

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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APPEAL FROM ABBEVILLE COUNTY
COURT OF GENERAL SESSIONS

SC Court of Appeals

Donald B. Hocker, Circuit Court Judge

Appellate Case No.: 2019-001902

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

v.

Kenneth Earle McGill.....Appellant.

RECORD ON APPEAL

VOLUME ONE

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WITNESSES

Josh Monts
Abbeville County Sheriff's Office

WARRANT NUMBER

2018A0110100340

TRUE BILL

Josh W. Monts

Foreman of the Grand Jury

Date: 12-3-18

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

COURT OF GENERAL SESSIONS

December Term, 2018
Indictment # 18GS01-0752

THE STATE

vs.

KENNETH EARLE MCGILL

INDICTMENT FOR

TRAFFICKING METHAMPHETAMINE

SC Code: § 44-53-375(C)

CDR: 0368

I hereby waive presentment to the Grand Jury.

Defendant

Witness:

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

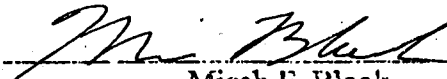
INDICTMENT FOR

**TRAFFICKING METHAMPHETAMINE
§44-53-375(C)**

At a Court of General Sessions, convened on the 3rd day of December, 2018, the Grand Jurors of Abbeville County present upon their oath:

The defendant, Kenneth Earle McGill, did on or about August 21, 2018, in Abbeville County, South Carolina, knowingly sell, manufacture, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of one hundred (100) grams or more of methamphetamine as defined and otherwise limited in Section 44-53-110, 44-53-210(d)(1), or 44-53-210(d)(2), all in violation of 44-53-375(C), Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.



Micah E. Black
Assistant Solicitor

WITNESSES

Ken Smith

Abbeville County Sheriff's Office

WARRANT NUMBER

Direct Indictment:

(Ref. Warrant No. 2018A0110100340)

TRUE BILL

JC
Foreman of the Grand Jury

Date: 9-6-19

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

COURT OF GENERAL SESSIONS

September Term, 2019

Indictment # 19CS01-0549

THE STATE

vs.

KENNETH EARLE MCGILL

INDICTMENT FOR

TRAFFICKING METHAMPHETAMINE

SC Code: § 44-53-375(C)

CDR: 0368

I hereby waive presentment to the Grand Jury.

Defendant

Witness:

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

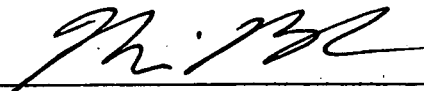
INDICTMENT FOR

**TRAFFICKING METHAMPHETAMINE
§44-53-375(C)**

At a Court of General Sessions, convened on the 6th day of September, 2019, the Grand Jurors of Abbeville County present upon their oath:

The defendant, Kenneth Earle McGill, did on or about August 21, 2018, in Abbeville County, South Carolina, knowingly sell, manufacture, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of one hundred (100) grams or more of methamphetamine as defined and otherwise limited in Section 44-53-110, 44-53-210(d)(1), or 44-53-210(d)(2), all in violation of 44-53-375(C), Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.



Micah E. Black
Assistant Solicitor

STATE OF SOUTH CAROLINA)
COUNTY OF ABBEVILLE) IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA)
vs.) ORDER
KENNETH EARLE MCGILL) 19-GS-01-0549
Defendant)

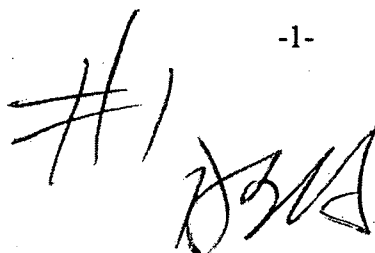
This matter came before me on September 12, 2019 pursuant to Motions made by the Defense. The State is represented by Micah Black and Yates Brown. The Defendant is represented by Norman Epps. This case appeared on the trial docket and the Defendant, a day prior, informally made these Motions in chambers.

NEW INDICTMENT 19-GS-01-0549

The Defendant moved for a continuance in light of the above new Indictment that was recently True Billed. The prior Indictment 18-GS-01-0752 had the wrong name of the witness who testified before the Grand Jury. The new Indictment shows the correct name. The charge of Trafficking and the allegations in the Indictment did not change. This Motion is denied. (Note: The Defendant waived formal arraignment on this new Indictment).

CHAIN OF CUSTODY

The Defendant claimed that the only chain of custody information provided in discovery was that of SLED but none concerning the Sheriff's Department. The State maintained it had provided this information. Nonetheless, it was provided to the Defendant on the date of the

Handwritten signature and initials, possibly reading "#1" and "JMA".

hearing so this issue is now moot. In addition, the Defense maintains that it now has everything in discovery.

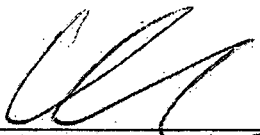
DUPLICITOUS INDICTMENT

The Defense moved to quash the Indictment or in the alternative for a continuance as the Indictment is duplicitous in that it contains more than one offense. The Indictment for the most part repeats the Trafficking statute which does state the varied ways to accomplish the offense of Trafficking. The Defense relies on a federal Fourth Circuit Appeals case, United States vs. Furlow, in support of its position. This Court believes that this Furlow case does not benefit the Defendant in that it only deals with federal sentencing and classification and would not provide grounds to quash the Indictment. This Court's position is that the Indictment is proper and said Motion is denied.

CONTINUANCE

The Defense did express some concern with starting the case so late in the week. This Court did continue this case until the next term of November 4, 2019 only on the basis that it was concerned with starting this case on a Thursday afternoon and consequently not being able to finish the case by the end of the week. No further continuances by the Defendant will be allowed.

SO ORDERED.



DONALD B. HOCKER
CIRCUIT COURT JUDGE

Laurens, South Carolina
Date: 9-14-2019

#2

State of South Carolina
County of Abbeville

Court of General Sessions

State of South Carolina)

)

Transcript of Record

v.)

2019-GS-01-00549

)

Kenneth Earle McGill)

)

Defendant.)

September 12, 2019
Abbeville, South Carolina

B E F O R E:

The Honorable Donald B. Hocker, Judge.

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

Micah Black, Assistant Solicitor
Attorney for the State

Yates Brown, Deputy Solicitor
Attorney for the State

Norman Epps III, Esquire
Attorney for the Defendant

Lisa Scott
Circuit Court Reporter

I N D E XWITNESSPAGE

No Witnesses.

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
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No Exhibits.

1 MR. EPPS: And I -- and so I -- but I do have
2 the information.

3 THE COURT: You have everything now, so we're
4 good there?

5 MR. EPPS: Yes, sir.

6 THE COURT: All right. The third issue relates
7 to the -- to the contents of the indictment insofar
8 as it, in essence, quotes the statute. And you
9 had -- you had an issue with -- with that?

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

11 THE COURT: Okay.

12 MR. EPPS: And that motion would be to quash
13 the indictment. Also, for a motion to redact that
14 deals with the language of the Statute 44-53-375(C).

15 And I quote, Your Honor, to -- at that -- our
16 position is -- the defense position is, is that --
17 that language in the indictment, the indictment
18 itself is duplicitous, meaning that there are
19 multiple criminal counts contained in one single
20 count which is -- is defective.

21 South Carolina recognizes that duplicitous
22 indictments are defective. They've adopted this
23 Federal standard. There's a case *State v. Sam* --
24 *Samuel*. And I would address -- and I provided the
25 Court a copy of there was a recent case in the

1 Fourth Circuit, which is *United States of America v.*
2 *Furlow*.

3 And how that issue came about regarding --
4 well, that -- well, in the -- in the Federal system,
5 obviously, if you got a defendant that pleads guilty
6 to a drug conspiracy, they plea and then probate --
7 then a U.S. probation office, there is a presentence
8 report.

9 Presentence -- a presentence report is
10 submitted to the Court and there's advisory
11 guidelines where the Court looks at it and
12 determines -- makes a determination based on
13 multiple factors about a criminal defendant's
14 sentence after they plead guilty.

15 One part of the presentence report is, does
16 that defendant -- is that defendant deemed a career
17 offender? And how that happens is a prior -- if a
18 defendant has prior State drug charge convictions
19 for drug offenses. And if you have certain -- if
20 you have multiple convictions for drug offenses, you
21 could be deemed a career offender.

22 How this issue came -- came about is, the
23 Federal drug definition and the State court
24 definition pursuant to 44-53-375 is different. In
25 375, the State court definition is broader than the

1 Federal definition of a drug offense.

2 So -- and what that case happened, is that
3 defendant was deemed a career offender. And his
4 South Carolina convictions, pursuant to 44-53-375,
5 were the predicate convictions -- prior convictions
6 to deem him a career offender.

7 His argument -- and this has been addressed by
8 two -- well, at least two cases in the Court of
9 Appeals. Most recently the Furlow case, which is a
10 published opinion, and the *United States v.*
11 *Marshall*, which was an unpublished opinion. But the
12 issue is this:

13 They said -- the defendant's argument was
14 because 375 is more broader than the Federal
15 definition that it can't be used as a predicate.
16 The State U.S. Attorney took the position as, no,
17 375 is divisible. It is -- it is -- and, therefore,
18 it is subject to a modified category approach
19 because it is multiple crimes or multiple elements
20 contained in the statute itself.

21 And the Fourth Circuit affirmed it. The Fourth
22 Circuit said that 375, in this case, (B), which is
23 the manufacturing portion of 375, but it -- it's on
24 track and tracks the same language in 375(C), the
25 trafficking statute which, and I'll put on the

1 record, Your Honor, specifically stated -- and this
2 is Mr. -- this is the defendant's indictment -- that
3 the defendant, Kenneth Earle McGill, did on -- did
4 on or about August 21, 2018, in Abbeville County,
5 South Carolina, knowingly sell, manufacture,
6 deliver, purchase, or bring into this state or did
7 provide financial assistance or otherwise aid, abet,
8 attempt, or conspire to sell, manufacture, deliver,
9 purchase, or bring into this state or was knowingly
10 in actual constructive possession or knowingly
11 attempted to become in actual -- in actual or
12 constructive possession of 100 grams or more of
13 methamphetamine.

14 Based on that decision, Your Honor, they said
15 that is -- that Statute 375(B), which is the --
16 which is similar, very, very, very similar to (C),
17 is that -- that sets forth conditional elements.
18 Each one of those -- each one of those -- each one
19 of those crimes in that statute are elements, and
20 there are multiple crimes.

21 To sell is a crime -- methamphetamine is a
22 crime. To manufacture a methamphetamine is a crime.
23 To deliver. To purchase. Those are separate crimes
24 for meth -- for this drug statute that has different
25 elements.

1 That is a duplicitous indictment. I think
2 that's -- there's no question about it. It is
3 duplicitous. And the Court -- and -- and the United
4 States -- the Fourth Circuit of the Unites States --
5 of -- of the U.S. found that.

6 Well, they said -- well, basically, what they
7 said is this, that Furlow argues that our
8 recognition in Section 44-53-375(B) is divisible and
9 renders duplicitous countless State court drug
10 offense indictments.

11 What they held was, pursuant to *United States*
12 *v. Burns* explaining that an indictment is
13 duplicitous when it -- when it joins in a single
14 count, two or more distinct and separate offenses,
15 which this does. Even if correct, Furlow identifies
16 a potential issue best raised with and resolved by
17 State prosecution in the South Carolina courts.

18 And that's my issue, Your Honor. That
19 indictment is duplicitous. That indictment contains
20 multiple distinct and separate offenses within one
21 count. Obviously, that is duplicitous. And, again,
22 the State courts have -- have -- have adopted the
23 Federal rule that's defective.

24 Certainly, my client, going forward, we'd
25 ask -- ask that, one, it be quashed or it be

1 continued based on that because I think they would
2 be prejudice and started and going forward on a
3 duplicitous indictment, particularly because my
4 client, he's -- is -- is somewhat -- and I would say
5 it shifts the burden to a certain extent because
6 there's multiple -- again, multiple crimes or
7 multiple offenses set forth in that one indictment.

8 And that would be -- and, again, that's
9 somewhat -- that's burden shifting and I'm going to
10 have to -- you know, in defense of my client, that
11 would be a concern of having -- so, Your Honor,
12 we -- that is -- that is the third issue. And,
13 respectfully, again, that I -- I -- our position is,
14 that indictment is -- is duplicitous. It's
15 defective. In the alternative, we'd ask for a
16 continuance.

17 THE COURT: All right. If -- if I were to
18 grant the continuance based upon this third issue,
19 how does that give you any remedy? Because you're
20 still going to have, as you claim, an invalid
21 indictment. So granting the continuance -- I
22 understand you're asking to quash the indictment ---

23 MR. EPPS: Yes, sir.

24 THE COURT: --- I understand that. But if I
25 grant the continuance based upon this third issue,

1 how does that help you because you still have an
2 indictment, as you claim, to be invalid?

3 MR. EPPS: I understand. Yes, sir. I
4 understand that. I -- I -- I got a concern just
5 going forward at all on this indictment. Obviously,
6 we want it quashed, but, I mean, it needs to be --
7 I -- I -- you know, you hate -- but it's -- the
8 State can do it right, clean it up, reindict, you
9 know, so it is proper. So I don't have to have a --
10 I don't have to defend my client against multiple --
11 multiple counts that are contained in this -- in
12 this one indictment in this trafficking charge.

13 THE COURT: All right. Thank you. Solicitor.

14 MR. BROWN: Judge, my reading of this Furrow
15 case has absolutely nothing to do with the State
16 statute of trafficking. All this case had to do
17 with was whether or not the Federal government in
18 deciding whether or not to use the Armed Career
19 Criminal Act, in doing that, they have sentencing
20 guidelines.

21 If we go back and look at in this case, the
22 defendant had charges of arson in Georgia. He had a
23 trafficking charge in South Carolina, I think it was
24 in Lexington County, and then another charge. And
25 so their whole idea was whether or not it was a

1 possession that's located in for a trafficking. It
2 could be possession, aiding, abetting, transporting
3 it, or just being in possession or selling it.

4 So they're going back and saying, alright,
5 possession is not part of this guideline --
6 sentencing guidelines that the Federal government
7 uses to enhance a charge to make a harsher penalty.
8 So they just go back and they have all these
9 different bureaucratic methods of having to figure
10 out how they're going to use this prior conviction
11 to enhance this.

12 That's what this case is about. It has nothing
13 to do with our State statute. It doesn't deem it
14 invalid. It just says we got to go back and figure
15 out how we can enhance this guy's sentence.

16 So Furlow, in my opinion, has nothing to do
17 with this case. Based on my knowledge and -- and
18 research, I have not seen that this trafficking
19 statute has been struck down by our Supreme Court.
20 Therefore, the trafficking actually -- the
21 trafficking is based more on the weight of the
22 drugs, and then you have the means of which however
23 this defendant is in possession. If he's actually
24 trying to sell it or he's in possession or aiding
25 and abetting, he can still be charged with

1 trafficking based on the weight.

2 So that would be -- that's my argument on this,
3 that Furlow has absolutely nothing to do with the
4 validity of the indictment of the State statute and
5 really shouldn't be considered in a continuance
6 motion.

7 THE COURT: All right. Thank you.

8 MR. EPPS: May I respond briefly, Your Honor?

9 THE COURT: Sure.

10 MR. EPPS: It does -- that -- it does relate
11 strictly to that Statute 44-53-375.

12 Now, the arson dealt with in that case dealt
13 with the armed -- the career armed -- the armed
14 career criminal portion of it. The career offender
15 dealt with his -- his prior State court convictions,
16 and it absolutely deals with this statute. So this
17 issue's coming. I believe it is coming.

18 I -- you know, it is multiple crimes contained
19 in that one statute. In -- in -- in this one, they
20 talk about 375(B). That is 375(C), and it tracks
21 almost the same language.

22 So -- and the only -- what they are -- what --
23 what -- what -- I think what the Solicitor is
24 talking about, the Federal issue was the State
25 charge is broader than the Federal definition by one

1 word which is "purchase." So that dealt with --
2 that dealt with the sentencing guidelines, but
3 their -- their -- their analysis and their decision
4 renders -- or specifically deals with 375, the State
5 statute, in whether or not those -- that statute
6 lays out, and that's based on the South Carolina law
7 that those elements or those -- those factors in the
8 statute are different separate distinct offenses,
9 and that's what we have here. And that's ---

10 THE COURT: All right. Very good. Thank you.
11 Concerning the -- the new indictment, Mr. Epps, does
12 your client waive arraignment on that, formal
13 arraignment?

14 MR. EPPS: Yes, sir, Your Honor.

15 THE COURT: Okay. All right.

16 Okay. I'm going to issue a formal order, but
17 as I indicated to the lawyers back in chambers, I'm
18 going to continue the case solely based upon the
19 fact that I'm a little concerned starting this case
20 this afternoon. We're at the end of the week, and
21 so I'm going to continue the case based upon that.

22 I'm going to deny any defense requests for
23 continue -- continuances based upon the three issues
24 we've just had -- had argued.

25 I am going to provide in the order that there

1 be no further continuances based upon defense
2 requests.

3 Mr. McGill, our next term of court, sir, is the
4 week of November 4th. And you need to -- of course,
5 I'm sure you'll be in constant communication with
6 Mr. Epps, but this case may very well be called
7 that -- that term. Okay. And -- so I will issue an
8 order setting out these -- these various issues.
9 I'm just looking at my notes.

10 Okay. All right. Anything further on the
11 record from the State?

12 MR. BROWN: Judge, I would say that all offers
13 are off the table in this particular case.

14 THE COURT: Okay. All right. Mr. Epps,
15 anything further on the record?

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

17 THE COURT: Okay. All right. Thank you very
18 much. Have a good afternoon.

19 MR. EPPS: Thank you.

20 MR. BROWN: Thank you, Judge.

21 (The proceedings concluded at 10:47 a.m.)

22 * * * * *

State of South Carolina
County of Abbeville

Court of General Sessions

State of South Carolina	)	
	)	
	)	Transcript of Record
v.	)	2019-GS-01-00549
	)	
Kenneth Earl McGill	)	
	)	
<u>Defendant.</u>	)	

November 4-6, 2019
Abbeville, South Carolina

B E F O R E:

The Honorable Donald B. Hocker, Judge; and a jury.

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

Micah Black, Assistant Solicitor
Attorney for the State

Yates Brown, Deputy Solicitor
Attorney for the State

W. Norman Epps, III, Esquire
Attorney for the Defendant

Lisa Scott
Circuit Court Reporter

I N D E X

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- - -

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
1-15	State's - pics		X
17-22	State's - pics		X
16	State's - recording		X
38-45	State's - pics		X
23-37	State's - pics		X
47	State's - consent to search		X
48	State's - chain-of-custody		X
49	State's - SLED chain-of-cust.		X
46	State's - methamphetamine		X
50	State's - SLED report		X

- - -

P R O C E E D I N G S

* * * * *

THE COURT: The first case being called for trial is *State of South Carolina v. Kenneth Earl McGill*.

Mr. McGill, if you would stand. Just face the jury panel for just a second, please, sir.

THE DEFENDANT: (Complying.)

THE COURT: That's good. Thank you. You can have a seat.

THE DEFENDANT: (Complying.)

THE COURT: Mr. McGill has been indicted for the offense of trafficking in methamphetamine. Now let me tell you that the fact that Mr. McGill was indicted -- arrested and then indicted in this case is not proof whatsoever of any guilt on his part.

The indictment serves two purposes basically. One, it puts the defendant on notice of the charge that the State is trying him on. And, two, it gets the case to where we are today. And it really serves no other purpose.

The State of South Carolina, not the defendant, has the burden of proving to your satisfaction, beyond a reasonable doubt standard, the guilt of Mr. McGill. A defendant in any criminal case has no

1 burden whatsoever. A defendant in any criminal case
2 does not have to prove anything. Certainly, does
3 not to have to prove his innocence. That burden is
4 on the State to prove guilt beyond a reasonable
5 doubt. So don't hold against Mr. McGill at all the
6 fact that he has been indicted in this case, but I'm
7 going to read the indictment to you so you can have
8 just a little general idea of what this case is
9 about.

10 The indictment alleges as follows: The
11 defendant, Kenneth Earl McGill, did on or about
12 August 21, 2018, in Abbeville County, South
13 Carolina, did knowingly sell, manufacture, deliver,
14 purchase, or bring into this State, or did provide
15 financial assistance or otherwise aid, abet, attempt
16 or conspire to sell, manufacture, deliver, purchase
17 or bring into the State, or was knowingly in actual
18 or constructive possession or knowingly attempted to
19 become in actual or constructive possession of 100
20 grams or more of methamphetamine as defined and
21 otherwise limited in Section 44-53-110,
22 44-53-210(d)(1), or 44-53-210 d(2), all in violation
23 of Section 44-53-375(c), Code of Laws for South
24 Carolina.

25 Any member of the jury panel related by blood

1 or marriage, either now or formerly, to Kenneth Earl
2 McGill? If so, please stand.

3 PROSPECTIVE JURORS: (No responses.)

4 THE COURT: Any member of the jury panel have
5 or had in the past a close personal or social
6 relationship with Kenneth Earl McGill? If so,
7 please stand.

8 PROSPECTIVE JURORS: (No responses.)

9 THE COURT: I'm going to read to you a list of
10 potential witnesses in this case who may or may not
11 testify. They are as follows: Jeffrey Hines,
12 Abbeville County Sheriff's Office; Matthew Graham,
13 Abbeville County Sheriff's Office; Joshua Monts,
14 Greenwood County Sheriff's Office; Ken Smith,
15 Abbeville County Sheriff's Office; Dwayne Balchin,
16 Abbeville Police Department; Patrick Thompson,
17 Abbeville County Sheriff's Office; Jeff Sorrow,
18 South Carolina Department of Probation, Pardon and
19 Parole; Stewart Ferguson; Angelina Williams;
20 Jonathan Pratt, Abbeville Sheriff's Department;
21 Lawrence Zivkovich, that's Z-i-v-k-o-v-i-c-h, with
22 SLED; Bethany Davidson with SLED; Jackie Davis with
23 SLED; Doris Yarbrough with SLED; Jarvis Reader,
24 Abbeville County Sheriff's Office; Natalie Talbert,
25 Abbeville County Sheriff's Office; and Ray Watson,

1 There's a call-in number. There'll be a recorded
2 message telling you what to do, either come back
3 tomorrow or call in after six o'clock tomorrow
4 evening. So after six o'clock this evening, don't
5 forget, call that number so you can get your
6 instructions on -- on what you are supposed to do.

7 With that said, you got the rest of the
8 afternoon off for sure and don't forget to call. I
9 hope I get to see you back some time this week.
10 You're free to go.

11 (At 11:26 a.m., unselected jurors were
12 dismissed for the day.)

13 THE COURT: All right. We're going to take
14 about a ten-minute recess and then I'll get the jury
15 out.

16 (From 11:26 to 11:41 a.m., brief recess.)

17 THE COURT: Let's bring the jury out.

18 MR. EPPS: Are we're going to swear them in?

19 THE COURT: No.

20 MR. EPPS: They have a -- just to renew that
21 objection.

22 THE COURT: Yeah, we -- let's cut them
23 loose ---

24 MR. EPPS: Yes, sir.

25 THE COURT: --- and then we can put on the

1 record whatever we need to.

2 MR. EPPS: Okay.

3 (At 11:41 a.m., jurors entered the courtroom.)

4 THE COURT: All right. Let the record reflect
5 the jury is back in.

6 Ladies and gentlemen, what I would want you to
7 do is, I'm going to go ahead and send you on and
8 have you come back at three o'clock this afternoon.
9 We've got some matters that the Court needs to deal
10 with the lawyers on.

11 So come back at three o'clock. You will go
12 directly into the jury room. When -- when you do
13 get back and all 14 are back there, I want you to
14 select the foreman or forelady, depending on whether
15 it's a male or female, of the jury.

16 Now, let me explain to you what a foreperson
17 does as foreman or forelady. They wear several
18 hats. One, is I need a spokesperson between the
19 jury and the Court. At any time during the course
20 of this trial, there's an issue that arises that
21 needs the Court's attention or even when you begin
22 your deliberations in order to reach a verdict in
23 the case, if you have any question, then I want all
24 communication to be in writing, signed by
25 foreperson. So that's one hat you wear.

1 The second hat is that you make sure that all
2 of my instructions are being followed, even though
3 that's everyone's responsibility, primarily the
4 foreperson, to make sure that everything that I
5 instruct you on is being followed.

6 And, thirdly, when I do give you the case to
7 begin your deliberations, I need someone to organize
8 the deliberations. Now, the vote of the foreperson
9 carries no greater weight of the others on the jury,
10 but I just need someone to get the deliberations
11 started and keep the deliberations going. And I'm
12 sure every -- all 14 of you would make excellent
13 forepersons, but I can only have one. So when you
14 come back, I want you to elect your own foreperson.

15 The two alternates, you have every right to
16 join in that election process. And so when you do
17 come back out, the foreperson will always maintain
18 that front seat there. The two alternates are in
19 the correct seat. The others can sit wherever you
20 like. It's been my experience that most juries like
21 to sit in the same seat throughout the entire trial.
22 That's totally up to you. It could be that way or
23 it doesn't have to be that way. That's totally up
24 to you.

25 Okay. Now, as I instructed you a moment ago,

1 you can begin no discussions about anything related
2 to this case among yourselves. That also applies
3 when you leave here, whether you come in contact
4 with family members, friends, neighbors, co-workers,
5 whoever. Do not have any discussions with them
6 about anything related to this case. You can
7 certainly say, "I have been selected on a jury," but
8 leave it at that. Okay?

9 And then, thirdly, I'm going to go into more
10 detail on this later on. You know, we have access
11 to a wealth of information through the internet and
12 social media and the like and it may be tempting for
13 you to do some research or your own investigation
14 into anything related to this case -- the nature of
15 the charge, the defendant, the potential witnesses,
16 whatever. Don't do that. Okay?

17 And I'm going to -- and I'm going to tell you
18 when you come back, I'm going to give you a real
19 life story about some jurors who violated my
20 instructions in a case. So as tempting as it may be
21 to go on the internet or social media, do not do it
22 until after this case is over with. And then after
23 the case is over with, if you want to do it, that's
24 perfectly fine. But while the case is going on, do
25 not do it. Because if you do and I find out about

1 it, then I can tell you right now, you're in big
2 trouble. Okay. So just don't do it.

3 All right. With that said, leaving on a
4 pleasant note. You can go on and be back here at
5 three -- no later than three o'clock. Be sure to
6 allow yourselves enough time to get back here
7 promptly. Okay. Have a good lunch.

8 (At 11:46 a.m., jurors were excused for the
9 lunch recess.

10 THE COURT: Okay. We'll be at ease, just as
11 long as we put on the record before we leave for
12 lunch anything we need to.

13 (Brief recess.)

14 THE COURT: Let's go back on the record. And
15 we've had some discussions back in chambers and then
16 in the courtroom concerning a witness for the State,
17 his cell phone that has been in the possession of
18 law enforcement for some time. It was the position
19 of Solicitor Black that he didn't believe that the
20 cell phone was necessarily relevant and had not
21 planned to -- to use the phone or any information on
22 the phone in this case.

23 However, the defense has learned that the phone
24 may, in fact, contain some text messages that could
25 potentially contain some impeachment value. And the

1 defense has requested that they be allowed to look
2 at this phone. And as soon as Deputy Willis has
3 finished testifying for the Grand Jury, he being the
4 evidence custodian for the sheriff's office, he's
5 going to get the phone, provide it to -- and I had
6 suggested that when the phone is looked at, that
7 both the defense and the State participate in
8 looking at that and just see where that may -- may
9 lead us.

10 And we talked about -- even though I've
11 instructed the jury to be back here at 3:00,
12 depending upon however that viewing of the cell
13 phone is going, may need to have them come back in
14 the morning. We'll just have to wait and see. So
15 that -- that particular issue is kind of on -- in
16 limbo until we get that work done.

17 And, Mr. Epps, you wanted to renew some motions
18 that you had made last term of court. I just --
19 just read my -- my order that I had issued, but
20 nonetheless, you wanted to renew some of these
21 motions?

22 MR. EPPS: I just want to renew, Your Honor,
23 the motion regarding -- the motion to dismiss
24 duplicitous indictments.

25 THE COURT: Right.

1 MR. EPPS: Based on the trafficking statute
2 listing out multiple elements or multiple ways to be
3 track -- to be convicted of trafficking
4 methamphetamine. And, again, it's duplicitous which
5 renders the indictment bad. I don't know if you
6 need a written order. I just wanted to just ---

7 THE COURT: Sure.

8 MR. EPPS: --- preserve that argument or
9 preserve that motion for the record.

10 THE COURT: Sure. And it's so noted for the
11 record. And for the reasons stated in my
12 September 14, 2019, order, the motion is again
13 denied.

14 MR. EPPS: Yes, sir.

15 THE COURT: Thank you. All right. Anything
16 else before we go ahead and break for lunch on this
17 case? I know there may be some other business that
18 we -- we may have, but...

19 MR. BLACK: Judge, I -- I might need to confer
20 with Ms. Nelson. Ms. Nelson has one of the
21 codefendants. And I -- just for the record I guess,
22 how this case was worked. It was a buy bust with
23 three codefendants. Codefendant one called
24 codefendant two. Codefendant three called co -- or
25 codefendant two called codefendant three, which is

1 Mr. McGill who we're trying. I'm not sure if
2 Ms. Williams is wanting to plead before lunch or
3 after lunch.

4 MS. NELSON: I mean, either one, but I had an
5 issue about the plea just that I wanted to confer
6 with Your Honor briefly.

7 THE COURT: Okay.

8 MS. NELSON: Just a request that I have, and
9 she is not yet signed up because we -- I mean,
10 Micah's been busy and we had still been kind of
11 talking to law enforcement on it, but that will be a
12 plea either -- either now or later.

