: Anything from the Defendant?

1 MR. HODGE: Your Honor, I don't know if you want
2 me to make a motion for directed verdict at this time
3 or save that for Monday morning?

4 THE COURT: Well, I don't know what the jury --
5 I mean, quite frankly, if the jury comes back and
6 says -- I mean, we may be going forward. I don't
7 want to do that. I don't think -- but this case has
8 been -- we've got too much invested in this case for
9 there to be a problem with them coming in Monday
10 morning. I know the staff doesn't want that, but
11 that priority is getting this case tried. So
12 let's -- I tell you what, let's just hear from them.
13 Let's take about a five-minute break. I think my
14 reading of the jury was we're okay with going into
15 Monday morning, but I want to kind of have some
16 assurance of that. Thank you.

17 MR. HODGE: Yes, sir.

18 (WHEREUPON, a short break was taken.)

19 THE COURT: Got a note back from the jury that
20 all 13 agree and are available to return on Monday.
21 One actually had a child that's potentially sick and
22 she even called to make sure that somebody -- if the
23 child was still sick on Monday that somebody could
24 cover her.

25 You can mark that as a Court's Exhibit.

1 (WHEREUPON, Court's Exhibit No. 2 was marked for
2 identification only.)

3 THE COURT: All right, I'm going to -- all right
4 I'm going to bring the jury out, briefly, and kind of
5 give them some final instructions, so.

6 (WHEREUPON, the jury came in open court at
7 approximately 4:01 p.m.)

8 THE COURT: All right, Madam Forelady, I
9 received your note that indicated that all of y'all
10 talked and I think one of you had made a call to make
11 sure you could make arrangements if needed, so that
12 all 13 have agreed to return and are available. And
13 I really appreciate it. I know this is very
14 inconvenient, but you can see this is very important
15 to all people. The priority is to complete this
16 trial. So from discussions, it doesn't look like
17 there's going to be any problem with this being
18 presented to you on Monday.

19 So I've got a couple of things I need to tell
20 you. One is on the back of your badge, if there's
21 any questions or problems or anything like that,
22 there's a phone number. Call that if you have any
23 issues whatsoever. I'm going to have you come in
24 at -- there some things that we have to go over.
25 Let's see, let's shoot for ten o'clock. All right.

1 That way -- ten o'clock because there's some things
2 we have to go over with the attorneys.

3 But okay. It is so important -- I know I've
4 given you this each time, but it's important. We
5 have a weekend coming up here and y'all have spent an
6 entire week listening to a lot of testimony. It is
7 very important that you not discuss the case with
8 your friends, your family or each other. Because you
9 cannot -- you should not start any type of
10 deliberative process even in your mind until you've
11 heard all of the evidence that's going to be
12 presented and all of the law. Okay, that's very
13 important.

14 Second thing is do not do any type of research.
15 Do not Google. I know that's very tempting in this
16 day to Google everything. But it's very important
17 that you not do any research about the attorneys, the
18 parties, the law, anything like that. Because
19 everything that you need to get to make your decision
20 will be provided through this courtroom and through
21 our rules of evidence. That's important. Again, I'm
22 not aware of any media coverage on this as far as any
23 formal media, but if there is some, please disregard
24 that. Do not view any of that or any social media.

25 And final thing, as I said before, if anybody

1 should contact you, other than anybody except the
2 clerk's office, then please let the bailiffs know on
3 Monday morning. So Monday morning at ten o'clock.
4 And I appreciate everybody's patience. I know we've
5 kind of been pushing you around and stuff like, but
6 that's just the nature of every trial. So I
7 appreciate your patience and your commitment. And I
8 will see you on Monday morning. So thank you. And
9 y'all have a very good weekend. Wash your hands many
10 times a day.

11 (WHEREUPON, the jury left open court at
12 approximately 4:05 p.m.)

13 THE COURT: All right. I want attorneys here at
14 nine o'clock. I'll hear any motions and I'll also
15 discuss with Mr. Barajas his right to testify at that
16 point and his rights there and whether he wants to
17 testify.

18 Your attorney will talk to you about that
19 process, Mr. Barajas. And if you decide to go
20 forward with any testimony -- and I may give a little
21 brief discussion right now about it. But then you
22 need to let me know. But it's my understanding even
23 if you do present any evidence, if there's not a
24 substantial witness list or anything --

25 MR. HODGE: That's right, Your Honor. Right

1 now, the only person I would foresee calling would be
2 my client if he decides he would like to testify.
3 We're obviously going to have discussions as soon as
4 we break here for the day and talk about that.

5 THE COURT: All right. Also, any jury charges
6 or verdict forms, y'all have those ready to go?

7 MR. UNDERWOOD: I can have some emailed to you
8 shortly, Your Honor.

9 THE COURT: Yeah, email them to both me and my
10 law clerk. Okay. Anything that you might have.

11 MR. HODGE: Can I have that email again? I
12 think I sent something the other day and it didn't go
13 through. That's probably my fault.

14 THE COURT: Okay, it's pgravelyj@sccourts.

15 MR. HODGE: That's what I thought. It's
16 sccourts.org?

17 THE COURT: Yeah, Court's plural.

18 THE COURT: All right. Mr. Barajas, let me go
19 ahead and advise you of this so you can have some
20 discussion. If you'll stand up. All right. This is
21 just for the purpose of advising you of your rights.
22 If you'll raise your right hand. I'm just going to
23 swear you in.

24 DAVID BARAJAS, after being duly sworn, testified
25 as follows:

DAVID BARAJAS-EXAMINATION BY THE COURT

1 EXAMINATION

2 BY THE COURT:

3 Q All right. Now, one of things that you need to
4 discuss with your attorney is whether you want to testify
5 or not. You have the right to testify and you have -- you
6 also have the right not to testify. If you do not
7 testify, then I will instruct the jury that they cannot
8 consider that in any way against you. Now, if you do
9 decide to testify, you'll be subject to the same
10 cross-examination as everyone else.

11 Any there any criminal record that could be
12 used against him?

13 MR. UNDERWOOD: One moment, Your Honor.

14 Mostly out of state, Your Honor, and I'm double
15 checking to make sure they're actually convictions.
16 They do things differently than we do here. Your
17 Honor, the only conviction that I see is for what's
18 titled simple battery out of the State of Georgia,
19 which I don't think that would be admissible for
20 impeachment purposes.

21 THE COURT: All right. And if for some reason,
22 y'all should come up and realize later --

23 BY THE COURT:

24 Q But, Mr. Barajas, you would be subject to being
25 cross-examined about any criminal record that met our

DAVID BARAJAS-EXAMINATION BY THE COURT

1 rules of evidence. Right now, they're saying they don't
2 think there is anything, but if they find something that
3 shows that, we'll discuss that again on Monday morning.
4 But I did want to let you know you're subject to the same
5 cross-examination as any other.

6 So, during the -- between now and Monday
7 morning, you know, spend as much time as you need to with
8 your attorney about that issue in discussions about your
9 right to testify. Because Monday morning, I'm going to --
10 ultimately, you can get advice from your attorney and
11 anyone else you need to, but, ultimately, that decision is
12 yours. So Monday morning, I'll kind of go through this
13 process again. Then I'll ask you do you want to testify
14 or not. At that point, you let me know whether you've
15 decided to testify or decided to invoke your Fifth
16 Amendment right and not testify.

17 All right. Any questions about those
18 discussion there?

19 MR. BARAJAS: No.

20 THE COURT: All right, good.

21 Anything else then before we break from the
22 State?

23 You can sit down now.

24 MR. UNDERWOOD: Nothing further from the State,
25 Your Honor.

1 THE COURT: Anything else from the Defendant?

2 MR. HODGE: No, sir, Your Honor.

3 THE COURT: All right. Well, thank you for
4 living up to your agreement of four o'clock today.

5 MR. UNDERWOOD: Told you we will be done by
6 4:00, Judge.

7 THE COURT: All right, see y'all Monday, like I
8 said, nine o'clock so we can get all this stuff done
9 so when the jury gets here at ten o'clock, we can
10 either begin testimony or we can argue and charge.
11 All right.

12 MR. UNDERWOOD: Yes, sir.

13 THE COURT: See y'all Monday morning.

14 (WHEREUPON, the proceedings were concluded.)
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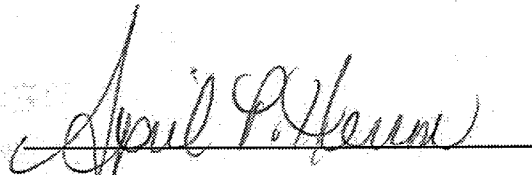
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for
the Thirteenth Judicial Circuit of the State of South
Carolina, do hereby certify that the foregoing is a true,
accurate and complete Transcript of Record of the
proceedings had and evidence introduced in the trial of
the captioned case, relative to appeal, in the Court of
General Sessions for Greenville County, South Carolina, on
the 9-13 day of March, 2020.

I do further certify that I am neither of kin,
counsel nor interest to any party hereto.

July 16, 2020



APRIL P. HERRON, Court Reporter

1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF GREENVILLE

4 The State of South Carolina,
5 Plaintiff,

6 vs. Transcript of Record
7 2015-47-00008

8 David M. Barajas,
9 Defendant.

10 March 16, 2020
11 Greenville, South Carolina

12 B E F O R E:

13 The HONORABLE PERRY H. GRAVELY
14

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

16 Joshua Underwood, Representing the State
17 William Hodge, Representing the Defendant
18
19
20

21 SHARON G. HARDOON, CSR
22 Official Circuit Court Reporter, II
23
24
25

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1 THE BAILIFF: All rise. Court is now in
2 session. Judge Perry Gravely presiding.

3 THE COURT: Thank you. Good morning,
4 please be seated. Good morning, Mr. Barajas.

5 All right. I think we ended up on Friday
6 with the State had rested and that I would hold
7 off until today on hearing any motions on behalf
8 of the defendant.

9 So, Mr. Hodge, I'll be glad to hear from
10 you.

11 MR. HODGE: Thank you, Your Honor, and
12 very briefly, the defense would like to make a
13 motion for a directed verdict. In the light most
14 favorable to the State, they have failed to meet
15 the burden of proving that Mr. Barajas ever agreed
16 to transport the drugs into Greenville County, or
17 South Carolina at all. I think there was only one
18 testimony that he ever came across state lines,
19 and that's the only evidence that was entered
20 showing that he had been in South Carolina.

21 Furthermore, there had been no other
22 evidence of any drug transaction and where those
23 drugs headed or discussed or interpreted for
24 purposes of sale in South Carolina. So that's one
25 basis, Your Honor.

1 I also feel that the suggestive nature of
2 the identifications and the testimony from the
3 witness stand that that was the only picture they
4 had ever seen. One of them said they identified
5 him after meeting him one time. I think that
6 those go -- those do not meet the burden. Those
7 are not high enough to identify Mr. Barajas. And
8 that is the only identifications that we have in
9 this case to put Mr. Barajas as the person known
10 as Pelon or Chavo. They all testified that they
11 didn't know the names until this indictment came
12 out, and until they were told by law enforcement.
13 They only know a person named Pelon and/or Chavo,
14 and only one person said they knew him -- or a
15 person known as Chavo.

16 The facial recognition of my client then
17 becoming that person did not occur until after the
18 investigation had extended months afterwards and
19 was shown in Facebook photos of my client with a
20 neck tattoo and no other images to compare it to
21 or describe or anything else.

22 So based on those reasons, Your Honor,
23 plus just the fact that there's been a lot of
24 evidence regarding my client in general, obviously
25 there was a conspiracy going on in Greenville.

1 There's no denying that. That's been proven a
2 lot.

3 The question, however, is whether my
4 client was involved in it and/or knew that his
5 involvement, if it -- again, viewed in the light
6 most favorable to the State, if he was involved as
7 Pelon or Chavo, or had any knowledge whatsoever
8 that he was involved in a South Carolina
9 conspiracy. Those are the grounds for the motion
10 we would make. Thank you.

11 THE COURT: I think -- first, I stand by
12 my rulings on the identification, and I think
13 that -- you know, as stated before I think that
14 that rose to the level that allowed the
15 identification to be made.

16 In light of those, I think that there is
17 a factual issue whether he was involved in a
18 conspiracy. I think even my job, at this point,
19 is not to determine whether -- you know, to weigh
20 the evidence, but is there any evidence of his
21 involvement in a conspiracy, and I believe that
22 there is. So I think it's a factual issue for the
23 jury.

24 MR. HODGE: And, Your Honor, just for
25 record, I should have said this as I was talking,

1 but I would renew those objections on the
2 identification, just for purposes of appeal.

3 THE COURT: Right. I understand.

4 MR. HODGE: You covered me on that, but I
5 wanted to make sure.

6 THE COURT: I understand. And I think I
7 -- I stand by my rulings on those identifications.
8 And I respectfully deny your motion in that
9 regard.

10 Anything else?

11 MR. HODGE: No, sir.

12 THE COURT: Anything else from the State?

13 MR. UNDERWOOD: No, Your Honor.

14 THE COURT: All right. At this point, I
15 want to just -- well, first of all, does the
16 defendant plan to put any testimony up?

17 MR. HODGE: Your Honor, I believe he does
18 wish to testify. We had that discussion this
19 morning.

20 THE COURT: Okay. Mr. Barajas, if you
21 will stand. And, again, will you raise your right
22 hand. Do you solemnly swear to tell the truth,
23 the whole truth, and nothing but the truth, so
24 help you God?

25 MR. BARAJAS: Yes, Your Honor.

1 THE COURT: As I discussed with you on
2 Friday, we got to the point where you have to
3 decide whether you want to testify or present any
4 evidence on behalf of yourself. You have the
5 right to testify. And, if you do testify, then
6 you would be subject to all the same
7 cross-examinations that any other witness would
8 be.

9 And I believe we determined on Friday
10 that there was not any criminal record that he
11 would be subject --

12 MR. UNDERWOOD: That's correct,
13 Your Honor.

14 THE COURT: Okay. I just wanted to
15 confirm that. So there wouldn't be any criminal
16 record that could be used against you. But, also,
17 you have the absolute right not to testify.
18 That's your fifth amendment right under our
19 constitution.

20 If you decided to not to testify, then
21 the jury would be instructed that that could not
22 be used against you in any way. That is your
23 absolute constitutional right, and the State would
24 still have the burden of proof to prove you guilty
25 beyond a reasonable doubt. And it's their burden

1 and not yours.

2 Before I ask you for your final
3 decision -- first, do you understand all of what
4 I've told you this morning?

5 MR. BARAJAS: Yes, Your Honor.

6 THE COURT: All right. And you have --
7 you understand your constitutional rights? You
8 have the right not to testify and that cannot be
9 used against you?

10 MR. BARAJAS: Yes, Your Honor.

11 THE COURT: Have you had sufficient time
12 to discuss this decision with your attorney?

13 THE WITNESS: Yes, sir.

14 THE COURT: Do you need any additional
15 time to talk to your attorney before making this
16 decision.

17 MR. BARAJAS: No.

18 THE COURT: All right. And based on
19 everything, what is your decision? Do you wish to
20 testify or not?

21 MR. BARAJAS: Yes, sir.

22 THE COURT: You do wish to testify?

23 MR. BARAJAS: Yes.

24 THE COURT: All right. And is this your
25 decision?

1 MR. BARAJAS: Yes. It's my decision and
2 I want to show the members of the jury that I'm
3 not hiding behind by attorney.

4 THE COURT: And no one has forced you to
5 make this decision?

6 MR. BARAJAS: No.

7 THE COURT: Okay. And are you under the
8 influence of any alcohol, drugs, or medication
9 this morning?

10 MR. BARAJAS: No.

11 THE COURT: Do you have any health or
12 mental issues which would keep you from
13 understanding what's going on here today?

14 MR. BARAJAS: No.

15 THE COURT: And those are just questions
16 I ask everybody before they make a decision.

17 All right. So you're ready to proceed with
18 testimony?

19 MR. BARAJAS: Yes.

20 THE COURT: All right. At this point, we
21 need to determine -- first of all, the jury was
22 not coming in until ten o'clock, so we have about
23 10 minutes before we verify if everybody showed up
24 or not. Keeping our fingers crossed.

25 All right. So I do find that the

1 defendant has been advised of his fifth amendment
2 rights and that he is knowingly and voluntarily
3 and freely made the decision to go forward and
4 waive his right to exercise his fifth amendment
5 right.

6 So, as soon as we hear from the jury, we
7 will proceed.

8 Anything else from the State at this point?

9 MR. UNDERWOOD: Not at this time,
10 Your Honor.

11 THE COURT: Anything else from the
12 defendant?

13 MR. HODGE: No, Your Honor.

14 THE COURT: Anything you want to say?

15 MR. BARAJAS: No.

16 THE COURT: As soon as we hear from the
17 jury, we'll be ready to go.

18 We'll be at ease until we hear
19 otherwise.

20 (Off the record from 9:50 a.m. to 10:06 a.m.)

21 THE COURT: All right. Is the State
22 ready to proceed?

23 MR. UNDERWOOD: Yes, Your Honor.

24 THE COURT: Defense ready?

25 MR. HODGE: Yes, Your Honor.

1 THE COURT: Bring the jury in. And I'm
2 going to tell them he's testifying.

3 MR. HODGE: Yes, Your Honor.

4 (Jury enters the courtroom at 10:09 a.m.)

5 THE COURT: Good morning. I am so glad
6 to see all 13 of you all. I know there's been a
7 lot going on out there, and I do appreciate it.
8 You all promised me Friday, so I knew you all be
9 here. Thank you all very much.

10 Kind of letting you know, kind of
11 housekeeping stuff, you all placed your order for
12 lunch. We're not sure exactly -- the State has
13 rested. They put forth their case. Now the
14 defendant has the opportunity to put forth their
15 case. My understanding, there will be one
16 witness. So it will going to you all for
17 deliberations today probably around lunchtime, or
18 just after lunch. That's why we'll have your
19 lunch. We are not sure, around 12:30. We'll play
20 that by ear.

21 So with that being said, at this time the
22 defense has the opportunity to present any
23 evidence they feel is appropriate.

