

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ABBEVILLE COUNTY
COURT OF GENERAL SESSIONS

Donald B. Hocker, Circuit Court Judge

Appellate Case No.: 2019-001902

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SC Court of Appeals

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

v.

Kenneth Earle McGill.....Appellant.

RECORD ON APPEAL

VOLUME TWO

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1 that he was supposed to bring a quantity of currency
2 over with the methamphetamine.

3 At which time he admitted that -- after he
4 admitted that there was methamphetamine in that bag,
5 that he also did have a large quantity of money in
6 his truck.

7 Q. And he had -- he was driving a white truck that
8 day?

9 A. Yes.

10 Q. And that's a consent form he signed?

11 A. Yes.

12 Q. Allowing y'all to go search that vehicle?

13 A. Yes.

14 Q. And is your name on there? Did you witness
15 that?

16 A. I did.

17 Q. Did you fill that out?

18 A. I did.

19 Q. You actually ended up filling out most of the
20 paperwork; is that right?

21 A. Right.

22 MR. BLACK: Your Honor, for the purposes of
23 this hearing, I'll pass this forward, State's 47.

24 THE COURT: Okay. Mr. Epps, I trust you've
25 seen this?

1 MR. EPPS: I have, Your Honor. I've got no
2 objection.

3 THE COURT: All right. Okay. Very good.

4 MR. BLACK: That's all I have, Your Honor.

5 THE COURT: Okay. Any examination of Officer
6 Monts?

7 MR. EPPS: Yes, sir, Your Honor. Just briefly.

8 THE COURT: Okay.

9 CROSS-PROFFER EXAMINATION

10 BY MR. EPPS:

11 Q. Investigator Monts, you were on the scene the
12 entire time, correct?

13 A. Yes.

14 Q. And from what your testimony, you Mirandized
15 Angela Williams, Stewart Ferguson, and Mr. McGill?

16 A. I did.

17 Q. Okay. Now, did you take part -- did you
18 participate in the recording of the phone calls, one
19 to Mr. Ferguson and one to Mr. McGill?

20 A. Yes, sir.

21 Q. Okay. So y'all have recording equipment there
22 with you, correct?

23 A. It was off of -- it was recorded off of a work
24 cell phone.

25 Q. A work cell phone. Is that work cell phone --

1 and that's -- that's the cell phone that you're
2 issued as an Abbeville County Sheriff's Deputy ---

3 A. Yes, sir.

4 Q. --- is that right?

5 A. Yes, sir.

6 Q. Does that cell phone also have the capability
7 to -- to videotape something?

8 A. Yes, sir.

9 Q. Okay. At any time when you Mirandized
10 Mr. McGill, did you activate your -- your recorder
11 on your cell phone?

12 A. No, sir.

13 Q. Did you activate the video recording -- any
14 video recording on your cell phone?

15 A. No.

16 Q. Okay. But you could've easily recorded audio
17 as well as visual of you Mirandizing Mr. McGill,
18 correct?

19 A. Correct.

20 Q. Okay. But you didn't, right?

21 A. No.

22 Q. Now, he was cooperative as soon as he came in
23 the door; is that right?

24 A. Not initially.

25 Q. Okay. But he never got agitated? He never

1 got -- he never tried to cause a problem once he
2 came in the door, correct?

3 A. There was just a brief moment that he didn't
4 comply and we told him just to get on the ground.

5 Q. Okay.

6 A. And then that's when we had to take him down to
7 the ground.

8 Q. Okay. And you said you de-escalated the
9 situation, correct?

10 A. Correct.

11 Q. Okay. But you had the ability to videotape
12 that Miran -- you Mirandizing Mr. McGill, but y'all
13 did not?

14 A. That's right.

15 Q. You did not, right?

16 A. That's right.

17 Q. Now, was he upset? Was he sweating profusely?
18 Did y'all add -- did you ask Mr. McGill if he needed
19 EMS medical attention?

20 A. They -- they did arrive on scene later. Yes,
21 sir.

22 Q. Okay. Was that in how -- how long after --
23 well -- well, at what point in time after you detain
24 Mr. McGill, did you ask him to read the Miranda
25 card?

1 A. Just a few brief moments after he was detained
2 and patted down for weapons for safety, we sat him
3 down in the chair. I explained to him that we were
4 all in law -- law enforcement officers, that this
5 was a narcotics buy-bust situation, and at which
6 time I did advise him of his Miranda rights.