13 MR. BLACK: Sounds like after lunch then.

14 THE COURT: Yeah. Well, when we finish up here
15 in just a moment, then y'all come on back and we can
16 chat. And then we can decide, you know, when we're
17 going to do it.

18 MS. NELSON: Okay.

19 THE COURT: Anything else on this case,
20 Solicitor?

21 MR. BLACK: No, sir. We're just waiting to get
22 that phone over here.

23 THE COURT: Okay. All right. Mr. Epps,
24 anything?

25 MR. EPPS: Nothing -- nothing further at this

1 . time, Your Honor.

2 THE COURT: Okay. All right. We'll -- still
3 back at 3:00. Do we have any kind of idea when he's
4 going to be finished?

5 UNKNOWN SPEAKER: He's -- he's finishing now.

6 THE COURT: Oh, he is finishing up now?

7 UNKNOWN SPEAKER: Yes, sir.

8 THE COURT: Okay. Very good. Thank you.

9 All right. Solicitor, you and Ms. Nelson want
10 to chat with me?

11 MS. NELSON: Your Honor, what time should I
12 have her come back?

13 THE COURT: Well, I guess we need to decide if
14 we want to do it before or after lunch, so just tell
15 me in just a minute.

16 MS. NELSON: Okay. Sure.

17 (From 12:53 to 3:05 p.m., lunch recess.)

18 THE COURT: Okay. Gentlemen, we are back on
19 the record. And I think what we're going to start
20 off with is, take some limited proffered testimony
21 of Mr. Ferguson.

22 And then once we do that, Mr. Epps, you can get
23 on the record your request for a continuance and the
24 basis for that ---

25 MR. EPPS: Yes, sir.

1 THE COURT: --- and then we'll -- we'll proceed
2 forward.

3 MR. BLACK: All right. Thank you, Your Honor.
4 The State calls Stewart Ferguson.

5 (Witness approaching.)

6 THE CLERK: Put your left hand on the Bible and
7 raise your right.

8 THE WITNESS: (Complying.)

9 THE CLERK: The evidence you're about to give
10 te Court will be the truth, the whole truth, and
11 nothing but the truth?

12 THE WITNESS: Yes, ma'am.

13 THE COURT: And the purpose for this proffered
14 testimony is based upon our discussions in chambers
15 insofar as what Solicitor Black informed the Court
16 and Mr. Epps of some things that Mr. Ferguson would
17 testify to. So if you just, you know, limit to what
18 we discussed, Solicitor.

19 MR. BLACK: Yes, sir.

20 THE COURT: Do not go through his entire
21 testimony.

22 MR. BLACK: Yes, sir.

23 STEWART FERGUSON,
24 having been produced and first duly sworn as a
25 witness on behalf of the State, testified as

1 follows:

2 PROFFERED EXAMINATION

3 BY MR. BLACK:

4 Q. Mr. Ferguson, you were -- you were charged with
5 trafficking meth -- methamphetamine back in August
6 of 2018?

7 A. Yes, sir.

8 Q. August 21st, I believe?

9 A. Yes, sir.

10 Q. All right. And so this was a buy bust that
11 happened at 260 Suttles Landing; is that right?

12 A. Yes, sir.

13 Q. And Ms. Angelina Williams, who's sitting back
14 there, she called you to bring some methamphetamine
15 over; is that right?

16 A. Yes, sir.

17 Q. And you showed up and you had -- how much meth
18 did you have?

19 A. I had eight ounces.

20 Q. Eight ounces. And how many grams is that? Do
21 you know about?

22 A. A little over 200.

23 Q. 210, 220 grams?

24 A. Yes, sir.

25 Q. That sound about right? And you ended up

1 making a phone call to Mr. McGill, who's sitting
2 over here at counsel table in that purple shirt; is
3 that right?

4 A. Yes, sir.

5 Q. And you asked for him to bring some meth to
6 Ms. Williams' house. That's where you were,
7 correct?

8 A. Yes, sir.

9 Q. Did he comply with that?

10 A. Yes, sir.

11 Q. And the phone calls, those were actually
12 recorded on a -- a recording like a -- a recording
13 on the phone?

14 A. Yes, sir.

15 Q. And law enforcement was present when you did
16 this?

17 A. Yes, sir.

18 Q. And the phone conversations were very short; is
19 that correct?

20 A. Yes, sir.

21 Q. You haven't listened to those phone calls, have
22 you?

23 A. No, sir.

24 Q. But you remember them being very short?

25 A. Yes, sir.

1 Q. And you talked to Mr. McGill twice that day?

2 A. Yes, sir.

3 Q. Okay. So you -- the meth that you brought, you
4 said you brought how many ounces again?

5 A. Eight.

6 Q. Where did you get that meth at?

7 A. I got it from Mr. McGill.

8 Q. Okay. So how -- walk me through how you did
9 that.

10 A. Somebody had called me earlier that day wanting
11 4 ounces. I didn't have it. I called him. He had
12 it, so I went over there to get it.

13 And at the time I was there, I got the message
14 from Ms. Williams that she wanted four, so I just
15 got four more to take to her.

16 Q. So you didn't have any. Somebody called you,
17 not involved with this case?

18 A. Yes, sir.

19 Q. Asking for 4 ounces?

20 A. Yes, sir.

21 Q. And then while you were over at Mr. McGill's
22 getting the 4 ounces, that's when Ms. Williams
23 called you and said, "Hey, can you get me four?"
24 And so you had got an additional 4 ounces from
25 Mr. McGill, so a total of eight?

1 A. Yes, sir.

2 Q. And you left Mr. McGill's residence and went to
3 Ms. Williams' house at that point?

4 A. Yes, sir.

5 Q. And so you had a total of 8 ounces, which is
6 about 220 grams?

7 A. Yes, sir.

8 Q. Okay. So you got it actually from Mr. McGill
9 that day?

10 A. Yes, sir.

11 Q. Okay. All right. And then starting -- you --
12 you started going to Atlanta to drop by -- to pick
13 up methamphetamine; is that correct?

14 A. Yes, sir.

15 Q. When did you start doing that?

16 A. By myself, it was like the 14th -- July the
17 14th of '18.

18 Q. So 2018, July. And this event happened in
19 August, right?

20 A. Yes, sir.

21 Q. So you've basically been doing this for a
22 month?

23 A. Yes, sir.

24 Q. How -- how long in advance were you going to
25 Atlanta?

1 A. I was driving another individual to Atlanta. I
2 think it was two or three months ---

3 Q. So ---

4 A. --- we went.

5 Q. --- when did -- so when did that start exactly,
6 beginning of the summer, May?

7 A. Yeah, right around turkey season.

8 Q. April?

9 A. Yes, sir.

10 Q. So you -- you and somebody else were going to
11 Atlanta together. And then he ended up going to
12 prison; is that right?

13 A. Yes, sir.

14 Q. And so at that point, you started in July going
15 by yourself?

16 A. Yes, sir.

17 Q. Twice a week? Three times a week? Once a
18 week?

19 A. Once a week.

20 Q. Once a week?

21 A. Yes, sir.

22 Q. Specific day and time that you would do this?

23 A. No, sir.

24 Q. Just whenever?

25 A. Yes, sir.

1 Q. Whenever you needed to re-up?

2 A. Yes, sir.

3 Q. Okay. And how -- how much exactly were you
4 getting?

5 A. Six pounds.

6 Q. Six pounds of methamphetamine?

7 A. Yes, sir.

8 Q. All right. And then you would bring it back to
9 South Carolina?

10 A. Yes, sir.

11 Q. And so would you -- how would -- how would that
12 go? How would you distribute that?

13 A. Mr. McGill would pay for four. We would meet,
14 and he'd give me the money for the four.

15 THE COURT: Four what?

16 THE WITNESS: Four pounds.

17 THE COURT: Okay.

18 THE WITNESS: And then when I'd -- I'd go and
19 bring it back and I'd go -- 2 pounds I'd pick up for
20 me.

21 BY MR. BLACK:

22 Q. So you would have 2 pounds and then he would
23 have 2 pounds?

24 A. No. He'd have 4 pounds.

25 Q. I'm sorry. He would have 4 pounds. Would he

1 pay you in advance?

2 A. Yes, sir. He paid for his when I went down.

3 Q. Okay. So this day when this happened, he
4 showed up with close to four -- \$14,000 I think?

5 A. Yes, sir.

6 Q. Just shy of \$14,000?

7 A. Yes, sir.

8 Q. Was that -- were you planning on a trip in the
9 near future?

10 A. The next morning.

11 Q. You were planning on going the next morning?

12 A. Yes, sir.

13 Q. And so that was the payment of the 4 pounds
14 that he was going to receive?

15 A. Yes, sir.

16 Q. Okay. And so you had an additional 2 pounds
17 that you would -- you would get rid of on your own;
18 is that right?

19 A. Yes, sir.

20 Q. How would you go about doing that? Would you
21 small -- would you sell it in small quantities?
22 Would you try to unload it in large quantities?

23 A. It was basically large quantities.

24 Q. And who were -- you were selling -- one of them
25 was Ms. Williams I'm guessing?

1 A. Yes, sir.

2 Q. Okay. Were there any other people involved, or
3 was it just -- just her?

4 A. There were several others.

5 Q. Okay. And, I mean, it's no -- you had a chance
6 to -- you signed your phone over; is that right? Or
7 you -- they collected the -- law enforcement,
8 Abbeville County, took your phone that day?

9 A. Yes, sir.

10 Q. And this is your phone, right?

11 A. Yes, sir.

12 Q. And you -- you relinquished custody of that?

13 A. Yeah. I haven't seen it since that day.

14 Q. Okay. But you kind of -- have you looked at it
15 today?

16 A. No, sir.

17 Q. But there is evidence of, you know, text
18 messages and whatnot on this phone; is that right?

19 A. Yes, sir.

20 Q. Okay. And you're not hiding that you were
21 selling drugs?

22 A. No, sir.

23 Q. You're not hiding that you would go to Atlanta
24 and buy 6 pounds of meth and bring it back?

25 A. No, sir.

1 Q. Okay. You're not hiding that you were dealing
2 with Ms. Williams and Mr. McGill?

3 A. No, sir.

4 Q. Okay. And you -- you actually plead to Judge
5 Hocker -- I mean, I know there's no jury here, but
6 you -- you plead guilty to trafficking
7 methamphetamine, right?

8 A. Yes, sir.

9 Q. This -- this morning, correct?

10 A. Yes, sir.

11 Q. Or I guess early afternoon, and you're looking
12 -- you plead -- you're looking at three to ten
13 years, right?

14 A. Yes, sir.

15 MR. BLACK: Okay. I think that's all the
16 questions I have, Judge.

17 THE COURT: Okay. All right. Mr. Epps, is
18 there any examination of Mr. Stewart on this limited
19 issue?

20 MR. EPPS: Your Honor, do you want me to do it
21 or just save it till -- I'd rather -- if we're going
22 to start, I would rather save cross-examination.

23 THE COURT: That's fine. I just was giving you
24 an opportunity if you wanted to ask him anything
25 related to the limited purpose for this proffered

1 testimony. If you just want to save it for -- for
2 later -- later, that's fine?

3 MR. EPPS: Well, I wanted ---

4 THE COURT: If you were to ask it now, you
5 certainly are permitted to ask it again before the
6 jury too, so either way is fine with me.

7 MR. EPPS: Well, I will ask a few questions.

8 THE COURT: Sure.

9 CROSS-PROFFER EXAMINATION

10 BY MR. EPPS:

11 Q. All right. Mr. Ferguson, you just testified
12 you went -- you drove back -- you drove to Atlanta
13 to get 6 pounds of methamphetamine; is that right?

14 A. Yes.

15 Q. Okay. And you started doing that in July?

16 A. By myself.

17 Q. By yourself. Okay. And who did you -- and you
18 testified that you rode with another individual
19 prior to that?

20 A. Yes, sir.

21 Q. And who was that individual?

22 A. Brian McClure.

23 Q. Brian McClure. Okay. Was his -- was his name
24 and number in your phone?

25 A. Yes, sir.

1 Q. Would it have been on the phone that was
2 confiscated by law enforcement on August 21, 2018?

3 A. Yes, sir. It should be.

4 Q. Okay. What was -- what's his number? What was
5 his name listed as in your phone?

6 A. Brian McClure.

7 Q. Brian McClure?

8 A. Or Brian.

9 Q. Brian?

10 A. I don't know if I had McClure on it or not. I
11 know it was -- I know it would be under Brian.

12 Q. Okay. And how long did you go with Brian
13 McClure to Atlanta and back?

14 A. Roughly, about two and a half, almost three
15 months.

16 Q. Two and a half, three months. So you say that
17 you did this -- you rode with him for two and a half
18 to three months?

19 A. Well, I drove him.

20 Q. You drove him? You drive Brian McClure for two
21 and a half to three months, correct?

22 A. Yes, sir.

23 Q. And then you were only going down by yourself
24 for about a month before this happened, right?

25 A. Yes, sir.

1 Q. Okay. And you're saying that you got the --
2 the -- the 4 ounces of meth that you brought to
3 Angela Williams' house back on the 21st from -- from
4 Mr. McGill?

5 A. It was 8 ounces ---

6 Q. It was 8 ounces? It was eight?

7 A. --- that I had on me at the time. When I went
8 into her residence, I had 8 ounces.

9 Q. Okay. You had over 200 grams of
10 methamphetamine, correct?

11 A. Yes, sir.

12 Q. Okay. And -- all right. And you said -- and
13 then once you got -- but you say you got that
14 from -- from Mr. McGill?

15 A. Yes, sir.

16 Q. Okay. Was that not, in fact, your
17 methamphetamine?

18 A. No, sir.

19 Q. It wasn't your -- it wasn't your meth?

20 A. No, sir.

21 Q. Okay. Now, when you did -- after you got
22 there -- I'll back up. Okay. But you've only been
23 doing this -- what your testimony is, you've only
24 been doing -- you've been on -- have you only been
25 in the meth business for a few -- for a few months

1 before you got arrested in August ---

2 A. Yes, sir.

3 Q. --- of 2018?

4 A. Yes, sir.

5 Q. Okay. Prior to -- when did you say you
6 started? Was it May?

7 A. I was driving with McClure right around turkey
8 season. We started it right around turkey season,
9 so it had been April -- about mid-April to when he
10 went to jail on July 11th.

11 Q. So you only had involvement in this -- in --
12 in -- in selling methamphetamine, picking up --
13 driving somebody for methamphetamine or either
14 driving yourself only from April of 2018, right?

15 A. Yes, sir.

16 Q. Okay. And from April 2018 until you got
17 arrested on August 21st of 2018, right?

18 A. Yes, sir.

19 Q. Okay. After -- after August 21, 2018, did
20 you -- did you deal or sell or do anything with
21 methamphetamine again?

22 A. I didn't deal or sell. I would get -- every
23 now and then, I'd get -- somebody would send me a
24 little bit to -- to use. That's it.

25 Q. Okay. You used. Do you still use?

1 A. Every now and then.

2 Q. Okay. Now, you were charged with trafficking
3 methamphetamine over an excess of 200 grams, but
4 less than 400 grams, correct?

5 A. Yes, sir.

6 Q. Okay. And you pled guilty today to -- to what?
7 What did you plead guilty to?

8 A. Ten to 28 grams.

9 Q. Ten to 28 grams?

10 A. With three to ten year ---

11 Q. Three to ten years?

12 A. --- max sentence.

13 Q. All right. What you were originally charged
14 with, you were looking at a mandatory minimum of a
15 25 year sentence?

16 A. Yes, sir.

17 Q. Now, did you know Kenneth McGill prior to April
18 of 2018?

19 A. No, sir.

20 Q. And they took your phone -- they took your
21 phone the day that you got arrested and you hadn't
22 got it back, right?

23 A. Yes, sir. That is correct.

24 Q. All right. And you're aware that they took it
25 and they -- they -- they -- did you subsequently

1 cooperate in a Federal drug conspiracy? Did you
2 talk to the DEA?

3 A. Yes, sir.

4 Q. Okay. Were you aware that the DA -- DEA got
5 your phone and did a phone dump of your phone?

6 A. Yes, sir.

7 Q. Okay. And did you have any other phones during
8 the time that you were selling methamphetamine?

9 A. No, sir.

10 Q. You didn't have any other phones during the
11 time -- you didn't get a new phone between April of
12 2018 and August of 2018?

13 A. That was -- I got one phone and then it broke,
14 and then I got that one and changed numbers. The
15 other one busted. I sat on it and busted it, so I
16 had to get another phone.

17 Q. Okay. But they would ---

18 A. It was the phone that I had at the time I was
19 arrested.

20 Q. So it's your testimony there will be nothing on
21 your phone prior to April 2018 of you doing any kind
22 of dealings in methamphetamine?

23 A. I'm not saying that because I would -- I would
24 get some just to use. That's the only time before
25 2000 [sic] of April that there could anything about

1 methamphetamine only just for personal use.

2 MR. EPPS: All right. Your Honor, I don't have
3 any further questions.

4 THE COURT: Okay. Anything in brief follow-up,
5 Solicitor?

6 MR. BLACK: I don't think so, Judge.

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

8 (Witness excused.)

9 THE COURT: And I believe the plan is for
10 Mr. Ferguson to be back up here first thing in the
11 morning.

12 MR. WITNESS: Yes, sir.

13 THE COURT: Okay.

14 MR. BLACK: Do you know -- do you know when you
15 want to start, Judge, so that Mr. Ferguson and
16 Mr. Byrholdt know?

17 THE COURT: Yeah. I would say let's start
18 at -- I'm going to have the jury report back about
19 9:15, so say about 9:30.

20 MR. BYRHOLDT: We'll be here, sir.

21 THE COURT: Okay. Thank you.

22 MR. BYRHOLDT: Your Honor, I would have a
23 request on that phone. There's stuff on there that
24 could danger other people that should not be
25 disclosed to any third-parties outside of this case.

1 I'd appreciate that.

2 THE COURT: I think ---

3 MR. EPPS: And that's fine. I'll stipulate to
4 a protective order. I'm fine with -- I'm okay with
5 that.

6 THE COURT: Okay.

7 MR. BYRHOLDT: Thank you, Judge.

8 THE COURT: All right. Thank you.

9 Okay. Mr. Epps, I think you wanted to put your
10 motion for continuance on the -- on the record,
11 along the lines of what we've already discussed in
12 full in chambers?

13 MR. EPPS: Yes -- yes, sir, Your Honor.

14 THE COURT: You may proceed.

15 MR. EPPS: Yes, Your Honor. May it please the
16 Court?

17 Your Honor, I'm respectfully asking that this
18 matter be continued. Your Honor, particularly for
19 the reason we discussed and I'll go -- I'll go in --
20 fully into those, as well as the testimony from
21 Mr. Ferguson on the stand without -- not in the
22 presence of the jury.

23 Your Honor, this case was continued from the
24 September term. And I do understand that the
25 Court -- there's a written order from this Court

1 about continuances, but I will tell you
2 subsequent -- subsequent to the continuance of the
3 September term, I did advise and looking through
4 preparing this case for -- for this term.

5 I did advise and look and notice from the
6 Abbeville chain-of-custody that on or about January,
7 I think, 9th of 2019, that -- that Jarvis Reader,
8 who is an Abbeville County Sheriff's deputy, who is
9 tasked, I believe, as the DEA task -- task force did
10 take Mr. Ferguson's phone and there was a phone
11 dump. And there was a phone dump done, and that
12 phone was stayed and kept at -- at the DEA office in
13 Greenville.

14 Since that time and since -- until either this
15 past Friday or this past -- or today, I did
16 communicate with Solicitor Black about getting the
17 contents of that phone dump. Because, again, my
18 client and pursuant to the Confrontation Clause of
19 the Sixth Amendment guarantees a defendant the
20 opportunity to cross-examine a witness concerning
21 bias.

22 Certainly, Your Honor, that phone, we believe,
23 would hold relevant information. Again, pursuant to
24 the Confrontation Clause, I believe that, you know,
25 I would ask for a continuance because I would like

1 to review that information fully. The text messages
2 on her -- on his phone is limited in days.

3 However, there's more to that phone. And it's
4 my understanding, and I did -- I talked with -- I
5 talked with Solicitor Black when I made the request
6 about 10 days ago or 12 days ago or about a week and
7 a half ago for the contents of the phone dump.

8 He wasn't -- Solicitor Black was not aware that
9 the phone -- that there was a phone dump. So he
10 contacted Jarvis Reader. And Jarvis said that,
11 yeah, it was done and it was done to -- to confirm
12 or look at Stewart Ferguson's contacts in Atlanta,
13 that in -- that was associated with a Federal drug
14 conspiracy case involving Brian Zapato (phonetic)
15 that was currently pending -- is still pending in
16 Spartanburg County. He reached out to Jarvis
17 Reader.

18 I spoke with law enforcement Friday. It was my
19 understanding that the phone -- that the information
20 provided from that phone dump had over 27,000
21 photographs. I talked with -- with -- with the law
22 enforcement, and they advised, you know, they had a
23 hard time. Their IT guy was out. There was a hard
24 time. They had download it, but apparently they
25 tried to do it again to try and find a way where I

1 could -- they could transfer the -- the -- the --
2 the documents or the download to a disk that I could
3 review, and, apparently, it locked up one of the DEA
4 computers.

5 Law enforcement was able to go through that and
6 did advise me that these -- there were text messages
7 that went back, but he also advised that he
8 didn't -- that they just looked at about 1,000
9 images because they just got tired of looking at it
10 and stopped doing it.

11 I know that the solicitor here has not seen
12 that phone or looked at that phone or -- or looked
13 at that -- that information. And when I -- that is
14 my -- my basis for the objection because I think it
15 certainly -- certainly, a full review of that phone
16 is necessary, one; for the presentation of my
17 defense of my client. A full review of that phone
18 and materials on that phone are certainly ripe --
19 are certainly -- certainly -- certainly congruent
20 with the -- with the confrontation clause where I
21 have a meaning -- meaningful cross-examination to
22 show bias, reliability, credibility of Mr. Ferguson.
23 And he specifically limited his involvement in the
24 sell and distribution and -- and -- and -- of
25 basically trafficking of methamphetamine from

1 mid-April 2018 to August 21st of 2018.

2 He testified -- obviously, Your Honor, that
3 phone for the limited time that I've had to be able
4 to look at that phone was this afternoon. And
5 there -- there are multiple, multiple text messages
6 from multiple people -- multiple people where he was
7 delivering methamphetamine, not only methamphetamine
8 but marijuana.

9 And -- but those text messages that I saw --
10 which I believe there are others. I believe there
11 are more than that and there should be more than
12 that -- only go back three or four days. So from
13 the 21st through -- of August -- to August 17th,
14 and -- and there's a few at the end that only go
15 back -- that -- that are only there for a day or
16 two.

17 And his testimony, Your Honor, I believe that
18 if he says that he wasn't involved, that he was
19 getting -- or getting -- getting money from
20 Mr. McGill, the defendant, to go to -- to -- to go
21 to Atlanta to buy methamphetamine and that -- and
22 they come back and he only was doing it from April
23 2018 through -- through August of 2018, Your Honor,
24 he's limited his -- he's try -- he's -- I believe
25 and I think it's -- I think it's even more. I think

1 it's even more important now that I look at that
2 complete package on that phone to see what, if
3 anything, he had or did prior to April of 2018 in
4 regards to methamphetamine.

5 THE COURT: Let me just interrupt and I
6 apologize.

7 Where is it significant to show Mr. Ferguson
8 being a drug dealer more than four or five months?
9 He's a drug dealer. He does it four or five months
10 or he does it for a year. Where -- where is that
11 important and how does that help your client,
12 Mr. Epps, to try to show that he actually dealt in
13 drugs more than the time he said?

14 MR. EPPS: Obviously, Your Honor, he is --
15 he -- well, I think it's very important because it
16 affects his -- it goes to his bias, his credibility,
17 and his reliability in front of this jury.

18 If he said -- if his -- if his phone is what --
19 and I -- there's a very good chance that he was
20 doing stuff like this prior. But his testimony, the
21 reason that he was proffered and put up on the stand
22 today was to get his testimony in line for tomorrow.
23 He's testified he didn't have any involvement prior
24 to April of 2018. He used, but he didn't -- he
25 didn't deal or distribute like he -- like he did

1 now.

2 On top of that, he was able to go from a 25
3 year mandatory minimum sentence to a -- to a 10 to
4 28 grams, looking at three to ten. That's a
5 significant cut on his sentence. That also goes to
6 his -- his -- his credibility and bias in this
7 matter.

8 THE COURT: And you're not prevented, Mr. Epps,
9 from asking him in the presence of the jury the,
10 quote, deal, if you want to refer to it as that,
11 that -- that he got. You -- certainly, you know,
12 the opportunity is there to ask him about all that.

13 MR. EPPS: And I think it's important that just
14 my limited -- limited review of the phone. I mean,
15 I -- you know -- and it's my understanding -- it is
16 my understanding that they did talk with Jarvis
17 Reader, and somebody from the Solicitor's Office was
18 going to get the download, the actual -- an actual
19 copy on disk, I believe, or an actual copy of the
20 phone dump from the DEA office in Greenville.

21 So, again, if I get -- I would like an
22 opportunity in preparation of my defense for my
23 client to be able to fully review -- have a
24 meaningful review of that information.

25 THE COURT: Okay. Thank you, Mr. Epps. Both

1 solicitors are standing.

2 MR. BLACK: Judge, my is first response to --
3 to Mr. Epps' motion obviously is -- and I -- and I
4 reiterated this back in chambers, is that this is --
5 is not relevant. Whatever's on that phone prior to
6 August the 21st is not relevant to why we're
7 actually here, because what we're here for is what
8 happened on that particular day.

9 And the State plans on introducing --
10 obviously, Mr. Ferguson is going to testify and
11 Ms. Williams is going to testify, but there's a --
12 there's two phone calls -- two separate phone calls
13 that Ferguson had with McGill, McGill, who's on
14 trial, that talks -- that has their communication
15 recorded setting up the deal. I -- I think anything
16 prior to that day to August 21st of 2018 is not
17 relevant to -- to anything. It has nothing to do
18 with why we're actually here.

19 I think that going through the phone and
20 looking for additional text messages about who --
21 who Mr. Ferguson was selling to is all cumulative
22 because he got up on the stand this afternoon and
23 admitted, "Yes. I was driving to Atlanta. I was
24 getting 6 pounds of meth." I mean, he didn't shy
25 away from the fact that he is -- he was a drug

1 dealer.

2 It -- it concerns me when Mr. Epps says there
3 is a very good chance that there's more
4 communication about selling drugs prior to April.
5 My response, Judge, is -- is, well, first of all,
6 who cares? Second, there's a very good chance that
7 sounds like a fishing expedition, and I don't think
8 that the Court should entertain this fishing
9 expedition any further than it already has. There's
10 sufficient evidence to go forward. We're asking
11 that you deny the motion for the continuance.

12 Anything that Mr. Ferguson has testified to,
13 obviously he showed up with 220 grams of
14 methamphetamine. All that's impeachable, Your
15 Honor, and I'm sure that Mr. Epps will be glad to
16 get into that. I mean, we're going to bring it up
17 too. So there's plenty there for Mr. Epps to get
18 into at this point.

19 As far as the -- the download from the phone, I
20 think Mr. Brown can address that issue. He -- he
21 actually talked to Jarvis this afternoon.

22 MR. BROWN: Judge, I talked with Mr. Reader
23 probably an hour and a half ago, whenever we left
24 chambers. And he is on his way down to Abbeville.
25 He's put what they have on a jump drive and is

1 brining it down. We're going to try to download
2 the -- the computer system or the -- the reader to
3 be able to access this and open it up. So it should
4 be available here in the next hour. After we get
5 done, we can look at it some more.

6 THE COURT: Okay.

7 MR. EPPS: And -- and -- and to say it's not --
8 if I may respond, Your Honor. To say it's not
9 relevant is -- that's not the State's -- it's under
10 Rule 5 in Brady. That's not the State's call to
11 make, especially when they haven't even seen or
12 looked at the evidence. It is the defense's call to
13 make. It's my -- it's a meaningful review of
14 that -- of -- of -- of the evidence that affects my
15 client.

16 My -- the defendant that's sitting in this
17 chair has a fundamental right to a fair trial in
18 this matter and is looking at the charge that he's
19 looking at. And I would quote, Your Honor, pursuant
20 to *State v. Gracely*, "Considerable latitude is
21 allowed in cross-examination of a witness for
22 potential bias. And cross-examination, any fact may
23 be elicited which tends to show interest, bias, or
24 partiality of the witness. The appropriate question
25 under the confrontation clause analysis is whether

1 there's been any interference with the defendant's
2 opportunity for effective cross-examination at
3 trial."

4 Again, Your Honor, that is proof of bias and it
5 goes onto state:

6 "This is evidence of bias pursuant to Rule
7 608(c) of the South Carolina Rules of -- of
8 Evidence. Proof of bias is always -- on its own is
9 always relevant because the jury is finder of fact
10 and weigher of credibility, has historically been
11 entitled to access all evidence which might bear on
12 the accuracy and truth of a witness's testimony.

13 "Rule 608(c) preserves South Carolina precedent
14 holding that generally anything having a legitimate
15 tendency to throw light on the accuracy,
16 truthfulness, and sincerity of a witness may be
17 shown in considering and determine the credit to be
18 accorded his testimony."

19 Your Honor, I think it's even more important.
20 He's limited himself. He said, "I didn't do it
21 before April of 2018." Now, he can't -- this is not
22 a fishing expedition. I want to see. We've got
23 that evidence. We've got that phone. I think
24 pursuant to Rule 5 and pursuant to -- to -- and
25 even -- pursuant to Rule 5, I've got an opportunity

1 to review that information with my client. I think
2 it's important.