24 Mr. Hodge, I ask you to call your first
25 witness.

Testimony of David Barajas

13

1 MR. HODGE: Thank you, Your Honor. The
2 defense would call David Barajas.

3 THE CLERK: Please raise right hand. Do
4 you solemnly swear or affirm to tell the truth,
5 the whole truth, and nothing but the truth, so
6 help you God?

7 THE WITNESS: I swear.

8 THE CLERK: Please state your full
9 name.

10 THE WITNESS: David Barajas.

11 THE CLERK: Please be seated.

12 WHEREUPON:

13 DAVID BARAJAS,
14 after having been sworn to tell the truth, testified
15 as follows:

16 DIRECT EXAMINATION

17 BY MR. HODGE:

18 Q Good morning, David.

19 A Good morning.

20 Q For the first time in this entire trial, I do not
21 have to introduce myself to you, do I?

22 A Yes, sir.

23 Q How old are you, David? How old are you?

24 A Forty-two.

25 Q Where were you born?

Testimony of David Barajas

14

- 1 A Torres, California.
- 2 Q Are you married?
- 3 A Yes.
- 4 Q How long have you been married?
- 5 A About eight years.
- 6 Q Do you have any children?
- 7 A A daughter.
- 8 Q Where does she live?
- 9 A In California.
- 10 Q Where do you currently reside?
- 11 A I lived in Liberal, Kansas.
- 12 Q Okay. Right now though, during this trial, and
- 13 leading up to this trial?
- 14 A In jail here.
- 15 Q And how long have you been there?
- 16 A Fifty-two months.
- 17 Q Okay. And before you were arrested in this case,
- 18 were you working anywhere?
- 19 A Yes.
- 20 Q And what kind of work were you doing?
- 21 A It's a company, National Beef.
- 22 Q What do they do?
- 23 A They -- it's a slaughter house for cattle.
- 24 Q Were you working in the slaughter house?
- 25 A Yes, I work there.

Testimony of David Barajas

15

1 MR. HODGE: Your Honor, may I approach
2 the witness?

3 THE COURT: You may.

4 (DFT. EXH. 3, Earning Statement, was marked
5 for identification.)

6 (DFT. EXH. 4, Earning Statement, was marked
7 for identification.)

8 (DFT. EXH. 5, Earning Statement, was marked
9 for identification.)

10 (DFT. EXH. 6, Earning Statement, was marked
11 for identification.)

12 (DFT. EXH. 7, Earning Statement, was marked
13 for identification.)

14 BY MR. HODGE:

15 Q I'm going to show you what's been marked as
16 Defense Exhibits 3, 4, 5, 6, and 7. Do you recognize
17 these documents?

18 A Yes, sir.

19 Q Do these documents accurately reflect pay stubs
20 that you received from working at National Beef
21 Packing Company?

22 A Yes.

23 MR. HODGE: Your Honor, at this point, I
24 believe without objection, the defense would move
25 in Exhibits 3 through 7.

Testimony of David Barajas

16

1 THE COURT: Any objection?

2 MR. UNDERWOOD: No objections, Your
3 Honor.

4 THE COURT: Those are in without
5 objection.

6 (DFT. EXH. 3, Earning Statement, was entered
7 into evidence.)

8 (DFT. EXH. 4, Earning Statement, was entered
9 into evidence.)

10 (DFT. EXH. 5, Earning Statement, was entered
11 into evidence.)

12 (DFT. EXH. 6, Earning Statement, was entered
13 into evidence.)

14 (DFT. EXH. 7, Earning Statement, was entered
15 into evidence.)

16 MR. HODGE: Thank you, Your Honor.

17 BY MR. HODGE:

18 Q When you did work for National Beef Packing
19 Company?

20 A In 2015 from -- yes, 2015.

21 Q Okay. Where were you arrested when you were
22 arrested for this case?

23 A My mother was sick in Mexico, so I went to
24 see her. And when I returned from Mexico, I was
25 arrested from El Paso, Texas.

Testimony of David Barajas

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1 Q When you came back to this country, were you
2 aware, at that time, that there was an arrest warrant
3 or a fugitive warrant out for you?

4 A No. I didn't know there was a warrant. I
5 thought they were going to actually let me go.
6 They said something about a tattoo on my neck.

7 Q Do you have a tattoo on your neck?

8 A Yes.

9 Q And what does it say?

10 A It says, "Hecho en Mexico." When translated,
11 "Made in Mexico."

12 Q When did you get that tattoo?

13 A Since I was about 25 years old.

14 Q Do you have other tattoos?

15 A Yes, sir.

16 Q Are they on your arm?

17 A Yes, sir.

18 Q I'm going to get into case-specific questions now.

19 Have you ever met -- prior to the
20 beginning of this trial, or this case, have you
21 ever met someone named Eduardo Assad outside of
22 this case?

23 A No. No, sir.

24 Q Had you ever met someone that went by the nickname
25 Gordo?

1 A No. No, sir.

2 Q Have you ever had a phone call or multiple phone
3 calls, discussions with Eduardo Assad and/or Gordo or
4 Jose regarding drug transactions?

5 A No, sir.

6 Q Have you ever had a phone call at all with Assad
7 or Gordo?

8 A No. No, sir.

9 Q You were present during the entire week last week
10 and heard phone calls that Assad testified were of him
11 and you. Was that your voice on those phone calls?

12 A No, sir.

13 Q Have you ever sold drugs to Eduardo Assad?

14 A No, sir.

15 Q Prior to this case, had you ever met
16 Isaias Arias?

17 A I met him here, the same way I met
18 Mr. Eduardo. We lived together in the same
19 dormitory, Isaias, for six months.

20 Q Okay. You had never met him prior to be housed
21 with him the Greenville County Detention Center?

22 A No, sir.

23 Q Had you ever met anyone by the name Chico out of
24 the Greenville County Detention Center?

25 A No, sir.

Testimony of David Barajas 19

1 Q Have you ever spoken on the phone to Arias and/or
2 Chico about buying or selling methamphetamine?

3 A No, sir.

4 Q Have you ever worked for Isaias Arias and/or Chico
5 in the drug business?

6 A No, sir.

7 Q Have you ever sold or purchased meth for or from
8 Isaias Arias and/or Chico?

9 A No, sir.

10 Q Prior to this case, had you ever met
11 Luis Flores?

12 A No, sir.

13 Q Have you ever had phone calls with Luis Flores
14 regarding the purchase, sale, or money in the drug
15 trade?

16 A No, sir.

17 Q Have you ever sold meth or sold methamphetamines
18 to Luis Flores?

19 A No, sir.

20 Q Have you ever received payment from Luis Flores
21 for the sale of methamphetamine?

22 A No, sir.

23 Q Prior to this case, had you ever met someone named
24 Alejandro Gonzalez?

25 A No, sir.

1 Q Have you ever talked on the phone with
2 Alejandro Gonzalez?

3 A No, sir.

4 Q Have you ever sold drugs, delivered drugs, or
5 received money for drugs from Alejandro Gonzalez?

6 A No, sir.

7 Q Have you ever met someone named Chakas?

8 A No, sir.

9 Q Have you ever met anyone named Chencho?

10 A No, sir.

11 Q Have you ever met someone named Chema?

12 A No, sir.

13 Q Have you ever been or are you currently a member
14 of La Familia drug cartel?

15 A No, sir. I come from a Christian family.

16 Q Have you ever been involved in the drug trade with
17 any of the names I have mentioned today and that you
18 have heard mentioned during the last eight days? Have
19 you ever been involved in the drug trade with any of
20 those individuals?

21 A No, sir.

22 Q Have you ever been involved in the drug trade at
23 all?

24 A No, sir.

25 Q You heard last week Jorge Martinez testify against

Testimony of David Barajas

21

1 you.

2 A Yes, sir.

3 Q Have you ever had the discovery in this case, the
4 evidence in this case with you inside of
5 Greenville County Detention Center?

6 A Yes, sir. That is why I am testifying,
7 because I want to show the proof.

8 Q How did you come into possession of the evidence
9 and discovery in this case while you were
10 incarcerated?

11 A When I got here, I had another lawyer,
12 Randall Hiller. The first lawyer, he didn't
13 really help me a lot. But he sent them to me by
14 mail, and I had them in my possession for about
15 three and a half months.

16 Q In that discovery, in the evidence that you had,
17 did it have statements and witness testimony that you
18 now heard contained within that discovery?

19 A It was a yellow envelope about a stack this
20 thick (indicating).

21 Q Okay.

22 A And the envelope, you know, I didn't read
23 English at the time. I mean, I've learned now,
24 but -- so I showed it to the others so that they
25 could help me, so they could translate.

Testimony of David Barajas

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1 So there were various names on it. Jeremy

2 LaBoone, there were various names. Isaias and

3 David Martinez, you know, they were there so they saw

4 it and they translate it, and they saw the picture.

5 You know, then that's when I saw that they were in

6 this problem together.

7 Q Did people, including David Martinez, help you

8 understand the discovery that you had received?

9 A I had papers, and then I had other papers

10 from the lawyers. I trusted David Martinez and

11 the others. I mean, I never thought that they

12 were going to say I was part of a cartel. They're

13 proud of it, but I felt bad.

14 Q We saw a payment that David Martinez had made on

15 your books while you were in jail. Why did

16 David Martinez put \$20 on your books while you were in

17 jail?

18 A I had told -- we read the Bible together, so

19 I wanted a Bible and he was going to send it to me

20 by mail. It was going to cost \$13. And then he

21 says, don't worry, I'll send it. And then he came

22 back to jail, but he had called someone else and

23 then I was called and then it was the three of us,

24 and I was surprised. And then he started saying,

25 Give me Chema's number. I was like, what you

Testimony of David Barajas

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1 talking about? He goes, yeah, I need to make
2 money. I said, no, this is bad. And then I left,
3 as God as my witness.

4 Q You said he was buying you a Bible. Do you read
5 the Bible?

6 A As I mentioned before, I am from a Christian
7 family and go to a Christian church, but I had
8 gotten away from God. But I know that, you know,
9 he called to me. Even when I was reading the
10 Bible on Friday, you know, he spoke to me and told
11 me that I would go home after court. And I think
12 it would be after this court.

13 I'm sorry.

14 Q It's okay. Have you ever -- prior to this trial,
15 at any point in your life, have you ever been involved
16 in the drug trade?

17 A Never. I've never even smoked -- I never
18 smoked marijuana in my life.

19 Q Have you ever heard, prior to this trial, the name
20 Chavo?

21 A I swear, I swear, I swear, I swear, no one
22 has ever been called me Chavo or Pelon. I've been
23 called by my name, David Barajas.

24 Q So you're saying Pelon and Chavo are not your
25 nicknames.

Testimony of David Barajas

24

1 A Since I've been here from the beginning, even
2 with the first lawyer, he didn't believe me, but,
3 you know, for two years up until this case, I
4 repeat, and I insist, I am not known as Chavo or
5 Pelon.

6 Q In the course of this trial, four people have
7 identified you as Pelon and/or Chavo and said they
8 sold you meth and they give you money for meth. Is
9 that person you?

10 A No, sir.

11 Q I am going to show you what are State's Exhibits
12 14 and 15. Are those pictures of you?

13 A Yes, sir.

14 Q Where did this photo come from?

15 A From my Facebook.

16 Q Are those your guns?

17 A They are my friend's rifle. He's African.
18 He does have a license for them. Even after my
19 family saw the picture they said, that doesn't
20 look good.

21 Q Is the person in these pictures, which you have
22 testified as you, were they ever involved in selling
23 methamphetamine?

24 A No, sir.

25 Q Are you guilty of selling methamphetamine?

Testimony of David Barajas

25

1 A Well, that's why I'm testifying. You know,
2 God says that you should confess your sins, and
3 that's why I'm here. Because I don't want to
4 leave it like I'm just hiding behind what you
5 say.

6 Q So answer the question: Are you guilty of selling
7 methamphetamine?

8 A No, sir.

9 Q Are you guilty of being involved with Gordo, Chico
10 Chenco, or anyone else in the sale or purchase of
11 methamphetamine?

12 A No, sir.

13 Q And is your testimony today 100 percent the
14 truth?

15 A Yes. Please send me -- like, I have the
16 power of attorney, the sound recordings from the
17 first lawyer, from Hiller. He would have it and
18 it proves that he sent me the evidence by mail.

19 Q And your testimony today is the truth, and you are
20 sitting here today telling this jury that you had
21 nothing to do with any conspiracy to sell or purchase
22 methamphetamine?

23 A No, sir.

24 MR. HODGE: May I have just a moment? No
25 further questions, Your Honor.

Testimony of David Barajas

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1 Please answer any questions the prosecution
2 may have.

3 THE INTERPRETER: Your Honor, this would
4 be a good time for the interpreters to
5 alternate.

6 THE COURT: Okay.

7 All right. Cross-examination.

8 MR. UNDERWOOD: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. HODGE:

11 Q Mr. Barajas, you say you don't know the person who
12 testified in your trial, Isaias Arias; is that
13 right?

14 A No, sir.

15 Q You say that you don't know Luis Flores; is that
16 right?

17 A No, sir.

18 Q You say you don't know Eduardo Assad; is that
19 right?

20 A No, sir.

21 Q And you don't know anyone that goes by the name
22 Gordo; is that right?

23 A No, sir.

24 Q All right. State's Exhibits 14 and 15, I think
25 you were just asked about those by your attorney.

Testimony of David Barajas

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1 That's you in both of those photographs?

2 A Yes, sir.

3 Q State's 125 and 126, again, is that you in each of
4 those photographs?

5 A Yes, sir.

6 Q State's Exhibit 85, that's you, isn't it?

7 A Yes, sir.

8 Q Now, Mr. Barajas, in 2015, you were the owner of
9 2002 Hyundai Accent, weren't you?

10 A I don't remember very well. It was a Hyundai
11 car, yes. It was my uncle's. Well, he was really
12 my cousin and I let him borrow it. I wasn't here,
13 but I did sell that to my uncle.

14 Q Who is your cousin?

15 A Well, he's not my cousin.

16 Q Who's the person you're talking about?

17 A A guy. I don't remember his name very well.
18 It was kind of a friend, a co-worker. We worked
19 together. I let him borrow it when I went to
20 Mexico, and he sold it to my uncle and send me the
21 money, \$1,750.

22 Q Who's is your uncle?

23 A Jorge Miranda.

24 MR. UNDERWOOD: Can I get this marked?

25 THE COURT REPORTER: State's 132.

Testimony of David Barajas

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1 (STATE EXH. 132, DMV record, was marked for
2 identification.)

3 MR. UNDERWOOD: Request to approach, Your
4 Honor.

5 THE COURT: Okay.

6 BY MR. UNDERWOOD:

7 Q I'm showing you what has been marked as
8 State's Exhibit 132. Do you recognize these as
9 documents pertaining to the Hyundai you owned?

10 A Yes, I do. I let this guy borrow it because
11 he was going to use it and he was going to sell it
12 to my uncle for \$1,750.

13 Q And this is your signature?

14 A Yes.

15 MR. UNDERWOOD: At this time, I'd offer
16 into evidence State's Exhibit 132.

17 THE COURT: Any objection?

18 MR. HODGE: No objection.

19 (STATE EXH. 132, DMV record, was entered
20 into evidence.)

21 BY MR. UNDERWOOD:

22 Q And, again, who was the guy who had your car?

23 A We worked together in construction for
24 awhile. Yes. Like I say, we worked together in
25 construction. And then when I went to Mexico, I

Testimony of David Barajas

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1 let him use the car because he was going to set it
2 up for me with the license plate and everything.
3 I couldn't sell it. I was trying to sell it for
4 \$2,500 or \$3,500, but I couldn't. So I ended up
5 selling it for less. And he sold it to my uncle.

6 Q What was the name of the person that had your
7 car?

8 A I don't know his name. I let him have the
9 car just to keep it for me, but not for him to
10 drive it.

11 Q So you just gave your car to someone you didn't
12 know, the name, is that what you're saying?

13 A Well, yes. I didn't know the guy very well,
14 but I trusted him.

15 Q So you're a very trusting person.

16 A Back then, yes. But now with all the things
17 that are happening in here and all the things they
18 are saying and putting against me, no, not
19 anymore.

20 Q But back then, you would trust people that you
21 just met, wouldn't you?

22 A Yes, yes. Yes, I did. You know, he didn't
23 look like a bad person to me, and I trusted him as
24 I trusted David Martinez, you know, when I trusted
25 him. And all of a sudden, he started saying false

1 things about me.

2 Q So you trusted David Martinez?

3 A Well, not as much, but he was the only person
4 who spoke Spanish and English, so I'm like -- when
5 he came to translate and then it ended up that he
6 is being indicted in the same indictment.

7 Q And you talked to David Martinez about your case,
8 didn't you?

9 A Yes, of course, I talked to him. I talked to
10 him on several occasions. I asked him to
11 translate certain documents. Even when I got in
12 contact with the clerk of court here, he was the
13 one that was helping me with that.

14 Q And you're trying to say now that the only reason
15 he knew about what you were accused of when he came to
16 law enforcement is because you showed him your
17 discovery paperwork; is that right?

18 A Yes, I showed him the papers. And I also
19 told him about my case. I told him my story and
20 what my attorney had told me.

21 Q So, again, you're saying that the only way that
22 David Martinez knew about what you were accused of was
23 because of the paperwork you showed him; is that
24 right?

25 A Yes, I showed him the papers, and I also

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1 relay information to him about my case.

2 Q So when David Martinez went to law enforcement in
3 January 2016, the only way he knew about your
4 involvement with selling methamphetamine was through
5 the paperwork, not because you told him; is that your
6 testimony?

7 A Yes. Obviously, I did talk to him about my
8 case, my story, and because I also show him papers
9 that I needed to be translated.

10 MR. HODGE: Permission to approach the
11 witness?

12 THE COURT: Granted.

13 (STATE EXH. 133, Protective order, was
14 marked for identification.)

15 BY MR. UNDERWOOD:

16 Q First, I want to show you State 134. This is the
17 protective order that dictates how discovery materials
18 are supposed to be distributed in this case, isn't it?