7 Q. Now, did y'all -- did -- now, y'all -- does
8 Abbeville County utilize body cameras?

9 A. They do.

10 Q. They do?

11 A. Yes.

12 Q. Does the narcotics unit utilize body cameras?

13 A. They do, but we didn't have one at the time.

14 Q. Did anybody -- did any officer on this scene
15 have -- have a body camera -- have a body camera?

16 A. I don't believe so.

17 Q. Okay. So there was no video footage of
18 anything that day; is that right?

19 A. Correct.

20 Q. Okay. Now, did y'all -- that consent to search
21 his vehicle, did y'all -- did you or another one of
22 Abbeville County Sheriff's Department, did they tell
23 Mr. McGill they were going to tear his truck up?

24 A. We advised him that based off the circumstances
25 and him coming out of the vehicle -- him being

1 observed coming out of the vehicle, that we did have
2 enough probable cause for a search warrant.

3 Q. Okay. So y'all were going to search it any --
4 y'all were going to -- y'all told him -- did y'all
5 tell him you were going to tear his truck up?

6 A. If -- if we needed to -- to get what we needed
7 to, we were going to obtain a search warrant and the
8 search warrant is what we needed to ---

9 Q. I understand. But none of that is audio
10 recorded or video recorded?

11 A. No, sir.

12 MR. EPPS: No further questions, Your Honor.

13 THE COURT: Anything in follow-up, Solicitor?

14 MR. BLACK: I don't think so, Your Honor.

15 THE COURT: You can step down, Officer.

16 (Witness excused.)

17 THE COURT: State have any further witnesses or
18 evidence in this *Jackson v. Denno* hearing?

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

20 THE COURT: Okay. Does the defense intend to
21 put up any testimony or evidence in this hearing?

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

23 THE COURT: Okay. All right. Viewing the --
24 the testimony of Officer Monts, I find that Miranda
25 has been complied with and that by a preponderance

1 of the evidence, the statement given by the
2 defendant was voluntarily made.

3 Okay. Gentlemen, it's 12:30. Let's break for
4 lunch and we'll crank back up at 1:30.

5 (From 12:32 to 1:35 p.m., lunch recess.)

6 THE COURT: All right. Ready to bring the jury
7 out, State?

8 MR. BLACK: Yes, sir.

9 THE COURT: Okay. Defense?

10 MR. EPPS: Yes, sir.

11 THE COURT: Okay. Very good. Bring the jury
12 out, please.

13 THE BAILIFF: (Complying.)

14 (At 1:36 p.m., jury entered the courtroom.)

15 THE COURT: Let the record reflect the jury is
16 back in.

17 Ladies and gentlemen, I hope you had a lunch
18 and are ready to get back to work.

19 Solicitor, do you want to call your next
20 witness?

21 MR. BLACK: Yes, sir. The State calls Jeff
22 Hines.

23 (Witness approaching.)

24 THE CLERK: Left hand on the Bible and raise
25 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, ma'am.

6 LIEUTENANT JEFFREY HINES,
7 having been produced and first duly sworn as a
8 witness on behalf of the State, testified as
9 follows:

10 DIRECT EXAMINATION

11 BY MR. BLACK:

12 Q. Sir, can you introduce yourself to the jury,
13 please?

14 A. Yes. I'm Jeffrey Hines. I work with Abbeville
15 County Sheriff's Office.

16 Q. And what's your title?

17 A. As of right now, I'm a lieutenant over
18 investigations.

19 Q. And how long have you been at the sheriff's
20 department?

21 A. I came in 2013.

22 Q. And you've been here since 2013?

23 A. Yes, sir.

24 Q. And that's about six years or so?

25 A. Yes, sir.

1 Q. Were you in law enforcement before --
2 between -- before that -- before then?

3 A. I was.

4 Q. Where at?

5 A. The City of Greenville.

6 Q. How long were you with them?

7 A. Approximately, eight years.

8 Q. So total, how long have you been in law
9 enforcement?

10 A. Approximately, 13 years.

11 Q. And so you've been down at the Criminal Justice
12 Academy and passed all that, got your
13 certifications?

14 A. That is correct.

15 Q. And you said you're a lieutenant over
16 investigations right now currently; is that right?

17 A. That is correct.

18 Q. When you first came to Abbeville, what was your
19 position?

20 A. Oh, when I first came to Abbeville, I actually
21 worked the road as a road deputy for approximately
22 three to four months.