3 I think it's very important because it also
4 going with his -- if they -- if he was, in fact,
5 dealing prior to April 2018, and he just -- he lied
6 on the stand. That affects his credibility. That
7 affects his bias. That affects his partiality.

8 And on top of that, he got -- the deal that he
9 got, and I think it is huge -- hugely important.
10 Particularly, because my client is -- is -- is on
11 trial for the offense he's looking at. And,
12 frankly, Your Honor, looking at a 25 -- 25 year
13 mandatory minimum.

14 I think for -- for -- because of my -- because
15 it is material to the defense of my client,
16 respectfully, Your Honor, I think it's even more
17 important now to be able to fully look through that
18 information on the phone.

19 THE COURT: All right. Well, as I have
20 indicated, Mr. Epps, in chambers, I'm going to deny
21 your -- your motion for a continuance. Certainly,
22 try to allow you an opportunity for whatever it's
23 worth to look at this phone and the text messages.
24 You had indicated in chambers and you've indicated
25 here in the courtroom that you want to attack the

1 credibility of Mr. Ferguson, which you have every
2 right to, but that is the reason why I instructed
3 the -- the State to proffer Mr. Ferguson's
4 testimony.

5 You had indicated that what was told in
6 chambers and then what was testified to on the stand
7 was the first time you had heard that, but
8 nonetheless, you want to get out the fact that he is
9 a big-time drug dealer, going to Atlanta, buying
10 large quantities of -- of meth, and he's admitted to
11 that so you've got that information out.

12 I don't see where you need to add to that by
13 way of looking at text -- text messages to show
14 whether or not he was dealing in drugs prior to
15 April. You've got the fact that he is a drug
16 dealer.

17 And, in addition, to show that the deal that
18 Ferguson got as to his charge and whether or not
19 that affects the bias or his credibility, you don't
20 need the phone to have that brought out. You can
21 cross-examine him on it, and we know what the deal
22 was.

23 Now, I can't look into Mr. Ferguson's mind and
24 determine why that was done. I don't know why the
25 State offered that for him, but nonetheless that's

1 what was done so you don't need the phone for that.
2 We got to be careful. And I know you're doing a
3 very good for your client and you want to do a good
4 job for your client, but I as the gatekeeper of the
5 evidence, I have to be careful not to allow complete
6 fishing ex -- expeditions and this borders on that.

7 So -- and lastly, I don't know if I mentioned
8 this or not, but we have to be careful too not
9 allowing impeaching a witness on collateral matters.
10 So with all that taken together, I'm going to deny
11 your motion for a continuance. However, the State
12 has made available the -- hopefully, will make
13 available this phone dump and we'll see what -- see
14 what that shows. But at this point in time, your
15 motion for continuance is -- is denied.

16 Okay. Let's take a real short break. The
17 jury's been sitting back there over 30 minutes.
18 Take a very -- very short break and let's get them
19 on out and let's get them sworn in and do your
20 opening arguments.

21 Does the State have any witnesses they could
22 put up this afternoon?

23 MR. BLACK: Judge, I think we can probably call
24 Ms. Williams. She's been here all day.

25 THE COURT: Okay.

1 MR. BLACK: And i think we could -- we can call
2 her first.

3 THE COURT: Okay. All right. Let's take a
4 short -- short break.

5 (From 3:37 to 3:46 p.m., brief recess.)

6 THE COURT: All right. Gentlemen, are we ready
7 to bring the jury out? State?

8 MR. BLACK: Judge, one issue before we started.
9 Ms. Williams, she -- we stated she's probably going
10 to be the first witness we call. She -- her record,
11 Judge, she has PWID methamphetamine I believe from
12 2018.

13 THE COURT: That's what she was on probation
14 for?

15 MR. BLACK: It is, Your Honor. She also has a
16 fraudulent check -- a couple charges of fraudulent
17 checks from 1987. It's our argument that under Rule
18 609 that that not be allowed in. I know it involves
19 a crime of dishonesty, but looking at Subsection B,
20 I think there's a time limit that applies to ---

21 MR. EPPS: No, sir. Not on grounds of
22 dishonesty.

23 MR. BLACK: I think that's how the Federal rule
24 reads, Judge, but I think if you look at the State
25 rule, I think it reads differently. And I -- and

1 I've had this discussion. I don't know if you were
2 the presiding judge or it was Judge Addy on another
3 case, but looking at Rule 609 under Section B under
4 the time limit, I think the ten years applies for
5 the crimes of dishonesty too.

6 MR. EPPS: No. No. Another thing, Your Honor,
7 I respectfully disagree. I think if it's -- if it's
8 a crime of dishonesty, it comes in regardless of the
9 time.

10 THE COURT: Okay. Let me just take -- take a
11 quick look at it.

12 (Brief recess.)

13 THE COURT: Go to the rule and look under the
14 notes and it would be the -- the third paragraph,
15 second or third. Starts "Regarding Subsection B."
16 Do you see that?

17 MR. BLACK: Yes, sir.

18 THE COURT: Well, still Subsection B still does
19 allow for a probative value prejudicial effect
20 analysis, but it would appear that 609 does apply --
21 the time limit does apply to all crimes, not just
22 crimes that are not involving dishonesty in the way
23 I -- the way I read -- read it.

24 So if -- Mr. Epps, if you want me to do a
25 probative value versus prejudicial effect analysis,

1 I can do that. And this is all just related to the
2 '87 forgeries, right?

3 MR. BLACK: Yes, sir. It looks like she has
4 two fraudulent check charges from 1987, one from
5 November and one from December.

6 THE COURT: So that would be 30 years ago --
7 32 years ago?

8 MR. BLACK: Thirty-two years. Yes, sir.

9 THE COURT: Okay. Mr. Epps, do you want me to
10 do -- do that analysis?

11 MR. EPPS: Yes, sir, Your Honor.

12 THE COURT: Okay. All right. And where would
13 you argue that the probative value of admitting for
14 impeachment purposes a crime of forgery 32 years old
15 would be more probative than prejudicial?

16 MR. EPPS: If it does specifically deal with
17 dishonesty, Your Honor, and that her credibility --
18 her credibility before this jury is -- is -- is --
19 is key.

20 Again, those -- even though they're 30
21 something years old, those deal with dishonesty.
22 She's coming in here. She's testifying. She's
23 basically got a -- a deal to testify against the
24 defendant. Again, she got to think that that, it
25 was so long ago that it specifically deals in

1 dishonesty and it's a -- it's a fraudulent check.

2 And I can't -- I mean, it's not a -- it's not a
3 crime for -- it's not a prior drug charge. It's not
4 a -- something like that that doesn't deal -- this
5 specifically addresses and deals with dishonesty.

6 THE COURT: All right. I'm going to find that
7 the probative value does outweigh any prejudicial
8 effect. In all candor, however, it probably goes to
9 the weight more than anything else, but I'll allow
10 it in and find that there's more probative value
11 because of the nature of the offense, even though
12 they -- the offenses are quite -- quite old. I'll
13 allow -- I'll allow those two charges in -- two
14 convictions in.

15 All right. Okay. Anything further from the
16 State?

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

18 THE COURT: And from the defense?

19 MR. EPPS: No, sir, Your Honor.

20 THE COURT: Okay. Thank you. All right.
21 Let's bring the jury out.

22 THE BAILIFF: (Complying.)

23 (At 3:54 p.m., jury entered the courtroom.)

24 THE COURT: Okay. Let the record reflect the
25 jury is back in.

1 Good afternoon, ladies and gentlemen. I
2 apologize for leaving you back in the jury room for
3 pretty close to an hour. We just had some pretrial
4 matters that -- that I had to deal with, with the
5 attorneys. We are now prepared to begin this case.

6 And I guess because you're sitting in the
7 designated chair, ma'am, that you are the elected --
8 duly elected forelady of this jury.

9 THE FORELADY: Correct.

10 THE COURT: Okay. And would you please give me
11 your name?

12 THE FORELADY: Carol Ashley.

13 THE COURT: Okay. Ms. Ashley, congratulations.

14 THE FORELADY: Thank you.

15 THE COURT: All right. First order of
16 business, madam clerk, would you swear the trial
17 jury in, please?

18 THE CLERK: Please stand and raise your right
19 hand.

20 THE JURORS: (Complying.)

21 THE CLERK: Do you solemnly swear that you will
22 well and truly try the issues before this Court, a
23 true deliverance make, and a true verdict render
24 according to the law and evidence presented so help
25 you God? If you accept this oath, please indicate

1 by saying "I will."

2 THE JURORS: (Collectively:) "I will."

3 THE CLERK: You may be seated.

4 THE JURORS: (Complying.)

5 THE COURT: Thank you, madam clerk.

6 Madam forelady and ladies and gentlemen of the
7 jury, I'm going to give you some preliminary
8 comments before the lawyers make their opening
9 statements or arguments to you. Several things to
10 keep in mind.

11 First of all, it is very, very important that
12 you be alert, be very attentive throughout this
13 entire trial. I do not permit jurors to take notes.
14 And the reason why I do not is that I have found
15 that often times jurors are more concerned with the
16 actual note taking than they are listening to the
17 testimony from the witness stand or arguments during
18 the course of the trial from lawyers. So be alert.
19 Be attentive. Get some good rest at night. And
20 don't let your minds and thoughts wander as we go
21 through this trial.

22 Ladies and gentlemen, your role in this case,
23 you are the sole judge of the facts in this case. I
24 am the -- the same law that makes you the sole judge
25 of the facts makes me the sole judge of the law.

1 And I'll -- I'll tell you everything about the law
2 that you need to know at the conclusion of this
3 case, but you are to determine the facts in this
4 case. You are to determine what happened during
5 this matter.

6 And as I told you earlier today, the fact that
7 Mr. McGill has been indicted in this case is
8 absolutely no proof of any guilt on his part. Once,
9 again, it's up to the State of South Carolina to
10 prove the allegations contained in the indictment,
11 prove to you beyond a reasonable doubt standard.
12 That is the highest standard of proof that we have
13 in the law today. And -- and that legal concept, as
14 well as other legal concepts, I'll explain to you at
15 the conclusion of the case, as well.

16 As Mr. McGill sits here in this courtroom today
17 before you, ladies and gentlemen, he is presumed by
18 law innocent of the charge. And that presumption of
19 innocence will remain with him throughout, unless
20 you determine that the State has met their burden of
21 proof and has proved the case to you beyond a
22 reasonable doubt.

23 Now, there may be times where I will have to
24 send you to the jury room because the lawyers -- one
25 of the lawyers may have an objection or may have a

1 matter of law for the Court. And we'll try to deal
2 with those issues, kind of will stand over to the
3 side and talk about it, but sometimes we'll have to
4 put it on the record. I may have to discuss the
5 facts involved in ruling upon the legal issues that
6 they have raised, and I certainly don't want to
7 discuss the facts in your presence because, again,
8 you are the sole judge of the facts in this case.
9 We'll use that when only necessary to send you back
10 to the -- to the jury room.

11 Now, before we broke for lunch, I had
12 instructed you about no discussion -- no early
13 discussion about anything related to this case among
14 yourselves and having no discussion with anybody
15 that you come into contact with -- family members;
16 friends; neighbors; coworkers.

17 And I also told you about don't do any
18 independent research into anything related to this
19 case. I told you that I would give you a real life
20 situation that happened to me as judge in Laurens
21 the first of this year. We're trying a very serious
22 case, and I had instructed them not to do any of
23 this independent research via the internet, social
24 media, and the like. And I had three jurors who had
25 completely disregarded my instructions and obtained

1 some information on the defendant that would have
2 been completely inadmissible, which means that when
3 it's inadmissible, it doesn't come in as evidence
4 during the trial. And by chance, this is just a
5 stroke of luck if you want to put it that way, I
6 found out about that, that what they had done when
7 the -- when the jury was back deliberating to reach
8 a verdict.

9 Well, the bottom line is this, because those
10 three jurors violated my instructions, and if I had
11 not found out what had happened, that defendant
12 could have been convicted based upon inadmissible
13 evidence. And wouldn't that have been a tragedy?
14 And that could've happened simply because those
15 jurors took it upon themselves to do what they
16 wanted to do and not provide a fair and impartial
17 trial to that defendant in that case.

18 Violation of the Court's instructions -- and
19 I'm not making a threat. I'm just giving you a
20 fact -- can subject somebody to contempt of court.
21 And if a person is held in contempt of court, that
22 person can go to jail. So, again, I'm not making
23 threats. Please don't take it as threats. I want
24 you to take it as something extremely important for
25 you not to do so you can provide a fair trial for

1 both sides in this case. So don't do it.

2 After the case is over with, have at it. Do as
3 much research as you feel like you want to do. But
4 during the course of this trial, please, please do
5 not do it. Okay?

6 And lastly, ladies and gentlemen, it is so very
7 important to keep an open mind. Don't reach any
8 quick decisions or don't pass judgment until after
9 all of the evidence is in, the lawyers have made
10 their closing arguments, I have instructed you on
11 the law that applies to this case. Up until that,
12 keep an open mind.

13 Does the State have any exceptions to the
14 Court's preliminary charge?

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

16 THE COURT: And the defense?

17 MR. EPPS: No, sir, Your Honor.

18 THE COURT: Okay. Thank you.

19 All right. The lawyers are going to make their
20 opening arguments. And let me just tell you, these
21 arguments are not evidence in this case. It is what
22 they believe the evidence will show and what they
23 believe this case is all about. If you will give
24 them your very close attention.

25 Solicitor Brown? Solicitor Black?

1 MR. BLACK: Yes, sir. Thank you, Your Honor.

2 THE COURT: Okay. Solicitor Black.

3 MR. BLACK: Good afternoon. Thank you, guys,
4 for being here. I know y'all have already had a
5 long day coming up here this morning, sitting up
6 here this afternoon. Like the judge stated earlier,
7 we have been working. We have been working through
8 some issues, so we haven't forgotten you guys.

9 August the 21st of 2018, law enforcement with
10 Abbeville County, the drug unit if you will, set
11 up -- well, they set up a buy-bust here in Abbeville
12 County at 260 Suttles Landing. They went to 260
13 Suttles Landing. They went to Angelina Williams'
14 house, back here.

15 Ms. Williams is going to testify. She's going
16 to tell you that at that point last year, she was on
17 probation. She was on probation for a drug offense.
18 Law enforcement went there to search her house, and
19 Ms. -- Ms. Williams, to her credit, was very
20 compliant with law enforcement and said, "Yes. You
21 can come in my house and you can search my house.
22 In fact, I've got about an ounce of methamphetamine
23 in my house."

24 An ounce of methamphetamine is about 28 grams
25 of methamphetamine. So she turned it over to law

1 enforcement. At that point, a conversation ensued.

2 Ms. Williams says, "Well, I think I can call
3 somebody to bring some more meth over here."

4 So Ms. Williams gets on the phone with law
5 enforcement there at the house, and she calls a guy
6 named Stewart Ferguson. A few hours later,
7 Mr. Ferguson shows up, and he brings with him about
8 8 ounces of methamphetamine, about 220 grams of
9 methamphetamine.

10 Once again, a conversation ensues. Law
11 enforcement's in the house. They take him down.
12 Really no problem with Mr. Ferguson. He was also
13 very compliant with law enforcement.

14 Mr. Ferguson says, "You know what? I think I
15 can make a call."

16 And so he gets on the phone and he calls the
17 defendant in this case, Mr. Kenny McGill. A few
18 hours later, Mr. McGill shows up at that residence
19 with about 110 grams of methamphetamine and just shy
20 of \$14,000.

21 Now, ladies and gentlemen, this is what we call
22 a buy-bust. Law enforcement went to a house. They
23 went to go with -- go to search Ms. Williams' house.
24 She cooperated and so on and so forth, and here we
25 are with Mr. McGill.

1 Now Mr. McGill, as I've already stated and as
2 the judge had stated, he is charged with trafficking
3 in methamphetamine. And that is what we as the
4 State of South Carolina, we have to prove to you
5 beyond a reasonable doubt. We have to prove his
6 guilt beyond a reasonable doubt that he's guilty of
7 trafficking in methamphetamine.

8 Now what does that mean? We'll talk about what
9 the legal definition is, but just kind of as a
10 general idea of how it works is, you've got
11 basically -- basically three different tiers of --
12 of drug possession, right?

13 You've got a possession of a certain drug. And
14 for a drug like methamphetamine, for like crack,
15 cocaine, anything under a gram is typically
16 considered for personal use. That's possession,
17 right?

18 For the next tier, it's called possession with
19 intent to distribute, like PWID. And for the same
20 kind of drug for cocaine, for crack, for
21 methamphetamine, usually if it's over a gram and
22 less than 10 grams, that's considered possession
23 with intent to distribute that particular drug. And
24 why is that? Because that's a decent amount of
25 drugs. Typically, people don't use that amount.

1 It's a decent amount of drugs.

2 And so the third set is trafficking. So
3 anything over 10 grams is typically considered
4 trafficking, and that's what Mr. McGill is charged
5 with. You're going to hear that he showed up with
6 about 110 grams of methamphetamine. So he gets
7 charged -- he's charged with trafficking in
8 methamphetamine.

9 And, folks, as the judge stated, we have to
10 prove that he is guilty of trafficking
11 methamphetamine beyond a reasonable doubt. And what
12 does that mean? Does it mean all doubt? Does it
13 mean every possible conceivable doubt there is? No.
14 It means at the end of the day after you hear what
15 the witnesses have to say, once you hear the
16 testimony, and you see the evidence, are you firmly
17 convinced of the defendant's guilt? Are you firmly
18 convinced? Not all doubt, not every doubt, but are
19 you firmly convinced of what you're going to hear
20 from the witness stand and the evidence you see that
21 he's guilty of trafficking methamphetamine?

22 We ask that you use your common sense when
23 you're evaluating the evidence, when you're hearing
24 from the witnesses. Folks, your job is to be the
25 finder of facts, to determine what happened on

1 August the 21st of 2018. You've got no friends to
2 reward. You've got no enemies to punish. Your job
3 is basically to figure out what happened.

4 The judge, he's -- he's basically the umpire
5 here. He's calling balls and strikes. If we get
6 into a legal dispute of some sort, the judge is
7 basically here to say "yea" or "nay." But as far as
8 the facts are concerned, that's your job.

9 And so once you hear all the facts, once you
10 hear from the witnesses, hear what their testimony
11 is and look at the evidence, we're going to ask you
12 to find Mr. McGill guilty of trafficking in
13 methamphetamine. Thank you.

14 THE COURT: Thank you, Solicitor.

15 Mr. Epps, are you ready, sir?

16 MR. EPPS: Yes, sir, Your Honor. May it please
17 the Court? opposing counsel?

18 Ladies and gentlemen of the jury, again, my
19 name is William Norman Epps, III, and I represent
20 the defendant, Kenneth McGill, that's seated here at
21 that table charged by this indictment.

22 And I want to thank you, first, for your
23 service. I want to thank you for your time here
24 today. I know it's been probably a long day.
25 Please don't hold that against Mr. McGill in any

1 way, shape, or form. If sometimes you have to go
2 out or come back in, if there's questions that need
3 to be taken up with the trial -- with the judge with
4 the two attorneys, that is -- that is the way this
5 process goes. So I'd ask you to please, you know,
6 certainly don't hold that or don't take that out or
7 don't believe that's got anything to do with the
8 defendant, Mr. McGill.

9 Ladies and gentlemen, he is -- he is -- he's
10 charged with trafficking in methamphetamine. And,
11 again, this is a very, very important day for
12 Mr. McGill. But he is innocent until proven guilty.
13 As the judge will tell you later, he has a cloak of
14 innocence that sur -- innocence that surrounds him
15 through this pro -- right now here as we sit today,
16 through these proceedings, through your
17 deliberations, and only until you, as the finders of
18 fact, make a decision on finding that -- that
19 Mr. McGill is guilty beyond a reasonable doubt, then
20 does that cloak of innocent come off -- innocence
21 come off.

22 And beyond a reasonable doubt is the highest
23 burden in the land. We have the best system in the
24 world. It's not perfect, but that is the highest
25 burden in the land, beyond a reasonable doubt.

1 That's first and ten in -- in football speak, first
2 and ten. If not -- it's not by a preponderance of
3 the evidence, 51 percent. It's not by clear and
4 convincing evidence. It's by has -- has the State
5 proven the defendant guilty beyond a reasonable
6 doubt? And, again, that's first and ten in football
7 speak.

8 I will tell you, ladies and gentlemen, and the
9 Solicitor alluded to it, already told you about it.
10 This whole situation, this whole scenario happened
11 on August 21st of 2018. And this happened at 260
12 Suttles Landing, which is Ms. Angelina Williams'
13 address.

14 And, again, as the State told you, she was on
15 probation. She had an arrest warrant. Law
16 enforcement and probation went to her house, which
17 they had every right to do, and they found drugs.
18 And at that house, they decided they were going to
19 set up an operation. This wasn't -- it was a
20 buy-bust, but it was solely orchestra -- it was set
21 up, controlled by law enforcement. And in that
22 time, Ms. Williams called Mr. Ferguson. And you're
23 going to hear from Mr. Ferguson.

24 And, ladies and gentlemen, I want y'all to pay
25 close -- close attention to the evidence and what

1 comes from that witness stand, testimony. Y'all are
2 the finders of fact dealing with credibility,
3 reliability, plus the witness. You take your
4 evidence -- you take the evidence that's presented
5 to you through -- through that witness stand.

6 And this was -- again, this was a -- a -- an
7 operation set up by law enforcement. And they went
8 to Ms. Williams' house. And Ms. Williams made a
9 phone call to Mr. Ferguson who lived in Anderson
10 County. And I don't believe -- and I don't believe
11 and I think the evidence will show, they didn't know
12 Mr. Ferguson. They had no idea who -- who
13 Mr. Ferguson was. And Mr. Ferguson shows up based
14 on that phone call with over 200 grams of
15 methamphetamine to Ms. Williams' house.

16 But it didn't stop there. Law enforcement
17 decided, we need to conduct an operation. And they
18 set up and controlled a -- an operation where
19 Mr. Ferguson called Mr. McGill.

20 Now Mr. McGill came to Ms. Williams' house, and
21 here we are. The thing about that, ladies and
22 gentlemen, the thing about that is, you're going
23 to hear -- you're going to hear from Ms. Williams. She
24 was charged with trafficking methamphetamine. She
25 was allowed to plead guilty to a lesser -- lesser

1 charge for her cooperation.

2 You're going to hear Mr. Ferguson who was
3 allowed -- who was facing a significant sentence of
4 trafficking in methamphetamine, over 200 grams of
5 meth where he was going to be looking at a mandatory
6 minimum of 25 years. And he got to plead to a
7 lesser offense, looking at three to ten years.

8 Ms. Williams also had two pending trafficking
9 charges, which she got reduced down for
10 consideration of coming to testify today.

11 You, ladies and gentlemen of the jury, will
12 be -- y'all are the finders of fact as to these
13 witnesses' testimony, these witnesses' credibility,
14 these witnesses' believability and reliability, and
15 whether they have any bias, they have any -- any --
16 any -- any reason to not be truthful or exaggerate
17 or help themselves in any way, shape, or form.

18 And, again, I believe the evidence will show
19 this -- this was -- this was an operation solely
20 orchestrated and set up by law enforcement. And,
21 again, I don't believe Abbeville County knew who
22 Mr. McGill was, who by the way is from Anderson.
23 They had no idea who he was. And this whole thing
24 was set up -- set up by law enforcement.

25 And I'd ask you, ladies and gentlemen, to keep

1 an open mind, to listen to the testimony of the
2 witnesses. And, again, to -- to use this and the
3 judge at the end of the case will charge you on the
4 law. The judge will -- the judge will charge you on
5 the law, and you as the jury are the finders of
6 fact. We ask you to consider all the evidence, all
7 the testimony, and everything that is heard from the
8 witness stand and was presented through -- entered
9 into evidence through these proceedings.

10 And I want to, again, thank you for your time
11 today. I think it's been a long day. And once this
12 trial is through, we'll be able to -- to speak
13 again. Thank you.

14 THE COURT: All right. Thank you, Mr. Epps.
15 Solicitor, are you ready to call your first witness?

16 MR. BLACK: Yes, sir. The State calls Angelina
17 Williams.

18 THE COURT: Come around, please, ma'am.

19 (Witness approached.)

20 THE CLERK: Put your left hand on the Bible and
21 raise your right.

22 THE WITNESS: (Complying.)

23 THE CLERK: The evidence you're about to give
24 the Court will be the truth, the whole truth, and
25 nothing but the truth?

1 THE WITNESS: Yes, ma'am.

2 THE COURT: You may proceed.

3 MR. BLACK: Thank you, Your Honor.

4 ANGELINA WILLIAMS,

5 having been produced and first duly sworn as a
6 witness on behalf of the State, then testified as
7 follows:

8 DIRECT EXAMINATION

9 BY MR. BLACK:

10 Q. Ms. Williams, can you state your name for the
11 record, please?

12 A. Angelina Williams.

13 Q. And, Ms. Williams, let's just go ahead and get
14 this out of the way. You -- let's talk about your
15 record. Okay. You have two convictions for
16 fraudulent checks; is that right?

17 A. Yes, sir. Thirty something years ago.

18 Q. That would be November of 1987 and then
19 December of 1987?

20 A. Yes. I was 18 years old.

21 Q. Okay. I'm -- I'm looking at the rap sheet. It
22 was probably handled in magistrate court; is that
23 correct?

24 A. Yes, sir.

25 Q. And you paid a fine on that and paid the

1 restitution?

2 A. Yes, sir.

3 Q. Okay. And then you and I actually dealt with
4 each other -- well, not you and I personally, but
5 you plead probably, was it last year or the year
6 before that?

7 A. Yeah, year before that.

8 Q. You had a -- you had a methamphetamine charge;
9 is that correct?

10 A. Yes, sir. Distribution.

11 Q. Distribution of methamphetamine?

12 A. Yes, sir.

13 Q. And you plead guilty on that a couple of years
14 ago?

15 A. Yes, sir.

16 Q. And you got a probationary sentence; is that
17 right?

18 A. Yes, sir.

19 Q. Okay. And on August the 21st of last year, you
20 were still on probation for that charge; is that
21 right?

22 A. Yes, sir.

23 Q. And you live at 260 Suttles Landing. That's
24 here in Abbeville; is that right?

25 A. Yes, sir.

1 Q. And can you describe for the jury where that is
2 in the county?

3 A. It is right on the edge of Abbeville and
4 Anderson, off of Lake Secession off of Flat Rock
5 Road.

6 Q. Off of Flat Rock, but it's in Abbeville County?

7 A. Yes, sir.

8 Q. All right. And you -- you were living there
9 in -- in August of last year, correct?

10 A. Yes, sir.

11 Q. And you were living there with your son, I
12 believe?

13 A. Yes, sir.

14 Q. His name is Branson?

15 A. Yes, sir.

16 Q. All right. On that day, can you just describe
17 for the jury what happened that afternoon?

18 A. I had a knock at the front door from the
19 probation officer, Jeff Sorrow. He told me he was
20 there to do a home visit. I let him into my house
21 and told him that it was fine, to do whatever he has
22 to do.

23 And then Matt Graham and Hines come in behind
24 him and asked if they could search my home. I
25 agreed for them to search my home. They searched.

1 They didn't have to search. I showed them where
2 everything was. And they gave me a chance to talk
3 to my son.

4 And then I told them -- they asked me if there
5 was anything that I could give them, and I give
6 them -- I gave a call to Stewart Ferguson. And he
7 showed up at my house a couple of hours later.

8 Q. Okay. Let's go back a little bit. I know you
9 said they showed up that afternoon. Do you remember
10 about what time that was?

11 A. About three o'clock. It was right before my
12 son got off the bus.

13 Q. And -- and Jeff Sorrow, he was your probation
14 agent at that time?

15 A. Yes, sir.

16 Q. And Matthew Graham, he works for Abbeville
17 County Sheriff's Department?

18 A. Yes, sir.

19 Q. And Jeffery Hines also works for Abbeville
20 County Sheriff's Department?

21 A. Yes, sir.

22 Q. And you said they asked to -- to go through
23 your house; is that right?

24 A. Yes, sir.

25 Q. And you basically consented, as opposed to them

1 going through everything. You said, "Hey, come --
2 come on. I'll show you where it is."

3 A. Yes, sir.

4 Q. And you showed them?

5 A. I did.

6 Q. And -- and what exactly did you have in your
7 house?

8 A. I had, I think, close to an ounce of
9 methamphetamine in my house.

10 Q. Okay.

11 A. And some paraphernalia.

12 Q. Some paraphernalia being pipes and whatnot?

13 A. Uh-huh. Yes, sir.

14 Q. Okay. And just say "yes" or "no." This court
15 reporter right here has got to take down everything
16 we say ---

17 A. Yes, sir.

18 Q. --- so just make sure you say "yes" or "no."

19 A. Yes.

20 Q. Okay. Do you remember about how -- how much
21 methamphetamine you had? I may have already asked
22 that..

23 A. Yeah, it was less than an ounce. That's 28
24 grams. Less than 28 grams.

25 Q. And I think it was like 27.5 ---

1 A. Yes, sir.

2 Q. --- or something like that.

3 A. That's right up under the amount.

4 Q. Actually, if I told you it was 29.6 ---

5 MR. EPPS: Yes, sir.

6 THE COURT: No objection?

7 MR. EPPS: Not at this time, Your Honor.

8 THE COURT: Okay. Very good. Solicitor, you
9 may continue.

10 BY MR. BLACK:

11 Q. If I told you it was 29.68, I know you and your
12 lawyer have been discussing it. Does that sound
13 about right?

14 A. Yeah, it could be. Yes.

15 Q. Okay. And you actually had -- they had a --
16 there was warrant out for your arrest as well when
17 they showed up; is that right?