19 A I didn't understand very well.

20 Q Is this a protective order that relates to
21 discovery material in this case?

22 A I'm sorry. I still don't understand you.
23 Could you repeat the question?

24 Q Is this a court order related to this overall
25 case?

Testimony of David Barajas

32

1 A I don't know what it has to do with my
2 case.

3 Q Does this have to do with David Martinez?

4 A I met him there. All of them, I met them
5 here.

6 Q But you recognize this as related to this
7 particular investigation?

8 A My case, I don't think so.

9 (STATE EXH. 134, Scheduling order, was
10 marked for identification.)

11 BY MR. UNDERWOOD:

12 Q I hand you State's Exhibit 134. Do you recognize
13 that?

14 A I think I have that paper too, but I can't
15 remember.

16 Q Is this a scheduling order for your case?

17 A I don't understand that.

18 Q We'll come back to that.

19 Mr. Barajas, you were in here and you heard
20 testimony about some controlled purchases and
21 controlled payments that were made to you in the state
22 of Georgia in 2015; is that correct?

23 A Yes, sir.

24 Q And, in fact, you paid utility bills related to
25 the address ■■■ Sycamore Drive in Jonesboro, Georgia in

Testimony of David Barajas

33

1 that time period; isn't that correct?

2 A I don't remember the exact address, but I did
3 have a house in my name.

4 Q That was in Jonesboro, Georgia?

5 A Yes, sir.

6 Q You also had utilities in your name at [REDACTED] College
7 Street in Hapeville, Georgia; isn't that right?

8 A I don't remember.

9 Q Now, we heard a number of recorded phone calls
10 during testimony last week. Do you remember that?

11 A Yes, sir.

12 Q And it was indicated during that testimony that
13 your voice was one of the voices on those calls,
14 right?

15 A Yes, sir.

16 Q That was your voice in those phone calls, wasn't
17 it?

18 A No, sir.

19 Q Now, earlier you testified that you were
20 never known as the nickname Chavo; is that right?

21 A No, sir.

22 Q Does Chavo mean something in Spanish?

23 A Yeah. There is a TV show in Spanish called
24 Chavo Del Ocho, but it has nothing to do with me.

25 I used to watch that show since I was very little,

1 but it has nothing to do with me.

2 Q You testified you were never known by the nickname
3 Pelon; is that right?

4 A No, sir.

5 Q Pelon is a Spanish word referring to bald; is that
6 right?

7 A Yes, sir.

8 Q Back in the time period we're talking about, you
9 used to shave your head, didn't you?

10 A Yes, sir. I still do it nowadays, every
11 three months.

12 Q All right. So every three months, you have a
13 shaved head; is that right?

14 A And here at the jail.

15 Q And when you used to shave your head before you
16 went to jail, none of your friends ever jokingly
17 referred to you as being bald?

18 A Well, I guess -- I mean, my sister used to
19 call me Pelonchas, but not Pelon.

20 Q So people would give you nicknames based on you
21 being bald?

22 A Honestly, I never liked being called
23 nicknames. I like to be called by my own name.

24 Q And you said that you normally shave your head,
25 although it's not shaved today; is that right?

Testimony of David Barajas

35

1 A No, I haven't shaved my hair because I've
2 been, you know, from one place -- from one dorm to
3 another one. And now that I'm here, you know, at
4 this trial.

5 Q Mr. Barajas, how do you know Rafael Galvin?

6 A I met him for a period of time only.

7 Q He lived with you, didn't he?

8 A No, sir.

9 Q And you mentioned having several addresses in
10 Georgia. Did Mr. Galvin ever visit you at your
11 apartment in Hapeville, Georgia on College Street?

12 A I've never mentioned that I had several
13 properties under my name, but he never visit me at
14 my house or anything.

15 Q But you did have an apartment on College Street in
16 Hapeville, Georgia, correct?

17 A No, sir.

18 Q You did have an address on Sycamore Drive in
19 Jonesboro, right?

20 A I don't remember, sir. I don't remember
21 that.

22 (STATE EXH. 135, Protective order, was
23 marked for identification.)

24 BY MR. UNDERWOOD:

25 Q Now, Mr. Barajas, on direct examination you were

1 asked if you knew someone named Chema.

2 A No, sir.

3 Q All right. Do you know someone named Chema or
4 uses that nickname?

5 A No, sir.

6 Q Now, you were in the courtroom when task force
7 officer Echeverry testified, weren't you?

8 A Yes, sir.

9 Q And you heard him testify that a person he knows
10 as Chema was seen getting into the car you identified
11 as your Hyundai; is that right?

12 A I think so.

13 Q If you don't know Chema, why was he getting in
14 your car after a drug deal?

15 A What I can tell you, or in answer to your
16 question is that, I do remember Mr. Chema also
17 testified that he couldn't identify the other
18 person there was in the car with Chema.

19 Q All right. But your testimony here is, you don't
20 know why Chema was getting into your car?

21 A No.

22 Q Did you give Chema permission to be in your car?

23 A No, sir.

24 Q Let's go back to David Martinez.

25 MR. UNDERWOOD: Beg the Court's

Testimony of David Barajas

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1 indulgence, Your Honor.

2 THE INTERPRETER: This would be a good
3 time to swap out.

4 THE COURT: Okay, swap out.

5 (STATE EXH. 136, Picture, was marked for
6 identification.)

7 (STATE EXH. 137, Picture, was marked for
8 identification.)

9 MR. UNDERWOOD: Permission to approach
10 the witness, Your Honor?

11 THE COURT: All right.

12 BY MR. UNDERWOOD:

13 Q I'm showing you State's Exhibits 136 and 137. Do
14 you recognize those as pictures from your Facebook
15 page?

16 A Yes, sir.

17 Q And those are photographs of you, aren't they?

18 A Yes, sir.

19 MR. UNDERWOOD: Your Honor, I move into
20 evidence State's Exhibit 136 and 137.

21 THE COURT: Any objection?

22 MR. HODGE: No objection.

23 THE COURT: No objection.

24 (STATE EXH. 136, Picture, was entered into
25 evidence.)

Testimony of David Barajas

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1 (STATE EXH. 137, Picture, was entered into
2 evidence.)

3 MR. UNDERWOOD: Permission to publish,
4 Your Honor?

5 THE COURT: Bring the screen down.

6 BY MR. UNDERWOOD:

7 Q Beginning with State's Exhibit 137. Mr. Barajas,
8 this is you in this photograph, isn't it?

9 A Yes, sir.

10 Q Let me adjust the light. That's a whole lot of
11 cash in your hand, isn't it?

12 A It was about \$2,500.

13 Q In this photograph, you have a shaved head, don't
14 you?

15 A Yes, sir.

16 Q You mentioned earlier in your testimony on direct
17 examination that you never even had anything to do
18 with marijuana; is that right?

19 A Yes, sir. But that was a picture in
20 California. It was my brother's neighbor, and
21 that's why I took the picture.

22 Q And just to be clear, we are talking about
23 State's 136. In this picture, that's you with a bunch
24 of marijuana plants; is that right?

25 A As God as my witness, it was just one

Testimony of David Barajas

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1 plant.

2 Q And this was a friend of your brother's in
3 California, right?

4 A The neighbor. The neighbor about two doors
5 down from my brother. There was a barbecue, and
6 so that's why we took the picture. And I'm really
7 sorry about it. My family also saw it and gave me
8 a lot of grief about it.

9 Q So this is an example of you being introduced to
10 somebody with a drug connection through your brother,
11 right?

12 A I don't think so. No, sir.

13 Q I want to go back to State's Exhibit 134 and
14 State's Exhibit 135. Do you recognize both of those
15 as Court documents related to your case?

16 A Yes, sir.

17 MR. UNDERWOOD: Your Honor, I move into
18 evidence State's 134 and State's 135.

19 MR. HODGE: No objection.

20 THE COURT: Without objection.

21 (STATE EXH. 134, Scheduling order, was
22 entered into evidence.)

23 (STATE EXH. 135, Protective order, was
24 entered into evidence.)

25 BY MR. UNDERWOOD:

1 Q Now, Mr. Barajas, do you understand that
2 State's Exhibit Number 135 is called a protective
3 order?

4 A Yes.

5 Q And that order gives the instructions on what is
6 supposed to happen with all of the discovery material
7 related to your case, meaning all the evidence in the
8 case. Do you understand that?

9 A Yes, sir.

10 Q You understand that, pursuant to this order, the
11 defendants in the case are not permitted to actually
12 have a physical copy of the discovery evidence in the
13 case?

14 A Yes, but Mr. Hiller had sent them to me by
15 mail, and I have proof that he sent them to me.
16 He sent me -- he sent it to me in an yellow
17 envelope like this thick. I had it for about
18 three and a half months. Yes, and that's why I'm
19 testifying here because I want everything to be
20 there. I want it to be clear.

21 Q And you testified that the only way that
22 David Martinez knew the things that he said that you
23 told him about your dealings in methamphetamine was
24 because he translated those materials before he went
25 and talked to the police in January of 2016; is that

Testimony of David Barajas

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1 right?

2 A I told him a number of times about my
3 situation. I never tried to presume or boast that
4 I had these connections. I said what the lawyer
5 had told me that they were charging me with being
6 involved with this cartel. I said, you know, no,
7 it's not all about that stuff. I'm not.

8 Q Now, Mr. Barajas, would it surprise you to know
9 that this protective order wasn't signed by the Court
10 until March 2016?

11 A Yes, sir.

12 Q Would it surprise you to know that the Court's
13 scheduling order identifies that the discovery
14 material was to be given out two weeks after that
15 protective order, again, this also being signed in
16 March 2016?

17 THE INTERPRETER: Your Honor, the
18 interpreter would request the counsel repeat the
19 question.

20 BY MR. UNDERWOOD:

21 Q Does it further surprise you that the scheduling
22 order in this case says that the discovery is not to
23 go out until after that protective order, both orders
24 signed in March 2016?

25 A No, sir. I'm not sure what to answer.

Testimony of David Barajas

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1 MR. UNDERWOOD: No further questions,
2 Your Honor.

3 THE COURT: Redirect.

4 MR. HODGE: Very briefly, Your Honor.

5 REDIRECT EXAMINATION

6 BY MR. HODGE:

7 Q You were shown this picture here, this photo
8 lineup that Arias identified you, when was that
9 picture taken?

10 A To be honest, I'm not sure if it was from
11 Facebook or from here in the jail.

12 Q You said, at one point though, you were housed
13 with Arias at Greenville County, correct?

14 A Yes, sir.

15 Q Okay. And that was prior to February of 2017; is
16 that right?

17 A No, that was shortly after I arrived to jail.

18 Q Right.

19 A When I got here, I don't remember if it was
20 David or if it was Isaias that I with was, and
21 Eduardo was also there.

22 Q But you were both of them -- I think your
23 testimony is, you were with both of them at
24 Greenville County at the beginning of your case?

25 A Yes, sir.

Testimony of David Barajas

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1 Q And how long were you with David Martinez?

2 A For six months. Yes. And then he got out.

3 I think he got \$300,000 bond. I think he paid

4 \$30,000. He went home. And he told me, you know,

5 don't worry, I'll come deposit money.

6 Q And that was after six months of being with him?

7 A Yes, sir.

8 Q You testified earlier that your sister called you.

9 What is the nickname she called you?

10 A Pelonchas, she would say, like bald.

11 Q But no one has ever called you Pelon?

12 A No. No, sir. No.

13 Q You were also shown these two pictures that the

14 State introduced as 136 and 137.

15 A Yes, sir.

16 Q Is that your marijuana in that picture?

17 A Yes, sir.

18 Q Is that your marijuana?

19 A Oh, no, sir.

20 Q Is that you in the picture?

21 A Yes.

22 Q But that's not your marijuana?

23 A No.

24 Q Have you ever sold marijuana?

25 A No, sir.

Testimony of David Barajas

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1 Q You were shown this picture, and you knew exactly
2 how much money was in this picture, didn't you say
3 that?

4 A Yes, sir. \$2500.

5 Q What was that money from?

6 A I was working and I was keeping count to buy
7 a car. I needed \$1,000 more to buy an Eclipse I
8 wanted.

9 Q So you were saving up to buy a car?

10 A Yes.

11 Q You were asked questions about the Hyundai that
12 you owned. Have you ever ridden in a car or allowed
13 someone in your car by the name of Chema?

14 A No, sir.

15 Q But I think you testified, and correct me if I'm
16 wrong, did you ever allow other people, or at least
17 another individual use your car from time to time
18 while you weren't around?

19 A Yes. There was a guy, I left him the car.
20 He was going to sell it to somebody who was going
21 to pay 2,000 or \$2,500. But after, when he didn't
22 want it, so I said, look, you know, sell it to my
23 uncle for \$1,750.

24 Q You were also asked about the protective order
25 that was put in place for the evidence in this case.

Testimony of David Barajas

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1 A Yes, sir.

2 Q Did your attorney violate that protective order
3 and send you copies of the paperwork including the
4 evidence against you in this case?

5 A Yes, sir.

6 Q And was that -- did he send that to you while you
7 were at Greenville County Detention Center?

8 A Yes, sir.

9 Q Did you possess those materials while Martinez and
10 Arias were also at Greenville County Detention
11 Center?

12 A I don't remember if they were still there,
13 but there were other people involved in the
14 indictment.

15 MR. UNDERWOOD: No further questions,
16 Your Honor.

17 THE COURT: All right. You may step
18 down.

19 Anything else from the defendant?

20 MR. HODGE: No, Your Honor. That's
21 all.

22 THE COURT: All right. Ladies and
23 Gentlemen, we're going to take a break. Now, let
24 me kind of -- counsel approach real quick.

25 (Bench conference off the record.)

Testimony of David Barajas

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1 THE COURT: All right.

2 Okay. Ladies and Gentlemen, we need to
3 take a short break here. I think there's -- the
4 State has an opportunity to present rebuttal
5 evidence, if they need to. I think they indicated
6 they may have one very short witness. I'm letting
7 you know this because as far as lunch goes -- then
8 what happens is, we have closing arguments and the
9 jury charge, and I'm trying to figure out the
10 lunch. So maybe after all that, it we may be
11 close to one o'clock before we actually are able
12 to have your lunch here, because you all will back
13 here. So do you all have any snacks that you all
14 -- okay. So if you want to have a few snacks
15 right now, then I suggest that.

16 But then what our goal is, is to have
17 this additional testimony which they indicate is
18 very short. And then we'll have closing
19 statements by the attorneys, and then I'll charge
20 you on the law. That will probably run us to
21 about one o'clock and that's when our lunch -- and
22 then you all will have your lunch back there when
23 you all begin deliberations.

24 But, at this point, maybe you can grab
25 some snacks and we'll have you back out just as

Testimony of David Barajas

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1 soon as possible, and don't discuss the case.

2 Any additional motions at this time?

3 MR. HODGE: Your Honor, I just renew all
4 my previous motions as well as previous
5 objections.

6 THE COURT: I think that I'll stand by
7 rulings. I don't believe anything has changed as
8 far as that. And my comment was literally -- I
9 say or I suggest, Mr. Underwood, by all means you
10 present whatever you feel is appropriate and
11 however long you feel you need.

12 MR. UNDERWOOD: I took it as such,
13 Your Honor.

14 THE COURT: Okay. Let's just take a
15 short break and then you'll be ready to go.

16 MR. UNDERWOOD: Yes, Your Honor.

17 THE COURT: I guess we'll take another
18 break, but we'll also discuss if there's any
19 objections -- did you all get the emails on the
20 jury charges?

21 MR. UNDERWOOD: Yes, Your Honor.

22 THE COURT: All right. And we'll discuss
23 that, but we'll be ready to go into arguments and
24 charge. We'll take, of course, a quick break, but
25 then we'll be ready for arguments and charges. Is

Testimony of David Barajas

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1 that good with everybody?

2 MR. UNDERWOOD: Yes, sir.

3 THE COURT: All right. Take a short
4 break and we'll back out in just a few minutes.

5 (A break was taken from 11:49 a.m. to 11:52 a.m.)

6 THE BAILIFF: All rise. Court is in
7 session.

8 THE COURT: Be seated. Is the State
9 ready for the jury?

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

11 THE COURT: Defendant?

12 MR. HODGE: Yes, Your Honor.

13 THE COURT: All right. Bring the jury
14 in.

15 (The jury enters the courtroom at 11:52 a.m.)

16 THE COURT: All right. Ladies and
17 Gentlemen, as indicated before the break, the
18 defendant has rested their case and the State has
19 indicated they wish to present some rebuttal
20 testimony.

21 State, call your next witness.

22 MR. UNDERWOOD: Thank you, Your Honor.
23 The State calls Captain Jason Wells.

24 THE CLERK: Please step forward to be
25 sworn in. Raise your right hand. Do you solemnly

Testimony of Jason Wells

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1 swear or affirm that the testimony

2 you're about to provide will be the truth, the

3 whole truth, and nothing but the truth, so help

4 you God?

5 THE WITNESS: Yes, sir.

6 THE CLERK: Please state your full name.

7 THE WITNESS: Jason Wells.

8 THE CLERK: Please be seated and adjust

9 the microphone.

10 WHEREUPON:

11 JASON WELLS,

12 after having been sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. CRAIGHTON:

15 Q Good morning, Captain Wells. How are you doing
16 today?

17 A Yes, sir. Just fine.

18 Q Very, very briefly: Did you, in this
19 investigation, participate in the interview of
20 David Martinez?

21 A Yes, I did.

22 Q And did Mr. Martinez, through his attorney, reach
23 out to you saying he had information on the defendant
24 or did you all go to Mr. Martinez asking if he did
25 have information on the defendant?

1 A Mr. Martinez contacted us to provide
2 information.

3 Q So you all had not asked him at all for any
4 information on Mr. Barajas; is that correct?

5 A Yes.

6 Q Did you, in fact, do that interview?

7 A Yes.

8 Q And what was the date that interview was done.

9 A January 5th of 2016.

10 Q January 5th?

11 A Yes, sir.

12 Q And during that period of time, did Mr. Martinez
13 provide you with information that Mr. Barajas had told
14 him about his drug business?

15 A Yes, he did.

16 Q And that included mentioning names like Chema and
17 Gordo and Luis and Alejandro?

18 A Yes that's correct.

19 Q I'm going to show you --

20 MR. CRAIGHTON: May I approach the
21 witness, Your Honor?

22 THE COURT: You may.

23 BY MR. CRAIGHTON:

24 Q I'm going to show you what's been marked as
25 State's Exhibit 134, and is that a scheduling order

Testimony of Jason Wells

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1 for this particular case?

2 A Yes, it is.

3 Q And, if you would, please tell us right here, what
4 does that say?

5 A This says, "Discovery to be served."

6 Q All right. And what's after that?

7 A "Two weeks after the filing of the protective
8 order."

9 Q And what's the date of this?

10 A March the 4th of 2016.

11 Q And I'm going to show you what's been marked as
12 State's 135. And is this the protective order in the
13 case?

14 A Yes, that's the protective order.

15 Q Which is required and governs the release of
16 discovery before the State can even provide discovery,
17 correct?

18 A That's correct.

19 Q And what's the date on that?

20 A March 4, 2016.

21 Q And remind me of when your interview with
22 Mr. Martinez -- your first interview was.

23 A January 5, 2016.

24 MR. CRAIGHTON: Nothing further, Your
25 Honor.

1 THE COURT: Cross-examination.

2 CROSS-EXAMINATION

3 BY MR. HODGE:

4 Q How many times after that initial interview did
5 you talk to or get contacted by David Martinez?

6 A I do not recall that. I mean, this is the
7 interview that we documented, so I do not
8 remember.

9 Q Right. Didn't he send a letter through his
10 attorney later on in January? Do you recall that
11 letter?

12 A I don't.

13 Q All right. Do you recall meeting with him again
14 in February of 2017?

15 A I don't recall.

16 Q Okay. So you don't recall having two other
17 contacts with David Martinez regarding what he told
18 you about David Barajas?

19 A Off the top of my head sitting here, no,
20 sir.

21 Q Okay.

22 A Please keep in mind this is three years ago.

23 Q Yes, sir. Yes, sir.

24 And so the interview that you had with
25 David Martinez you said he reached out to you; is that

Testimony of Jason Wells

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1 right?

2 A Yes.

3 Q That was on -- the interview itself was set up on
4 January 5th. Do you remember when he reached out to
5 you saying he wanted to meet with you?

6 A No, sir.

7 Q Do you remember when David Barajas was arrested
8 and placed inside Greenville County Detention
9 Center?

10 A I don't remember the specific date he was
11 arrested, no, sir.

12 Q Okay. Do you remember what month?

13 A December.

14 Q Of 2015?

15 A Yes. Yeah.

16 Q So it's safe to say that David Martinez had been
17 in the cell Mr. David Barajas for less than a month
18 before he reached out to you wanting to provide
19 information?

20 A Yes.

21 MR. HODGE: No further questions.

22 MR. CRAIGHTON: Nothing further,
23 Your Honor.

24 THE COURT: You may step down.

25 Anything further?

Testimony of Jason Wells

1 MR. CRAIGHTON: Your Honor, that would be
2 the State's rebuttal case.

3 THE COURT: All right. Ladies and
4 Gentlemen, that concludes all of the testimony and
5 all the evidence that you will have before you
6 when you begin your deliberations. So at this
7 point, there's a couple things I need to go over
8 with the attorney and then we'll bring you back
9 our but you don't discuss the case yet.

10 So what we got left is closing arguments
11 by the attorneys, which is not evidence. It's
12 their summary or their arguing about the case.
13 And then I will charge you on the law, and then
14 we'll send you back to begin your deliberations.

15 At this point, if you'll step back to the
16 jury room for just a minute and then we'll bring
17 you right back out.

18 (Jury exits the courtroom at 11:58 a.m.)

19 THE COURT: Any motions from the State?

20 MR. UNDERWOOD: Not from the State, Your
21 Honor.

22 THE COURT: Anything from the defendant?

23 MR. HODGE: Renew all objections and
24 previous motions.

25 THE COURT: Right. And as stated before,

Testimony of Jason Wells

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1 I'm going to stand by my previous rulings in this
2 matter.

3 Have you all looked at the verdict form?

4 MR. HODGE: I've see it.

5 THE COURT: You want to this. I got him to
6 make copies as well.

7 MR. UNDERWOOD: No objections to the form
8 from the State, Your Honor.

9 THE COURT: Any objection to the verdict
10 form from the defense?

11 MR. HODGE: No objection.

12 THE COURT: Have you all reviewed --
13 we've gone over the jury charge in this matter,
14 and I incorporated the ones that you all proposed.
15 And I think you've also been emailed the jury
16 charge. Any objections to the charge from the
17 State?

18 MR. UNDERWOOD: Not from the State, Your
19 Honor.

20 THE COURT: Any from the defense?

21 MR. HODGE: No, Your Honor.

22 THE COURT: Do you all need a minute?
23 Are you all ready to go forward?

24 MR. UNDERWOOD: Your Honor, as to the
25 order of closing argument, my presumption would be

Closing by Mr. Underwood

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1 the State would close in full, and then the defense in
2 full, and then a rebuttal by the State; is that
3 correct?

4 THE COURT: Exactly. Are we ready to go
5 forward?

6 MR. UNDERWOOD: Yes, Your Honor.

7 THE COURT: All right. If the jury is
8 ready, bring them in.

9 (Jury enters the courtroom at 11:59 a.m.)

10 THE COURT: All right. Ladies and
11 Gentlemen, we will now proceed with closing
12 statements. And the closing statements will go in
13 this order. The State will open and close, and
14 the defense attorney will have an opportunity at
15 that point, and then, under our rules, the State
16 gives the last word. So they will come back up
17 for any rebuttal.

18 So, at this time, the State, you may
19 proceed with your closing argument.

20 MR. UNDERWOOD: Thank you, Your Honor.
21 May it please the Court?

22 All right. Ladies and Gentlemen, there's
23 been a lot of evidence given to you over the past
24 week or so, but when it comes down to it, this is
25 actually a very simple case. This is a case about

Closing by Mr. Underwood

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1 the defendant, David Barajas, trafficking more
2 than 400 grams of methamphetamine. But what is
3 trafficking? It's a word that people hear a lot,
4 but not too many people really use it in everyday
5 conversation.

6 All right. Trafficking is essentially
7 that we need to prove that the defendant,
8 David Barajas, either sold, manufactured,
9 cultivated, delivered, purchased, brought into the
10 state of South Carolina, or provided financial
11 assistance, or aided, abetted, or attempted, or,
12 as is most important in this case, conspired to
13 bring 400 grams or more of methamphetamine into
14 South Carolina. Conspiring to sell it, to
15 manufacture it, to bring it into the
16 South Carolina.

17 The important thing for trafficking is
18 not only the action, but the amount of the
19 substance. And we refer to that as a threshold
20 amount. That is the difference between your
21 ordinary street drug deal and trafficking.
22 There's no difference in the action. The
23 difference is the quantity.

24 So the reason that we are here for a
25 trafficking case and not a distribution case is

Closing by Mr. Underwood

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1 because of how much methamphetamine we're talking
2 about. In this case, we're talking about
3 400 grams or more. As you heard the testimony, a
4 pound is about 454 grams. So a little bit less
5 than a pound. That's the threshold that we're
6 looking at.

7 Now, as I mentioned, we're worried about
8 a conspiracy in this case. Well, what is a
9 conspiracy? I know that's a term that also gets
10 spread around a lot. We'll talk about conspiracy
11 theories and like that. But for legal purposes,
12 when we're talking about a conspiracy, we're
13 talking about an agreement. And not just any
14 agreement. It's an agreement between two or more
15 people for the purpose of accomplishing some
16 unlawful act or some act that would otherwise be
17 lawful, but for some unlawful means to accomplish
18 it.

19 In other words, in this case, we're
20 talking about an agreement between two or more
21 people to traffic methamphetamine.

22 The crux of this crime is the agreement
23 itself. It doesn't have to be some formal written
24 contract. There doesn't need to be a meeting
25 where everyone sits down and comes to a very

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1 detailed plan. A mutual understanding between
2 individuals with that common unlawful goal is
3 sufficient to establish the existence of a
4 conspiracy. Now, once a person agrees to enter
5 into that conspiracy, at that very moment, they
6 are guilty of conspiring to traffic. There
7 doesn't even need to be an act in furtherance of
8 the conspiracy. Once they have agreed to do it,
9 they are guilty of the crime.

10 Now, in this case, you have heard a
11 tremendous amount of evidence that goes far beyond
12 that. You've heard evidence that a conspiracy
13 existed. You heard evidence from that witness
14 stand that there was an organization starting in
15 Mexico responsible for bringing methamphetamine,
16 first across the border from Mexico into Texas,
17 from Texas to the Atlanta, Georgia area, and then
18 ultimately here into Greenville County,
19 South Carolina.

20 This is an organization that, in order
21 for that methamphetamine to get here, people
22 needed to make a contact to Mexico. Once that
23 contact was made, the dope was ordered. The meth
24 was sent through that pipeline that you heard
25 Lieutenant Woodring testify about at the beginning

1 Closing by Mr. Underwood
2 of the case; Texas to Georgia to here.

3 In this particular instance, you heard
4 from Eduardo Assad who gave a lot of details about
5 that group and that organization and how it
6 worked. You heard about how he would call the
7 person he referred to as Chakas, gave the order,
8 and then the orders came through. The dope made
9 its way through that system. It went to
10 Atlanta, Georgia where several different people
11 would arranged to then come to South Carolina,
12 either by being delivered or by being picked up
13 and then brought back to South Carolina. Wherein
14 one of the individuals that was responsible in
15 Mexico was someone known as Tuca or Javiar.
16 That's what Mr. Assad testified about.

17 You then heard Mr. Isaias Arias who
18 testified that, yes, he got word from Mexico from
19 some named Javiar that the meth was supposed to go
20 from Texas to Georgia and get to Gordo, which is
21 Eduardo Assad. That organization, that pipeline
22 fits perfectly.

23 So what's important now is, how much
24 methamphetamine are we talking about?

25 Well, you've seen evidence put in of
actual drugs in this case. Sandra Duncan

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1 testified to you, also known as "mom," that she
2 got involved in this organization selling
3 methamphetamine she got from Eduardo Assad, who
4 was known as Gordo or Jose, according to her, and
5 that she eventually got caught. She got caught
6 several times, in fact.

7 When the police approached her, what did
8 she do? She decided to cooperate and she turned
9 over the methamphetamine she had gotten from that
10 group just the night before. This methamphetamine
11 right here that she had already packaged up into
12 ounces into little Baggies for redistribution.
13 This methamphetamine right here was about a pound
14 and a half or so. That's a lot more than
15 400 grams, and that's just one transaction. Just
16 one bit of drug evidence that law enforcement was
17 able to take off the streets.

18 You heard evidence of other controlled
19 purchases that were set up using Eduardo Assad as
20 the confidential informant. He identified another
21 individual in this group, someone known as
22 Chencho. Mr. Assad contacted the person he
23 referred to as Chakas down in Mexico and arranged
24 for a transaction to happen here in
25 South Carolina.

Closing by Mr. Underwood

1 Chencho then came up from Georgia, and
2 what did he bring, he brought all this
3 methamphetamine. He brought about a pound or
4 so -- excuse me, a kilo of methamphetamine. You
5 all saw the picture of that inside that box. You
6 heard the chemist come in and testify what's in
7 here, methamphetamine. Now he's charged with
8 methamphetamine.

9 Again, this right here, more than
10 400 grams. In and by itself, more than 400 grams
11 from the group that Mr. Assad identified in his
12 testimony to you.

13 But that wasn't all. Mr. Assad also made
14 arrangements with someone that he called Chico for
15 more methamphetamine. And you heard from Chico.
16 That was Isaias Arias. He testified before you.

17 He testified about how he was going to
18 bring two and a half kilos of methamphetamine that
19 was originally supposed to go to the defendant,
20 David Barajas, in Georgia, but Mr. Arias decided
21 to bring it directly himself.

22 You heard the recorded calls during the
23 testimony where it was explained that the money
24 was supposed to be split between Mr. Arias and the
25 person either known as Chavo or Pelon. At the

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1 time Mr. Assad didn't know the defendant's name
2 was David Barajas. But it was explained in those
3 calls how that money was supposed to be split, how
4 there had been previous dealings with that person
5 that Mr. Assad called Chavo. That's important.
6 There were previous dealings. In those calls,
7 they're talking about money that's already owed.

8 Ladies and Gentlemen, the reason money
9 was already owed is because the defendant,
10 David Barajas, had already been giving
11 methamphetamine to Mr. Assad. This wasn't the
12 first time.

13 But Mr. Arias brings two and a half kilos
14 of methamphetamine hidden in a tire all the way
15 from Texas to South Carolina. It's cut short at
16 the hub in Atlanta, but it's still part of that
17 same group. It shows this methamphetamine coming
18 from Mexico to Texas to South Carolina.

19 Mr. Arias told you how he got in touch
20 with Gordo, which he knows as Gordo Assad. He was
21 told by Mexico. Mexico told him, you need to talk
22 to Gordo to send methamphetamine.

23 Then there's the other transaction where
24 law enforcement from South Carolina takes
25 Mr. Assad down to Jonesboro, Georgia. They

Closing by Mr. Underwood

1 conduct what they called a controlled purchase.
2 They take Mr. Assad to a residence. He's driven
3 by an undercover agent who you heard from, task
4 force officer Juan Echeverry. And while he's
5 there, Mr. Assad goes into a house. Mr. Assad
6 testified to you that in that house was someone
7 named Chema, who he had dealt with before via the
8 telephone but was meeting in person for the first
9 time, and another person, a person he knew as
10 Chavo, David Barajas. He identified him for you.
11 He pointed him out.

12 Mr. Assad told you how he went in that
13 house and he bought this, another kilo of
14 methamphetamine split into two bags. This is it
15 right here spread out in the back of the police
16 car immediately after the transaction. He
17 testified that came from David Barajas, and that
18 that meth was intended to come back to
19 South Carolina. That was their prior arrangements
20 in numerous other transactions. Because, again,
21 Ladies and Gentlemen, this is a conspiracy case.

22 We aren't here to talk about just this
23 methamphetamine, or just this methamphetamine, or
24 this or this. It's all of it. It's all of the
25 methamphetamine that was brought to South Carolina

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1 over an extended period of time, that includes the
2 methamphetamine that law enforcement wasn't able
3 to get off the streets, the methamphetamine that
4 got all the way through from Mexico to Texas to
5 Atlanta to South Carolina through Mr. Assad to his
6 customers to their customers and their customers
7 and their customers. All of that is included in
8 this conspiracy.

9 And once a person enters into that
10 conspiracy, they are guilty for the full scope of
11 that agreed conspiracy. There's no doubt, Ladies
12 and Gentlemen, we're talking about more than
13 400 grams. Each bit of methamphetamine that's
14 been put in front of you was more than 400 grams.
15 There's no disputing that.

16 Now, you heard testimony from several
17 co-conspirators. You heard testimony from people
18 like Sandra Duncan, Barry Underwood, Delonda
19 Weshay, people that were being supplied pounds and
20 kilograms at a time of methamphetamine from
21 Eduardo Assad. You heard them testify how
22 Mr. Assad used runners. They were identified;
23 Juan Estenosa, Andrea Merana Gonzalez,
24 Luis Flores. You heard from those three
25 individuals, how they would go to Atlanta, Georgia

Closing by Mr. Underwood

1 to pick up kilograms of methamphetamine, bring it
2 back to South Carolina, give it to Gordo, give it
3 to the other customers.

4 You heard testimony how they would then
5 go around, not only to make deliveries of the
6 meth, but to pick up payments. And you a heard a
7 lot of big dollar amounts. You heard testimony
8 how that money then went back eventually to Mexico
9 through wire transfers.

10 You heard about fronting, where people
11 were getting the drugs on credit. Why is that
12 important? Well, obviously, if people are giving
13 drugs out on credit, that means they expected to
14 get resold so they can get paid, and that was a
15 repetitive process over and over and over again.

16 Your heard testimony how these runners
17 would go to Atlanta, Georgia. They even
18 identified some of the people that they were able
19 to pick up methamphetamine from. Luis Flores, in
20 particular, mentioned picking up methamphetamine
21 from Chencho. The same person who brought this to
22 South Carolina on multiple occasions. He
23 testified about a person named Juardo who brought
24 methamphetamine to Chencho in Georgia, another
25 name Mr. Assad mentioned.

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1 Most importantly, you heard testimony
2 from Luis Flores about how he went to Georgia on
3 more than one occasion at several different
4 locations and he picked up kilogram amounts of
5 methamphetamine from David Barajas more than once.

6 He also testified that on one occasion
7 Mr. Barajas actually came across the state line
8 just into South Carolina at a gas station where
9 they did another transaction for the
10 methamphetamine. So, clearly, Mr. Barajas knew
11 where this methamphetamine was going because he
12 brought it here himself at least once.

13 Now, what this case really comes down to
14 is, who is this person Pelon? Who is Chavo? You
15 heard testimony throughout the case that drug
16 dealers often use numerous different names, fake
17 names, nicknames. They don't like to use their
18 real names. Why? Well, common sense would
19 dictate that they don't want to get caught. They
20 don't want to end up in a courtroom like this, so
21 they do what they can to disguise their identities
22 as best they can.

23 But you saw, not one, not two, not three,
24 four, or five different people get on that witness
25 stand and point at David Barajas and said that he

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1 was either Chavo or Pelon. Four of those people
2 identified him as someone they had personally done
3 methamphetamine business with.

4 Then you had David Martinez. Jorge David
5 Martinez, who is the jail with David Barajas after
6 they were both arrested on their respective
7 charges. Mr. Martinez testified about what?
8 Mr. Barajas. At this point, there's no doubt
9 about who we're talking about. We're not talking
10 about just a nickname of Pelon or a nickname of
11 Chavo, but someone he knew to be David Barajas who
12 admitted to him that he had used that nickname,
13 Pelon, that he had been with involved with someone
14 named Chema and selling methamphetamine and
15 bringing it here to South Carolina.

16 Now, the defendant would have you believe
17 that he only knew all those details because he had
18 read the defendant's paperwork to try to translate
19 for him, except there's a problem, a big problem.