18 A. I didn't know that at the time, no.

19 Q. You didn't know that at the time, but you found
20 out after the fact, correct?

21 A. Yes, sir.

22 Q. Okay. And you -- that warrant was also for
23 another trafficking methamphetamine; is that right?

24 A. Yes, sir.

25 Q. And maybe that's the one you were referring to.

1 That was -- if I told you that was 27.81 grams of
2 methamphetamine, could that one ---

3 MR. EPPS: Your Honor, I'm going to object.
4 One, it's leading and I ---

5 THE COURT: Okay.

6 MR. EPPS: --- I believe that ---

7 THE COURT: Try to rephrase, Solicitor.

8 BY MR. BLACK:

9 Q. You had -- you had two trafficking's pending?

10 A. Yes, sir.

11 Q. Okay. And was one of the trafficking's for 10
12 to 28 grams and the other was for 28 to 100 grams?

13 A. Yes, sir.

14 Q. Okay. And this afternoon -- earlier this
15 afternoon, you pled guilty to two trafficking
16 charges; is that right?

17 A. Yes, sir.

18 Q. And can you tell the jury what you pled to?

19 A. I pled to trafficking, first -- first offense,
20 10 to 28 grams.

21 Q. On count or two counts?

22 A. On two.

23 Q. So you -- you pled this morning to these two
24 counts?

25 A. Yes, sir.

1 Q. And do you know what that carries?

2 A. Three to ten years.

3 Q. So you're -- so three years to ten years,
4 you'll be going to prison?

5 A. Yes, sir.

6 Q. Okay. And that's -- that's straight up, that's
7 correct?

8 A. Yes, sir.

9 Q. It'll ultimately be the judge to decide what
10 you get?

11 A. Yes, sir.

12 Q. And you and your lawyer have talked about that?

13 A. Yes, sir.

14 Q. Okay. So there's nothing -- everything is
15 clear on that?

16 A. Yes.

17 Q. And you were on probation for a -- for a
18 distribution, correct?

19 A. Yes, sir.

20 Q. For a PWID?

21 A. Yes, sir.

22 Q. So that would've been your -- your second --
23 these would've been your second offenses, correct?

24 A. Yes.

25 Q. Okay. And that would've carried more time?

1 A. Yes.

2 Q. Do you know what that would've carried?

3 A. I think it's 7 to 15 years.

4 Q. Okay. If I told you 7 to 25, is that ---

5 A. That should be. It's 7 to 50 or 7 to 25, one
6 of those.

7 Q. So you've heard those numbers before?

8 A. Yes, sir, I have.

9 Q. Okay. So you -- you will agree with me that
10 you got a reduction for your plea, a reduction in
11 the charges?

12 A. Yes, sir.

13 Q. But you realize you're still going to prison,
14 correct?

15 A. Yes, I do.

16 Q. Okay. All right. So going back to -- to this
17 day. You -- once law enforcement showed up, can
18 you -- can you tell the jury what agents were there
19 with law enforcement when -- when they first
20 arrived? I know you mentioned Matthew Graham.

21 A. Matthew Graham was there. Jeffery Hines was
22 there. I don't know what his first name is, but
23 Monts was there and another officer named Dwayne was
24 there ---

25 Q. Okay.

1 A. --- and Jeffrey Sorrow.

2 Q. And they were all there during this?

3 A. Yes, sir.

4 Q. Okay. And you stated that you made a call to
5 a -- a Stewart Ferguson?

6 A. Yes, sir, I did.

7 Q. And how did that conversation go?

8 A. I basically asked him to bring me as much meth
9 as he could, and he did.

10 Q. So you -- do you know -- did he tell you how
11 much he was bringing or you didn't know?

12 A. No. He didn't tell me how much he was
13 bringing.

14 Q. Okay. And did you know Stewart Ferguson?

15 A. I did through a mutual friend of mine.

16 Q. Okay. And how did -- how did you know him?

17 A. He basically took over the business of somebody
18 else that I used to dealings with in selling
19 methamphetamine.

20 Q. So you -- your relationship with Mr. Ferguson
21 was to -- to purchase methamphetamine?

22 A. Yes, sir.

23 Q. Okay. So -- so when Mr. Ferguson got your
24 phone call that day, is it fair to say that he
25 wasn't surprised by that? That wouldn't have been

1 unusual?

2 A. No, he wasn't.

3 Q. How often would you make these requests of
4 Mr. Ferguson?

5 A. Maybe twice a week.

6 Q. Twice a week?

7 A. Yeah.

8 Q. And did you have -- did you typically have any
9 problems with this?

10 A. No, sir. He either brought it to me, or I went
11 to his house.

12 Q. One of those locations?

13 A. Yes, sir.

14 Q. And Mr. Ferguson, where did he live?

15 A. He lives in Anderson County off of 184.

16 Q. He's real close to the Abbeville County line?

17 A. Yes, he is. He's just maybe five minutes from
18 my house.

19 Q. And you're close to the line, as well?

20 A. Yes, I am.

21 Q. But you're actually in Abbeville County?

22 A. Yes, sir.

23 MR. BLACK: Okay. Your Honor, I'm going to get
24 some pictures marked at this time.

25 MR. EPPS: Do you have a copy?

1 MR. BLACK: You can look through them.

2 (Exhibits were marked for identification.)

3 MR. BLACK: Can I approach the witness, Your
4 Honor?

5 THE COURT: You sure can.

6 BY MR. BLACK:

7 Q. I'm going to show you what's been marked as
8 1 -- 1 through 14. Can you look at those pictures,
9 Ms. Williams?

10 A. (Complying.)

11 Q. Do you recognize those pictures?

12 A. Yes, sir, I do.

13 Q. And what are they?

14 A. You want me to go through each one?

15 Q. Just general -- generally, what they are.

16 A. My house and the inside of my house and the
17 inside of my bathroom where the meth was found.

18 Q. And I'm going to show what's been marked as
19 State's 15. Can you identify this for us?

20 A. Yes, sir. That's the inside of my bathroom
21 where I kept the methamphetamine. That's the little
22 pouch that I kept it in.

23 MR. BLACK: Okay. Your Honor, the State moves
24 1 through 15 into evidence. We ask to publish to
25 the jury.

1 THE COURT: And what says the defense?

2 MR. EPPS: No objection, Your Honor.

3 THE COURT: Okay. Without objection, 1 through
4 15 into evidence for the State.

5 (State's Exhibit Nos. 1 through 15 were
6 received into evidence.)

7 BY MR. BLACK:

8 Q. Ms. Williams, I'm just going to go through
9 these relatively quickly. If you could just explain
10 to the jury just kind of what they are. I might
11 skip around. I'm showing you what's been mark as
12 State's No. 1. What is that?

13 A. That's the -- that's the mailbox in front of my
14 house.

15 Q. Okay. State's No. 2?

16 A. That's the front side of my house.

17 Q. Okay. And that's -- it looks like the left
18 side if you're looking at your house?

19 A. Yes, sir.

20 Q. Okay. And State's 3?

21 A. That's the right side on the front.

22 Q. Okay. State's 4 looks like a close-up picture
23 of your front door?

24 A. That's the front door.

25 Q. All right. State's 5, can you tell the jury

1 what this is?

2 A. That's the hallway to my son's room and his
3 bathroom.

4 Q. Okay. So the way we're looking, are we looking
5 from your living room area?

6 A. From the front door right at the -- that's
7 right at the front door looking down the hallway.

8 Q. Okay. So that would be to the left as you walk
9 in the front door?

10 A. No. To the right.

11 Q. Okay.

12 A. That would be to the right at the front door.

13 Q. So you're coming in from where Officer Graham
14 was sitting?

15 A. Where the pictures are, that's the front -- the
16 front door would be right there.

17 Q. This way?

18 A. Yes, sir.

19 Q. So I would basically walk in and I look to my
20 right and that's ---

21 A. Yes, sir. That's the right side of the house.

22 Q. And so who lived -- did you live down that --
23 were you ---

24 A. No, I didn't. That's my son's bedroom and his
25 bathroom.

1 Q. Okay. And then to the left, what's to the
2 left?

3 A. There is a living room, kitchen, my room, and
4 my bathroom.

5 Q. Okay. And State's 6, which bedroom is this?

6 A. That's my son's room on the end, on the right
7 side.

8 Q. All right. States's 7.

9 A. That is my kitchen.

10 Q. And where is this in relation to your front
11 door?

12 A. It's to the left of my front door.

13 Q. Just right there?

14 A. Yes, sir.

15 Q. It looks like the living -- is that the living
16 room?

17 A. The living room is -- they -- that's not a
18 picture of the living room. That's -- this is
19 standing at the front door looking at the kitchen.
20 That's what that is.

21 Q. Okay. State's 8 looks like the rear of your
22 house?

23 A. That's the back -- back door.

24 Q. Okay. I'm going to skip nine. I'm going to
25 move to State's 10. It looks like a picture of a

1 bathroom.

2 A. It is my bathroom.

3 Q. So that's your bathroom on your wing of the
4 house?

5 A. Yes, sir. On the other end.

6 Q. All right. And is this where the
7 methamphetamine was located?

8 A. Yes, sir. It was right up under that table
9 right there.

10 Q. All right. I'm going to show you State's 11.
11 This is a further picture?

12 A. Yes, sir. That's the closer to it.

13 Q. I'm going to point ---

14 A. That's the box that I kept the meth in.

15 Q. Okay. And State's 12 is a closer up picture?

16 A. Yes, sir.

17 Q. And that's where the methamphetamine was
18 located?

19 A. Yes, sir.

20 Q. State's 14?

21 A. That's what was inside the pouch.

22 Q. And that's the officers opening that pouch?

23 A. Yes, sir.

24 Q. And then once they opened it, here's State's
25 13?

1 A. That's what was in it.

2 Q. And then, again, just another photograph. This
3 is State's 15?

4 A. Yes, sir.

5 Q. That's the methamphetamine?

6 A. Yes, sir.

7 Q. Okay. And how much meth again was that?

8 A. It was right at an ounce.

9 Q. And an ounce is, we said, about 28 grams?

10 A. Twenty-eight grams. About 28 grams.

11 Q. Okay. And once you showed the officers this,
12 you said that you had a conversation with Mr. Graham
13 and Mr. Hines; is that right?

14 A. Yes, sir, I did.

15 Q. At that point, you -- you decided to make a
16 call to Mr. Ferguson?

17 A. Yes, I did.

18 Q. And Mr. Ferguson, he showed up a little bit
19 later; is that right?

20 A. A couple of hours.

21 Q. When he showed up, where were you located in
22 the house?

23 A. I was sitting in my bedroom.

24 Q. Did you ever see Mr. Ferguson?

25 A. Not facing -- face -- I have a camera that sits

1 on my -- on my pool deck, just for me to see what's
2 going on outside because it's just me and my son
3 there. It doesn't record or anything like that.
4 That's the only way I seen when Stewart come to the
5 house. I seen him get out of his truck and come
6 into the house.

7 Q. So you ---

8 A. But as far as seeing him face-to-face, I never
9 seen him face-to-face.

10 Q. So you have a camera, but it doesn't record?

11 A. No, sir.

12 Q. Okay. And when Mr. Ferguson showed up, what --
13 what kind of vehicle was he driving?

14 A. He was in a little black S-10 truck.

15 Q. Is that what he drives?

16 A. Yes, sir.

17 Q. So you recognized the vehicle?

18 A. Yes, sir, I did.

19 Q. And you said you were in your bedroom?

20 A. Yes, sir. I was sitting on my bed in my
21 bedroom.

22 Q. So when he showed up, did he knock on the door?

23 A. Yes, he did.

24 Q. And did you ---

25 A. I hollered from my room for him to come in.

1 Q. Okay. So you didn't actually open the door?

2 A. No, I didn't. He just come on in.

3 Q. Okay. And this was based on when he -- how
4 talking -- with you talking with law enforcement of
5 how to do this?

6 A. Yes, sir.

7 Q. They told you ---

8 A. I was told to stay in my room because they
9 didn't know if it would escalate to anything else,
10 and they didn't want to put me in harm's way.

11 Q. And nothing -- I mean, you didn't hear anything
12 escalate?

13 A. No, sir, I didn't. Stewart come in the door.
14 He was taken down by law enforcement. And he, at
15 that time, told them that he had somebody he could
16 call.

17 Q. But you -- I mean, you weren't really privy to
18 those conversations?

19 A. No, I wasn't. I wasn't in the same room. I
20 was in a different room.

21 Q. Okay. There was an officer standing by the
22 door just in case?

23 A. Yes. Officer Hines was in the room with me.

24 Q. Just in case something happened?

25 A. Yes, sir. They didn't know what he might do,

1 so that's what -- they didn't want me to be in
2 harm's way, so...

3 Q. Right. Okay. I'm going to ask you about
4 Mr. McGill. Do you know Mr. McGill?

5 A. Personally, I do not.

6 Q. Okay. Have you ever met him before?

7 A. No, I have not.

8 Q. And Mr. McGill, had he ever been to your house?

9 A. No, he hadn't.

10 Q. Okay.

11 A. I only knew him through a name, that's it.

12 MR. EPPS: Your Honor, I'm going to object.

13 THE COURT: Wait a minute. The nature of your
14 objection?

15 MR. EPPS: My objection would be hearsay. If
16 she knows, unless she can establish direct knowledge
17 or personal knowledge, but I think she's testified
18 that she does not know -- she does not know
19 Mr. McGill. He's really not been to her house.

20 THE COURT: Okay. If it's based upon what
21 someone has told you, Ms. Williams, then you cannot
22 testify to that and I will sustain the objection.

23 THE WITNESS: Yes, sir.

24 MR. BLACK: Okay. I think that's all the
25 questions I have, Ms. Williams. Please answer any

1 questions that Mr. Epps might have for you.

2 THE COURT: Cross-examination?

3 MR. EPPS: Yes, sir, Your Honor. May it please
4 the Court?

5 THE COURT: Certainly.

6 CROSS-EXAMINATION

7 BY MR. EPPS:

8 Q. Ms. Williams?

9 A. Yes.

10 Q. You reside at 260 Suttles Landing Road in Iva,
11 South Carolina?

12 A. Yes, sir.

13 Q. And that's in Abbeville County?

14 A. Yes, sir.

15 Q. Okay. And you -- who do you live with? Who do
16 you live there? Who do you -- do you still reside
17 there?

18 A. Yes, I do.

19 Q. Okay.

20 A. I've been there for 17 years.

21 Q. Okay. Who do you live with?

22 A. Me and my son.

23 Q. Okay. And your son, is it -- is it Branson?

24 A. Branson Williams.

25 Q. Branson. How old is Branson?

1 A. He is 15 years old.

2 Q. He's 15. Is he ---

3 A. My daughter actually stays there too, but she
4 spends more time at her boyfriend's house, so...

5 Q. I gotcha. How old is your daughter?

6 A. She's 29.

7 Q. She's 29. Okay. But you and your son, have
8 you had -- has Branson been in your custody or your
9 care this entire time?

10 A. Yes, he has.

11 Q. Okay. And you testified -- so how old was he
12 when this took place?

13 A. Thirteen.

14 Q. Thirteen. And that was in August of 2018?

15 A. No. He would've been 14 -- no, 13. He was 13.
16 It was right before his 14th birthday.

17 Q. Okay. So he was 13 years old in Anderson -- I
18 mean, in August of 2018, correct?

19 A. Yes, sir.

20 Q. Okay. All right. And you were on probation
21 from a -- for a distribution of methamphetamine
22 charge, correct?

23 A. Yes, I was.

24 Q. Okay. And how many years were you on
25 probation?

1 A. I was on two years probation.

2 Q. Okay. And how much time did you -- what was
3 your sentence for that distribution charge?

4 A. It was three years suspended to two years
5 probation.

6 Q. So three years suspended to two years
7 probation. And when did you plead guilty to that
8 distribution charge?

9 A. April of 2018.

10 Q. April of 2018?

11 A. Yes, sir.

12 Q. Okay. Now, you were also -- you were also
13 charged trafficking in methamphetamine, 28 grams,
14 but less than 100 grams, second offense, from -- on
15 or from July 22nd of 2018; is that right?

16 A. Yes, sir.

17 Q. Okay. Now at that point in time, as of August
18 the 21st of 2018, when this happened, were you aware
19 of that arrest warrant?

20 A. No, I wasn't.

21 Q. Okay. So that was -- is that why your
22 probation officer came to your house?

23 A. When he showed up at my door, he said he was
24 there for a home visit.

25 Q. Okay.

1 A. He didn't say anything about a warrant. He
2 just said he was there for a home visit, which is
3 what they do.

4 Q. Right. But they didn't say anything about an
5 arrest warrant for trafficking -- trafficking
6 28 grams or more or less than a 100 grams, correct?

7 A. No, sir.

8 Q. And that was second offense; is that right?

9 A. Yes, sir.

10 Q. Okay. And, in fact, that charge carries a
11 mandatory minimum of 7 years to 30 years?

12 A. Yes, sir.

13 Q. Not 25 to 30 years, correct?

14 A. (Nonverbal response.)

15 Q. Okay. Now -- and when did you find out? When
16 did they tell you or when did they take you in for
17 that July trafficking in methamphetamine charge?

18 A. It was in September.

19 Q. Okay. So you didn't go to jail that -- on --
20 in August -- on August 21st of 2018, did you?

21 A. No, I did not.

22 Q. Okay. And you went to jail, was it September?
23 When in September?

24 A. It was September the 14th. I come over here
25 and turned myself in.

1 Q. Okay. So you turned yourself in. And did you
2 also -- you were also arrested -- you were also
3 charged with trafficking in methamphetamine 28 grams
4 or more but less than 100 grams, second offense, for
5 what took place on August 21st of 2018, correct?

6 A. Yes, sir.

7 Q. Okay. And that, again, carries seven --
8 seven -- mandatory minimum of seven years to ten
9 years, right?

10 A. Yes, sir.

11 Q. Okay. And if you didn't -- you did not -- did
12 you not go to jail to be arrested for that charge on
13 August 21st?

14 A. No, sir.

15 Q. Okay. And you -- did you turn yourself in in
16 September for both those arrest warrants?

17 A. Yes, I did.

18 Q. Any reason why you didn't go to jail on the
19 21st?

20 A. I don't know. I guess I was at the grace of
21 Graham and Hines.

22 Q. I understand that. And this -- this -- this --
23 how -- did the probation off -- and that was
24 Probation Officer Sorrow, is that his name?

25 A. That's the probation officer I had.

1 Q. Okay. Did he come to your house by himself
2 initially?

3 A. He did initially. Yes.

4 Q. Okay. How long was he at your -- how long was
5 he at your house until law enforcement showed up?

6 A. Five or ten minutes.

7 Q. Five or ten minutes. Did -- did you -- okay.
8 So law enforcement -- did he -- did your probation
9 officer know they were coming?

10 A. That I'm not -- I don't know if he knew ---

11 Q. Okay.

12 A. --- they were coming or not.

13 Q. Okay. So when they came in, did -- to your
14 knowledge, did he call law enforcement?

15 A. Not that I know of. I don't know.

16 Q. But law enforcement came to your house solely
17 because you apparently had -- you had an arrest
18 warrant for trafficking meth, correct?

19 A. Yes, sir.

20 Q. Okay. Now -- and you gave them consent to
21 search?

22 A. Yes, I did.

23 Q. Okay. You found -- they found that
24 methamphetamine. Was all the methamphetamine in
25 your bathroom?

1 A. Yes, sir.

2 Q. Okay. Now you testified that you knew Stewart

3 Ferguson, right?

4 A. Yes, sir, I do.

5 Q. And you would buy from him weekly?

6 A. Yes, sir.

7 Q. How much would you buy?

8 A. A couple of ounces.

9 Q. Okay. And how much would you pay? And that's

10 28 grams?

11 A. I paid \$400 an ounce.

12 Q. Okay. \$400 an ounce. Are you employed?

13 A. I am now.

14 Q. Were -- were you employed in -- in August

15 of ---

16 A. No, I wasn't.

17 Q. Okay. Had you -- were you out of work or were

18 you -- how were you -- how were you receiving an

19 income?

20 A. I was dealing drugs.

21 Q. You were dealing drugs?

22 A. Yes, sir.

23 Q. Okay. So you were a drug dealer?

24 A. Yes, sir.

25 Q. Okay. And you would get -- and would you get

1 your drugs from Stewart Ferguson?

2 A. Yes, I did.

3 Q. Okay. And you said 2 ounces a week, right?

4 A. A couple of times a week, so it would about 4
5 ounces a week.

6 Q. Okay. And he would come to your house?

7 A. I would come -- he'd come to my house or I'd go
8 to his.

9 Q. Okay. Now, would that -- that 4 ounces, would
10 you also -- you would sell those 4 ounces? You
11 would sell some?

12 A. Yes, I did. I was a drug dealer.

13 Q. Okay. Did you -- but you used a good bit of it
14 too, right?

15 A. Yes, I did.

16 Q. Okay. And this was taking place in your home
17 with your -- with your son in the home with you?

18 A. My son was never no -- nowhere near any of the
19 drugs.

20 Q. Okay. So he didn't -- but you were dealing out
21 of your house?

22 A. If you look at that -- some of them pictures,
23 the camper that you seen outside is where I done my
24 business at.

25 Q. Okay. So you went outside and you kept that --

1 oh, that's good. You -- you would go outside to the
2 camper, and that's where you would handle your
3 business, right?

4 A. Yes, sir.

5 Q. Is that where you would handle your business
6 with Stewart every time he came over to your house?

7 A. Sometimes I did, yeah.

8 Q. Okay. But you would let him in the house?

9 A. He would come in the front door.

10 Q. Did you have any kind of relationship with
11 Stewart Ferguson?

12 A. No, sir. Not at all.

13 Q. Okay. All right. Nothing romantic or anything
14 like that?

15 A. No, sir.

16 Q. Okay. And during this day, did anybody else
17 come to your house?

18 A. No, sir.

19 Q. Did -- did law enforcement run somebody off
20 from your house while this -- this -- right after
21 law enforcement had got to your house, did anybody
22 else come to your house and try to knock on the
23 door, come in the house?

24 A. Yes. There was one person. It was a friend of
25 mine.

1 Q. Okay. Who was that?

2 A. His name is Justin.

3 Q. Okay. Was he coming to get -- is he a friend?
4 Was he coming to get drugs?

5 A. Just coming to check on me.

6 Q. Okay. All right. Now, how long -- and you
7 said I believe -- did you testify that probation got
8 to your house about 3:00 p.m.?

9 A. Yes, sir.

10 Q. And that was the afternoon of the 21st?

11 A. Yes, it was.

12 Q. And then 15 minutes later or so, that's when
13 law enforcement came, right?

14 A. Yes, sir.

15 Q. Okay. When did they ultimately leave your
16 house?

17 A. It was about eight o'clock, maybe 8:30 that
18 night.

19 Q. Okay. So ---

20 A. I don't remember the time. It's been so long.

21 Q. So five hours, right?

22 A. Yes, sir.

23 Q. Okay. And did you -- all right. Now you were
24 put -- how -- how long did you stay in the bedroom?

25 A. The whole time I was there, the whole time they

1 were there.

2 Q. Okay. And after they -- after they ---

3 A. I think they did let me go to the kitchen to
4 get me something to eat.

5 Q. Okay. But -- but the whole time that they were
6 there, you stayed back in the bedroom?

7 A. Yes, sir.

8 Q. Okay. Now, you were -- did they control you
9 making that phone call to Stewart Ferguson?

10 A. What do you mean "control"?

11 Q. Did they set up -- did they ask you to call
12 Stewart Ferguson?

13 A. I told them that I would call him.

14 Q. Okay. Did they ask you to call him?

15 A. No. They didn't ask me to, but...

16 Q. Okay. Did they set up the means and the mode
17 of -- of communicating with Stewart to call?

18 A. No. I called him from my cell phone.

19 Q. Okay. Did they record that phone call?

20 A. I don't remember that. I don't know if they
21 did or not.

22 Q. Okay. Would that have been recorded on your
23 phone or some other means by law enforcement?

24 A. I don't think they recorded it. I don't think
25 so.

1 Q. Okay. What if I tell you they did record it?

2 A. Well, I didn't -- I didn't know they recorded
3 it.

4 Q. Okay. But they wanted you to call Stewart
5 Ferguson, correct?

6 A. Yes, sir.

7 Q. Okay. And did you have any money with you?
8 Did you have any money on you on this -- on
9 August ---

10 A. Very little -- there was very little money
11 there.

12 Q. There was very little money there?

13 A. Uh-huh.

14 Q. Okay. So how are you going to buy 4 ounce --
15 8 ounces of methamphetamine?

16 A. I didn't always have to buy it. He would bring
17 it and leave it.

18 Q. He would bring it and leave it?

19 A. Yes, sir.

20 Q. Okay. And then what would you do?

21 A. I'd pay him later.

22 Q. You would pay him later?

23 A. Uh-huh.

24 Q. Okay. Would you use some of it, as well?

25 A. Yes, I did.

1 Q. Okay. All right. So he came to your house.

2 And then once -- how long after you made that phone

3 call -- but did you volunteer to law enforcement

4 that -- that you knew Stewart Ferguson?

5 A. Yes, sir, I did.

6 Q. Okay. And did you volunteer to law enforcement

7 that you could set Stewart Ferguson up?

8 A. Yes, I did.

9 Q. Okay. And, in fact, after that phone call, you
10 were pretty angry that you would now be labeled a

11 snitch; is that right?

12 A. Not really.

13 Q. Okay. But you were angry?

14 A. Yeah, I was upset, but I was alright with what
15 I was doing.

16 Q. Okay. But you were -- okay. So -- so you were
17 upset?

18 A. (Nonverbal response.)

19 Q. All right. So -- and you testified you
20 didn't -- you knew Ferguson, right?

21 A. Yes, sir.

22 Q. You didn't know Mr. McGill?

23 A. I do not know Mr. McGill.

24 Q. Okay. And you were represented by the Public
25 Defender's Office; is that right?

1 A. Yes, I was.

2 Q. Okay. And for your cooperation, you did -- you
3 plead to two counts of trafficking; is that right?

4 A. Yes, sir.

5 Q. Twenty-eight -- 28 -- 10 to 28 grams; is that
6 correct?

7 A. Yes, sir.

8 Q. Okay. And what's the -- the -- the guide --
9 the range?

10 A. Three to ten years.

11 Q. Okay. And that is in consideration for you
12 testifying here today, correct?

13 A. Not necessarily. I don't know, but...

14 Q. Now you've been represented by the Public
15 Defender's Office, correct?

16 A. Yes, sir.

17 Q. And isn't it true as of October the 7th of
18 2019, the recommendation was -- the offer to you was
19 a recommendation of ten years on that trafficking?

20 A. Yes, sir.

21 Q. Okay. And because of your cooperation here
22 today, you got it reduced even further, right?

23 A. Yeah, I guess you could say that.

24 Q. Okay. All right. And instead of ten years,
25 you got a range -- you got a straight-up plea from

1 three years to ten years, correct?

2 A. Yes, sir.

3 Q. Okay. And isn't it true that you would do
4 anything to stay with your son?

5 A. Yes. It is true that I would do anything to
6 stay with my son, but let me say this: I am drug
7 free and clean and have not dealt -- dealt any drugs
8 or done any drugs since August 24th of 2018.

9 Q. Since August 24th?

10 A. August 21st of 2018 when probation come to my
11 house, I have not dealt drugs again. I have not
12 smoked drugs again. I have not been in contact with
13 drugs again. That's why I think I should've got a
14 lesser charge, why should -- I should've been
15 treated differently.

16 Q. But the reduction -- the -- the -- but your
17 offer to reduce your sentence was to include your
18 cooperation as a witness against Mr. McGill and
19 Mr. Ferguson; is that correct?

20 A. Yes, sir.

21 MR. EPPS: Court would grant me a ---

22 THE COURT: Yeah. Take your time.

23 BY MR. EPPS:

24 Q. And just real -- after making that phone call,
25 is that when they immediately put you in the -- in

1 the bedroom?

2 A. I was already in the bedroom.

3 Q. So you made the phone call from the bedroom?

4 A. Yes, sir.

5 Q. And you didn't leave that bedroom except during
6 that five-hour span of time that law enforcement was
7 there, except to get something to drink and
8 something to eat; is that right?

9 A. Yes, sir. That's right.

10 Q. Okay. Were you concerned that Mr. Ferguson
11 would -- would -- an altercation or something would
12 happen when he came in?

13 A. Not really because Stewart's not a violent
14 person.

15 Q. Okay. But who was concerned for your safety?

16 A. The law enforcement officers were. They didn't
17 know Stewart.

18 MR. EPPS: Okay. All right. Thank you, Your
19 Honor. I have no further questions.

20 THE COURT: Okay. Any redirect?

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

22 THE COURT: Okay. You can step down, ma'am.
23 Thank you.

24 (Witness excused.)

25 THE COURT: Solicitor, any other witnesses --

1 possible witnesses for today?

2 MR. BLACK: I don't think we'd have enough
3 time, Your Honor. I'm seeing 4:50.

4 THE COURT: Okay.

5 MR. BLACK: My -- my computer says 4:50.

6 THE COURT: Okay. All right.

7 Okay. Madam forelady and ladies and gentlemen
8 of the jury, we're going to go ahead and break for
9 the evening, and I want you back here at 9:15 in the
10 morning. Remember no discussions with anyone about
11 this case. No research into this case.

12 And I did -- I think I failed to mention to you
13 that -- don't bring in cell phones into the
14 courthouse. Just leave them in your car. And get a
15 good night's rest, and we will see you in the
16 morning.

17 (At 4:50 p.m., jury was dismissed for the day.)

18 THE COURT: Okay. We'll be in recess until
19 9:15 in the morning. I appreciate y'all's hard
20 work.

21 MR. BLACK: Thank you, Judge.

22 (At 4:51 p.m., court adjourned for the day.)