20 Mr. Martinez came to law enforcement with
21 that information in January of 2016. But when you
22 look State's Exhibits 134 and 135, the protective
23 order and the scheduling order, you will very
24 quickly see the problem. Mr. Martinez couldn't
25 have looked at that paperwork. He couldn't have

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1 been translating for Mr. Barajas before he came to
2 the police. Why? Because Mr. Barajas couldn't
3 have had it. Not only was he not allowed to have
4 it at any time, it hadn't even been given to his
5 lawyer yet. It was even allowed to go to his
6 lawyer until March. The only way that Dave
7 Martinez could have known the information he knew
8 is if David Barajas told him.

9 Now, Mr. Barajas told you that he was a
10 very trusting person back then. It might not have
11 been the best idea for him to tell somebody else
12 in the jail about his drug dealings, but I submit
13 to you that he did. There is no other way that
14 Dave Martinez could have known that information.

15 Now, you heard a number of phone calls
16 that were played in this courtroom. Not all of
17 them were played, but enough of them were played.

18 Now, that was in Spanish. I know I don't
19 speak Spanish, but the people involved in those
20 calls testified in summary form what was being
21 discussed. How Mr. Assad was setting up these
22 different methamphetamine transactions
23 simultaneously between Mr. Arias and Mr. Barajas,
24 this defendant.

25 There was discussions about the prior

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1 debts and the problems that they were having over
2 other amounts of methamphetamine that had just
3 gone missing. I don't know if it's kilos,
4 whatever, just gone causing disputes over money.

5 Now, the only way there could be a
6 dispute is if there was an agreement in the first
7 place. The fact that Mr. Arias and Mr. Barajas
8 were quarreling over missing drugs, missing money,
9 owed money just goes to show more evidence that an
10 agreement, a conspiracy was already in existence
11 prior to any involvement of Mr. Assad and law
12 enforcement. This is something that had already
13 been going on.

14 Now, the defendant denies that's his
15 voice, but you heard testimony from the other
16 person on the call that says, no, that was his
17 voice. I had a number of phone calls with him. I
18 know his voice. Most of our dealings was on the
19 telephone. I know that that was Chavo. That's
20 what Mr. Assad was saying. Those recordings are
21 in evidence. You can listen to those if you need
22 to. The defendant testified, you can determine
23 for yourselves, but I submit to you that that is
24 the defendant's voice in those calls.

25 Mr. Arias also listened to one of those

Closing by Mr. Underwood
1 calls between Mr. Assad and the defendant,
2 David Barajas, and he also said, yes, I've spoken
3 to both of those people before. I recognize both
4 of those voices, Mr. Assad and Mr. Barajas.

5 Isaias Arias also from that witness stand
6 identified David Barajas as a person he helped set
7 up in Georgia for the purpose of running
8 methamphetamine up to Gordo in South Carolina.
9 Mr. Arias told you how he met about Mr. Barajas
10 through Mr. Barajas's brother in California.

11 Now, if there's any question as to
12 whether or not Mr. Barajas has a brother in
13 California, he testified before you this morning,
14 that, yes, he has a brother in California who
15 lives just up the street from this marijuana
16 dealer where he's taking these pictures.

17 Now, let's go back to the transaction
18 that happened in Jonesboro, Georgia with SLED and
19 Homeland Security. They took Mr. Assad down there
20 in a confidential informant capacity.
21 Unfortunately, I wish I had a video to show you of
22 what happened inside that house, but we're not
23 talking about a situation where the drug deals
24 happens on the street corner, or a parking lot, or
25 even at a storage unit where it's easy to be from

Closing by Mr. Underwood

1 a distance and take a video. We're talking about
2 sending somebody by themselves to what law
3 enforcement believes to be a cartel drug house. I
4 don't apologize for putting safety first.

5 I don't have the video of that
6 transaction. I'll tell you what I do have. I
7 have those calls setting it up. I have the person
8 who did that transaction. He came in here and he
9 testified that he had a person on that call, the
10 person that I went in that house and saw and got
11 those drugs from, David Barajas.

12 You heard from Juan Echeverry. He said
13 that he saw two males exit the house right after
14 the deal. He recognized one of them. He said it
15 was somebody that he had dealt with before that he
16 referred to as Chema. Why is that important?
17 Well, what did Mr. Assad say? When he went in the
18 house there were two people there. One of them
19 was Chavo, the other was Chema.

20 So, clearly, if Chema was one of the
21 people coming out and getting into that car, the
22 other must have been Chavo. But more importantly,
23 it was David Barajas's car.

24 You got in evidence the DMV paperwork
25 from the State of Georgia, from the Department of

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1 Revenue, the Department of Motor Vehicles showing
2 that that was David Barajas's car. That's not a
3 coincidence. It's not a coincidence that
4 Mr. Barajas was paying utilities bills at that
5 same location, that it was his car that law
6 enforcement followed for some time in what they
7 call a loose surveillance. They were able to
8 identify the car that's David Barajas's car. They
9 were able to develop David Barajas as a suspect.
10 And then what did they do? They went to the
11 people who told them that they knew Pelon or
12 Chavo.

13 They showed photographs. Started first
14 with driver's license photos like this. Pretty
15 innocuous. And when they showed it, and you heard
16 the testimony that all this other information was
17 covered up. All the witnesses would see is that
18 photograph.

19 Now, in addition to the fact that Pelon
20 means bald and that was a characteristic of
21 Mr. Barajas, there were a number of tattoos that
22 were given as a description for law enforcement.
23 Tattoos like that one.

24 Ladies and Gentlemen, this is Chavo.
25 This is Pelon. It's also David Barajas because

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1 they're the same person.

2 Now, you saw some discussion about some
3 pay stubs for Mr. Barajas in Liberal, Kansas.

4 Ladies and Gentlemen, those don't really mean
5 anything as far as this case is concerned,

6 particularly considering that the earliest one
7 isn't until July of 2015. That's months after

8 Eduardo Assad went to Jonesville, Georgia and
9 bought two kilo of methamphetamine from

10 David Barajas. It's months after Luis Flores went
11 down to Georgia and paid David Barajas to pay all
12 the prior methamphetamine debt that he, himself,
13 had developed with him. So that doesn't really
14 much of anything.

15 The point is that David Barajas, this
16 defendant, has been identified as the person that
17 people knew as Chavo or as Pelon, that he was
18 responsible for giving them kilogram amounts of
19 methamphetamine to bring into South Carolina and
20 that this was all part of a preplanned arrangement
21 that went on for over a period of time. Between
22 2011 up through 2015, this organization was
23 working and this defendant, David Barajas, was
24 part of it.

25 Now, the State has the burden of proof in

Closing by Mr. Hodge

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1 this case. As you heard, he was innocent walking into
2 this courtroom. That it's our burden to prove that he
3 is guilty of trafficking methamphetamine and the
4 amount of that methamphetamine is 400 grams or more.

5 I submit to you, Ladies and Gentlemen,
6 that when you review all the evidence in this
7 case, there will be no doubt you will be firmly
8 convinced that this defendant, David Barajas, is,
9 in fact, guilty of trafficking methamphetamine,
10 400 grams or more.

11 I ask you to consider all that evidence
12 and return that verdict of guilty.

13 Thank you.

14 THE COURT: Mr. Hodge.

15 MR. HODGE: Thank you, Your Honor.

16 Ladies and Gentlemen, I want to first say
17 thank you for being here today. I know this is a
18 very interesting time that we are living in. My
19 kids, like many of yours, are not in school today
20 because of the Corona virus. I jokingly said
21 before we started this last day of this trial that
22 we are officially, in history, the only trial
23 being tried this week in the state of South
24 Carolina, I would bet.

25 So I want to thank you for patience all

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1 last week. I want to thank you for your patience
2 with me asking a lot of repeat questions of each
3 witness and saying a lot of the same things to
4 each witness. And you've all been listening
5 intently. I've watched you over the days as
6 everyone testifies, as we presented this case to
7 you, I want to say thank you for being patient and
8 for paying attention. David also thanks you.

9 Obviously, because, as I said at the
10 beginning of this trial, it's an extremely
11 important time now. This week, last week, today
12 has been the most important seven -- eight days
13 now of his life. So I thank you for sitting in
14 and for listening. I know you didn't much choice,
15 but you have been attentive and I appreciate that.

16 I'm going to, kind of, go over piecemeal
17 with where we were, where this all started through
18 the witnesses without going into too much detail.

19 But law enforcement in this case did a
20 fantastic job of proving to you, this jury, that a
21 conspiracy to sell methamphetamine occurred. No
22 doubt -- no doubt that a conspiracy to sell
23 methamphetamine from Chencho and from Chico and
24 from Chavo and from Ma, I think is who those
25 belong to, there is no doubt that they did their

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1 job in proving to you that a conspiracy occurred.
2 And if I tried to argue that it didn't, then you
3 would guys would discredit me immediately.

4 They've done a great job of showing you
5 everything that they did in this case which took
6 hours upon hours upon hundreds of hours of
7 manpower. I couldn't even begin to tell you
8 because I don't know the amount of State money and
9 funds that went into this investigation in this
10 case. It was a lot. I can promise you that. I
11 can promise you that they spent every bit of time
12 and money that they could on this conspiracy and
13 proving this case.

14 They got pictures of Chico Arias
15 making -- or a video even of him making a drug
16 transaction inside the State of South Carolina
17 with an undercover agent along with Eduardo Assad.
18 They got photos of Chencho making a transaction, a
19 methamphetamine transaction with Eduardo Assad
20 inside the state of South Carolina. They got
21 pictures of every other defendant in this case.
22 They even have pictures of Chema, who is not in
23 this. They have a picture of him, a surveillance
24 picture of him. Something that they took.

25 There was no pictures, no video, no

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1 evidence provided by law enforcement regarding the
2 identity of Pelon or Chavo.

3 They are now, after the co-conspirators
4 have testified and have put a face with a name --
5 and I'll into them in a minute -- they are now
6 asking you, this jury, to jump to the conclusion
7 that that was him all along. That Chavo is
8 David Barajas. That Pelon is David Barajas. You
9 will see it in some of these pieces of evidence
10 that have been entered that they have now
11 substituted his name. Instead of Isaias Arias
12 listening to a phone call and saying, yeah, that's
13 me and Pelon, because he didn't know who Chavo
14 was, but it's him and Pelon, he says that's me and
15 Barajas. They're doing that because they want you
16 to assume that that's exactly who it was.

17 I want you to remember, when you're
18 reading through some of those transcripts or
19 listening to some of those phone calls, the name
20 David Barajas is not actually said. There was an
21 individual named Pelon by some, Chavo by others
22 that was involved in this conspiracy. I'm not
23 here to deny that. Someone named Pelon and/or
24 Chavo was involved in the drug trade with these
25 individuals.

Closing by Mr. Hodge

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1 Now, the first person that we saw
2 testifying, the first co-conspirator, if I recall
3 correctly, was Eduardo Assad, Gordo. Gordo is, as
4 he said, the one who started this case, and he was
5 proud of that. He was proud that he had helped
6 take down all these individuals. Well, he did a
7 good job. I mean, he's got -- there's a number of
8 people that have been charged in this indictment
9 because of him. But he made it sound like he did
10 that because he was fed up with being involved in
11 the drug trade, and he was -- the only way that he
12 could safe is if he was prison. It was prison or
13 dead is how he put it, I think.

14 Skip forward, I think two days after he
15 started testifying, to Ma, or Sandra Duncan, and
16 she said that the first thing Jose, who
17 Eduardo Assad said he was not, that Jose who we
18 know is Eduardo Assad, the first thing he said to
19 her was, I can kill your son first, because he's
20 in prison, and that they're easiest to get to when
21 they're in prison. That's what he said to her.
22 And yet, he wants to get on that witness stand and
23 tell you that he feels safe in prison.

24 This is the same guy who told her that
25 his dad is the head of the cartel. His dad.

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1 That's what he said. He didn't tell you guys
2 that, but that's what he told Ma. Told her that
3 his dad was the head, and his uncle was the chief,
4 or number 2, and that he was number 2 right along
5 there with him. That's, kind of, how he put it
6 out there to you. She said she thought Cheva was
7 his enforcer. He didn't tell you that. He didn't
8 say he was number 2 in the cartel. He said he had
9 worked his way up to being where he was.

10 I asked him what his CH nickname was. He
11 didn't have one. He had never been given a CH.
12 The reason for that is because this CH nickname
13 thing is probably in his head. No one else knew
14 who Chakas was. Chico or Arias said no one had
15 ever called him Chico until Assad started calling
16 him Chico.

17 Assad testified that Cheva, his uncle,
18 who was his boss before he became even, had
19 received that nickname when he lived in Arizona
20 because he was a coyote. He transported illegal
21 aliens across the border. That's where Cheva came
22 from.

23 So this idea that this cartel was giving
24 these people nicknames or CHs is another fantasy
25 of Eduardo Assad who broke this case, the one who

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1 created this case.

2 Eduardo Assad also told you, and I've hit
3 on it, but his name wasn't Jose. And I asked him
4 on cross-examination, you're telling me nobody
5 ever called you Jose? Every single person from
6 that witness stand called him Jose just about.
7 They all knew him as Jose; Ma, Barry Underwood,
8 Stevie. Everybody knew him as Jose. That's what
9 they called him, and yet he told you he had never
10 been called Jose. And I asked each and every one
11 of them. You called him that to his face, like he
12 knew that's what you called him? Yeah. Every
13 one.

14 I point that out not to say I care
15 whether his nickname is Jose or Gordo, or anything
16 else, because I don't. I don't care who he is or
17 what his nickname is. I point that out to tell you
18 he is not telling you the truth. He is lying to
19 you. Whether it's that, whether it's being
20 involved in this cartel and being number 2 in the
21 cartel, or whether it's saying that he knows for a
22 fact that this individual is Pelon or Chavo.

23 That picture right there was the only
24 picture, along with this photo from an ID -- it
25 wasn't even a driver's license -- that was given

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1 in 2006. It says unlicensed. Still 2006, a
2 nine-year old photo and a picture a guy on
3 Facebook with tattoos holding a gun. Both of
4 those individuals are bald because he obviously
5 said they were bald. And a neck tattoo, I think
6 you can see a little in that picture, but he
7 definitely had some arm tattoos.

8 Why not give them other pictures to
9 choose from? Why not say, do you recognize anyone
10 in this lineup? I don't know why. I think --
11 again, I think Agent Wells, who was the main one
12 who handled these activities, did a fantastic in
13 stopping this conspiracy from going forward. But
14 I think here, he messed up. I think here, by
15 putting these pictures in front of individuals
16 that were already charged in this case, they were
17 already in the indictment, they already knew that
18 they were looking for Chavo or Pelon, because
19 they're the ones who had given them those names,
20 are shown a picture, after already cooperating
21 with law enforcement, and immediately say, yes,
22 that's him. That's so easy for them. It's so
23 easy for them. Because now they've done their
24 job. They've cooperated. They've given them a
25 name they didn't have. They've given them

Closing by Mr. Hodge

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1 information on someone they didn't have arrested,
2 and, therefore, they have helped themselves
3 tremendously at this point. That's it. Those are
4 the people -- those are the pictures that they
5 showed, Alejo, Assad, and Luis Flores. Those are
6 the pictures. That's it. And they identified him
7 from those pictures and said, oh, yeah, that's the
8 guy. I bet they were relieved. Relieved that
9 they finally had their guy.

10 Then you have Arias -- well, hold on.
11 Only identifying that picture of him, Assad
12 testified he met the guy one time, one time. Had
13 only seen him in person one time, and it was
14 during the controlled by in which he was buying
15 drugs from who he called Chavo. The only time he
16 met him. Never saw since, never saw him again,
17 had no idea who he was. And yet, when they
18 know -- when he knows they are looking for that
19 individual and they show him one picture, that's
20 him.

21 Then you have Chico Arias, who was not
22 shown that future, he was shown a photo lineup,
23 which you also have back there. A picture with
24 six individuals on it. He was shown that photo
25 lineup and given the opportunity to make the

1 identification two years later. Two years after
2 this case began. Two years after my client had
3 been arrested. Two years after he had sold any
4 drugs to anybody, had any transactions with
5 anybody, he was asked to make an identification.

6 Now, in the interim of that two years, he
7 didn't see this evidence. He didn't see those
8 pictures. He had also -- he had also seen
9 David Barajas in jail. He had seen him right
10 there with him in the same dorm. His face was
11 very familiar to Arias, but not as Chavo. He had
12 never heard of Chavo, but he says he's the same
13 guy he knew as Pelon.

14 Ask yourselves who benefits from
15 identifying the wrong person. If the wrong person
16 is sitting here at this table, and the wrong
17 person is tried, and if that wrong person is
18 convicted and goes away, who benefits? That will
19 be the Mexican cartel. That will be the guy that
20 Chico Arias works for. Those would be the guys
21 who are over his head who have all the power to
22 kill people in prison and has threatened families,
23 that's who would benefit from that. That's who
24 would literally make money because they don't
25 really find Pelon or Chavo.

Closing by Mr. Hodge

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1 You also had David Martinez, and I'm not
2 going to spend a lot time on David Martinez
3 because I didn't believe a word he said, to be
4 honest with you. The guy is not involved in this
5 case, but he is arrested and he is charged on some
6 pretty serious stuff while he's sitting in jail,
7 and he told you, the jury, that Flores, that
8 Luis Flores gave him details that were
9 unbelievable, unbelievable in less than a day of
10 meeting him.

11 Then he testified that my client, and you
12 heard my client was arrested in December,
13 David Martinez is on the phone with law
14 enforcement less than a month later saying, oh, I
15 got some good information for you. He wants you
16 to believe that my client admitted to him all of
17 those things that he says he admitted to him in
18 less than a month. Again, I don't believe him.
19 You judge for yourself. That is obviously why
20 you're here. That is why they called him, and
21 that's why I get to cross-examine these witnesses.

22 Eduardo Assad was the -- I would say the
23 focus, for the most part, of this investigation.
24 He was right there. He's the one who made the
25 controlled buys. He set up everything, except for

1 the one payment. But this is the same Assad who
2 sat here and came across as a guy who's just
3 trying to save him and his family. And it's the
4 same guy who pointed a finger at Ma and at kids on
5 the playground and said, I will kill you and every
6 single one of them.

7 Now, the other two individuals that made
8 the identification, other than Arias, were
9 Luis Flores and Alejo, or Alejandro Gonzalez.
10 They work directly under Gordo. They were his
11 runners. They were his whatever, go-guys, gofers.

12 If the boss, which we will call Assad
13 their boss, has identified someone as the person
14 that they dealt with, and then they identify the
15 same person as the person that they dealt with but
16 they all do it based on the same picture, they're
17 working for the man. They're terrified of him.
18 They're scared. They're interrelated. I think
19 they were cousins, or he called him his cousin.

20 This case, again, comes down to one
21 thing, my biggest issue, and everything that I
22 have asked, I hope that I pointed you in that
23 direction and shown you from the beginning why
24 David Barajas is not guilty. These
25 identifications, these pictures are of him.

Closing by Mr. Hodge

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1 There's no denying that, but they are not, he is
2 not Chavo or Pelon.

3 He got on that witness stand and I asked
4 him very direct and very simple questions, and I
5 did that because I didn't want anything lost in
6 the translation. And I don't say that lightly. I
7 mean, honestly, I didn't want anything to be lost.
8 I wanted to make sure that he had the opportunity
9 to sit there and look you in the eye, and look me
10 in the eye and tell you and me that that is not
11 him. This person, this Chavo, this Pelon, who is
12 not this picture, is not him. That's what he
13 wanted to tell you. That's what I've tried to
14 show you, but that's not our burden.

15 Our job is not to prove to you that it's
16 not him. My job is not to prove to you that
17 Barajas -- that David Barajas, the name that has
18 now been superimposed on these phone calls, the
19 name that everyone else now associates now that
20 he's in the same indictment with them and they've
21 been shown Facebook pictures and everything else,
22 my job is not to prove anything to you regarding
23 who he is. That's the State's job.

24 They had every opportunity prior to this
25 arrest, they had every opportunity during the

1 course of this four-year investigation, or
2 three-year investigation, however long this thing
3 took, maybe they did a year on this case, I don't
4 know, they had all of the State's power and money
5 to get this done. They combined with three other
6 agencies. I think it was three. It might have
7 been four other agencies during this
8 investigation. They had every opportunity to show
9 you without a doubt that Pelon and Chavo were
10 David Barajas. Every opportunity to show that.

11 They had surveillance teams. I lost
12 count of how many surveillance teams were
13 available the day that they did this controlled
14 buy.

15 They had a deal in which they set up and
16 knew they were setting up.

17 Then they testified that while they were
18 out driving around, they stopped at multiple
19 public places. Multiple public places. Not one,
20 but multiple public places. And this is in
21 Atlanta where we know there's a lot of people in
22 Atlanta.

23 And then they also testified -- I think
24 it was Agent Wells that testified that he got up
25 behind that car registered to David Barajas and he

Closing by Mr. Hodge

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1 wanted to pull it over. And I asked him, because
2 I truly believe, if you would have pulled that car
3 over right then and there, there would be no doubt
4 who was driving that car, right? And there would
5 be no doubt who Chavo was. And there would be no
6 doubt who Pelon was. He was told no. Told him
7 that HSI said, we're not going to do that, and so
8 they didn't. They didn't pull that car over.

9 That was their opportunity to then come
10 in here to you and say, we stopped the car and the
11 two individuals that got out of that house are
12 right here.

13 Special Agent Echeverry, who obviously
14 lives a very dangerous profession, said safety was
15 first. And I understand that. I fully understand
16 that. I would never want law enforcement or
17 anyone else to put their lives at risk for a
18 simple investigation. There's other opportunities
19 at other times. So the video thing, that's how
20 they explained that away. I take it for what it's
21 worth. I think they had the capabilities to do so
22 without it being a, you know, completely dangerous
23 procedure. But let's get to outside of the video
24 by itself, or the time that Luis Flores supposedly
25 dealt with Pelon, and they don't have video from

Closing by Mr. Hodge

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1 those, but the times that the other individuals
2 involved, which we now know one was Chema and the
3 other one they knew as Chavo came out of the
4 house, drove to stores, drove around. They knew
5 where this apartment that Pelon lives supposedly
6 where they did this money transaction. Somebody
7 didn't stay there 24/7, never went to set up
8 identification, photos, surveillance anything
9 outside the place, just to find out who it was, if
10 they had done any of that stuff, then any of the
11 arguments I just made would be moot because we
12 would know for a fact who came out of the house,
13 who identified themselves as Chavo, and who
14 actually participated in this clearly extensive
15 conspiracy coming out of Mexico.

16 Well, they didn't do that and we don't
17 have any of that, and we'll never have any of
18 that.

19 What we do have now is testimony of the
20 other co-conspirators who were shown one picture
21 and said that's him. Co-conspirators who have
22 gotten on that witness stand and lied to you all
23 about a number of things. Co-conspirators that
24 gave extra information from the witness stand that
25 they never told law enforcement before.

Closing by Mr. Hodge

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1 Co-conspirators who now have a reason, a large
2 25-year reason to say those things to you. This
3 is important to them too, because they're looking
4 at prison.

5 I believe that once you have all of this
6 back there and once the State has finished their
7 argument, you're going to start talking about that
8 amongst yourselves and you're going to realize the
9 State has done a good job proving a conspiracy.

10 They have not met their burden to prove
11 who Chavo is or who Pelon was. They want you to
12 think they have. They want you to jump to the
13 assumption that, because they said it a thousands
14 times, it's true. It's not.

15 And my client sitting next to me,
16 David Barajas, is not Pelon. He is not Chavo. He
17 is David Barajas. He's never Pelon. Has never
18 been Chavo. He's always been David Barajas.
19 David Barajas is not guilty.

20 THE COURT: Rebuttal.

21 MR. UNDERWOOD: It's true. We don't have
22 a video of the buy that happened at Chavo's house
23 where Eduardo Assad went to Georgia to buy this
24 kilo of methamphetamine. But don't forget, that
25 buy happened where Mr. Barajas was paying the

Closing by Mr. Hodge

1 utility bills, it happened where David Barajas's
2 car was parked, and it happened where at least one
3 of the guys, who was identified by law
4 enforcement, came out with a second Hispanic male
5 and got into David Barajas's car.

6 And let's not forget that there was a
7 third person in that house where that transaction
8 happened. There was Chava, there was Chema, and
9 there was Eddie Assad. Eddie Assad told who was
10 in that house. He told had you who sold him this
11 methamphetamine. It was David Barajas.

12 Now, he didn't even know his name was
13 David Barajas at that time, but not knowing his
14 name doesn't change the fact that he knows who the
15 person was. A person can call themselves whatever
16 they like. It doesn't change who they are. It
17 doesn't change what they look like. Doesn't
18 change what they've done.

19 Now, the defense has posed to you the
20 question of who has what to gain. That, by
21 putting Mr. David Barajas on trial here, the only
22 people that stay in the game are the cartel. That
23 Isaias Arias and Eduardo Assad are working for the
24 cartel to put an innocent person away. Well, that
25 doesn't make any sense, Ladies and Gentlemen, and

Closing by Mr. Hodge

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1 I'll tell you why.

2 If Mr. Eduardo Assad's job was to put
3 innocent people away, they really screwed up big
4 time because he got Chencho, a part of that group,
5 to bring this. He got charged in the case. He
6 got Isaias Arias to bring this meth. The cartel
7 is not waiting out here, are they? Eduardo Assad
8 is bringing down cartel people. He's bringing
9 down people in this organization, regardless of
10 what it's called, and what the people in it call
11 themselves doesn't matter. The people that he
12 identified are the people that sold him meth on
13 each and every one of those occasions.

14 But you don't have just Eduardo Assad.
15 You've also got Luis Flores who dealt with Pelon
16 when he was working for Gordo, which is
17 Eduardo Assad. He also dealt with himself after
18 Eduardo Assad was arrested by law enforcement and
19 disappeared from the drug dealer's perspective.
20 Nobody knew where he was.

21 What happened then, the defendant called
22 Luis Flores and said, hey, there's this debt. Pay
23 it up and we'll go in business together. And
24 that's what Luis Flores testified that he did.
25 And he then went to Georgia on numerous occasions

Closing by Mr. Hodge

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1 to buy more kilograms of methamphetamine from
2 Pelon, who he later identified as David Barajas.
3 Again, the fact that he didn't know his real name
4 is David Barajas at the time doesn't change the
5 fact that he knew who he was dealing with.

6 The same goes for Alejandro Durango. He
7 went down to Georgia multiple times and dealt with
8 that man, David Barajas. It doesn't matter what
9 his nickname was, or what name he used then,
10 that's who he bought meth from.

11 Then there's Isaias Arias. I could go on
12 and on.

13 David Martinez who testified about the
14 jailhouse confession, if you will. Information he
15 only could have known from the person known as
16 Pelon. David Martinez couldn't have known
17 anything about Pelon's activities unless Pelon had
18 told him. Why? Because the discovery information
19 that the defense wants you to think he got it from
20 hadn't even been produced yet. There is no other
21 way he could have known that information.

22 You're also asked to believe that, well,
23 maybe there's some reasonable doubt. If only
24 there was a video of that drug transaction on that
25 one occasion or on that second occasion when there

Closing by Mr. Hodge

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1 was buy by Luis Flores -- the payment by
2 Luis Flores, the buy by Eduardo Assad, there would
3 be no doubt who that person was, who Pelon was, or
4 who Chavo was.

5 Well, Ladies and Gentlemen, Luis Flores
6 testified, Eduardo Assad testified, Alejandro
7 Durango Gonzalez testified, Isaias Arias
8 testified, and they all said with 100 percent
9 confidence there's no doubt that is the person
10 they were talking about, David Barajas. They
11 didn't show any doubt when they identified him in
12 this courtroom because there is no doubt.

13 Now, Ladies and Gentlemen, I wish I could
14 have given you preachers and teachers and doctors
15 to testify about the information here. I really
16 do, but they don't know about what goes on in a
17 drug trafficking organization. Drug dealers know
18 what's going on in a drug trafficking
19 organization. And a number of the drug dealers
20 who testified before you in this trial know that
21 that's the man who supplied them kilograms of
22 methamphetamine.

23 At the beginning of this trial, in the
24 defense's opening statement, you were told about
25 the defendant coming in with the presumption of

Jury Charge

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1 innocence, as all people who come into a
2 criminal trial have, that presumption innocence.
3 It was described to you has a Harry Potter
4 invisibility cloak, that you couldn't see
5 Mr. Barajas because he was covered by that cloak,
6 and not until he is proven guilty beyond a
7 reasonable doubt does that cloak get removed.

8 Well, Ladies and Gentlemen, I want you to
9 look at Mr. Barajas. I want you to look at his
10 suit. I want you to look at his shirt. I want
11 you to look at his Hecho En Mexico tattoo. You
12 can see those things. And the reason why is
13 because all this evidence that's been presented to
14 you throughout this trial, that cloak has been
15 tugged and tugged and tugged and pulled. And when
16 you review all of this evidence in your jury room,
17 logic dictates that you can only find but one
18 result; that he is guilty and is no longer wearing
19 that cloak, that he is guilty of trafficking
20 methamphetamine 400 grams or more.

21 Thank you.

22 THE COURT: All right. Ladies and
23 Gentlemen, first of all, is everybody ready? I'll
24 ask the jury to stand up. We're in the seventh
25 inning stretch here.

Jury Charge

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1 All right. This should take about 15
2 minutes, my charge. Everybody okay to go forward?

3 All right. This is my charge on the law.
4 And I told you in the beginning that you and I had
5 two different duties in this trial. My job is, as
6 the judge, is to preside over the trial, rule on
7 the admissibility of evidence, and determine the
8 law that you are to apply.

9 Your job is to consider all of the
10 evidence and the law and determine what the facts
11 of case are. If you -- and if I said anything
12 throughout this trial that made you think I had an
13 opinion on the facts, please disregard that,
14 because the law does not allow me to have such an
15 opinion on the facts, because that would be me
16 stepping into the jury box and acting as a juror
17 and that is not my job.

18 Now, you are only to consider the
19 testimony that you've heard from the witness stand
20 and any evidence that was properly introduced and
21 any stipulations of counsel. Anything else, you
22 are not to consider, except the law here that I
23 give you.

24 As you come into this courtroom and you
25 think -- you may have thought what the law should

Jury Charge

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1 be or maybe you had an idea of what the law was in
2 this particular case, if it contradicts what I'm
3 telling you, then you are to disregard that,
4 because you took an oath that said you will apply
5 the law that I'm giving you at this point.

6 Now -- and, again, you are the sole judge
7 of the facts. And how do you determine that? You
8 are to determine credibility of witnesses. You
9 are to look at all of the evidence presented and
10 you are to give it the weight, the value, which
11 you feel is appropriate using your own common
12 sense and the collective wisdom of the 12 of you.

13 Now, in this particular case, the
14 defendant is charged with trafficking
15 methamphetamine, conspiracy of over 400 grams.
16 Now, I remind you, as I said in the beginning,
17 that the fact that he was indicted, or there was
18 an indictment referenced, or that he was arrested,
19 or that he was charged is not to be considered by
20 you because those are merely the formal way to
21 bring a case before the Court and a formal way of
22 bringing the defendant into the court. But those
23 documents are not evidence, those references are
24 not evidence, because the State has the burden of
25 proof beyond a reasonable doubt to establish the

Jury Charge

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1 facts and the evidence to prove him guilty. If
2 they do not meet this burden that I'll discuss in
3 a minute, then you are to find him not guilty.
4 But, again, no reference whatsoever to any -- are
5 you not even to discuss those facts.

6 Now, let me talk about the presumption of
7 innocence. The defendant comes into this
8 courtroom and he's pled not guilty to this
9 indictment. And that plea puts the burden on the
10 State to prove him guilty. Any person charged
11 with a crime is presumed innocent no matter how
12 small or how significant the case is. That's a
13 very important cornerstone of our constitution,
14 and that is something that is very important. And
15 this presumption of innocence stays with the
16 defendant not -- I mean, until you have found him
17 guilty beyond a reasonable doubt. It accompanies
18 him throughout the trial, throughout your
19 deliberations, and, again, until you have found
20 unanimously, beyond a reasonable doubt, that he is
21 guilty.

22 And this is not merely a legal theory.
23 It's not just a legal phrase that we like to throw
24 out. It's a substantial right that every
25 defendant is entitled to, unless you, the jury,

Jury Charge

1 are satisfied from the evidence that he is guilty
2 beyond a reasonable doubt.

3 Now, what is reasonable doubt? That's
4 the standard that you must use and it's the burden
5 that the State has in this matter. Some of you
6 may have served on juries in a civil case or you
7 may have been familiar with a civil case which has
8 a much lower standard of proof. That's usually --
9 what's called preponderance of the evidence. That
10 has nothing to do with this case. This is -- the
11 only standard that you must apply is beyond a
12 reasonable doubt.

13 A reasonable doubt is the kind of doubt
14 that would make a reasonable person hesitate to
15 act. Proof beyond a reasonable doubt is proof
16 that leaves you firmly convinced of the
17 defendant's guilt.

18 There are very few things in this world
19 that we know with absolute certainty. And in
20 criminal cases, the law is does not require proof
21 that overcomes every possible doubt. If, based on
22 your consideration of the evidence, you are firmly
23 convinced that the defendant is guilty of the
24 crime charged, you must find the defendant guilty.

25 If, on the other hand, you think there is

Jury Charge

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1 a real possibility that the defendant is not
2 guilty, you must give the defendant the benefit of
3 that doubt and find him not guilty.

4 Facts and circumstances that merely place
5 upon the defendant a grave suspicion of the crime
6 charged or merely raises a speculation or
7 conjecture of his guilt is not sufficient to
8 authorize conviction of the accused.

9 Now, there are two types of evidence that
10 are usually presented, and that is direct evidence
11 and that's circumstantial evidence.

12 Direct evidence is when a particular
13 piece of evidence, a testimony, or exhibit that
14 proves a particular fact.

15 Circumstantial evidence is proof of chain
16 of facts and circumstances indicating existence of
17 a fact. Crimes may be proven by circumstantial
18 evidence, and the law makes no distinction about
19 the weight or value that you are to give whether
20 it's direct or circumstantial.

21 However, to the extent that the State
22 relies on circumstantial evidence, all of the
23 circumstances must be consistent with each other
24 when taken together point conclusively to the
25 guilt of the accused beyond a reasonable doubt.

Jury Charge

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1 If these circumstances merely portray the
2 defendant's behavior as suspicious, then that
3 proof has failed. The State has the burden of
4 proving of the defendant guilty beyond a
5 reasonable doubt and rests with the State
6 regardless of whether they rely on direct,
7 circumstantial, or a combination of the two.

8 Now, as I said, one of the things that
9 you have to consider is credibility of the
10 witnesses. That merely means believability of the
11 witnesses. You know, it becomes your duty to
12 analyze and evaluate each piece of evidence and
13 determine which convinces you of the truth.

14 Now, you may -- in determining the
15 believability of witnesses, you may believe one
16 witness over several witnesses. You may believe
17 several witnesses over one witness. You may
18 accept a witness's testimony in its entirety or
19 reject it in its entirety. You may accept a
20 portion of a person's testimony and reject the
21 remaining portion. Again, it's up to you to
22 determine what weight and value to give every
23 piece of evidence.

24 When determining the credibility of
25 witnesses, you can consider whether a particular

Jury Charge

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1 witness had a bias, an interest, or prejudice, or
2 other motive in the case. You can also consider
3 the appearance and the manner that the witness
4 acted while on the stand.

5 Now, there has been evidence -- let me
6 talk to you a little bit about statements that
7 were presented as evidence in this matter. There
8 has been evidence presented that witnesses have
9 made prior statements, some of which are not
10 consistent with the witness's present testimony.
11 You may use this evidence to decide whether to
12 believe the witness. You may also use evidence of
13 the earlier contradictory statement to determine
14 the truth of those statements. It's up to you to
15 decide whether to believe the earlier statement or
16 the testimony given at trial.