23 November 5, 2019

24 THE COURT: All right. We ready for the jury
25 to come out?

1 MR. BLACK: Yes, sir.

2 MR. EPPS: Yes, sir, Your Honor.

3 THE COURT: Okay. Thank you. All right.
4 Let's bring the -- bring the jury out, please.

5 THE BAILIFF: (Complying.)

6 (At 9:47 a.m., jury entered the courtroom.)

7 THE COURT: Let the record reflect the jury is
8 back in.

9 Good morning, ladies and gentlemen.

10 THE JURORS: (Collectively:) Good morning.

11 THE COURT: I hope you're doing well, got some
12 rest, and ready to get back to work today.

13 State ready to call its next witness?

14 MR. BLACK: It is, Your Honor. The State calls
15 Stewart Ferguson.

16 MR. EPPS: Your Honor, I apologize. I meant to
17 make this earlier. I would make a motion because
18 today -- we just had one witness today. I would
19 move to sequester the witnesses.

20 THE COURT: Okay.

21 MR. EPPS: I brought it up to Solicitor Black.

22 THE COURT: All right. State have any
23 opposition?

24 MR. BLACK: We don't, Judge.

25 THE COURT: Okay. All right. You're entitled

1 to have your lead investigator.

2 MR. EPPS: Yes, sir.

3 THE COURT: Okay. So I'll need to get the
4 remaining witnesses to -- oh, well. He would -- all
5 right. Let -- let me -- let me see the lawyers for
6 just a sec.

7 (Sidebar discussion.)

8 THE COURT: All right. Solicitor.

9 MR. BLACK: Stewart Ferguson.

10 (Witness approached.)

11 THE CLERK: Put your left hand on the Bible and
12 raise your right.

13 THE WITNESS: (Complying.)

14 THE CLERK: The evidence you're about to give
15 the Court will be the truth, the whole truth, and
16 nothing but the truth?

17 THE WITNESS: Yes, ma'am.

18 STEWART FERGUSON,
19 having been produced and first duly sworn as a
20 witness on behalf of the State, then testified as
21 follows:

22 DIRECT EXAMINATION

23 BY MR. BLACK:

24 Q. Mr. Ferguson, would you please introduce
25 yourself to the jury, please?

1 A. I'm Stewart Ferguson. I live in Anderson. I'm
2 45 years old. I was arrested and pled guilty to a
3 felony drug charge.

4 Q. Okay. All right. And you said you live in
5 Anderson. You actually live kind of in the Iva
6 area; is that right?

7 A. Yes, sir.

8 Q. You live real close to the county line?

9 A. Yes, sir.

10 Q. But you actually live in Anderson County?

11 A. Yes, sir.

12 Q. And, Mr. Ferguson, you said -- just kind of
13 jumping right into it -- jumping into your record.
14 Do you have a record?

15 A. No, sir.

16 Q. You -- but you do have a -- you've got a minor
17 conviction from 2001; is that right?

18 A. Yes, sir.

19 Q. And what was that for?

20 A. Public disorderly conduct.

21 Q. And you probably handled that in magistrate
22 court or something?

23 A. It was a fine.

24 Q. Paid -- paid fine?

25 A. Yes, sir.

1 Q. They probably gave you a blue ticket or
2 something?

3 A. Yes, sir.

4 Q. And that's the only thing you have on your
5 record?

6 A. Yes, sir.

7 Q. As of yesterday?

8 A. As of yesterday.

9 Q. And then yesterday -- you actually plead
10 yesterday afternoon in here in front of Judge Hocker
11 yesterday; is that right?

12 A. Yes, sir.

13 Q. You pled to -- what did you plead guilty to?

14 A. To a felony drug charge, 10 to 28 grams.

15 Q. And that would've been trafficking
16 methamphetamine, correct?

17 A. Yes, sir.

18 Q. And it was involved -- it -- it had to do with
19 an incident that happened on August the 21st of last
20 year?

21 A. Yes, sir.

22 Q. And that incident took place -- where did it
23 take place at?

24 A. It took place in Abbeville County, just right
25 over the line.

1 Q. Do you know the address?

2 A. No, sir. Not right off hand. I just know how
3 to get there.

4 Q. Okay. And whose house was it at?

5 A. Angela Williams.

6 Q. Angela Williams. And do you -- do you know
7 Ms. Williams?

8 A. Just from selling her meth.

9 Q. All right. And let's talk a little bit about
10 you selling methamphetamine. Let's talk a little
11 bit about your history too. How -- what kind of
12 work history do you got?

13 A. I worked at Walgreens on -- on Main Street and
14 Whitehall. I worked at BMW for a while. I built
15 houses with my brother for about seven years. I
16 worked at Edge Minute Mart for about seven years. I
17 was in the Guard for 22-and-a-half years.

18 Q. So you were in the National Guard?

19 A. Yes, sir.

20 Q. How long?

21 A. Twenty-two-and-a-half years.

22 Q. And as your -- as a Guard member, did you --
23 what kind of duties did you have?

24 A. I've been anything from -- I administered drug
25 screening. I was an NBC sergeant [sic].

1 Q. What does that mean?

2 A. Nuclear, chemical, and biological weapons
3 sergeant. I pretty much handled all of the units,
4 chemical gear, and detention equipment.

5 Q. As part of your guard training, you had
6 training, I guess, once a month or something like
7 that?

8 A. Yes, sir.

9 Q. A weekend out of the month?

10 A. Yes, sir.

11 Q. You did that for 22 years?

12 A. Yes, sir.

13 Q. And y'all got called, I'm guessing, for like
14 national emergencies like hurricanes and whatnot?

15 A. Yes, sir. I've been through several
16 hurricanes.

17 Q. And, I mean, here in South Carolina, we get
18 those every now and then, right?

19 A. On a fairly regular basis.

20 Q. As of the past -- past five years, haven't we?
21 All right. Did you -- did you ever serve anywhere
22 overseas?

23 A. Yes, sir. I've been to Afghanistan.

24 Q. How long did you do in Afghanistan?

25 A. Eight months and 22 days.

1 Q. And what year was that?

2 A. 2010.

3 Q. And what was your job in Afghanistan?

4 A. I looked for bombs every day.

5 Q. And can you just describe briefly how that
6 went?

7 A. I would -- we had a machine that would x-ray
8 vehicles that come onto the FOB, and we'd search
9 every vehicle.

10 Q. And that was your job while you were over
11 there?

12 A. Yes, sir.

13 Q. So you got out -- when did you come back from
14 Afghanistan then, in 2010 or 2011?

15 A. 2010. Got to Afghanistan in February of 2010.
16 Got home November 2010 after every -- the actual
17 amount of days was 8 months and 22 days.

18 Q. Okay. And let me just ask you this: I mean,
19 have you ever -- have you ever testified in court
20 before?

21 A. No, sir.

22 Q. This is your first time testifying?

23 A. Yes, sir..

24 Q. So you're maybe a little bit nervous?

25 A. Slightly.

1 Q. Okay. All right. So you come back at the end
2 of 2010. Had you ever used methamphetamine at that
3 point?

4 A. No, sir.

5 Q. When's the first time you used methamphetamine?

6 A. It was shortly after my father died in 2013.

7 Q. So the first time was 2013?

8 A. Yes, sir.

9 Q. Okay. And about how much would you use --
10 well, like, let's say, how much a week would you
11 use?

12 A. A week maybe -- then it was probably no more
13 than a quarter of a gram.

14 Q. For the whole week?

15 A. Yes, sir.

16 Q. So when you're actually consuming
17 methamphetamine, you're actually consuming a very
18 minute amount; is that correct?

19 A. Yes, sir.

20 Q. And how would you consume it?

21 A. I'd smoke it.

22 Q. Smoke it. Did you ever shoot it up?

23 A. No, sir.

24 Q. You just smoked it. How'd you smoke it, in a
25 bowl?

1 A. In a bowl.

2 Q. So you did that for -- you started that in
3 2013. Do you remember when -- what month that was
4 in 2013?

5 A. July.

6 Q. July. So about the middle -- middle of 2013.
7 Did you ever start selling methamphetamine?

8 A. Yes, sir, I did.

9 Q. When did you start selling methamphetamine?

10 A. That was 2018.

11 Q. 2018?

12 A. Yes, sir.

13 Q. And these charges actually occurred August
14 the 21st of 2018?

15 A. Yes, sir.

16 Q. When did you start selling methamphetamine?

17 A. Right around toward the end of May because I
18 was driving Mr. McClure to Atlanta to pick up. And
19 he was -- I was keeping it for him. He would get
20 some, and I'd keep the rest, and he'd allow me to
21 sell a little bit out of it every now and then.

22 Q. So you said about May is when you started
23 selling methamphetamine?

24 A. Yes, sir.

25 Q. You mentioned Mr. McClure. Who's Mr. McClure?

1 A. Brian McClure. I met him by buying from him.
2 I met him prior to that when I worked at Edge Minute
3 Mart.

4 Q. So you had met him in a -- at a gas station
5 previously?

6 A. Yes, sir.

7 Q. Where -- where is this gas station at? Is it
8 in Anderson County somewhere?

9 A. Yes, sir. It's on 28 Bypass.

10 Q. In -- in Anderson?

11 A. Yes, sir. Well, it's actually Abbeville
12 Highway, 3300.

13 Q. Okay. All right. And so you met him, and then
14 you eventually started purchasing meth from him? Is
15 that your ---

16 A. Yes, sir.

17 Q. --- is that your testimony?

18 A. Yes, sir.

19 Q. And then ultimately you started using? You
20 started going with him to get some? Is that what
21 you said?

22 A. Yes, sir.

23 Q. Where would you go get -- get this
24 methamphetamine at?

25 A. Atlanta.

1 Q. And who drove, you or him?

2 A. Me.

3 Q. And how much would you pick up?

4 A. It varied from time to time, but anywhere from
5 6 to 10 pounds.

6 Q. Of methamphetamine?

7 A. Yes, sir.

8 Q. And you would bring it -- you would come back
9 to the Anderson/Abbeville area; is that right?

10 A. Yes, sir.

11 Q. And how long did this go on between you and
12 Mr. McClure?

13 A. I started doing that in April of 2018, and he
14 went to jail July 11th of 2018.

15 Q. So did you stop going to Atlanta at that point?

16 A. No, sir.

17 Q. What -- what did you do?

18 A. I started going to Atlanta by myself.

19 Q. And how often would you take these trips?

20 A. Once a week.

21 Q. And you'd go to the same spot every time in
22 Atlanta or different spots?

23 A. Different spots.

24 Q. How much would you get?

25 A. When I was going by myself, it was 6 pounds.

1 Q. Six pounds?

2 A. Yes, sir.

3 Q. And you'd make that trip once a week or
4 multiple times a week?

5 A. Once a week.

6 Q. And so do you remember that first day, you said
7 Mr. McClure went to prison on July the 11th; is that
8 right?

9 A. Yes, sir.

10 Q. So when was your first trip to Atlanta solo?

11 A. It was that weekend, which was the 14th.

12 Q. The 14th?

13 A. Of July.

14 Q. Okay. When -- when you'd go pick up 6 pounds
15 of meth, what would you do with it?

16 A. I would come back, and Mr. McGill was getting
17 4 pounds and I was getting one.

18 Q. And can you -- is Mr. McGill here in the
19 courtroom?

20 A. Yes, sir.

21 Q. Can you identify him, please?

22 A. Yes, sir. He's the defendant.

23 Q. Can you point him out, sir?

24 A. That's Mr. McGill over there in the blue shirt.

25 Q. So he's sitting over there in the blue shirt?

1 A. Yes, sir.

2 MR. BLACK: Your Honor, at this point could you
3 allow the record to reflect that he identified the
4 defendant?

5 THE COURT: So noted.

6 BY MR. BLACK:

7 Q. So you would give him 4 pounds of
8 methamphetamine?

9 A. Yes, sir.

10 Q. And you'd keep 1 pound?

11 A. Well, I'd keep 2 pounds. It was in packages of
12 2 pounds each.

13 Q. And did Mr. McGill, did he -- did he pay for
14 this methamphetamine?

15 A. He paid for it. He'd give me the money to go
16 down and get it where he was getting it.

17 Q. Okay. And y'all had this arrangement weekly?

18 A. Yes, sir.

19 Q. And what would you do with your 2 pounds?

20 A. I would sell it.

21 Q. And was one of your customers Ms. Williams?

22 A. Yes, sir.

23 Q. How -- how much would you give her, or did it
24 vary?

25 A. It was 4 ounces every time she called and said

1 she needed some.

2 Q. And how -- do you know -- do you know how much
3 is in an ounce, like how many grams?

4 A. Twenty-eight grams.

5 Q. Twenty-eight. So you'd give her 4 times 28
6 typically?

7 A. Yes, sir.

8 Q. All right. How many trips -- how many trips
9 did you make to Atlanta before you ended up getting
10 arrested on -- on this charge? Do you know roughly?

11 A. I'd say probably about five.

12 Q. So that's about -- and you did it for about a
13 month, right?

14 A. Yes, sir.

15 Q. All right. Let's fast forward to August
16 the 21st, that particular day. Did you get a call
17 from Ms. Williams that day?

18 A. I first got -- I didn't get a call. I got a
19 text message.

20 Q. Okay. And what -- what did the text message
21 say?

22 A. That she needed 4 ounces.

23 Q. And did you -- did you get in contact with her
24 and set that deal up?

25 A. At the time that I got the message, I was at

1 Mr. McGill's house.

2 Q. Okay. And what were you doing over at
3 Mr. McGill's house?

4 A. Somebody had messaged me earlier that day
5 needing -- needing some. And I didn't have it so I
6 messaged him or called him, and he had it. So I
7 went to him to get it for the other person there,
8 and then she messaged me. I was already there, so I
9 just went ahead and got four more to take to her.

10 Q. So you had a message from somebody wanting
11 4 ounces of meth?

12 A. Yes, sir.

13 Q. And then you had a message from Ms. Williams
14 asking for 4 ounces of meth?

15 A. Yes, sir.

16 Q. So 8 total ounces is what you were ---

17 A. Yes, sir.

18 Q. --- trying to get?

19 A. Yes, sir.

20 Q. And where did you go get those at?

21 A. I went to Mr. McGill's.

22 Q. Okay. So you were -- you were at
23 Mr. McGill's -- at Mr. McGill's when Ms. Williams
24 called you?

25 A. When I got a text message from her.

1 Q. Okay. And was that -- was that unusual for you
2 to get a call or a text from Ms. Williams asking
3 for -- for some methamphetamine?

4 A. No, sir.

5 Q. Did you respond to her?

6 A. It's kind of hard at his house. The cell
7 service is not that great. So I had to go outside
8 the camper to actually try to message her back.

9 Q. Okay.

10 A. But I just went ahead and got it. And when I
11 was on my way to her house, I called her and told
12 her I was on my way.

13 Q. So at that point, did you continue onto
14 Ms. Williams' house?

15 A. Yes, sir.

16 Q. Did you end up going inside Ms. Williams' house
17 that day?

18 A. Yes, sir.

19 Q. Did anything look out of the ordinary when you
20 got there?

21 A. No, not really. I mean, her car was parked out
22 front.

23 Q. Were there any other vehicles out front?

24 A. No, sir.

25 Q. Okay. And did you -- did you knock on the

1 door?

2 A. Yes, sir.

3 Q. Did Ms. Williams respond?

4 A. Yes, sir. She said, "Come in." That's
5 normally what she would do is holler and tell me to
6 come on in.

7 Q. Did you come in?

8 A. Yes, sir.

9 Q. And what happened after that?

10 A. I walked through the door. The door got kicked
11 closed behind me. And there was a, "Get on the
12 ground. Sheriff's Office." And I really didn't
13 know what was going on. It just kind of took me by
14 a little bit of a surprise. So then I realized what
15 was going on. "No problem." Got on the ground. No
16 problems.

17 Q. And were you carrying anything with you?

18 A. I had a black backpack that had 8 ounces in it.

19 Q. Of methamphetamine?

20 A. Yes, sir.

21 MR. BLACK: All right. And so, Your Honor, may
22 I approach the witness?

23 THE COURT: You sure can.

24 BY MR. BLACK:

25 Q. I'm going to show you what's been marked as

1 State's 17 through 22. Do you recognize these
2 photographs?

3 A. Yes, sir.

4 MR. BLACK: And can you just go -- just flip
5 through them.

6 THE COURT: What are the exhibit numbers?

7 MR. BLACK: Seventeen through 22.

8 THE COURT: Okay.

9 BY MR. BLACK:

10 Q. Do you recognize these photographs?

11 A. Yes, sir..

12 Q. And, briefly, what -- what are these?

13 A. The first one was my truck.

14 Then the next one is a picture of the backpack.

15 And then the next one is a picture of it open
16 showing the black bag.

17 And then the next one is a picture of the black
18 bag with it open and with the four packages of meth.

19 And then the last one's a black bag -- the
20 black bag -- a little black plastic bag and the four
21 packages of meth with the test kit.

22 Q. And this is the meth you brought to
23 Ms. Williams' house that day?

24 A. Yes, sir.

25 MR. BLACK: Your Honor, at this point, the

1 State moves 17 through 22 into evidence.

2 THE COURT: Show Mr. Epps and let him take a
3 look.

4 MR. BLACK: (Complying.)

5 MR. EPPS: Your Honor, I would object. If he
6 can lay a foundation. I mean, if he can
7 authenticate these and lay a foundation. If he --
8 if he took these photographs or if he was the one --
9 you know, I think he may need to lay a little more.

10 THE COURT: Well, I mean, for him -- for this
11 witness to identify what is shown in these pictures,
12 I don't think he has to be the one to have
13 necessarily taken the photograph if the pictures
14 accurately reflect what he says are in those
15 pictures. So if he -- if he answers that, I'm going
16 to overrule your objection and allow them in.

17 Do you want to ask that, Solicitor, if you
18 haven't already?

19 BY MR. BLACK:

20 Q. This is -- this is your meth that you brought
21 that day?

22 A. Yes, sir.

23 Q. And these are fair and accurate representations
24 of your meth that you brought that day?

25 A. Yes, sir. That was what I had on me that day.

1 THE COURT: Okay. All right. Objection
2 overruled. Seventeen through 22 into evidence for
3 the State.

4 (State's Exhibit Nos. 17 through 22 was
5 received into evidence.)

6 BY MR. BLACK:

7 Q. And I'm just going to briefly put these up on
8 the screen. That's your black vehicle; is that
9 correct?

10 A. Yes, sir.

11 Q. That's State's No. 17. What kind of vehicle
12 were you driving?

13 A. A 2017 Chevrolet Colorado.

14 Q. And that's how you arrived to Ms. Williams'
15 house that day?

16 A. Yes, sir.

17 Q. And I'm going to show you State's 18. Can you
18 identify this for us, sir?

19 A. It's a black backpack that I had.

20 Q. And what were you using that backpack for?

21 A. I had the package, the meth.

22 Q. All right. I'm going to show you State's 19.
23 Can you -- that one is a little bit harder to see.
24 Can you describe that one, sir?

25 A. It's a backpack opened up showing a package,

1 the black plastic bag.

2 Q. I'm going to show you State's 20. What is
3 that?

4 A. That's the plastic bag with the four small bags
5 of meth in it.

6 Q. And there was a total, you said, of 8 ounces in
7 there?

8 A. Yes, sir.

9 Q. State's 21?

10 A. That's the four bags -- plastic bags in the
11 backpack and four small packages of meth.

12 Q. And State's 22?

13 A. That's the four packages of meth with the test
14 kit.

15 Q. And, Mr. Ferguson, do you know how many grams
16 of methamphetamine it was that you -- that you
17 brought that day? I know you said it was 4 -- or
18 8 ounces, correct?

19 A. Yes, sir.

20 Q. Do you know what that equates to?

21 A. Roughly, around about 220 grams.

22 Q. A little bit more than 220?

23 A. I mean ---

24 Q. Depending on the cut?

25 A. Yes, sir.

1 Q. Okay. And you were charged with trafficking
2 over 200 grams of methamphetamine, correct?

3 A. Yes, sir.

4 Q. And do you know what that carried?

5 A. Yes, sir.

6 Q. What -- what was it?

7 A. A mandatory 25 years.

8 Q. Okay. Once you got taken down, what happened
9 after that?

10 A. They -- they put me in handcuffs and set me up
11 in a chair. They started talking to me, asking me,
12 you know, did I have anything else on me out in the
13 truck, and I was like no.

14 They asked if I had anything else at home where
15 I lived, and I told them I had about 18 grams at
16 home.

17 Q. Okay. And did law enforcement ever end up
18 going to your house?

19 A. Anderson County and I think one or two officers
20 from Abbeville.

21 Q. Okay. But you live in Anderson County, right?

22 A. Yes, sir.

23 Q. So Anderson would've been over that?

24 A. Yes, sir.

25 Q. All right. Anything else? Any other

1 conversation ensue after that?

2 A. They asked me, you know, to think about it, if
3 there's anybody I could call, you know, to help
4 myself, try to help myself out.

5 And they kind of let me sit there and think a
6 little bit. And they come back and asked me if I
7 knew anybody, and I was like "Yeah, I can call one
8 person."

9 Q. Who was that?

10 A. "I don't know if he'll come or not." It was
11 Mr. McGill.

12 Q. So at that point, did you -- did you decide --
13 did you make that call?

14 A. Yes, sir, I did.

15 Q. And did you make the call in the presence of
16 law enforcement?

17 A. Yes, sir.

18 Q. Did you actually get in touch with Mr. McGill?

19 A. Yes, sir.

20 Q. And you -- that conversation, was it recorded?

21 A. Yes, sir.

22 Q. On a -- do you know -- do you know how they did
23 it? Do you know?

24 A. They held a recorder up next to the phone and
25 my face so they could hear the conversation.

1 MR. BLACK: Your Honor, at this point the State
2 moves Number 16 into evidence, and we wish to
3 publish this phone call to the jury.

4 THE COURT: Okay. Do you want to show
5 Mr. Epps?

6 MR. BLACK: (Complying.)

7 THE COURT: What says the defense?

8 MR. EPPS: No objection, Your Honor.

9 THE COURT: Without objection, Number 16 into
10 evidence for the -- for the State.

11 (Playing phone conversation.)

12 BY MR. BLACK:

13 Q. And, Mr. Ferguson, that was you that initiated
14 that phone call?

15 A. Yes, sir.

16 Q. And who was the person on the other line?

17 A. Mr. McGill.

18 Q. Mr. McGill, up here, the defendant?

19 A. Yes, sir.

20 Q. One of the things that I heard was said, "Can I
21 get four more?"

22 A. Yes, sir.

23 Q. I think you said that; is that right?

24 A. Yes, sir.

25 Q. And that was because you had already been over

1 to his place earlier that day?

2 A. Yes, sir.

3 Q. Okay. There was something also mentioned about
4 cash?

5 A. Yes, sir.

6 Q. What was that all about?

7 A. I was planning on making a trip the next
8 morning to Atlanta.

9 Q. To pick up 6 more pounds?

10 A. Yes, sir.

11 Q. And so he -- I guess you needed to get paid for
12 that too?

13 A. Yes, sir. I was going to get -- we were going
14 to meet later on, but I -- to make one trip.

15 Q. Let me ask you this: How much were you getting
16 paid for this whole operation in like a week -- on a
17 weekly basis? Do you have an estimate?

18 A. About -- because what I was -- what I was
19 selling, me and another person was splitting the
20 profit off of it, so it was 1800 to maybe 2200.

21 Q. Is that per week?

22 A. Yes, sir.

23 Q. Including your trip to Atlanta?

24 A. The trip to Atlanta, Mr. McGill, you know,
25 because I was going, he'd give me 2 ounces for

1 going.

2 Q. Okay. So you got paid in cash and -- and meth?

3 A. I'd get 2 ounces from him to pick up his that
4 he was wanting.

5 Q. All right. So the total, though, you said
6 still about 18- to 2200?

7 A. Yes, sir.

8 Q. All right. And you, ultimately, had another
9 conversation with Mr. McGill?

10 A. Yes, sir.

11 THE COURT: Is that the same exhibit?

12 MR. BLACK: It is, Your Honor. The same
13 exhibit, but two -- two phone calls on there.

14 THE COURT: Okay.

15 (Playing phone conversation.)

16 BY MR. BLACK:

17 Q. All right. Mr. Ferguson, on that -- that phone
18 call, you -- you had another conversation with
19 Mr. McGill; is that right?

20 A. Yes, sir.

21 Q. And at that point you were trying to get
22 directions for him to meet you?

23 A. Yes, sir. I was giving him directions.

24 Q. And were you nervous on that phone call?

25 A. Yes, sir.

1 Q. And the roads that you were describing, have
2 you traveled those records pretty frequently?

3 A. Yes, sir.

4 Q. So you're very familiar with those roads?

5 A. Yes, sir.

6 Q. But you messed the directions up multiple
7 times?

8 A. Yeah.

9 MR. EPPS: Your Honor, I'm going to object.
10 And this -- I'd ask that counsel not lead.

11 THE COURT: Okay. Try and rephrase, Solicitor.

12 BY MR. BLACK:

13 Q. Were you -- were you nervous about setting this
14 up?

15 A. Yes, sir.

16 Q. Okay. Let me ask you this: How much money
17 typically would you get from Mr. McGill before you
18 went down to Atlanta?

19 A. Normally, it was around about 16,000.

20 Q. Okay. And that was typical?

21 A. Yes, sir.

22 Q. I'm going to show you what's been marked as 38
23 through 45. Do you recognize those messages?

24 THE COURT: Wait one second. Mr. Epps, you're
25 standing.

1 MR. EPPS: Yes, sir. I do have an objection,
2 Your Honor.

3 THE COURT: Okay.

4 MR. EPPS: But I -- I guess it's a little
5 premature right now, but I ---

6 THE COURT: Do you want to go ahead and deal
7 with it now?

8 MR. EPPS: Yes, sir. I would like to deal with
9 it now.

10 THE COURT: All right. Madam forelady, ladies
11 and gentlemen of the jury, I'm going to ask that you
12 go back to the jury room and hopefully it won't be
13 long for us -- for me to deal with this particular
14 matter and get you back out again. Remind you no
15 discussions about this case.

16 (At 10:21 a.m., jury left the courtroom.)

17 THE COURT: Okay. Mr. Epps.

18 MR. EPPS: Yes, sir, Your Honor. May it please
19 the Court?

20 That -- those photographs, those text messages,
21 obviously, he's got to lay a foundation. Obviously,
22 he's got to authenticate those. He didn't take
23 those photographs. That comes from that phone that
24 we had an issue with yesterday that I had moved for
25 a continuance.

1 THE COURT: Right.

2 MR. EPPS: I also would object on the grounds
3 of -- I mean, he can put that phone in. If he wants
4 to put the phone into evidence.

5 THE COURT: Okay. All right. Let me see --
6 hand that to me, sir.

7 THE WITNESS: (Complying.)

8 MR. BLACK: And, Judge, I -- if you want to
9 take a look at them first.

10 THE COURT: All right. So these -- these are
11 text messages between Mr. Ferguson and Mr. McGill,
12 correct?

13 MR. EPPS: From the phone at issue, Your Honor.
14 The phone that I had moved for a continuance on to
15 look at the phone dump. And I got to look at text
16 messages, but, obviously, I couldn't look at the
17 whole phone that -- that included the 27,000
18 pictures of meth and porn.

19 Jarvis Reader brought a -- brought us a thumb
20 drive or a disk over here or he brought the phone
21 dump, but, obviously, the problem is this: It's
22 fairly encrypted so nobody could download it. You
23 know, obviously, I've still got the issue with --
24 with -- with not allowing -- not being able to go
25 through that phone or look in it and have a

1 meaningful review of that phone.

2 THE COURT: Let's not -- let's not plow over --
3 over old ground, Mr. Epps.

4 MR. EPPS: Yes, sir. And those photographs
5 were taken by the State just from yesterday looking
6 at that phone, and I would object to that obviously.
7 He didn't take those photographs. Obviously, this
8 is his phone. It's into evidence. And I'm fine
9 with the whole phone coming in, but I would object
10 to, you know, just photographs taken by the State,
11 unless he -- you know, obviously, he's got to lay a
12 foundation and authenticate.

13 MR. BLACK: And -- and, Judge, I think that
14 maybe the best way to handle that, I don't think
15 it's -- I don't think it's a good idea to send this
16 whole phone back there to the -- to -- to the jury
17 if and when they get this case.

18 But I think that if Mr. Ferguson wants to
19 authenticate it saying, "Yes, this is my phone."
20 Look at the messages that he had between him and
21 Mr. McGill and say that that's a fair and accurate
22 representation of screen shots of messages. I think
23 the State gets around the authentic -- authenticity
24 part.

25 THE COURT: Right.

1 MR. BLACK: I also want to put on the record
2 that Mr. Epps has seen these messages. This is --
3 he -- he looked at them yesterday, the same time the
4 State got it. And so he -- he spent about two hours
5 yesterday going through his phone.

6 So all the messages and whatnot, he had an
7 opportunity to look at them. We're just trying to
8 introduce this one conversation that was going on
9 between Mr. Ferguson and Mr. McGill.

10 THE COURT: All right. Yeah, the fact that
11 Mr. Ferguson did not take these -- these screen
12 shots, it's the same thing as no -- not taking
13 photographs as was discussed earlier.

14 I think if the State lays a proper foundation
15 by asking, "Was there some text messages or
16 communication between Mr. Ferguson and the defendant
17 on whatever day and time, and then if these screen
18 shots accurately reflect the text messages that
19 appear on the phone, I think it's certainly --
20 certainly proper. So I would overrule the -- the
21 objection, so long as the proper foundation is -- is
22 laid.