17 If a witness is shown to have knowingly
18 testified untruthfully concerning any material
19 matter, you may consider this in determining
20 whether to trust witness's testimony as to other
21 matters. You may reject all testimony of that
22 witness or give all or part of the testimony the
23 weight you think it deserves.

24 Now, we also had several witnesses that
25 were designated as experts. And, as I told you,

Jury Charge

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1 at that time, normally a person cannot testify
2 about the conclusions or opinions. They must
3 testify what they directly observed, heard, saw,
4 felt, smell, those kinds of things. But an expert
5 is the exception to that, and they can testify
6 about certain conclusions or opinions based on
7 their particular field which is based on their
8 education, their experience, their training. But
9 just because a person is designated as an expert,
10 you are still to give it the value and the weight
11 that you think is appropriate. If you decide that
12 the opinion of an expert witness is not based on
13 sufficient education or experience, or if you
14 concluded that the reasons given for that opinion
15 are not sound, or that opinion is outweighed by
16 other evidence, then you may disregard the opinion
17 entirely. An expert witness's testimony is to be
18 given no greater weight than any other testimony
19 just because of the fact that he or she was
20 designated as an expert.

21 Now, an issue in this case is
22 identification of the defendant as the person who
23 committed the crime charged. The State has the
24 burden of proving identity beyond a reasonable
25 doubt, like every element that the State has to

Jury Charge

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1 prove. You must be satisfied beyond a reasonable
2 doubt that the accuracy of the identification of
3 the defendant before you can convict the
4 defendant.

5 Identification testimony is an expression
6 of belief or impression by a witness. You must
7 determine the accuracy of the identification of
8 the defendant. You must consider the
9 believability of each identification of the
10 witness in the same way as any other witness. You
11 may consider whether the witness had an adequate
12 opportunity to observe the offender at the time of
13 the offense. Those will be affected by things
14 like how long or short a time was available, how
15 far or close the witness was, the lighting
16 conditions, and whether the witness had the chance
17 to see or know the person in the past.

18 Once, again, I instruct you, the burden
19 on the State extends to every element of the crime
20 charged, and specifically as to the identification
21 of who committed the crime. And after examining
22 the testimony you have a reasonable doubt as to
23 the accuracy of the identification, then you must
24 find the defendant not guilty.

25 Now, let me talk to you a little bit

Jury Charge

106

1 intent. In order to establish criminal liability,
2 criminal intent is required. For example, the
3 mental state required to be proven by the State
4 for a particular crime might be purpose, intent,
5 knowledge, recklessness, or criminal negligence.
6 And criminal intent must be proven by the State,
7 the, again, beyond a reasonable doubt. Criminal
8 intent is always a matter that must be determined
9 by the jury from the circumstances surrounding the
10 situation. There is no way to prove intent by a
11 mathematical certainty. There is no way that
12 medical science can dissect a person's brain and
13 determine what he had in mind. So the law says
14 that criminal intent must be inferred from the
15 circumstances shown to have existed.

16 This is how you make a determination of
17 whether or not the element requiring intent was
18 present. It is not necessary to establish intent
19 by direct and positive evidence, but intent may be
20 established by an inference and circumstantial
21 evidence of the facts and circumstances existing
22 at the time.

23 Now, criminal intent is a mental state, a
24 conscious wrongdoing. It's up to you to determine
25 what the defendant intended to do based on the

Jury Charge

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1 circumstances shown to have existed. And criminal
2 intent can arise from action or failure to act.
3 It may arise from negligence, recklessness, or
4 indifference to duty or to consequences that are
5 considered by the law to be the equivalent of
6 criminal intent.

7 Now, the charge that is before you is
8 trafficking methamphetamine 400 grams or more, and
9 that is a statute that has -- that the
10 requirements are set forth in State law
11 established by our legislature. The State must
12 prove beyond a reasonable doubt that the defendant
13 knowingly conspired to sell, manufacture,
14 cultivate, deliver, purchase, or bring into this
15 state methamphetamine. The State must also prove
16 beyond a reasonable doubt that the amount of
17 methamphetamine, also known as ice or crank, was
18 400 grams or more. The quantity of
19 methamphetamine involved in various substantive
20 offenses in furtherance of conspiracy may be added
21 together to reach this threshold.

22 What does deliver mean, as just
23 mentioned? To deliver means to actively,
24 constructively, or attempt to transfer the drug.

25 What does distribute mean? Distribute

Jury Charge

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1 means to deliver, other than by administering or
2 dispensing a drug.

3 Manufacture, the definition of
4 manufacture means to produce, prepare, convert,
5 process, plant, cultivate, grow, or harvest a drug
6 naturally or chemically. Manufacturing includes
7 any package or repackaging of the drug, or
8 labeling or relabeling of the drug's container.

9 Conspiracy, to prove conspiracy the State
10 must prove beyond a reasonable doubt that the
11 defendant combined with one more person for the
12 purpose of committing an unlawful act or
13 committing an unlawful act by unlawful means.
14 There must be a mutual understanding, agreement,
15 or common intention and plan. Mere passive
16 knowledge or consent to the criminal conduct of
17 another is not enough to make a person a
18 conspirator. They must be guilty of knowledge and
19 participation.

20 Similarly, the mere fact that the
21 defendant may have associated with another person
22 or met with another person and discussed common
23 aims and interests does not necessarily establish
24 proof of that conspiracy or that the defendant was
25 involved in the conspiracy.

Jury Charge

1 On the other hand, it is not necessary
2 that the agreement be a formal one, that it be in
3 writing, that the person hold a meeting and
4 expressly state the terms of the common plan, or
5 that the agreement be stated in words between
6 them. The agreement of a criminal conspiracy may
7 come into being through implied mutual
8 understanding, the wilful, intentional, and
9 knowing adoption by two or more persons of a
10 common plan is sufficient for the conspiracy. No
11 overt acts need to be shown to establish
12 conspiracy. The gist of the crime is the unlawful
13 combination or agreement. You may consider
14 evidence of specific overt acts that, in
15 furtherance of the conspiracy, determine the
16 existence, scope, and duration of the conspiracy.
17 But the crime is the agreement itself. Once an
18 agreement has been reached, the crime of
19 conspiracy has been committed. No further action
20 needs to take place.

21 A conspiracy may be shown by
22 circumstantial evidence in the conduct of the
23 parties. Conspiracy is an ongoing or continuing
24 crime. In order to convict the defendant of
25 conspiracy, the State must prove beyond a

Jury Charge

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1 reasonable doubt, not only that the defendant knew
2 of the unlawful conduct, but that the defendant
3 agreed to combine with other person or persons for
4 the persons of accomplishing the unlawful conduct.

5 It is not necessary that the defendant
6 know the identity and role of all other
7 conspirators. It is sufficient to prove that the
8 defendant knew or had reason to know the scope of
9 the conspiracy and that he had reason to believe
10 that his own interest were dependent upon the
11 success of the venture. Once the existence of the
12 conspiracy has been proven, evidence establishing
13 beyond a reasonable doubt the connection of the
14 defendant to the conspiracy, even if the
15 connection is slightly sufficient, can convict him
16 of knowing participation in the conspiracy.

17 Now that I've read you definition of
18 those, I want to go back. The charge is
19 trafficking 400 grams or more of methamphetamine
20 by conspiracy, and that is what the State must
21 prove beyond a reasonable doubt that the defendant
22 knowingly conspired to sell, manufacture,
23 cultivate, deliver, purchase or bring into this
24 state methamphetamine of more than 400 grams.

25 Now, I'm going to hand this verdict form

Jury Charge

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1 to you, Madame Foreperson. Let me just kind of
2 explain this a little bit. The top part is merely
3 the caption of the case. And then it says, "As to
4 the charge of trafficking methamphetamine
5 conspiracy under indictment 2015-GS-4708, we, the
6 jury, unanimously find the defendant,
7 David M. Barajas..., " you have to check one.

8 If you find that the State has met its
9 burden beyond a reasonable doubt over all of the
10 elements as I've mentioned to you, then you would
11 check guilty.

12 If you find that the State has not met
13 its burden on these elements beyond a reasonable
14 doubt, then you would check not guilty.

15 Now, this decision must be unanimous.
16 That means that all 12 of you must agree on which
17 box you check.

18 Now, your decision must be based on the
19 evidence and the law and cannot be based on any
20 passion, sympathy, prejudice, any emotions,
21 anything outside the evidence and the law that has
22 been presented to you.

23 Now, if you have any questions after you
24 get back there -- first of all, we cannot answer
25 any factual questions. But oftentimes people --

Jury Charge

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1 the jurors will send back a note, like, hey, can
2 you show up such and such document, or can you
3 tell us what such and such would have said, or
4 something, we cannot talk about anything else
5 that's not in the record. So you must make your
6 decision based on the evidence that's been
7 presented by way of exhibits or the testimony.

8 If you have any other questions, though,
9 what you would do is, you would write those
10 questions on a piece of paper. That's what you do
11 as the forelady. You would write those questions
12 on a piece of paper, sign and date, and you would
13 give it to the bailiff and the bailiff will
14 present it to me.

15 Now, I can respond in two ways. I can
16 either write a response on the piece of paper that
17 you presented or it may require me to bring you
18 back out and give you additional information, and
19 I would let you know if we're doing that.

20 Now, let me talk to my alternate. You
21 have been here for all last week and came back
22 today. And, unfortunately, under our laws, you
23 can not deliberate. You cannot be involved in the
24 deliberation process. But I want you to know that
25 you are very -- your role in this matter has been

Jury Charge

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1 very important. If one of these people was not
2 able to come back, then we would have -- we could
3 not have gone forward if you hadn't been here. I
4 always like to refer to it as kind of like the
5 backup quarterback in the Super Bowl. I'm not
6 sure we'll ever have another Super Bowl, another
7 football game. But if that starting quarterback
8 goes down, then you're the most important person
9 in the stadium. If the starting quarterback stays
10 in the whole game, you had to sit on the sideline,
11 but you knew you were important. But I really do
12 appreciate your being here and I know you can't go
13 forward, but that's just the way our rules are.

14 All right. At this point, you can put
15 that verdict form on the bar right there.

16 Okay, I'm going to send you back to the
17 jury room, all 13 of you, but you cannot begin
18 deliberating yet because I need to make sure I
19 haven't left something out or that I have not
20 misstated something. If I have, then I'll bring
21 you back in here and just give you that -- you
22 know, correct whatever I said or left out.

23 If not, then the bailiff will bring back
24 your -- all the exhibits with the verdict form and
25 ask that the alternate step out. And, at that

1 point -- and you all decide whatever --
2 your lunch should be here and ready, but don't
3 start jumping into it yet until you've gotten the
4 signal to deliberate. If you want to eat lunch
5 and then deliberate, you want to deliberate while
6 you're eating, that's totally up to you all.

7 But, at this point, don't do anything or
8 don't discuss the case until we give you the
9 signal and the alternate my steps out.

10 At this point, go back to the jury room
11 and we should have that information and give you
12 that signal one way or the other in just a minute.

13 (Jury exits the courtroom at 1:29 p.m.)

14 THE COURT: All right. Any objections to
15 from the State?

16 MR. UNDERWOOD: No, Your Honor.

17 THE COURT: Anything from the defendant?

18 MR. HODGE: No, Your Honor.

19 THE COURT: Make sure -- this may take
20 you a while -- all the exhibits are properly ready
21 to go back to the jury and send them back.

22 We'll be at ease until further notice.

23 (Jury deliberations start the 1:30 p.m.)

24 (Back on the record at 2:39 p.m.)

25 THE BAILIFF: Court come to order.

1 THE COURT: I understand we have reached
2 a verdict. Anything from the State?

3 MR. UNDERWOOD: No, Your Honor.

4 THE COURT: Anything from the defendant?

5 MR. HODGE: No, Your Honor.

6 THE COURT: All right. Bring the jury
7 in. I want to caution everyone, no outburst or
8 anything in regards to the verdict.

9 (Jury enters the courtroom at 2:39 p.m.)

10 THE COURT: All right. Madame Forelady,
11 I understand you have reached a verdict?

12 FOREPERSON: Yes, sir.

13 THE COURT: If you can hand it to the
14 bailiff, please.

15 All right. It looks like it's in the
16 proper form. If you could publish the verdict.

17 THE CLERK: May it please the Court? The
18 State of South Carolina vs. David Barajas
19 indictment number 2015-GS-4708, as to the charge
20 of trafficking methamphetamine conspiracy under
21 indictment 2015-GS-4708, we, the jury, unanimously
22 find the defendant, David M. Barajas, guilty.
23 Signed by the foreman -- forewoman of this grand
24 jury.

25 Ladies and Gentlemen of the Grand Jury --

1 Ladies and Gentlemen of the Jury, is this your
2 decision? If so, please raise your hand.

3 JURORS: (All raise hands).

4 THE COURT: Thank you, Ladies and
5 Gentlemen. Anything else from the jury before
6 they are released from the State?

7 MR. UNDERWOOD: Nothing from the State,
8 Your Honor.

9 MR. HODGE: No, Your Honor.

10 THE COURT: And the defendant?

11 MR. HODGE: No, Your Honor.

12 THE COURT: All right. Ladies and
13 Gentlemen, thank you. I know this has been --
14 like I said, this has gone well beyond your
15 duties, going on into the second week with all
16 that's going on. I do appreciate it because it's
17 very important that this matter has been -- that
18 we were able to resolve this matter with your
19 assistance.

20 At this time, if you all will go back to
21 your jury room and I'll step back there in just a
22 few minutes to talk with you before you go.

23 (Jury exits the courtroom.)

24 THE COURT: All right. Anything on
25 behalf of the defendant?

1 MR. HODGE: Just very briefly, Your
2 Honor. At this point, defense makes a motion to
3 set aside the verdict based on the previous
4 arguments made on the directed verdict.

5 THE COURT: All right. I think there
6 were sufficient facts for this to go to the jury,
7 so I'm not going to invade the province of the
8 jury.

9 MR. HODGE: Thank you, sir.

10 THE COURT: Why you don't get all, I
11 guess, get all your stuff together that you need
12 for sentencing. And I'm going to step back there
13 so they can go home, and then I'll be back here in
14 a just a second.

15 (A break was taken from 2:43 p.m. to 2:53 p.m.)

16 THE BAILIFF: Remain seated. Court is in
17 session.

18 THE COURT: All right. You are ready to
19 proceed with sentencing?

20 MR. UNDERWOOD: Yes, Your Honor, I am.

21 THE COURT: You all want to stand up
22 here?

23 MR. HODGE: Wherever you want us, Judge.
24 It doesn't matter.

25 THE COURT: I mean, can the interpreter

1 still -- I guess you don't have to be quiet now.

2 You all come up here and the State over here.

3 All right. And usually the way I do
4 this, I'll hear from the State, and then I'll be
5 glad to hear from you. As the defendant knows,
6 you know, my discretion is very limited. We have
7 a minimum of 25, a maximum of 30. When you look
8 at the percentage, it's very limited discretion on
9 my part. Isn't that correct?

10 MR. UNDERWOOD: Yes, Your Honor.

11 THE COURT: It's 25 to 30. I'll be glad
12 to hear from the State.

13 MR. UNDERWOOD: May it please the Court,
14 Your Honor? As Your Honor indicated, the
15 sentencing as mandated by the statute for this
16 charge is 25 to 30 years and a \$200,000 fine.

17 Your Honor, this defendant -- as
18 Your Honor heard throughout the course of this
19 trial, this defendant represents the highest level
20 of this trafficking organization reached by this
21 investigation. Your Honor, he is directly
22 responsible for methamphetamine that was supplied
23 into this organization and brought into the state
24 of South Carolina.

25 Your Honor, most of the defendants in

1 this case never would have been able to engage in
2 the act of trafficking methamphetamine but for
3 this defendant and others similarly situated to
4 him.

5 Your Honor, if there were any defendant
6 in this case that warranted the maximum 30-year
7 sentence, then this defendant would be it.

8 Therefore, Your Honor, the State would
9 recommend the maximum penalty of 30 years, as well
10 as the mandatory fine, Your Honor.

11 THE COURT: All right. I'll be glad to
12 hear from you, Mr. Hodge and Mr. Barajas.

13 MR. HODGE: Thank you, Your Honor. When
14 I said it earlier, and when he just said it, there
15 is no question that from day one David has told me
16 that this was not him and he did not do this. As
17 you well know, this case has been ongoing. We've
18 had discussions regarding plea negotiations and
19 everything else. And I've, kind of, indicated to
20 the Court that I did not get the impression that
21 he would enter that plea. We got close Monday,
22 and as soon as the facts were being read, he,
23 again, denied his involvement, and him being who
24 they said he was.

25 So I say that to say that this was not a

1 waste of court time for the last eight days. This
2 was not a situation where, you know, I thought
3 that he was convinced that he could win because on
4 a technicality or anything. He truly still says
5 that he is not Pelon or Chavo.

6 But, Judge, just a little bit -- I mean,
7 you heard of most of who he is from his testimony
8 today. He's 42 now. I didn't realize he had a
9 birthday last week. He does have a child. He is
10 married. He has no prior record to speak of,
11 Your Honor. I think he did have a charge that I
12 think was dismissed. It's hard to tell. But,
13 again, none of it was drug related. He's never
14 been in trouble like that. He was not accused of
15 being a violent person by anyone up there on the
16 stand. He's not accused of being a threatening
17 individual, someone who had guns around him at all
18 times, or anything like that.

19 And to say that he was -- you know, but
20 for him, this conspiracy would not have occurred,
21 I mean, I think -- and I think he said similar
22 individuals. Well, those similar individuals all
23 received plea deals and testified and admitted
24 that they did it. They're all looking at -- you
25 know, I think 17 to 20 was the highest that they

1 were given.

2 I say all that to say, Judge, your
3 discretion, obviously, is very limited in this
4 case with it being a 25-year minimum, but I would
5 ask that you consider giving him that 25-year
6 minimum. That is a very, very long time for
7 someone who has never spent a day in prison. And,
8 you know, he's already been locked up for 52
9 months, I think he testified to in this case. And
10 so, obviously, all of that time will count. And
11 even with that time counted, he will probably be
12 in his 60s before he ever walks out of a prison
13 again.

14 So I say all that, Judge, to say, please
15 consider the 25-year minimum. I understand that
16 this was a trial, but this is one of those
17 situations, again, where I don't think this was a
18 hope to win on a technicality kind of situation.
19 I don't think it was, you know, a situation where
20 a trial tax, if you will, is necessary. You know,
21 it is what it is. He's convicted. He understands
22 that. He knows what comes next for him, but I
23 would just ask that you consider the 25-year
24 minimum.

25 THE COURT: Okay. Counsel, I just will

1 let you know, I never penalized anybody for going
2 to trial.

3 MR. HODGE: I know you don't, Judge.

4 THE COURT: I'm just saying that because
5 I think that's anybody's right. I usually based
6 it on what my decision is.

7 MR. HODGE: Yes, sir. I, by no means,
8 meant to indicate that you did. I just know that
9 that's a common -- people say that, the
10 prosecutors say it, defense attorneys even say
11 that. And sometimes defendants go to trial
12 because they don't care. They truly don't care
13 about the case.

14 In this case, I just wanted the Court to
15 know that's not Mr. Barajas's case, at least not
16 in my dealings with him.

17 THE COURT: How much -- do we have what
18 his credit is for time served?

19 MR. UNDERWOOD: Your Honor, I don't know
20 the exact date, but I know it was -- I believe the
21 beginning of December of 2015.

22 MR. HODGE: December 3rd.

23 THE COURT: All right. He gets credit
24 for time served. I guess we'll just have that
25 calculated.

1 MR. BARAJAS: Yes, December 3rd.

2 THE COURT: Mr. Barajas, I'll be glad to
3 listen to you.

4 MR. BARAJAS: I was caught December of
5 2015. And, indeed, I do have a daughter that I
6 haven't seen. I lost my marriage due to all this.
7 All this time.

8 THE COURT: Anything else?

9 MR. BARAJAS: No, Your Honor.

10 THE COURT: Well, and, Mr. Barajas, it's
11 not my job to determine whether you are guilty or
12 not guilty. That was the jury's decision. And
13 what they have found you guilty of was a
14 substantial conspiracy. And I think that you
15 know -- and, again, that's not my decision. My
16 decision now is to sentence you based on the
17 information that has been presented.

18 And I believe that, due to the amount
19 that was put into evidence, that does warrant the
20 maximum of 30 years. So I'm going to sentence you
21 to 30 years and \$200,000 as required by the
22 statute, and you will have credit for the time
23 served.

24 Good luck to you, Mr. Barajas.

25 (The proceedings were concluded at 3:01 p.m.)

1 CERTIFICATE OF REPORTER

2
3 I, SHARON G. HARDOON, Official Circuit
4 Court Reporter, II for the State of South Carolina at
5 Large, do hereby certify that the foregoing is a true,
6 accurate and complete Transcript of Record of the
7 proceedings had and evidence introduced in the trial
8 of the captioned case, relative to appeal, in General
9 Sessions Court for Greenville County, South Carolina.

10
11 I do further certify that I am neither kin,
12 counsel, nor interest to any party hereto.
13
14

15 September 2, 2020
16
17

18 
19

20 _____
21 Sharon G. Hardoon, CSR
22 Official Circuit Court Reporter, II
23
24
25

STATE GRAND JURY OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA

FILED

CASE NO.

2015 GS 47 08

OCT 22 2015

JAMES R. PARKS
CLERK, STATE GRAND JURY**INDICTMENT FOR
UNLAWFUL DRUGS**

DAVID M. BARAJAS,	)	Trafficking Methamphetamine
(A.K.A. "CARLOS LUNA MARTINEZ"),	)	(Conspiracy)
(A.K.A. "CHAVO"),	)	S.C. Code Ann. § 44-53-375(C)(5)
(A.K.A. "PELON"),	)	(1 Count)
MARCELO MEDINA CRUZ,	)	
(A.K.A. "CHENCO"),	)	Trafficking Methamphetamine,
ISAIAS ARIAS,	)	400 grams or more
(A.K.A. "CHICO"),	)	S.C. Code Ann. § 44-53-375(C)(5)
RAMON LUIS RIVERA DIAZ,	)	(4 Counts)
MARIO ENRIQUE MORALES SANCHEZ,	)	
(A.K.A. "CHIVA"),	)	Distribution of Methamphetamine
(A.K.A. "UNCLE"),	)	S.C. Code Ann. § 44-53-375(B)
EDUARDO AGUIRRE ASSAD,	)	(9 Counts)
(A.K.A. "JOSE"),	)	
(A.K.A. "GORDO")	)	Trafficking Methamphetamine,
(A.K.A. "ARABE")	)	10 - 28 grams
CHRISTOPHER DAMEON SMITH,	)	S.C. Code Ann. § 44-53-375(C)(1)
SANDRA DARLENE DUNCAN,	)	(5 Counts)
(A.K.A. "MA"),	)	
(A.K.A. "MAMA")	)	Arson, Third Degree
WILLIAM BRIGHT, JR.,	)	S.C. Ann. §16-11-110(C)
(A.K.A. "BILLY"),	)	(1 Count)
DANNY RAY BLACK,	)	
BARRY LEE UNDERWOOD,	)	Trafficking Methamphetamine,
ALEJANDRO NORENA GONZALEZ,	)	28 - 100 grams
(A.K.A. "ALEJO"),	)	S.C. Code Ann. § 44-53-375(C)(2)
LUIS ALBERTO FLORES MEZA,	)	(4 Counts)
JUAN MANUEL ESPINOZA,	)	
MARTHA MICHELLE COLLIER,	)	Trafficking Methamphetamine,
(A.K.A. "BABY GIRL"),	)	200 - 400 grams
PATRICK MARC KNIGHTS,	)	S.C. Code Ann. § 44-53-375(C)(4)
DELONDA WERSCHAY,	)	(2 Counts)
(A.K.A. "DEE DEE"),	)	
JEREMY MICHAEL LABOONE,	)	Possession of a Firearm During the
JUSTIN THOMAS MARCENGILL,	)	Commission or Attempt to Commit a
JERRY DOUGLAS HOLMES,	)	Violent Crime
(A.K.A. "COUNTRY"),	)	S.C. Code Ann. §16-23-490
(A.K.A. "PATRICK"),	)	(2 Counts)

JASON ALLEN LARSON,	)	Possession of Schedule I-V Controlled
JEREMY LEE STUBBS,	)	Substance
(A.K.A. "HONEY"),	)	S.C. Code Ann. § 44-53-370(d)(2)
MICHAEL DEAN KENNEDY,	)	(1 Count)
(A.K.A. "TINY"),	)	
MATTHEW EDWARD MELTON,	)	
TASHA REMONA JONES,	)	
LARRY EUGENE COLEMAN,	)	
(A.K.A. "BUBBA"),	)	
(A.K.A "POPPY"),	)	
AUBREY TAMARA TRAMMELL,	)	
(A.K.A. "TAMA"),	)	
STEPHANAE JOELLE HOLLINGSWORTH,	)	
(A.K.A. "JOELLE STEPHANA	)	
HOLLINGSWORTH"),	)	
BRANDON O'KEEFE PRIVETTE,	)	
	)	
	)	
DEFENDANTS.	)	

At a session of the State Grand Jury of South Carolina, convened in Columbia, South Carolina, on October 21, 2015 the State Grand Jurors present upon their oath:

**COUNT ONE
TRAFFICKING METHAMPHETAMINE
(CONSPIRACY)
S.C. Code Ann. § 44-53-375(C)(5)**

That DAVID M.

BARAJAS (A.K.A. CARLOS LUNA MARTINEZ) (A.K.A. "CHAVO") (A.K.A. "PELON"),
MARCELO MEDINA CRUZ (A.K.A. "CHENCO"), ISAIAS ARIAS (A.K.A. "CHICO"),
RAMON LUIS RIVERA DIAZ, MARIO ENRIQUE MORALES SANCHEZ (A.K.A. "CHIVA")
(A.K.A. "UNCLE"), EDUARDO AGUIRRE ASSAD (A.K.A. "JOSE") (A.K.A "GORDO")
(A.K.A "ARABE"), CHRISTOPHER DAMEON SMITH, SANDRA DARLENE DUNCAN

(A.K.A. "MA") (A.K.A. "MAMA"), WILLIAM BRIGHT, JR. (A.K.A. "BILLY"), DANNY RAY BLACK, BARRY LEE UNDERWOOD, ALEJANDRO NORENA GONZALEZ (A.K.A. "ALEJO"), LUIS ALBERTO FLORES MEZA, JUAN MANUEL ESPINOZA, MARTHA MICHELLE COLLIER (A.K.A. "BABY GIRL"), PATRICK MARC KNIGHTS, DELONDA WERSCHAY (A.K.A. "DEE DEE"), JEREMY MICHAEL LABOONE, JUSTIN THOMAS MARCENGILL, JEREMY LEE STUBBS (A.K.A. "HONEY"), JERRY DOUGLAS HOLMES (A.K.A. "COUNTRY") (A.K.A. "PATRICK"), JASON ALLEN LARSON, MICHAEL DEAN KENNEDY (A.K.A. "TINY"), MATTHEW EDWARD MELTON, TASHA REMONA JONES, LARRY EUGENE COLEMAN (A.K.A. "BUBBA") (A.K.A. "POPPY"), AUBREY TAMARA TRAMMELL (A.K.A. "TAMA"), STEPHANAE JOELLE HOLLINGSWORTH (A.K.A. "JOELLE STEPHANA HOLLINGSWORTH"), and other persons whose names are both known and unknown to the State Grand Jury, did in Greenville County, Pickens County, Spartanburg County, Berkeley County, and Charleston County, of South Carolina, during the period of time extending from on or about January 1, 2011 until the present, conspire to sell, manufacture, deliver, purchase, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT TWO
TRAFFICKING METHAMPHETAMINE, 400 GRAMS OR MORE
S.C. Code Ann. § 44-53-375(C)(5)

That MARCELO MEDINA CRUZ (A.K.A. "CHENCHO") did in Greenville County, on or about February 28, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT THREE
TRAFFICKING METHAMPHETAMINE, 400 GRAMS OR MORE
S.C. Code Ann. § 44-53-375(C)(5)

That ISAIS ARIAS (A.K.A. "CHICO") and RAMON LOUIS RIVERA DIAZ did in Greenville County, on or about March 2, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FOUR
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That MARIO MORALES-SANCHEZ (A.K.A. "CHIVA") did in Greenville County, on or about November 13, 2013, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FIVE
TRAFFICKING METHAMPHETAMINE, 10 - 28 GRAMS
S.C. Code Ann. § 44-53-375(C)(1)

That EDUARDO AGUIRRE ASSAD (A.K.A. "JOSE")(A.K.A. "GORDO")(A.K.A. "ARABE") did in Greenville County, on or about January 14, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, ten (10) grams or more but less than twenty-eight (28) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

**COUNT SIX
ARSON, THIRD DEGREE
S.C. Code Ann. § 16-11-110(C)**

That EDUARDO AGUIRRE ASSAD(A.K.A. "JOSE") (A.K.A. "GORDO") (A.K.A. "ARABE"), LUIS ALBERTO FLORES MEZA, JUAN MANUEL ESPINOZA, and ALEJANDRO NORENA GONZALEZ (A.K.A. "ALEJO") did in Greenville County, on or about November 19, 2014, willfully and maliciously cause an explosion, set fire to, burn, or cause to be burned, or aid, counsel, or procure a burning that resulted in damage to a dwelling house, building, or structure, or any property which results, either directly or indirectly, in bodily injury to a person or damage to the property in violation of § 16-11-110(C), Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

**COUNT SEVEN
TRAFFICKING METHAMPHETAMINE, 28 - 100 GRAMS
S.C. Code Ann. § 44-53-375(C)(2)**

That LUIS ALBERTO FLORES MEZA did in Greenville County, on or about March 25, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, twenty eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT EIGHT
TRAFFICKING METHAMPHETAMINE, 200 - 400 GRAMS
S.C. Code Ann. § 44-53-375(C)(4)

That SANDRA DARLENE DUNCAN (A.K.A. "MA") (A.K.A. "MAMA") and JEREMY LEE STUBBS (A.K.A. "HONEY") did in Greenville County and Berkeley County, on or about April 30, 2014, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, two hundred (200) grams or more but less than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT NINE
TRAFFICKING METHAMPHETAMINE, 10 - 28 GRAMS
S.C. Code Ann. § 44-53-375(C)(1)

That SANDRA DARLENE DUNCAN (A.K.A. "MA") (A.K.A. "MAMA") did in Greenville County, on or about November 21, 2014, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, ten (10) grams or more but less than twenty-eight (28) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

**COUNT TEN
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)**

That SANDRA DARLENE DUNCAN (A.K.A. "MA") (A.K.A. "MAMA") did in Greenville County, on or about November 25, 2014, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

**COUNT ELEVEN
TRAFFICKING METHAMPHETAMINE, 10 - 28 GRAMS
S.C. Code Ann. § 44-53-375(C)(1)**

That SANDRA DARLENE DUNCAN (A.K.A. "MA") (A.K.A. "MAMA") did in Greenville County, on or about December 9, 2014, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, ten (10) grams or more but less than twenty-eight (28) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWELVE
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That SANDRA DARLENE DUNCAN (A.K.A. "MA") (A.K.A. "MAMA") did in Greenville County, on or about January 15, 2015, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT THIRTEEN
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That SANDRA DARLENE DUNCAN (A.K.A. "MA") (A.K.A. "MAMA") did in Greenville County, on or about February 18, 2015, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FOURTEEN
TRAFFICKING METHAMPHETAMINE, 400 GRAMS OR MORE
S.C. Code Ann. § 44-53-375(C)(5)

That SANDRA DARLENE DUNCAN (A.K.A. "MA") (A.K.A. "MAMA") did in Greenville County, on or about February 25, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FIFTEEN
TRAFFICKING METHAMPHETAMINE, 28 - 100 GRAMS
S.C. Code Ann. § 44-53-375(C)(2)

That DANNY RAY BLACK did in Greenville County, on or about June 20, 2014, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, twenty eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT SIXTEEN
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That BARRY LEE UNDERWOOD did in Greenville County, on or about August 26, 2014, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT SEVENTEEN
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That BARRY LEE UNDERWOOD did in Greenville County, on or about December 23, 2014, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT EIGHTEEN
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That BARRY LEE UNDERWOOD did in Greenville County, on or about February 27, 2015, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT NINETEEN
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That BARRY LEE UNDERWOOD did in Greenville County, on or about March 13, 2015, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That BARRY LEE UNDERWOOD did in Greenville County, on or about March 20, 2015, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY ONE
TRAFFICKING METHAMPHETAMINE, 28 - 100 GRAMS
S.C. Code Ann. § 44-53-375(C)(2)

That MARTHA MICHELLE COLLIER (A.K.A. "BABY GIRL") and BRANDON O'KEEFE PRIVETTE did in Greenville County, on or about October 3, 2014, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, twenty eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY TWO
TRAFFICKING METHAMPHETAMINE, 400 GRAMS OR MORE
S.C. Code Ann. § 44-53-375(C)(5)

That MARTHA MICHELLE COLLIER (A.K.A. "BABY GIRL") and PATRICK MARC KNIGHTS did in Greenville County, on or about March 5, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY THREE
POSSESSION OF A FIREARM DURING COMMISSION OF OR ATTEMPT TO
COMMIT A VIOLENT CRIME
S.C. Code Ann. § 16-23-490

That PATRICK MARC KNIGHTS did in Greenville County, on or about March 5, 2015, possess or visibly display a firearm during the commission of or attempt to commit a violent crime to wit: TRAFFICKING METHAMPHETAMINE, in violation of § 16-23-490, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY FOUR
TRAFFICKING METHAMPHETAMINE, 10 - 28 GRAMS
S.C. Code Ann. § 44-53-375(C)(1)

That JERRY DOUGLAS HOLMES (A.K.A. "COUNTRY") (A.K.A. "PATRICK") did in Greenville County, on or about June 9, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, ten (10) grams or more but less than twenty-eight (28) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY FIVE
POSSESSION OF A SCHEDULE I-V CONTROLLED SUBSTANCE
S.C. Code Ann. § 44-53-370(d)(2)

That JEREMY MICHAEL LABOONE did, in Greenville County, South Carolina, on or about April 21, 2015, knowingly and intentionally possess (actually or constructively) a quantity of oxycodone, a Schedule II controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY SIX
TRAFFICKING METHAMPHETAMINE, 10 - 28 GRAMS
S.C. Code Ann. § 44-53-375(C)(1)

That JEREMY MICHAEL LABOONE did in Greenville County, on or about April 21, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, ten (10) grams or more but less than twenty-eight (28) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY SEVEN
POSSESSION OF A FIREARM DURING COMMISSION OF OR ATTEMPT TO
COMMIT A VIOLENT CRIME
S.C. Code Ann. § 16-23-490

That JEREMY MICHAEL LABOONE did in Greenville County, on or about April 21, 2015, possess or visibly display a firearm during the commission of or attempt to commit a violent crime to wit: TRAFFICKING METHAMPHETAMINE, in violation of § 16-23-490, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY EIGHT
TRAFFICKING METHAMPHETAMINE, 200 - 400 GRAMS
S.C. Code Ann. § 44-53-375(C)(4)

That DELONDA WERSCHAY (A.K.A. "DEE DEE") and JEREMY MICHAEL LABOONE did in Greenville County, on or about April 30, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, two hundred (200) grams or more but less than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY NINE
TRAFFICKING METHAMPHETAMINE, 28 - 100 GRAMS
S.C. Code Ann. § 44-53-375(C)(2)

That DELONDA WERSCHAY (A.K.A. "DEE DEE") and JEREMY MICHAEL LABOONE did in Greenville County, on or about April 30, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, twenty eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

Against the peace and dignity of the State and contrary to the statute in such case made and provided.

A True Bill


FOREMAN

Alan Wilson
ALAN WILSON (jr)
ATTORNEY GENERAL

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled “Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.”

Respectfully Submitted,

RECEIVED

Mar 05 2021

SC Court of Appeals

s/Adam Ruffin

Adam Sinclair Ruffin
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 5th day of March, 2021.