23 MR. BLACK: Yes, sir.

24 MR. EPPS: Yes, sir.

25 MR. BLACK: And maybe the best thing to do,

1 Judge, is to let Mr. Ferguson look at this phone and
2 compare the text messages on the phone to the screen
3 shots at this point. It may take him a minute or
4 two before we get the jury out here.

5 THE COURT: Okay. I don't have a problem with
6 that. Let's take a ten-minute -- ten-minute break.

7 (From 10:25 to 10:38, recess.)

8 THE COURT: Judge, the other thing that Norman
9 and I talked about, Mr. McGill, he gave -- he gave a
10 statement on scene after Miranda was read. And I
11 think Mr. Epps is going to have an issue with that,
12 but that would be coming out with the next witness.
13 I might even want to address that, or if you want to
14 address it at this particular time.

15 But I did want to give the Court notice that I
16 did discuss with Mr. Epps this morning right before
17 we started, and he did say he was going to have an
18 issue with that statement.

19 THE COURT: Okay. What -- just so I can kind
20 of have a little better feel of what -- what we have
21 here.

22 MR. EPPS: Well, obviously, whether that
23 statement was voluntary. I mean, it's in the
24 report. This is not -- it was an interview that
25 they're not going to put in and didn't have a

1 *Jackson v. Denno* hearing on it. And this is -- this
2 is at a different time, so the voluntary -- it would
3 be the voluntariness of the -- of the stop.

4 THE COURT: Yeah, I mean, if we need to do a
5 *Jackson v. Denno*, then we can certainly do that. If
6 it's not going to be stipulated that -- that it was
7 voluntarily made, then you have every right to have
8 the *Jackson v. Denno*.

9 I'll -- let's -- you may be a while on cross,
10 so let's go ahead and finish with Mr. Ferguson, and
11 then we can ---

12 MR. EPPS: Yes, sir.

13 THE COURT: --- we'll just take another break
14 and then we can deal with that.

15 MR. EPPS: Yes, sir.

16 THE COURT: Okay. All right. Very good. All
17 right. Let's bring the jury out, please.

18 THE BAILIFF: (Complying.)

19 (At 10:39 a.m., jury entered the courtroom.)

20 THE COURT: Let the record reflect the jury is
21 back in. Solicitor, you want to continue with your
22 direct examination?

23 MR. BLACK: Yes, sir, Your Honor. Thank you.
24 May I approach the witness, Your Honor?

25 THE COURT: You sure can.

1 BY MR. BLACK:

2 Q. Mr. Ferguson, can you tell the jury what that
3 is?

4 A. This is my cell phone that I had on me that
5 day.

6 Q. And that phone's in pretty good shape, isn't
7 it?

8 A. Yes, sir.

9 Q. Had you gotten that thing pretty -- pretty
10 recently?

11 A. Yes, sir.

12 Q. Do you know about how long you had it?

13 A. Maybe a few days, if that. I ain't had it
14 real -- I didn't have it real long because I broke
15 my other one ---

16 Q. Right.

17 A. --- so I had to get this one.

18 Q. And on your phone, you would talk on the phone.
19 Would you communicate via text messages with people?

20 A. Text messages most of the time.

21 Q. And it's a smartphone, so you had internet
22 access?

23 A. Yes, sir.

24 Q. Okay. Did you ever communicate with Mr. McGill
25 on that cell phone?

1 A. Yes, sir.

2 Q. And you've looked through State's Exhibit 38
3 through 45; is that right?

4 A. Yes, sir.

5 Q. And that's a conversation with you and
6 Mr. McGill?

7 A. Yes, sir.

8 Q. And it's the same conversation that's on that
9 phone, right?

10 A. Yes, sir.

11 Q. These are just pictures of the conversation?

12 A. Yes, sir.

13 MR. BLACK: All right. At this point, the
14 State moves 38 through 45 into evidence, and we ask
15 to publish to the jury.

16 THE COURT: Okay. Subject to what has already
17 been noted on the record.

18 MR. EPPS: Yes, sir, Your Honor.

19 (State's exhibit 38 through 45 received into
20 evidence.)

21 BY MR. BLACK:

22 Q. And, Mr. Ferguson, the dates might not show up,
23 so if you want to look at your phone as well. I'm
24 going to have you read these messages off, and I'm
25 also going to get you to put the dates on there.

1 Like on the first one, I don't know if you can see
2 the screen, but on State's 38, this is the date. I
3 think it's hard to see that, but I think it shows up
4 clear on your phone.

5 A. It's August 17th of 2018.

6 Q. Okay. I'm just going to get you to start at
7 the very top. Is that the -- is that the first
8 message that's up there?

9 A. Yes, sir.

10 Q. All right. And the first message, who was that
11 from?

12 A. Mr. McGill.

13 Q. And is he in your phone as "Kenny"?

14 A. Yes, sir.

15 Q. And is that his number at the top?

16 A. Yes, sir. At the time.

17 Q. All right. Can you read that for us?

18 A. "I'm sorry, Stewart. I had a busy day. I'll
19 get -- get that to you tomorrow if that's alright."

20 The next one is me, myself. "It's been a full
21 day." That was on the 17th.

22 Q. That would be the 17th of August?

23 A. Yes, sir.

24 Q. Okay. And then the next one, what's that date?

25 A. The 19th of August.

1 Q. And what does that say?

2 A. "Hey, did you wash some of it up, and did it
3 make a difference?"

4 And he replied back, "I haven't washed any.
5 It's not too bad taste -- on the taste and the high
6 is good."

7 Then I messaged back, "Yeah, I had someone get
8 some with a good bit of cut on it."

9 Q. What are y'all talking about there?

10 A. Meth.

11 Q. What was wrong with it?

12 A. It was dirty when we got it. It just had a --
13 kind of a darkish tint to it.

14 Q. Okay. So y'all were trying to make it cleaner
15 and clear?

16 A. Yes, sir.

17 Q. All right. I think at the bottom there's
18 another date. I think it's hard to tell. Is
19 that -- what's that date?

20 A. That would be the 20th.

21 Q. August 20th?

22 A. Of August.

23 Q. All right. This is State's 40. What -- what's
24 this?

25 A. It's a message from him. "I got a lot of fine

1 stuff in mind, but haven't had any bad complaints
2 yet, but I know I will."

3 The 9th -- the 19th of August, the last message
4 was -- back to him from me was 11:24.

5 And the message from him on the 19th -- on the
6 20th was 12:25 a.m., so it was just a continuing
7 conversation. It just rolled over to the next day.

8 Q. Okay. So that would've -- would that have been
9 the 20th or the 21st?

10 A. The 19th and the 20th.

11 Q. Okay. And what does that say? You respond and
12 say you're getting a few?

13 A. Yeah, "I'm getting a few complaints." Then the
14 next one is that afternoon of the 20th.

15 "Hey, Kenny, give me a call. I need to see you
16 about something."

17 And then I sent him a phone number to -- to
18 David.

19 And then after that at four o'clock, 4:12,
20 "Hey, give me a holler."

21 He messaged back at 6:20. He said, "You home,
22 Stewart? Your phone goes straight to voicemail,"
23 was the next one. "If you're home, I'll ride over."

24 And then I messaged back at 6:00.

25 And that was last one from him right then was

1 6:20 p.m.

2 I messaged back at 6:31, "My phone has been
3 dead. I'm trying to charge it."

4 And it was, "Oh, okay. I'm getting a shower
5 now. I'll call you."

6 I was, "Okay." And then the next one from me.

7 Q. What's that date?

8 A. The 21st.

9 Q. August 21st?

10 A. Yes, sir.

11 Q. And this is the day you got arrested, right?

12 A. Yes, sir.

13 Q. And this is State's No. 43.

14 A. I messaged him and said, "Hey, Ken, I need to
15 see you about getting a four from you. I hope to
16 go -- I hope to be going tomorrow."

17 Q. And what time is that?

18 A. That was 2:37.

19 Q. And it's -- let's talk about that one just for
20 a minute. You're trying to get 4 ounces; is that
21 right.

22 A. Yes, sir.

23 Q. Was that the 4 ounces to go to Ms. Williams or
24 somebody else?

25 A. To somebody else.

1 Q. And that time was 2 -- 2:37 p.m. You also
2 said, "I hope to be going tomorrow." Where are you
3 talking about?

4 A. Going to Atlanta.

5 Q. Okay. And what's that next message? We'll
6 flip to States's 44.

7 A. Message back from him. The time on it's 2:38.
8 It says, "Okay. Can you come here at 3:30?"

9 And the next one I messaged back, "Yeah, that
10 should be -- that should -- it should've said
11 "Shouldn't been a problem," but phones type what
12 they want to sometimes.

13 Q. You had a typo there?

14 A. Yeah. It says, "Yeah, that should be a
15 problem. I might be a little later."

16 And he messaged back, "That's fine. Just let
17 me know when you're on your way."

18 And I said, "Okay."

19 Q. And then I'm going to State's 45.

20 (Cross-talking.)

21 I'm sorry. I'm going to flip to State's 45.

22 Can you continue now?

23 A. I messaged back. I messaged at 2:41 and said,
24 "Okay."

25 At 3:36, I messaged him and told him I was

1 on -- on my way headed his way.

2 And the next one is, "I'm here." And...

3 Q. What -- what time is the "I'm here"?

4 A. 3:53.

5 Q. And that's at Kenny McGill's house, correct?

6 A. Yes, sir.

7 Q. And that's where you were going to pick up that
8 4 ounces?

9 A. Yes, sir.

10 Q. But you end up -- how -- how much did you end
11 up getting?

12 A. I ended up getting eight.

13 Q. And so do you remember about what time you left
14 his house at that point?

15 A. It was probably somewhere around 4:30 something
16 to 5:00.

17 Q. And while you were over there, you got a phone
18 call?

19 A. I got a text message.

20 Q. From who?

21 A. Ms. Williams.

22 Q. Okay. And then what's that next -- that last
23 message?

24 A. The last message is at 6:59, "Hey, give me a
25 call."

1 Q. And what's that about?

2 A. Well, I tried to text him before I called after
3 I was at Ms. Williams' house ---

4 Q. Yes, sir.

5 A. --- and done been taken into custody. I tried
6 to text him and then I called him.

7 Q. Okay.

8 A. So there should be a phone call somewhere right
9 around that time frame, seven o'clock.

10 Q. And the phone calls we heard earlier, are those
11 the phone?

12 A. Yes, sir.

13 Q. Those phone conversations you were trying to
14 get to have with him?

15 A. Yes, sir.

16 MR. BLACK: And, again, Your Honor, State's 38
17 through 45 into evidence.

18 THE COURT: Right. It's already been put into
19 evidence, subject to what's already been noted on
20 the record.

21 BY MR. BLACK:

22 Q. And I'll take that phone back from you. After
23 the deal got set up, were you still at Ms. Williams'
24 house?

25 A. Yes, sir.

1 Q. You were there when Mr. McGill showed up?

2 A. Yes, sir.

3 Q. Where were you at?

4 A. I was in a bedroom in the -- if you're looking
5 at the house from the road, it would've been on the
6 right side.

7 Q. Were you in the same bedroom as Ms. Williams?

8 A. No, sir.

9 Q. You were in a separate bedroom?

10 A. Yes, sir.

11 Q. Was there -- there any officers back there with
12 you?

13 A. Yes, sir. I can't remember their names right
14 offhand.

15 Q. But one of the officers was back there?

16 A. Yes, sir.

17 Q. Did you -- did you ever see Mr. McGill when he
18 showed up to the house?

19 A. No, sir. Not until after he was in custody.

20 Q. Okay. Did you ever holler out for him to come
21 in once he arrived?

22 A. No, sir.

23 Q. Who did that?

24 A. Ms. Williams.

25 Q. And you ended -- they ended up taking you to

1 jail that night?

2 A. Yes, sir.

3 Q. They charged you with trafficking
4 methamphetamine?

5 A. Yes, sir.

6 Q. The only interaction you had with Mr. McGill,
7 how -- how long was it that day -- did you -- did
8 y'all say anything to each other, or was it y'all
9 kind of stayed apart?

10 A. They brought me -- once they had him into
11 custody, they brought me back in there.

12 And he was like -- I was like, "I'm sorry."

13 And he was like, "You set me up."

14 I was like, "I'm sorry." That was about all we
15 said to each other.

16 Q. Did you make that trip to Atlanta the next day?

17 A. No, sir.

18 Q. Let's talk a little bit more about your
19 involvement with law enforcement after this thing
20 went down. Did you -- did you talk to Jarvis Reader
21 and some folks in Greenville?

22 A. Yes, sir.

23 Q. And who was that?

24 A. I believe they was the DEA.

25 Q. That's Federal, correct?

1 A. Yes, sir.

2 Q. And did you give what they call a "debriefing"?

3 A. Yes, sir.

4 Q. And did you have your attorney with you, I
5 guess, when you went?

6 A. Yes, sir.

7 Q. And that's Mr. Byrholdt, who's sitting back
8 here?

9 A. Yes, sir.

10 Q. How long did that debriefing last?

11 A. Probably right around about an hour.

12 Q. And did you give them additional information?

13 A. Yes, sir.

14 Q. Who was it on?

15 A. They main -- they mainly asked me about Brian
16 McClure.

17 Q. Okay. And that's the individual you previously
18 talked about?

19 A. Yes, sir.

20 Q. And he's the one that you started going to
21 Atlanta with back in April I think?

22 A. Yes, sir.

23 Q. And then when did he go to prison?

24 A. In July, the 11th.

25 Q. And that's -- at that point, you went solo?

1 A. Yes, sir.

2 Q. Okay. Did y'all talk about any other people?

3 A. A couple more individuals that I was -- the
4 person in Atlanta, and the person that I was talking
5 to over there and going to.

6 Q. Okay. So you did help and give them additional
7 information about people?

8 A. Yes, sir.

9 Q. Okay. And, again, you pled guilty yesterday
10 afternoon, correct?

11 A. Yes, sir.

12 Q. And you're going to prison, right?

13 A. Yes, sir.

14 Q. And do you -- it's -- what's the range?

15 A. With what I pled guilty to, 10 to 28 grams
16 carries a sentence from three to ten years.

17 Q. And you realize that that's straight up?

18 A. Yes, sir.

19 Q. It will be up to the judge to decide what you
20 get?

21 A. Yes, sir.

22 MR. BLACK: Okay. I think that's all the
23 questions I have now. Please answer any questions
24 that Mr. Epps might have for you.

25 THE COURT: Mr. Epps, any cross-examination?

1 MR. EPPS: Yes, sir, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. EPPS:

4 Q. Mr. Ferguson, you said you're 45 years old?

5 A. Yes, sir.

6 Q. Okay. And you said that you worked -- you said
7 you started using methamphetamine in 2013; is that
8 right?

9 A. Yes, sir.

10 Q. Okay. You said you were in the National Guard?

11 A. Yes, sir.

12 Q. How long did you spend in the National Guard?

13 A. Twenty-two-and-a-half years.

14 Q. Okay. What was your discharge from the
15 National Guard?

16 A. Honorable.

17 Q. Honorable?

18 A. Yes, sir.

19 Q. You retired?

20 A. Yes, sir.

21 Q. And you ---

22 A. I got ---

23 THE COURT: Y'all don't talk over each other.

24 Make sure the question is finished before you

25 answer, sir. And make sure his answer was answered

1 before the next question.

2 BY MR. EPPS:

3 Q. You testified that you retired from the
4 National Guard?

5 A. Yes, sir.

6 Q. Okay. And you said that's an honorable --
7 honorable discharge?

8 A. Yes, sir.

9 Q. All right. When did -- when did you get
10 discharged from the National Guard?

11 A. I believe it was June of 2016.

12 Q. June of 2016?

13 A. I believe.

14 Q. So you were using methamphetamine while you
15 were in the National Guard?

16 A. Yes, sir. Every now and then.

17 Q. Every now and then?

18 A. Yes, sir.

19 Q. Okay. And you're telling -- you -- and
20 didn't -- did you ever fail a drug test with the
21 National Guard?

22 A. No, sir.

23 Q. But while you were in the National Guard, you
24 were using methamphetamine?

25 A. Yes, sir.

1 Q. How did you get started on Methamphetamine?

2 A. Sir?

3 Q. How did you get started on meth?

4 A. A girl I was dating.

5 Q. Okay. So it started by that. How did you meet
6 Brian McClure?

7 A. The first time I met him, I was working at
8 Eddie's Minute Mart. He come in there because he
9 was working for a guy that owned rental property in
10 the Homeland Park area.

11 Q. Okay. What did you do for Eddie's Minute --
12 Minute Mart?

13 A. I was the cashier.

14 Q. You were the cashier. Okay. So let me ask you
15 this, go back through your -- your employment
16 history.

17 A. Yes, sir.

18 Q. You said -- when did you work at Walgreens on
19 Main Street?

20 A. Walgreens was the last -- was the last job I
21 had.

22 Q. Okay. And when was that?

23 A. That would've been 2014 -- '14 or '15. Let's
24 see -- yeah, somewhere right around there. They put
25 me out of work. I started seeing a psychiatrist for

1 PTSD and mass depression.

2 Q. All right. And you said you last worked for
3 Walgreens in 2014, right?

4 A. Yes. 2014 to ---

5 Q. But while you were working at Walgreens ---

6 THE COURT: Wait a minute. Wait a minute.

7 Once again, I remind you both, Mr. Epps and

8 Mr. Ferguson, don't talk over each other.

9 BY MR. EPPS:

10 Q. And if that was 2013, you were using
11 methamphetamine while you were working at Walgreens,
12 correct?

13 A. Yes, sir.

14 Q. And what did you do for Walgreens?

15 A. I was lower-end management.

16 Q. You were what?

17 A. Lower-end management.

18 Q. Lower-end management. You -- you managed
19 Walgreens and you dealt with the public ---

20 A. Yes, sir.

21 Q. --- and using methamphetamine, correct?

22 A. Yes, sir.

23 Q. Okay. Now, when did you work at BMW?

24 A. I worked at BMW from 2013 through 2014.

25 Q. What did you do at BMW?

1 A. I worked on the line.

2 Q. You worked on the line?

3 A. Yes, sir.

4 Q. And at that point in time, I think you
5 testified that's -- 2013 is when you started using
6 methamphetamine?

7 A. Yes, sir.

8 Q. Okay. And did you -- while you were working at
9 BMW, were you using meth?

10 A. Yes, sir.

11 Q. Okay. Did you -- were you fired or were you
12 terminated from BMW?

13 A. Yes, sir.

14 Q. Okay.

15 A. Because it was -- I was fired. I was let go
16 because I missed too many days.

17 Q. Okay. Did you ever take a drug test for BMW?

18 A. Yes, sir.

19 Q. Did you fail that drug test?

20 A. No, sir.

21 Q. Okay. And did you do anything to alter or ---

22 A. No, sir.

23 Q. Okay. And did they test for methamphetamine?

24 A. Yes, sir.

25 Q. Okay. Was that a hair test or was that a urine

1 test?

2 A. It was a hair test.

3 Q. It was a hair test. And you're telling this
4 jury you passed it?

5 A. Yes, sir.

6 Q. Okay. Did you miss too many days because of
7 your drug addiction?

8 A. No, sir.

9 Q. Now, you also said you built houses with your
10 brother.

11 A. Yes, sir.

12 Q. Who is your brother?

13 A. Dwight Ferguson, Jr.

14 Q. Dwight Ferguson, Jr. Now, what -- what does --
15 what does your brother do?

16 A. Now he's a superintendant for ARCON Architects.

17 Q. He's what?

18 A. Superintendant for ARCON Architects.

19 Q. Is that like a construction company?

20 A. It's an architectural and a home building
21 company.

22 Q. Okay. How long did you work for your brother?

23 A. I worked for my brother roughly every day for
24 six years.

25 Q. When was that?

1 A. 2001 to 2007.

2 Q. Any reason why you stopped working with your
3 brother?

4 A. I got tired of working outside in the cold and
5 heat and got a job at Eddie's Minute Mart in 2007.

6 Q. Okay. And you worked at -- at Eddie's Minute
7 Mart until when?

8 A. Until I went to work with at BMW.

9 Q. Okay. Did you go change -- did you go from
10 Eddie's Minute Mart to BMW, or did -- did you -- how
11 did you leave Eddie's Minute Mart?

12 A. I left Eddie's Minute Mart to go to BMW.

13 Q. Okay. So you weren't terminated or fired or
14 anything?

15 A. No, sir.

16 Q. Okay. All right. But you were terminated from
17 BMW, correct?

18 A. Yes, sir.

19 Q. All right. Now, you test -- you testified that
20 you started using meth in 2013, right?

21 A. Yes, sir.

22 Q. And you said July of 2013?

23 A. Yes, sir.

24 Q. And you said you started smoking it?

25 A. Yes, sir.

1 Q. Okay. You didn't shoot it up or anything like
2 that?

3 A. No, sir.

4 Q. Okay. All right. Then you started selling in
5 2018?

6 A. Yes, sir.

7 Q. Now let me ask you this: You said that -- you
8 testified that you started selling -- you started
9 driving -- driving to Atlanta with Brian McClure,
10 right?

11 A. Yes, sir.

12 Q. And his full name is Henry Brian McClure?

13 A. Yes, sir.

14 Q. Okay. And you said -- you testified that you
15 met him at Eddie's Minute Mart?

16 A. Yes, sir.

17 Q. So you know him -- you knew him years prior,
18 right?

19 A. Yes, sir.

20 Q. Okay. And what kind of contact did you have
21 with Brian McClure prior to April of 2000?

22 A. When I left Eddie's, that was the last time I
23 seen him, I mean, until I seen him again when I
24 started buying a little bit from him in 2018.

25 Q. Okay. But you used meth -- you used meth

1 continuously since July of 2013 until -- until when?

2 A. I still every now and then now [sic].

3 Q. You're still using methamphetamine?

4 A. Every now and then ---

5 Q. Okay.

6 A. --- when I can.

7 Q. When you can?

8 A. Yes, sir.

9 Q. Okay. So you just never quit, have you?

10 A. No, sir.

11 Q. Okay. Now, you started riding -- you testified
12 that you started riding with Brian McClure to
13 Atlanta?

14 A. Yes, sir.

15 Q. Okay. And who would you see in Atlanta?

16 A. It was different people.

17 Q. Like who?

18 A. It was -- we were going to see -- it might be
19 they were Mexicans, and I never knew who they was.
20 We just was told to go to a certain spot and they'd
21 be there.

22 Q. Okay. So y'all communicated with the Mexicans
23 and you would go meet them and get how much
24 methamphetamine?

25 A. It depended. Sometimes it was 6 pounds;

1 sometimes it was 10 pounds.

2 Q. Okay. So since -- so when was the first time
3 that you went to Atlanta with Brian McClure?

4 A. It was in April.

5 Q. April? Would you say mid-April?

6 A. Yes, sir. Mid to late April.

7 Q. Okay. Mid-April. And then you -- you started
8 doing it by yourself once Brian went to jail, right?

9 A. Yes, sir.

10 Q. Were you aware when you were riding to Atlanta
11 with Brian McClure that he had a pending trafficking
12 charge?

13 A. Yes, sir.

14 Q. Okay. And were you aware that he had been
15 arrested in January of 2017 for trafficking in
16 methamphetamine?

17 A. Yes, sir.

18 Q. And you thought it was a good idea to get in
19 the car with him and ride down to get more
20 methamphetamine from the Mexicans?

21 A. I wouldn't -- I wouldn't say it was a good
22 idea.

23 Q. Okay.

24 A. It was just he asked me, and I done it.

25 Q. Okay. And you were getting anywhere from 6 to

1 10 pounds, right?

2 A. Yes, sir.

3 Q. Okay. And if you said that was from mid-April
4 to August of 2018, so you're telling this jury that
5 from -- that's, what, 100 -- arguably around
6 120 days?

7 A. Yes, sir.

8 Q. Okay. You would go every week, right?

9 A. Yes, sir.

10 Q. Okay. So you would -- even if you were doing
11 6 pounds a week, you're bringing over 108 pounds of
12 methamphetamine into the state of South Carolina,
13 correct?

14 A. Yes, sir.

15 Q. Okay. Mr. McGill ever ride with you to
16 Atlanta?

17 A. No, sir.

18 Q. Okay. Now, before we get into this, you were
19 initially charged -- well, and then you started --
20 and then -- all right. You knew Brian McClure had a
21 pending meth charge?

22 A. Yes, sir.

23 Q. Okay. And when did he go to prison?

24 A. He went to prison July 11th.

25 Q. July the 11th?

1 A. Of 2018.

2 Q. What did he go -- what did he go to prison for?

3 A. He went to prison for trafficking meth, 10 to
4 28 grams.

5 Q. Ten to 28 grams. And how many years did he
6 get?

7 A. He got eight straight.

8 Q. Eight straight. Did Brian McClure cooperate?

9 A. He took a plea. And whether or not he
10 cooperated, I do not know.

11 Q. Okay. All right. But then you started -- you
12 started taking -- you took his spot and you were
13 driving to Atlanta by yourself, right?

14 A. Yes, sir.

15 Q. Okay. And you would communicate with the
16 Mexicans directly, correct?

17 A. There was an individual in jail in Atlanta --
18 or I don't know if he was in Atlanta, but he -- he
19 was somewhere in Georgia. I talked to him and the
20 Mexicans at the same time.

21 Q. Okay. Now hold on. You said -- you said you
22 communicated with an individual in jail?

23 A. Yes, sir.

24 Q. In Atlanta?

25 A. It was somewhere in Georgia.

1 Q. Somewhere in Georgia. Do you -- what was his
2 name?

3 A. All I knew him by was "Head."

4 Q. By Head?

5 A. Yes, sir.

6 Q. So you're communicating with Head, who's in
7 jail in Georgia, correct?

8 A. Yes, sir.

9 Q. And you don't know what jail he's in?

10 A. No, sir.

11 Q. Is that the Head that's in your phone?

12 A. Yes, sir.

13 Q. Okay. Is Head still in jail?

14 A. I believe so. I think he's supposed -- I think
15 he said he was supposed to get out some time this
16 year I think.

17 Q. He's supposed to be out some time this year,
18 but he's continuing to deal from jail in Georgia?

19 A. Yes, sir.

20 Q. Okay. And you would talk to Head. Head
21 would -- Head would tell you to do what?

22 A. Where to go.

23 Q. Where to go?

24 A. Yeah, and what time I needed to be -- around
25 about what time I needed to be there.

1 Q. Okay. So who would you meet specifically?
2 What are their names?

3 A. I never knew their names. It was just
4 different people at different times.

5 Q. Did you not ever think that that was -- did you
6 think that was a good idea? You would ---

7 A. At the time, yeah. At the time it was -- it
8 was an idea. Good? No.

9 Q. Okay. So let's get this straight. You're
10 coordinating with an individual named Head from a
11 jail in Georgia -- in the state of Georgia that you
12 don't know where this -- what jail he's in or what
13 prison he's in? You're meeting up with individuals
14 that you don't know their names, getting 6 to 10
15 pounds of methamphetamine; is that right?

16 A. Yes, sir.

17 Q. Okay. And you testified that you were
18 splitting that money -- splitting that with someone
19 else?

20 A. Yes, sir.

21 Q. And it wasn't Mr. McGill, was it?

22 A. No, sir.

23 Q. It was Head?

24 A. Yes, sir.

25 Q. Okay. So how would you split your profit from

1 selling methamphetamine with an individual who's in
2 jail in Georgia that you don't know where he's --
3 what jail he's in?

4 A. I would meet his sister.

5 Q. His sister?

6 A. Yes, sir.

7 Q. Okay. Who was his sister?

8 A. Her first name was Melissa.

9 Q. Melissa. Okay. Is Melissa's name in your
10 phone?

11 A. I think it is. I'm not sure.

12 Q. Okay. We'll go through that later because
13 there's a whole list of other text messages from
14 other -- I assume your customers, correct?

15 A. Yeah, there's a lot of text messages in my
16 phone.

17 Q. I understand. And you went to a lot of
18 other -- you had other -- you had other people going
19 to see and sell and give methamphetamine to, right?

20 A. Yes, sir.

21 Q. Okay. And including Angela Williams?

22 A. Yes, sir.

23 Q. Okay. And did you go to a -- an individual --
24 a -- a female by the name of Vedera?

25 A. Yes, sir.

1 Q. Okay, did you go to her house and provide her
2 with methamphetamine?

3 A. Yes, sir.

4 Q. Okay. Wolf Man. Did you provide
5 methamphetamine to Wolf Man?

6 A. He come by the house and seen me.

7 Q. Come by you -- come by your house?

8 A. Yes, sir.

9 Q. And where do you live?

10 A. 225 Kitty Corner Circle.

11 Q. 225 Kitty Corner Circle. And who do you live
12 at -- at that residence with?

13 A. With my mother.

14 Q. With your mother. How old is your mother?

15 A. Now she's 71, 72 I think.

16 Q. Seventy-one?

17 A. Uh-huh.

18 Q. Okay. And is she in good health? poor health?

19 A. Yes, sir. She's in good health.

20 Q. She's in good health. Was she aware that you
21 were selling methamphetamine out of the house?

22 A. No, sir.

23 Q. Is this her house or your house?

24 A. Her house.

25 Q. Her house?

1 A. Uh-huh.

2 Q. And how long have you -- have you been living
3 at 225 Kitty Corner Circle?

4 A. We moved into that house in 2007.

5 Q. 2007. So you've been living with your mother
6 since 2007?

7 A. Off and on.

8 Q. Off and on. Okay. And at -- your -- your --
9 your mother -- you're telling this jury that your
10 mother was not aware that you were using
11 methamphetamine while you lived in that house?

12 A. No, sir. She was not.

13 Q. She wasn't aware that you were selling
14 methamphetamine out of that house?

15 A. No, sir. She was not.

16 Q. Okay. And, in fact, when you got arrested on
17 this charge, Abbeville and Anderson County executed
18 a search warrant at 225 Kitty Corner Circle; is that
19 right?

20 A. Yes, sir.

21 Q. Okay. And they found 18 grams of meth?

22 A. Yes, sir.

23 Q. Fifteen firearms and \$5700?

24 A. Yes, sir.

25 Q. Isn't that correct?

1 A. Yes, sir.

2 Q. Okay. And you were not arrested for that, were
3 you?

4 A. No, sir.

5 Q. Did anybody get arrested for that?

6 A. No, sir.

7 Q. Did your brother move any of the
8 methamphetamine from your home?

9 A. He had thrown it in the night before. He went
10 to my mother's house and he got it and threw it into
11 a hole that was dug to put limbs and stuff in from
12 clearing property off. He threw it in the hole
13 because they called and asked him about it at my
14 bond hearing.

15 He was -- he come down for my bond hearing, and
16 they called him and needed to know where it was and
17 he told them where he -- what he done with it.

18 Q. So your brother moved meth -- moved meth out
19 your house?

20 A. Yes, sir.

21 Q. Did your brother get charged?

22 A. No, sir.

23 Q. Did your brother know anybody at the Anderson
24 County Solicitor's Office?

25 A. At the time, no, but he became friends with the

1 Anderson County solicitor later on.

2 Q. Who did he -- who did he become friends with?

3 A. I don't know the Anderson County solicitor's
4 name.

5 Q. Was it David Wagner or one of the assistant
6 solicitors?

7 A. I don't know.

8 Q. You don't know, but you know that he is friends
9 with an Anderson County solicitor in Anderson?

10 A. Yes, sir.

11 Q. And he never was charged with trying to move
12 meth out of your home?

13 A. No, sir.

14 Q. And you were never arrested for the
15 methamphetamine that was in your home or on your
16 property, as well as the -- any guns or money that
17 was found on that property?

18 A. That is correct, sir.

19 Q. Was your mother aware that you had 15 -- at
20 least 15 firearms in your house?

21 A. No, sir.

22 Q. What kind of firearms did you have?

23 A. Mainly just rifles and shotguns. There was a
24 couple pistols, an AR-15, a shotgun, and there was
25 a Colt 45 I got from a boy in Atlanta that I was

1 going to take it to a gunsmith and have it worked on
2 because the springs and stuff in it were wore out.

3 Q. Is this one of your drug buddies in Atlanta?

4 A. It was a guy I was picking up from.

5 Q. Picking up meth from?

6 A. Yes, sir.

7 Q. Anybody -- there's nobody in Atlanta that you
8 know that you just got -- you're just acquaintances
9 with everybody in Atlanta is -- you're dealing drugs
10 or getting drugs from them, correct?

11 A. Yes, sir.

12 Q. Okay. So you're getting weapons from them,
13 right?

14 A. I was getting them to work on them -- to have
15 them worked on.

16 Q. Okay. What did you use these weapons for,
17 protection?

18 A. No, sir. I just -- every now and then, I just
19 enjoy shooting.

20 Q. You enjoy shooting. Do you hunt?

21 A. Yes, sir.

22 Q. Do you hunt high on meth?

23 A. No, sir.

24 Q. Now, do you also -- do you also deal or sell
25 marijuana?

1 A. No, sir. But at the time, I could get it for
2 people.

3 Q. You can get it for people. And, in fact, it's
4 in your phone and you got text messages with other
5 people talking about trees. And is "trees" a word
6 for marijuana?

7 A. Yes, sir. Some people use trees -- Christmas
8 trees.

9 Q. Okay. So you use -- so not only did you sell
10 methamphetamine, you sold marijuana?

11 A. No, sir. I did not sell marijuana. I just got
12 it for -- somebody asked me if they could -- if I
13 could get it, and I can check and see. I mean, I
14 knew people that done it. I could find some. They
15 asked me if I could get it for them.

16 Q. And you get it for them, right?

17 A. Only one person.

18 Q. Okay. And who was that person?

19 A. Vadera.

20 Q. Vadera? Okay.

21 THE COURT: How do you spell that?

22 THE WITNESS: V -- V-e-d-e-r-a. I believe
23 that's how it's spelled.

24 BY MR. EPPS:

25 Q. And you, essentially, took over Brian McClure's

1 role or spot in this drug trafficking organization
2 in July of 2018?

3 A. Yes, sir.

4 Q. Okay. And that lasted about a month, right?

5 A. Yes, sir.

6 Q. And then this happened?

7 A. Yes, sir.

8 Q. And you continued to make house calls to your
9 customers, right?

10 A. Afterwards?

11 Q. No. No. Up until -- up until -- up until
12 August of 2018?

13 A. Yes, sir.

14 Q. Okay. And how much -- you had 8 ounces on you
15 when you went into Angela Williams' house, right?

16 A. Yes, sir.

17 Q. Okay. And that was how -- what -- how many
18 grams did you have?

19 A. It was over -- a little over 220 grams.

20 Q. 220 grams. The most anybody brought in that
21 house, right?

22 A. Yes, sir.

23 Q. Okay. And you got charged with trafficking
24 methamphetamine over 200 grams, plus the 400 grams,
25 right?

- 1 A. Yes, sir.
- 2 Q. And the mandatory minimum sentence for that is
- 3 25 years?
- 4 A. Yes, sir.
- 5 Q. Okay. But no suspension. You would have --
- 6 you're serving 25 years?
- 7 A. Yes, sir.
- 8 Q. Okay. And you pled guilty yesterday, right?
- 9 A. Yes, sir.
- 10 Q. So trafficking in methamphetamine, 10 to
- 11 28 grams?
- 12 A. Yes, sir.
- 13 Q. To a straight-up plea to three to ten years?
- 14 A. Yes, sir.
- 15 Q. That's a significant cut, you agree?
- 16 A. Yes, sir. It is.
- 17 Q. Okay. And that's 28 -- 10 to 28 grams?
- 18 A. Yes, sir.
- 19 Q. From 223 grams?
- 20 A. Yes, sir.
- 21 Q. And you're doing that -- and you -- and that's
- 22 what you get? That's part of the -- that's the
- 23 offer that the solicitor gave you, right?
- 24 A. Yes, sir.
- 25 Q. To come in and testify and get a substantial

1 reduction and be able to plead on a 25-year
2 mandatory minimum sentence to three to ten years,
3 correct?

4 A. Yes, sir.

5 Q. Okay. Sir, are you going to say and do
6 anything to help yourself; isn't that right?

7 A. I would try to help myself as best I can.

8 Q. That's right. And you continue to use meth.
9 Have you ever tried to stop?

10 A. Yes, sir, I have.

11 Q. Okay. You can't stop, can you?

12 A. It's not that easy.

13 Q. And you never got arrested for the stuff in
14 your house. Do you -- did you ever get your money
15 back?

16 A. No, sir.

17 Q. Did you ever get your -- your weapons back?

18 A. No, sir.

19 Q. Now, were any of those weapons stolen?

20 A. There was three that Brian McClure had left
21 there that was stolen.

22 Q. Okay. So you had stolen weapons in your house,
23 and you didn't get arrested?

24 A. No, sir.

25 Q. Do you know where those weapons are at right

1 now?

2 A. No, sir. I have no idea.

3 Q. Now, did -- and you will -- were you aware of
4 who went to your house?

5 A. I know Anderson County did, and I don't know if
6 there was one or two deputies from Abbeville.

7 Q. So Abbeville came and that -- your house got
8 hit because of the -- of basically you talking to
9 law enforcement in this case, correct?

10 A. Yes, sir.

11 Q. Okay. And, in fact, you told them, and then a
12 short time later -- now, who was at your -- was your
13 mother at your house?

14 A. Yes, sir.

15 Q. Okay. So she was home when -- when Abbeville
16 and Anderson narcotics agents came through the front
17 door, right?

18 A. Yes, sir.

19 Q. Okay. Was your brother at the house?

20 A. He had left to come to my bond hearing.

21 Q. Okay. Does your brother live in the house with
22 you and your mother?

23 A. No, sir.

24 Q. Okay. Where does he live?

25 A. He lives in Anderson.

1 Q. Did your brother intervene on your behalf to --
2 to the Anderson County Solicitor's Office?

3 A. No, sir.

4 Q. Okay. Did your brother intervene on your
5 behalf to the Anderson County Sheriff's Department?

6 A. No, sir.

7 Q. Okay. Did you have any communications with the
8 Abbeville County Sheriff's Department about charges
9 dealing with the contraband at your house?

10 A. No, sir.

11 Q. So you got no idea why you didn't get charged
12 for those drugs, guns, and money at your house?

13 A. Haven't a clue.

14 Q. Now, you also -- you testified that you had
15 that phone a few days, and you testified you broke
16 your other phone?

17 A. Yes, sir.

18 Q. But that other phone is what you use -- who you
19 use to communicate with the Mexican in Atlanta and
20 Head in jail that's in Atlanta and dealing and
21 coordinating with individuals to pick up the 6 to 10
22 pounds of methamphetamine in Atlanta; is that right?

23 A. Before I broke it, yes, it was.

24 Q. Okay. That was your -- that was your phone
25 where you conducted your drug trafficking, right?

1 A. That's the phone I had at the time.

2 Q. That's the phone that you had at the time. And
3 you're saying that you sat and broke that phone?

4 A. I sat on it and broke it, and I went and got
5 that one.

6 Q. Okay. And you -- do you agree that you told
7 some individuals that some things were going on so
8 you had to change phones?

9 A. I changed phones because I broke the other one.
10 I was going to order a screen and get it fixed, but
11 somebody had that phone so I got that one from them
12 and the other one was broke.

13 Q. Did you -- did you change -- did you transfer
14 all your contacts to your new phone?

15 A. Yes, sir.

16 Q. You did?

17 A. Yes, sir. Because all my contacts were saved
18 on my Google account.

19 Q. So you would have all your contacts from --
20 from your -- from the people you talked to in
21 Georgia while you're picking up the meth?

22 A. Yes, sir.

23 Q. Okay.

24 A. They should all be on there.

25 Q. Okay. And -- but you didn't -- you didn't

1 destroy or get rid of your phone because you were
2 worried after Brian McClure went to jail?

3 A. No, sir.

4 Q. Okay.

5 A. Because I didn't talk to anybody in Atlanta
6 until after he went to jail. He talked to the
7 people in Atlanta.

8 Q. Okay. So now when you went into the house,
9 alright, so you're saying your testimony was that
10 you went over -- how many -- Mr. McGill lives in a
11 small camper; is that right?

12 A. Yes, sir.

13 Q. Okay. And how many times have you been to his
14 house?

15 A. Probably 15, 20.

16 Q. And not -- not --

17 A. Not a whole lot.

18 Q. ---, not a whole lot, right?

19 A. Yes, sir.

20 Q. Okay. And Angela Williams doesn't know Kenny
21 McGill?

22 A. No, sir.

23 Q. Okay. And -- but you would -- how long -- how
24 long did you start going -- how long had you been
25 going to Angela Williams' house?

1 A. Probably a few weeks.

2 Q. A few weeks?

3 A. Yes, sir.

4 Q. So you just started doing it a few weeks?

5 A. Well, July -- from July 11th when Brian went to
6 jail and then I started going to Atlanta. I -- I
7 was -- started delivering to the people.

8 Q. Okay. You started delivering to the people
9 now, but you had always -- it's your testimony you
10 had only been going there a few weeks?

11 A. Yes, sir.

12 Q. Okay. What other counties would you go to and
13 provide people with methamphetamine?

14 A. Just Anderson, just right around where I lived.
15 And Abbeville, just right there across the line.

16 Q. Okay. But -- but Mr. McGill never went with
17 you, right?

18 A. No, sir.

19 Q. Okay. That was your people, right?

20 A. That was the people that Brian was dealing
21 with.

22 Q. Okay. All right. So then you picked up -- you
23 went to Ang -- how would Angela Williams pay for
24 you -- pay for the methamphetamine?

25 A. She would get -- I'd front it and she'd sell

1 it. And then when I took her more, she'd paid for
2 what she had gotten.

3 Q. She paid with what she owed you, but she made a
4 phone call to you, right?

5 A. Yes, sir.

6 Q. Okay. And she's the one that told you about --
7 she's the one that got you to come over there that
8 day?

9 A. Yes, sir.

10 Q. Were you coming over that day anyway?

11 A. I was going to go by there. I messaged -- I
12 was going to message her and she if she had money
13 that she owed me.

14 Q. On that phone where she called you, she talked
15 about or you talked about somebody giving her the
16 money; isn't that right?

17 A. Yeah.

18 Q. And who was that?

19 A. Her daughter come by the -- come by my house
20 and borrowed \$40 from me.

21 Q. Okay. Now -- but it was -- it was a gentleman
22 that went to the store on that phone call?

23 A. Yeah. She said that the person that was
24 wanting it to -- had to run to the store. I was
25 like, "Okay."

1 Q. Okay. She said somebody -- somebody else was
2 in the house, right?

3 A. Yeah. She said there was somebody else there.

4 Q. Okay. And was that Patrick that -- that tried
5 to come in the house after you'd been arrested?

6 A. I have no idea.

7 Q. You have no idea, but you're aware that
8 somebody tried to come back to the house after you
9 had got arrested?

10 A. I didn't know that.

11 Q. Okay. Did you hear the lat -- the end part of
12 the -- of -- of when you made a phone call to
13 Mr. McGill?

14 A. Yeah, I heard that.

15 Q. Okay. And they -- they were telling somebody
16 to get out really?

17 A. I -- I heard them say something about Patrick,
18 but I don't know who Patrick was or where he was at
19 or what ---

20 Q. Okay.

21 A. --- because I didn't know.

22 Q. Okay. So do you know what time that you got to
23 Angela Williams' house on -- on August 21st?

24 A. I want to say roughly probably around 5:00, a
25 little after 5:00.

1 Q. A little after 5:00?

2 A. Roughly.

3 Q. Okay. And you walked in the house and you were
4 immediately arrested, right?

5 A. Yes, sir.

6 Q. Was there anybody -- when you walk in, when you
7 look at the house, is it -- I mean, what do you see?

8 A. When you look at the house? When you -- from
9 the outside?

10 Q. No. From the inside. When you walk in the
11 house.

12 A. There's a couch sitting right there ---

13 Q. A couch?

14 A. --- go through the doors.

15 Q. Okay. And there's a kitchen there I guess
16 also ---

17 A. Yes, sir.

18 Q. --- to the -- okay. And was anybody in that
19 area when you came in the house?

20 A. When I walked through the door, it was kicked
21 to behind me. And I heard "sheriff's office," and I
22 turned in the direction of the sound and I was
23 looking down the barrel of an MP5.

24 Q. Okay. So did you ever see Angela Williams?

25 A. No, sir.

1 Q. Okay. That whole time, did you ever see Angela
2 Williams?

3 A. No, sir.

4 Q. And if you got there about 5:00 -- you said you
5 got there about 5:00, 5:30?

6 A. Yes, sir.

7 Q. When did you ultimately leave?

8 A. It was after Mr. McGill got there and they --
9 if I -- I don't know exactly what time it was. I
10 know it was dark.

11 Q. It was dark. But you stayed there a long time,
12 right?

13 A. Yes, sir.

14 Q. Okay. And -- but from the -- from the time you
15 walked in the door, you said you had a -- you had an
16 MP5?

17 A. Yes, sir.

18 Q. Staring at you?

19 A. Yes, sir.

20 Q. Okay. And you were under -- you were under
21 arrest, right?

22 A. Yes, sir.

23 Q. And you were placed into custody at that point
24 in time. Did they cuff you?

25 A. Yes, sir.

1 Q. Did they put you on the ground?

2 A. Yes, sir. I -- I hit -- well, they didn't -- I
3 fell to the ground myself.

4 Q. I gotcha. Okay. But you were at -- you
5 were -- you were -- you were in custody at the time,
6 right?

7 A. Yes, sir.

8 Q. And you remained in custody. They didn't ever
9 take the cuffs off of you?

10 A. No, sir.

11 Q. Okay. And then at some point in time, how long
12 were you there before you made the phone call to
13 Mr. McGill?

14 A. I'm going to say probably roughly about an hour
15 because the text message -- the last text message is
16 from him -- to him that day was -- I believe it was
17 6:59, "Hey, call me." So it was right around seven
18 o'clock I guess when I called him.

19 Q. Mr. McGill would've never gone to Ang -- Angela
20 Williams' house, right?

21 A. No, sir.

22 Q. But he never would've gone there. I mean, he
23 never -- he'd never been there, right?

24 A. No, sir.

25 Q. Okay. So what did you -- So you were there for

1 how long before you made the call?

2 A. I want to say roughly probably about an hour or
3 so.

4 Q. Okay. And what did you do for that hour?

5 A. Set there and contemplated.

6 Q. Contemplated what?

7 A. What to do.

8 Q. What to do?

9 A. Yes, sir.

10 Q. Was law enforcement asking you to -- to set up
11 somebody?

12 A. They asked me if I knew anybody I could call to
13 help myself.

14 Q. To help yourself. Okay. And you thought about
15 it and contemplated it for an hour, correct?

16 A. Yes, sir.

17 Q. Okay. And did they set up -- they set up --
18 did law enforcement set up this phone call and buy?

19 A. They asked me if I would call somebody and
20 obviously I did, and they was there waiting.

21 Q. Okay. But you said you waited for an hour, and
22 they wanted you to set somebody up, right?

23 A. Yes, sir.

24 Q. Okay. Did they set up the recording?

25 A. Yes, sir. They had the recording. They had a

1 recorder.

2 Q. Okay. And they set up -- they set up the
3 recorder and they set up -- obviously, they
4 coordinated a phone call between you and Mr. McGill,
5 right?

6 A. Yes, sir. They -- they recorded the call when
7 I called him.

8 Q. And this was obviously -- was this started or
9 this instigated or this started by law enforcement?

10 A. They asked me if I would, and I ultimately
11 decided I -- I would call.

12 Q. Okay. And -- and when you call Mr. McGill, you
13 wasn't going to meet him any more that day, right?

14 A. We were planning on meeting and -- and I just
15 went -- we were going to meet so he could, you know,
16 give me money to go down to Atlanta. And I figured
17 I'd just go ahead and get him to come with the money
18 to make one trip.

19 Q. Did you -- did you tell law -- was that a
20 conversation you and law enforcement had?

21 A. (No response.)

22 Q. Were you told to tell Mr. McGill ---

23 A. No, sir.

24 Q. --- to bring a certain amount of drugs?

25 A. I was asked to text him to bring 4 ounces.

1 Q. Four ounces?

2 A. Yes, sir.

3 Q. Law enforcement asked you to ask Mr. McGill to
4 bring 4 ounces, correct?

5 A. Yes, sir.

6 Q. Okay. Which is about -- it's over 100 grams --
7 112 grams so-to-speak, right?

8 A. Yes, sir.

9 Q. So they asked you to make -- to ask Mr. McGill
10 to bring that?

11 A. Yes, sir.

12 Q. Okay. If you wouldn't have made that call,
13 Mr. McGill never would've come to Angela Williams'
14 house, right?

15 A. Correct.

16 Q. Mr. McGill didn't know how to get there, right?

17 A. No, sir.

18 Q. And you had to give him directions?

19 A. Yes, sir.

20 Q. Okay. And, in fact, did you mess up the
21 directions?

22 A. Yes, sir, I did.

23 Q. Okay. And it took a good while for Mr. McGill
24 to get there?

25 A. Yes, sir.

1 Q. How long did it take?

2 A. Probably 45 minutes to an hour.

3 Q. 45 minutes to an hour?

4 A. Yes, sir.

5 Q. And where were you at when Mr. McGill came in?

6 A. I was in the bedroom to the right of the first
7 door.

8 Q. Had you still seen Angela Williams -- had you
9 seen her at all?

10 A. No, sir.

11 Q. How many people had you -- how many law
12 enforcement officers were in that house?

13 A. Four.

14 Q. Four. Okay. Did you -- was -- you saw four,
15 or did you know that there was four?

16 A. I only seen four officers in the house.

17 Q. Okay. Was one back in -- did you ever see the
18 officer that was back in the room with Angela
19 Williams?

20 A. No, sir.

21 Q. Okay. Who was in the -- in the bedroom with
22 you?

23 A. There was two different ones.

24 Q. Okay. Two different -- what bedroom were you
25 in?

1 A. I was in the bedroom to the right of the front
2 door.

3 Q. With the -- with the bunk bed? Was it her
4 son's room?

5 A. There was bunk beds.

6 Q. There's a bunk -- so it was her son's room?

7 A. I believe so.

8 Q. Who else was there other than you and law
9 enforcement and Angela Williams?

10 A. Nobody.

11 Q. Okay. So they put you in that bedroom, right?

12 A. Yes, sir.

13 Q. And then Mr. McGill came through the door,
14 right?

15 A. Yes, sir. When he showed up.

16 Q. Okay. Like you said, Mr. McGill, he's put
17 Mr. -- Mr. McGill never would've come to Abbeville
18 had you not called him?

19 A. Yes, sir. That's right.

20 Q. Mr. McGill never would've brought 4 ounces of
21 methamphetamine to Angela Williams house had you not
22 called him?

23 A. Correct.

24 Q. And you never would've made that call if -- but
25 for law enforce -- you were caught -- you were in

1 custody and law enforcement set up that buy and had
2 you call to bring -- Mr. McGill to bring 4 ounces
3 into Abbeville County, correct?

4 A. Yes, sir. They asked me if I would call
5 somebody. They didn't force me to call him.

6 Q. Okay.

7 A. I ultimately decided on my own.

8 Q. Did you tell -- did you tell them about Head?

9 A. They had knew a little bit about Head I guess
10 from Ms. Williams -- Ms. Williams.

11 Q. What about Head's daughter? You didn't want to
12 turn in Head's daughter?

13 A. Head's daughter?

14 Q. Uh-huh.

15 A. I met her one time.

16 Q. And you -- didn't you say you were splitting
17 the money with her -- you were splitting the money
18 with her?

19 A. No. I was splitting the money with Head.

20 Q. With Head -- but Head's in jail, right?

21 A. And his sister.

22 Q. His sister. Excuse me. His sister. You
23 didn't tell law enforcement about -- what about
24 Head's sister?

25 A. I didn't.

1 Q. Did you tell them that you were dealing with
2 somebody out of -- that was operating out of a
3 prison or jail in Georgia?

4 A. Yes, sir.

5 Q. Okay.

6 A. I believe I told -- I know I told the DEA.

7 Q. You told the DEA, but did you tell Abbeville
8 County on that day?

9 A. I don't know if it was that evening or the next
10 day when I was at Abbeville and they was talking to
11 me.

12 Q. What about Wolf Man? Some of these other
13 individuals on your phone.

14 A. They didn't -- they asked me about if I was
15 selling to anybody else around the area, and I
16 never -- I never said anything about -- about Wolf
17 Man because he -- it wasn't -- he might get a
18 quarter or a 50 every now and then from me.

19 Q. Okay. Now, how long had you had that phone
20 before you got arrested on the 21st?

21 A. Not long.

22 Q. Okay.

23 A. A few days.

24 Q. And how long after you got arrested on the 21st
25 did you sit down and talk with DEA?

1 A. It was some time in December.

2 Q. Some time in December?

3 A. Yes, sir.

4 Q. And in January they took -- you were -- were
5 you aware they did a phone dump on your phone?

6 A. Yes, sir.

7 Q. Were you aware that that -- what was on your
8 phone locked up the DEA computers?

9 A. I didn't know it was locked up.

10 Q. Okay.

11 A. I know they done a phone dump.

12 Q. All right. Were you aware they found 27,000
13 photographs and pictures of meth and porn?

14 A. No..

15 Q. Okay. Do you have a lot of porn on your phone?

16 A. Actually, probably a good bit.

17 Q. Do you have a lot of pictures of meth and drug
18 usage on your phone?

19 A. There's a lot of stuff that I got off of
20 different web sites of pictures and stuff like that..

21 Q. Pictures of like what?

22 A. Probably somebody smoking a bowl.

23 Q. Smoking a bowl?

24 A. I don't know what all was on that phone
25 because like ---

1 Q. It's your phone?

2 A. Yeah, but I haven't seen that phone in over a
3 year.

4 Q. I understand, but this -- this is -- this is --
5 you had it for a few weeks. You had 27,000
6 photographs of meth and porn?

7 A. Everything goes to my Google account. And if
8 it's not to where it syncs -- your phone is not to
9 where it syncs, nothing -- it don't get saved to
10 your Google account. Half that stuff was probably
11 saved to my Google account over years.

12 Q. Okay. And when you sat down to them, did
13 you -- did you -- did they discuss your contacts
14 in -- in -- in Atlanta?

15 A. I sat down with who?

16 Q. The DEA.

17 A. They asked me about them.

18 Q. Did you tell them the truth?

19 A. Yes, sir.

20 Q. Did you tell them Head was in prison?

21 A. Yes, sir.

22 Q. You still maintain you don't know what prison
23 he's in?

24 A. I don't know exactly the name of it.

25 Q. Where is it located?

1 A. I believe it's in the lower part of Georgia I
2 believe. Valdosta area I think.

3 Q. Did you tell them about Head's sister?

4 A. I told them that his sister would come pick up
5 his money or his brother-in-law.

6 Q. Okay. And you also told them about Angie
7 Skelton; is that right?

8 A. Yes, sir.

9 Q. Who is Angie Skelton?

10 A. A girl I know.

11 Q. A girl you know? A girl you provided and dealt
12 methamphetamine to?

13 A. I sold to her.

14 Q. Okay. All right. And she was caught up in the
15 Federal drug conspiracy case, correct?

16 A. Yes, sir.

17 Q. Okay. Were you involved? Did they talk about
18 your involvement as it relates to that Federal drug
19 case?

20 A. They wanted me to set her up ---

21 Q. They wanted you to set her up?

22 A. --- in Anderson County.

23 Q. Anderson County wanted to set her up. Are you
24 aware of Brian Zapato?

25 A. Who?

1 Q. Brian Zapato?

2 A. No, sir.

3 Q. Okay. Were you aware that that was a Federal
4 drug case that -- that they wanted you to set
5 somebody up in, right?

6 A. No, sir.

7 Q. You wasn't aware of that?

8 A. No, sir.

9 Q. They wanted you to set up Angie Skelton,
10 correct?

11 A. Yes, sir.

12 Q. Okay.

13 A. They asked me to.

14 Q. Okay. And did you set up Angie Skelton?

15 A. No, sir.

16 Q. You didn't?

17 A. I called her one time. They reported it. But
18 other than that, that's it.

19 Q. Okay. When they -- when you called, what was
20 the purpose of you calling?

21 A. I called her and they -- they asked me if I
22 would call her and see if she had anything. And I
23 called and asked if she was good, and she said yeah.

24 Q. So you weren't able to set her up, right?

25 A. No, sir.

1 Q. Okay. But you were doing that to help
2 yourself, right?

3 A. Yes, sir.

4 Q. You were doing that to help you get out of this
5 25-year mandatory sentence, correct?

6 A. I was trying.

7 Q. Okay. And, basically, you're doing anything
8 and everything to get yourself out of that sentence?

9 A. I was trying to do what I was asked.

10 Q. All right. Now, you testified that you told --
11 was Mr. McGill arrested as soon as he got in?

12 A. Yes, sir. They -- when he come through the
13 door, pretty much the same thing that happened to
14 me. "Sheriff's Office. Get on the floor."

15 Q. Okay. Did you see that happen?

16 A. No, sir, I did not.

17 Q. Okay. But you testified you told him you were
18 sorry?

19 A. Yes, I did. After they brought me into the
20 living room.

21 Q. All right. You were sorry for setting him up,
22 right?

23 A. Yes, sir.

24 Q. Okay. But you wouldn't have done it but for
25 law enforcement setting up or -- or arresting you

1 and getting you to call Mr. McGill to bring you
2 4 ounces, right?

3 A. They asked me if I'd call him.

4 Q. Okay. And bring 4 ounces, correct?

5 A. Yes, sir.

6 Q. Okay. This is your phone that you testified
7 to?

8 A. Yes, sir.

9 Q. Okay. And this is the phone that you said that
10 you do text messages between you and Mr. McGill?

11 A. The one.

12 Q. Okay. Do you know how to get this thing on?

13 A. Yes, sir.

14 Q. Okay. It's on?

15 A. (Showing.)

16 Q. And this is -- you testified this is the phone
17 that you had how many days prior to the 21st --
18 August 21st of '18?

19 A. A few days from the text messages that I was
20 shown that was on it.

21 Q. Okay.

22 A. I mean, can't really tell exactly how many days
23 it was because it -- like I said, I ain't seen that
24 phone in over a year.

25 Q. Did you get a new phone?

1 A. Afterwards?

2 Q. Yeah.

3 A. Yeah, I mean, I got another phone. And
4 whenever you get a prepaid phone, you can use the
5 old number that you had or get a new number.

6 Q. Okay. Did you use this old number?

7 A. Not that one. I used an old number that was on
8 the phone that I broke.

9 Q. Okay. And that's the phone that you dealt
10 with -- you dealt drugs that you contacted the
11 individuals?

12 A. That's the phone I had before that one right
13 there.

14 Q. That's the phone. Okay. And did you still --
15 after this, you still communicated with those
16 individuals regarding methamphetamine?

17 A. No, sir.

18 Q. But you testified you still to this day are
19 using meth.

20 A. Yes, sir.

21 Q. How are you getting it?

22 A. Just different individuals.

23 Q. Different individuals?

24 A. Somebody might come by and see me and have --
25 have some with them. They'll let me have it -- have

1 a little bit. I mean, I don't -- most I'll ever --
2 I might have is maybe a quarter. And that's maybe
3 once or twice a month.

4 Q. Once or twice a month?

5 A. Yes, sir.

6 Q. But you're still using meth, right?

7 A. Yes, sir.

8 Q. And you're still around people -- utilizing
9 people to -- from what you're saying now to buy
10 methamphetamine?

11 A. No, sir. I said that people come by and see me
12 and give me.

13 Q. So you got people who have drugs, meth, come by
14 your house and give you meth for nothing in return?

15 A. Yes, sir.

16 Q. As a -- okay.

17 A. Just because they're friends.

18 Q. Friends. That's a good friend. People come by
19 and just give you some methamphetamine?

20 A. I mean, they come by and might give me -- like
21 I said, the most is a quarter.

22 Q. A quarter of what?

23 A. A quarter of a gram.

24 Q. A quarter of a gram?

25 A. Yes, sir.

1 Q. Okay. And you continued to use that, right?

2 A. From time to time.

3 Q. Okay. And on your new phone, were you
4 utilizing any phone calls to Head?

5 A. No, sir.

6 Q. Did Head cut you off?

7 A. I ain't talked to Head since the day before --
8 the day of I went to jail.

9 Q. Okay.

10 A. I ain't talked to him since.

11 Q. I think you testified you knew Head was going
12 to get out some time soon.

13 A. We talked in the past.

14 Q. You don't know if he's been arrested or charged
15 or any additional ---

16 A. No, sir, I do not.

17 MR. EPPS: Okay. All right. Your Honor, may I
18 approach?

19 THE COURT: You sure can.

20 BY MR. EPPS:

21 Q. And these are your text messages? These are
22 your messages, right?

23 A. Yes, sir.

24 Q. Okay. And I'm looking at this (864)556-6407.
25 Whose number is that?

1 A. I don't know.

2 Q. Okay. You don't know?

3 A. No, sir. Because I -- I don't know numbers.
4 I'm pretty much like everybody else nowadays.

5 Q. You just put the name. I know, you got no idea
6 what the number is?

7 A. No.

8 Q. All right. But the very next one is Head,
9 right?

10 A. Yes, sir.

11 Q. Okay. And did you tell Head that you haven't
12 hit all your regulars?

13 A. I probably did. I mean, I ain't -- like I
14 said, I ain't had no contact.

15 Q. But that's on all -- that's on -- and you ain't
16 had that phone since the day you were arrested. But
17 on August 19th, you were telling Head that you
18 haven't hit all your regulars; is that right?

19 A. Yeah, I hadn't -- the ones that get it on the
20 front and then pay me after they get rid of it.

21 Q. Okay. And then Wendy is next, right?

22 A. Yes, sir.

23 Q. Okay. And did you tell her you were bringing
24 something?

25 A. I can't remember. Like I said, I ain't -- I

1 ain't seen this phone in a long time.

2 Q. I understand. But you can just click on it.

3 It's your phone, right?

4 A. Yes, sir.

5 Q. So -- but did you give -- did you sell
6 methamphetamine to Wendy or provide meth to Wendy?

7 A. She got it from me, and then paid me once she
8 got rid of it.

9 Q. Okay. All right. Hillbilly and Josh, who's
10 Hillbilly?

11 A. A guy that get from me.

12 Q. A guy that would buy meth from you, right?

13 A. Yes, sir.

14 Q. Who's Josh?

15 A. Another individual that would get meth from me.

16 Q. Meth from you. Okay. And then Angle. You got
17 Ken that you talk about, and then you got Angle. Is
18 that Angle or Angie?

19 A. Angel.

20 Q. Is that Angle, A-n -- A-n-g, looks like, l-e?

21 A. It's e-l.

22 Q. It's e-l?

23 A. Yes, sir.

24 Q. Okay. That's Angel. Is that Angela Williams,
25 or is that somebody else?

1 A. That's somebody else. That's a different
2 Angel.

3 Q. That's a different Angel?

4 A. That's a girl that my buddy is married to.

5 Q. Okay. And were you providing her with
6 methamphetamine?

7 A. No, sir. I was not.

8 Q. Okay. All right. Are you sure about that?

9 A. Yes, sir. I'm very positive about that.

10 Q. Okay. All right. Will you look at -- can you
11 pull that up?

12 A. Yes, sir.

13 Q. Look -- go to -- scroll to the date of 8/21/18.

14 A. There isn't a date for 8/21/18 for her.

15 MR. BLACK: Judge, can I approach? Can we
16 approach?

17 THE COURT: Yeah.

18 (Sidebar discussion.)

19 BY MR. EPPS:

20 Q. May I have that for a minute?

21 A. Yes, sir.

22 Q. I'm going to hand -- I'm going to hand you --
23 you said there was no August 20 -- 21 for Angel?

24 A. For the Angel that you was referring to, the
25 one that I told you that was my buddy's wife.

1 Q. Yeah.

2 A. Now, the Angel -- the other Angel on here,
3 there is the 21st.

4 Q. Okay. And is that Angela Williams?

5 A. Yes, sir.

6 Q. Okay. And then Vadera. Vadera is on your
7 phone as well, correct?

8 A. Yes, sir.

9 Q. Okay. And you provided her with
10 methamphetamine, right?

11 A. Yes, sir.

12 Q. And then Wolf Man, right?

13 A. Yes.

14 Q. That's one of your customers? David. Is he
15 one of your customers on here?

16 A. He was.

17 Q. He was? Austin?

18 A. He was.

19 Q. Okay. Josh?

20 A. Yes, sir.

21 Q. Obviously, Hillbilly. Do you know who 314-1292
22 is?

23 A. No, sir. Not right offhand.

24 Q. It says, "How long before you get here?"

25 A. I don't -- like I said, I don't know numbers.

1 I only know names.

2 Q. Okay. But, obviously, you're going to take
3 them something. I'm assuming you're taking them
4 meth, right?

5 A. Yes, sir.

6 Q. Okay.

7 A. It was somebody that I just -- just started.

8 Q. Okay.

9 A. It was somebody new.

10 Q. Somebody new?

11 A. Yes, sir.

12 Q. Okay. And then you pled yesterday -- you pled
13 yesterday to trafficking in meth, 10 to 28 grams,
14 with a range of three to ten years, correct?

15 A. Yes, sir, I did.

16 Q. And your sentencing got deferred until
17 January 2020?

18 A. Yes, sir.

19 Q. All right. So you're free to continue to do
20 meth until, I guess, you come back here to be
21 sentenced in January?

22 A. If I choose to continue doing it, yes.

23 Q. Okay.

24 A. That's a fair assumption.

25 Q. Okay. But you -- I mean, you're out and so you

1 got a deferred sentence?

2 A. It's deferred to January the 6th.

3 Q. Okay. And it's deferred because you've given
4 cooperation in this case, correct?

5 A. Yes, sir.

6 Q. Okay. And did you tell them -- did you tell
7 law enforcement at the very beginning that you would
8 cooperate?

9 A. Yes, sir, I would.

10 Q. To help yourself because you were -- you were
11 charged with having -- trafficking over 200 grams of
12 meth, right?

13 A. Yes, sir.

14 Q. Okay. And you had the weight in that house,
15 correct?

16 A. Yes, sir. When I walked through the door, I
17 came -- I walked through the door with the most
18 amount.

19 Q. At any time did they bring you out and sit you
20 on the couch?

21 A. They set me on the couch after they took
22 Mr. McGill into custody.

23 Q. Do you remember being interviewed by Abbeville
24 law enforcement?

25 A. Yes, sir.

1 Q. Okay. And do you remember when you told them
2 that you had meth and guns at your house and money?

3 A. Yes, sir.

4 Q. They left the room, correct?

5 A. They left the room.

6 Q. Did they come back?

7 A. Yes, sir.

8 Q. What kind of conversation did y'all have when
9 they come back -- when they came back?

10 A. They just asked me how much. And then later
11 on, they -- Anderson County came down to Abbeville
12 and they took me -- they come got me and took me
13 back and Anderson County talked to me.

14 Q. Did you stay in that room?

15 A. No, sir.

16 Q. You didn't stay ---

17 A. I went back to my cell.

18 Q. Okay. How long -- how long were you in that --
19 when -- when Abbeville County Sheriff's Department
20 left that room, how long until they came back to
21 that room?

22 A. Just a few minutes.

23 Q. Okay.

24 A. They wasn't gone long.

25 Q. And -- but they continued -- did y'all continue

1 having a conversation?

2 A. We talked for a little bit longer, and then
3 they took me back to my cell.

4 Q. Okay. And then you talked to Anderson County,
5 and then ---

6 A. And then I went back to my cell.

7 Q. Okay. And then from there, there was a search
8 warrant on your home?

9 A. Yes, sir.

10 Q. And nothing's ever come of that, correct?

11 A. Not yet.

12 Q. Okay. When you say "not yet," what do you mean
13 by not yet?

14 A. I figured that they probably will. Eventually,
15 when this is over with, they'll probably put charges
16 on me.

17 Q. That's been over a year ago. When was that --
18 that -- they got that -- the -- that meth and guns
19 and money from your house ---

20 A. On the 22nd.

21 Q. --- August 22nd, the day after ---

22 A. I was arrested.

23 Q. --- what we're here for today?

24 MR. EPPS: Thank you, Your Honor. I have no
25 further questions.

1 THE COURT: Okay. Any redirect, Solicitor?

2 MR. BLACK: Briefly.

3 REDIRECT EXAMINATION

4 BY MR. BLACK:

5 Q. Mr. Ferguson, you're not denying that you're a
6 drug dealer?

7 A. No, sir, I'm not.

8 Q. And the day that this whole thing went down on
9 August the 21st, you called Mr. McGill, right?

10 A. Yes, sir, I did.

11 Q. And you listed off a bunch of names. I mean,
12 the phone -- you went through the phone, different
13 people you were selling to?

14 A. Yes.

15 Q. Josh, is that one?

16 A. Yes, sir.

17 Q. Hillbilly?

18 A. Yes, sir.

19 Q. Wendy?

20 A. Yes, sir.

21 Q. Wolf Man?

22 A. Yes, sir.

23 Q. Skelton?

24 A. Yes, sir.

25 Q. And there were -- there were additional folks

1 as well?

2 A. Yes, sir.

3 Q. So you could've called -- you could've called
4 anyone, right?

5 A. Yes, sir. I could have.

6 Q. But you chose to call who?

7 A. Mr. McGill.

8 Q. This guy over here?

9 A. Yes, sir.

10 Q. And he ended up showing up, right?

11 A. Yes, sir.

12 Q. And he had a bunch of meth on him when he
13 showed up?

14 A. Yes, sir. He had 4 ounces I believe.

15 Q. And then y'all had a conversation after that on
16 the couch, a brief conversation?

17 A. Yes, sir. I told him I was sorry.

18 Q. And he responded?

19 A. Yes, sir.

20 Q. And his response was?

21 A. "You set me up."

22 Q. You -- you have a bit of an interesting life
23 history. You were in the Guard for 22 years?

24 A. Yes, sir.

25 MR. EPPS: Your Honor, I'll -- I mean, I -- I'm

1 going to object. He's going back through the direct
2 examination. This is supposed to be recross.

3 THE COURT: I think it was brought out on
4 direct concerning his National Guard involvement.
5 Is there anything in particular on cross-examination
6 related to his Guard involvement that you want to
7 address, Solicitor?

8 MR. BLACK: It is. I just want to go back
9 through. I think Mr. Epps asked about what he did
10 in the Guard, 22 years, the discharge. I think it
11 was brought up. I'm allowed to go back there, I
12 believe.

13 THE COURT: Well, if you're going to cover the
14 very same stuff you covered in direct, then I would
15 have to disagree with you. But I'll -- if you're
16 not going to spend much time on it, I'll overrule
17 the objection and let you continue.

18 MR. BLACK: All right. Thank you, Judge.

19 BY MR. BLACK:

20 Q. Specifically, which I didn't ask you, but
21 Mr. Epps asked you about a diagnosis that you got
22 from the psychiatrist. Do you remember him asking
23 you about that?

24 A. I remember -- I remember mentioning that I've
25 been -- I've been diagnosed with PTSD and mass

1 depression.

2 Q. And when did you go get that diagnosis?

3 A. That was when I was working at Walgreens.

4 Q. Okay. Was this after you had gotten back from
5 Afghanistan?

6 A. Yes, sir.

7 Q. And while you were in Afghanistan, you said
8 your job was to check for bombs?

9 A. Yes, sir.

10 Q. And that was a time when we were over in
11 Afghanistan, correct?

12 A. Yes, sir.

13 Q. And your job was to lookout for suicide
14 bombers?

15 A. Yes, sir.

16 Q. And that was something that was going on over
17 there, right?

18 A. Yes, sir.

19 Q. And you came back. Did you ever have any
20 counseling when you came back?

21 A. No, sir.

22 Q. And did that -- did that have an effect on you?

23 A. Yes, sir, it did.

24 Q. And ---

25 A. But if just -- like my psychiatrist said, when

1 my father died, that was likely the straw that broke
2 the camel's back.

3 Q. And so at that point, that's when you started
4 using methamphetamine?

5 A. It was after that.

6 Q. Okay. And you didn't start dealing
7 methamphetamine in 2013, right?

8 A. No. Not then.

9 Q. And you -- you started dealing in 2013?

10 A. I started using.

11 Q. I'm sorry. Using in 2013. You started dealing
12 in 2018?

13 A. Yes, sir.

14 Q. And you said that that was around April?

15 A. Yes, sir.

16 Q. And you had a bunch of guns in your house,
17 right?

18 A. Yes, sir.

19 Q. And you weren't prohibited from having any
20 guns, were you?

21 A. No, sir.

22 Q. In fact, all you had on your record was a
23 public disorderly conduct from 2001?

24 A. Yes, sir.

25 Q. Otherwise, your record was spotless?

1 A. Yes, sir. I had a concealed weapons permit.

2 Q. Okay. And you also had -- you were in the
3 military, correct?

4 A. Yes, sir.

5 Q. And I think you said you had an AR?

6 A. It belonged to somebody else.

7 Q. But you probably shot those in the military?

8 A. Yes, sir. So I don't really need to shoot no
9 more of them.

10 Q. Right. But they're -- they're legal to own,
11 correct?

12 A. Yes, sir.

13 Q. And you had some shotguns?

14 A. Yes, sir.

15 Q. And you like to hunt, correct?

16 A. Yes, sir.

17 Q. You turkey hunt?

18 A. Yes, sir.

19 Q. You use a shotgun to turkey hunt?

20 A. Yes, sir.

21 Q. And you had rifles?

22 A. Yes, sir.

23 Q. You deer hunt?

24 A. Yes, sir.

25 Q. And you need a rifle to deer hunt?

1 A. Yes, sir.

2 Q. And you had -- you had pistols as well?

3 A. Yes, sir.

4 Q. And you said you had your concealed carry at
5 that time?

6 A. Yes, sir.

7 Q. So you could carry a gun?

8 A. Yes, sir.

9 Q. And then you were going with this guy named
10 McClure to Anderson, right -- McClure to Atlanta?

11 A. Yes, sir.

12 Q. And you were going to pick up methamphetamine
13 with him?

14 A. Yes, sir.

15 Q. And you would drive?

16 A. Yes, sir.

17 Q. And he would ride?

18 A. Yes, sir.

19 MR. EPPS: Your Honor, I think he's going
20 through -- this is ---

21 THE COURT: Yeah, I agree. Sustain the
22 objection.

23 BY MR. BLACK:

24 Q. So you were going to Atlanta and you got how
25 many pounds again?

1 A. When me and Brian was going, it was roughly
2 right around 6 to 10 pounds.

3 Q. And after, it was just you?

4 A. Just me, it was 6 pounds at the most.

5 Q. And who would you give those drugs to?

6 A. Four pounds would go to McGill, and the other
7 2 pounds I would take.

8 MR. BLACK: That's all the questions I have.

9 THE COURT: Any recross?

10 MR. EPPS: Yes, sir.

11 RECROSS-EXAMINATION

12 BY MR. EPPS:

13 Q. All right. You talked about you were in the
14 military. That's the Army National Guard?

15 A. Yes, sir.

16 Q. Okay. What was your -- what's the motto? I
17 was in the Marines. Okay. What -- what was the
18 motto? We had honor; courage; commitment. What --
19 what did you have in the Army?

20 A. I had the Army values.

21 Q. Army values. You think it's good Army values
22 to be doing methamphetamine while you're in the
23 National Guard?

24 A. No, sir.

25 Q. Okay. All right. And those guns you had in

1 your house, at least three of them from Brian
2 McClure were stolen ---

3 A. Yes, sir.

4 Q. --- right? And you knew that?

5 A. Yeah.

6 Q. And that's against the law to maintain or have
7 stolen weapons, correct?

8 A. Yes, sir.

9 Q. Okay. Is that an excuse? You said you didn't
10 have any -- there's no opposition. There's nothing
11 to keep you from owning weapons, but you shouldn't
12 have stolen weapons. And you had stolen weapons in
13 your -- stolen guns in your house, right?

14 A. Yes, sir. There was three.

15 Q. Okay. And did you have -- and did you have
16 those -- go back. Do you think that is good Army
17 values?

18 A. No, sir, it was not.

19 Q. Okay. Now, you said that you would have 6
20 pounds, and you would give four to Mr. McGill?

21 A. I would pick up 6 pounds because he would pay
22 for 4 pounds. He'd give me money to go down and get
23 it, and I'd bring it back.

24 Q. But he didn't have anything to do with your
25 business with Head?

1 A. No. But ---

2 Q. Okay.

3 A. --- he was -- him and Brian would -- when we'd
4 go -- when I went with Brian, he would give Brian
5 money to pick him up some, and then -- and then I
6 just continued to pick it up for him.

7 Q. But your -- your partner, so to speak, is Head,
8 correct?

9 A. The guy I was talking to in Atlanta in prison?

10 Q. Yes.

11 A. That was the person I was going through, and he
12 was providing the 2 pounds for me to sell to make
13 money ---

14 Q. Okay. And so ---

15 A. --- money we'd split.

16 Q. --- so -- so Brian McClure probably thought
17 very highly of you to put you in a position where
18 you're taking over for his operation; is that right?

19 A. I don't know if he thought highly of me. He
20 asked me because -- I took over because it was -- me
21 and him was going down there to Atlanta, and it was
22 pretty much, I was the only one that was able to go
23 to Atlanta.

24 Q. Because you had built up a trust with the drug
25 dealer you were dealing with in Atlanta, correct?

1 A. Yeah, because they had seen me face.

2 Q. And Mr. McGill never went with you to Atlanta?

3 A. He did not.

4 Q. Okay. So that was you. You had built up trust
5 with these drug dealers in Atlanta, as well as the
6 drug dealer who's operating out of a Georgia prison,
7 and you built up the trust of Brian McClure to where
8 you took over his job, his operation once he went to
9 prison?

10 A. I took it over because I gave the man my word
11 that I'd take care of his family while he was in
12 jail.

13 Q. So you gave him -- you gave him your word that
14 you were going -- that you were going to take care
15 of his family and the meth business while he was in
16 jail, right?

17 A. I gave the man my word that I would. And the
18 way I was raised, you give a man your word, that's
19 your word.

20 Q. So that's values, right?

21 A. Yes, sir.

22 Q. And now you're sitting here and you're in front
23 of this jury and you're going to do anything and
24 everything to help yourself and get yourself a break
25 on the charges that you got and that you pled guilty

1 to yesterday, right?

2 A. I'm going to try.

3 MR. EPPS: Thank you, Your Honor. No further
4 questions.

5 THE COURT: You can step down, sir.

6 (Witness excused.)

7 THE COURT: All right. Madam forelady, ladies
8 and gentlemen of the jury, this will be a good time
9 to take a lunch break and so I'm going to ask that
10 you come back at 1:30. So, hopefully, an hour and a
11 half is enough time for you to get some -- some
12 lunch.

13 I remind you once again, no discussions among
14 yourselves or anybody that you come in contact with.

15 And I'm going to mention one thing, and I'm not
16 going to single anybody out at this point in time,
17 but we had one juror that appears to be asleep or at
18 a very minimum being not attentive. So I would
19 remind everyone on this jury that as I told you
20 yesterday, one of the keys is to be very attentive,
21 be very alert. Because if you're not, then you're
22 not being a very effective jury and juror and you're
23 not being helpful to your fellow jurors. So I'm not
24 going to single anybody out quite yet, unless it
25 continues, then I'll -- I'll have to.

1 Okay. All right. Have a good lunch. See you
2 back here at 1:30.

3 (At 12:05 p.m., jury was excused for lunch.)

4 THE COURT: All right. Gentlemen, it was
5 mentioned that a *Jackson v. Denno* needs to be
6 conducted. Let's take about a ten-minute recess and
7 then let's do that before we break for lunch.

8 MR. BYRHOLDT: Your Honor, could Mr. Ferguson
9 be released from his subpoena?

10 THE COURT: I -- I have no problem with that.
11 Does any -- either side believe that he might need
12 to be recalled for some reason?

13 MR. BLACK: I -- I don't anticipate it at this
14 point, Your Honor.

15 THE COURT: Okay. Mr. Epps, do you -- do you
16 see any?

17 MR. EPPS: I doubt it, Your Honor, but, I mean,
18 I guess if -- if that comes up, we can call
19 Mr. Byrholdt.

20 THE COURT: You can get him back if necessary?

21 MR. BYRHOLDT: Yes, sir.

22 THE COURT: Okay. You're -- you're free to
23 leave the courthouse and you just need to stay close
24 around to where your lawyer can get ahold of you,
25 sir.

1 THE WITNESS: Okay.

2 THE COURT: Thank you. We'll take a ten-minute
3 break.

4 (From 12:07 to 12:18 p.m., recess.)

5 THE COURT: All right. Gentlemen, it's my
6 understanding that we need to conduct a *Jackson v.*
7 *Denno* hearing.

8 Now, Solicitor, there are -- there are two
9 statements, one of which is not going to be used by
10 the State and one is; is that correct?

11 MR. BLACK: That's correct. Mr. McGill gave a
12 recorded interview after he was arrested and taken
13 to the detention center and that interview was
14 recorded. I'm not going into that one, Your Honor,
15 but I am going into the statement that he gave to
16 law enforcement after he was Mirandized.

17 THE COURT: On scene?

18 MR. BLACK: On scene at that house right after
19 he came in the door.

20 THE COURT: All right. Very good. Call your
21 first witness.

22 MR. BLACK: Josh Monts.

23 (Witness approaching.)

24 THE CLERK: Put your left hand on the Bible and
25 raise your right.

1 THE WITNESS: (Complying.)

2 THE CLERK: The evidence you're about to give
3 the Court will be the truth, the whole truth, and
4 nothing but the truth?

5 THE WITNESS: Yes.

6 INVESTIGATOR JOSHUA MONTS,
7 having been produced and first duly sworn as a
8 witness on behalf of the State, testified as
9 follows:

10 DIRECT PROFFER EXAMINATION

11 BY MR. BLACK:

12 Q. Can you state your name for the record?

13 A. Josh Monts.

14 Q. And last year, August 21st of 2018, you were
15 working for the sheriff's department?

16 A. Yes.

17 Q. And what was your position? What was your
18 title?

19 A. I was an investigator in the narcotics task
20 force.

21 Q. Okay. And last -- and now you're working with
22 Greenwood County, correct?

23 A. Correct.

24 Q. But at that time you were working here in
25 Abbeville?

1 A. Yes.

2 Q. And you were out at 260 Suttles Landing on
3 August the 21st?

4 A. Yes.

5 Q. And you were involved with this buy-bust that
6 occurred at that residence?

7 A. I was.

8 Q. And were you there the entire time?

9 A. Yes.

10 Q. You were there when Ms. Williams turned over
11 her methamphetamine?

12 A. Yes.

13 Q. You were there when Ms. Williams called
14 Mr. Ferguson?

15 A. Yes.

16 Q. And you were there when Mr. Ferguson showed up,
17 correct?

18 A. Right.

19 Q. And then you -- you were there when
20 Mr. Ferguson called Mr. McGill?

21 A. Yes.

22 Q. And when Mr. -- did Mr. McGill show up?

23 A. Yes.

24 Q. Where were you at when Mr. McGill showed up?

25 A. Right as you walk in the front door,

1 Investigator Balchin, we were to the right if you
2 walk into the front door, the hallway leading to the
3 right towards her son's bathroom and bedroom area.

4 Q. Yes, sir.

5 A. I was right behind Investigator Balchin in that
6 hallway.

7 Q. And when Mr. McGill came into the house, did
8 you see if he had anything in his hands?

9 A. Yes. He was clutching a black plastic bag in
10 his right hand.

11 Q. And did you have your -- did you have your gun
12 drawn or anything like that?

13 A. I -- I didn't at the time. I was -- because I
14 was right behind Investigator Balchin and it was
15 such a narrow hallway. He had -- he had his gun
16 drawn, but for safety reasons and it being such a
17 narrow and condense area, I didn't at the time.

18 Q. And when Mr. McGill came in the house, did --
19 did y'all say anything to him?

20 A. He -- when he walked in and he looked, turned
21 right and saw us, we identified ourselves as law
22 enforcement, at which time he dropped the bag that
23 he was clutching and was walking toward us in the
24 kitchen area towards Investigator Hines' direction.

25 Q. And did you see him drop that bag?

1 A. Yes.

2 Q. Did y'all end up having to apprehend
3 Mr. McGill?

4 A. Yes, after a brief moment. After we identified
5 ourselves, who we were when he walked in, looked
6 directly at us. We identified ourselves as law
7 enforcement, police, or sheriff. Told him to get on
8 the ground.

9 At which time, that's when he -- he dropped
10 that bag on the ground, and then we end up having to
11 apprehend him and take him on the ground.

12 Q. Did you cuff him at that time?

13 A. Yes.

14 Q. Did you do anything else after you cuffed him?

15 A. Just patted him down for weapons he may have,
16 and then we sat him down in a chair in the kitchen
17 area.

18 Q. The bag that he was clutching, did y'all take
19 possession of this or did y'all leave it on the
20 ground at that point?

21 A. It was left on the ground just for a brief
22 moment while we were dealing with him.

23 And then after we sat him down and got him
24 detained and got the situation de-escalated, we took
25 possession of it and kind of sat it off to the side

1 until he got advised of the situation, Mirandized to
2 what was going on.

3 Q. And did you read Mr. McGill his Miranda rights?

4 A. Yes, I did.

5 Q. And once you -- how did you go about reading
6 those rights to him?

7 A. We sat him down after he was -- we de-escalated
8 everything because it was -- emotions were running
9 high right at that immediate point. We had
10 handcuffed him. We sat him down. I explained to
11 him what had just happened, that we had set up a
12 buy-bust control situation. At which time I did
13 advise him of his Miranda rights.

14 Q. And do you have a -- like a standard operating
15 procedure of how you advise somebody of their
16 Miranda rights?

17 A. Yes. I -- I have a card that has Miranda
18 rights on them that Investigator Balchin carried
19 with him. That's just kind of how our protocol was.
20 I was always the one that advised people of their
21 Miranda rights based off of that card.

22 Q. Did -- did Investigator Balchin give you that
23 card to read to Mr. McGill?

24 A. Yes.

25 Q. Do you have that card with you?

1 A. I do.

2 Q. Can you pull it out and read the rights that
3 you read Mr. McGill that day?

4 A. It's just a normal black metal card placard
5 that has the American flag on it. On the back is
6 the Miranda warning that has -- that says, "You have
7 the right to remain silent. Anything you say can
8 and will be used against you in a court of law. You
9 have the right to talk to a lawyer and have him or
10 her present with you prior to being questioned. If
11 you cannot afford to hire a lawyer, one will be
12 appointed to represent you before any questions if
13 you wish. You can decide at any time to exercise
14 these rights and not answer any questions or make
15 any statements."

16 At the bottom it has the waiver part. "Do you
17 understand each of these rights that I've explained
18 to you? Having these rights in mind, do you wish to
19 speak to us?"

20 Q. So you read that to Mr. McGill?

21 A. Yes, sir.

22 Q. And then once you read those Miranda rights to
23 him, at that point did you begin speaking with him
24 about the incident?

25 A. Yes.

1 Q. And how did that conversation go?

2 A. I pretty much -- after we had told him this is
3 a buy-bust situation, I saw him walk in clutching
4 that black plastic -- plastic bag. I asked him what
5 was in the bag.

6 Initially, he denied any knowledge of the bag
7 or having the bag at the time.

8 I then explained to him that we had been there
9 several hours prior to him even arriving. I was
10 there when Mr. Ferguson had made the phone call to
11 him. We knew that he was supposed to bring a
12 quantity of methamphetamine and a quantity of
13 currency over to Ms. Williams' residence.

14 At which time he pretty much then admitted that
15 there was methamphetamine in that bag.

16 Q. And how it pack -- how was it packaged?

17 A. Initially, it was all in that black plastic
18 bag, but inside the plastic bag were two separate
19 clear bags with the methamphetamine.

20 Q. And when you were questioning Mr. McGill, did
21 you have your gun -- I know there were guns drawn at
22 some point. Had y'all put them away?

23 A. Yes.

24 Q. Were you pointing a gun while you were reading
25 them -- his rights?

1 A. No, sir.

2 Q. While you were questioning him?

3 A. No.

4 Q. Did you coerce him in any way to get that
5 statement that -- that he -- you know, after he
6 denied having knowledge it was methamphetamine and
7 finally admitted it, did you coerce him in any way
8 in getting him to give you that statement?

9 A. No.

10 Q. Did he do it freely?

11 A. Yes.

12 Q. Did he do it voluntarily?

13 A. Yes.

14 Q. And was he cooperative after you read him
15 Miranda after initially denying it?

16 A. Yes.

17 Q. In fact, he actually ended up giving a consent
18 to search as well of that vehicle?

19 A. That's correct.

20 Q. I'm going to show you what's been marked for ID
21 purposes as States's 47. Do you recognize this?

22 A. Yes.

23 Q. What is that?

24 A. This is a consent to search for his vehicle.
25 Again -- again, I explained to him that we also knew