23 Q. Did you eventually move into like a narcotics
24 position?

25 A. I did. After that three to four months, I was

1 moved into narcotics here in Abbeville County.

2 Q. How long did you do that -- do that before you
3 got promoted?

4 A. It was approximately a year. I got prom --
5 then I got promoted to sergeant in investigations.

6 Q. Okay. And -- and, primarily, once you got that
7 role, you dealt with narcotics?

8 A. That is correct. I was primarily in narcotics
9 at that point.

10 Q. But you would agree that Abbeville is a small
11 county?

12 A. That is correct.

13 Q. And so you get -- you get sucked into a lot of
14 different areas?

15 A. Yes.

16 Q. So -- and you've had -- you've had different
17 classes and trainings and whatnot throughout your
18 law enforcement career in different areas of law
19 enforcement?

20 A. Yes, I have.

21 Q. Have you had drug classes?

22 A. I've had a lot of different drug classes.

23 Q. Okay. And where -- where do those -- where do
24 you take those at?

25 A. Different places. They pay for schools. We go

1 to Columbia and take some. Sometimes they might be
2 out-of-state. They might be in Duncan. I took a
3 couple of drug classes in Duncan, South Carolina.
4 Others all over the state. It just varies wherever.
5 They'll send me -- also, I've been to Atlanta for a
6 drug conference.

7 Q. Okay. And so, basically, you're learning
8 different -- kind of as society evolves, technology
9 evolves, you're keeping with that through different
10 classes, correct?

11 A. That is correct.

12 Q. All right. And let's go -- let's move onto
13 August 21st of 2018. Were you working that day?

14 A. I was.

15 Q. And did you respond to 2 -- is it 260 Suttles
16 Landing, Iva, South Carolina?

17 A. That is correct. 260.

18 Q. Is that in Abbeville County?

19 A. It is.

20 Q. And what was the reason you responded to that
21 address?

22 A. We went to the address due to having several
23 complaints on Ms. Angela Williams selling
24 methamphetamine.

25 Agent Sorrow was doing a home visit, so we got

1 with him. Went out there with Agent Sorrow and --
2 to investigate a narcotics complaint.

3 Q. So Agent Sorrow, he was -- he was the first one
4 to arrive?

5 A. That is correct.

6 Q. What -- who did you get there with?

7 A. I -- I don't recall who I was riding with.

8 Q. Okay. But you arrived some time later?

9 A. That is correct. Just a few minutes later.

10 Q. Did you speak to Ms. Williams?

11 A. I did.

12 Q. Was -- was she compliant and complicit with
13 your request?

14 A. She was very compliant. She showed us where
15 her drugs was, didn't make us search. At first, she
16 said she had some paraphernalia. She took us right
17 to the bathroom and showed us where it was at.

18 Q. She had about an ounce of methamphetamine in
19 the bathroom?

20 A. That is correct.

21 Q. And an ounce again is what weight?

22 A. 28 grams, an ounce.

23 Q. And she was -- she was charged with trafficking
24 in methamphetamine, correct?

25 A. That is correct.

1 Q. She also had another warrant out for her arrest
2 from the month prior; is that right?

3 A. That is correct as well.

4 Q. So she had two -- two trafficking charges?

5 A. That's is correct.

6 Q. Y'all did not take her to jail that day?

7 A. We did not.

8 Q. Why?

9 A. She was very cooperative from -- from the
10 fullest from the very beginning. She was in good
11 standing with probation, and then she also had her
12 child that was going to be home to deal with. So
13 knowing that she was cooperative and in good
14 standing on probation and knowing she wasn't a
15 flight risk, we allowed her to turn herself in at a
16 later date.

17 Q. And she was cooperative in the -- in the sense
18 that she also assisted you guys in a buy-bust after
19 that, correct?

20 A. That is correct.

21 Q. And can you explain to the jury what a buy-bust
22 is in terms of law enforcement's eyes?

23 A. Okay. A buy-bust is an operation that we take
24 sometimes. It's -- it's a little rare that we do
25 them here in Abbeville. Other counties do them more

1 frequently. And the reason that it's rare is
2 because automatically, just say, it burns the
3 informant, the person doing it rather. It just kind
4 of -- the other person is going to know that they do
5 it, besides just doing a buy. Then they're going to
6 have to wonder until their court date on who done
7 it. And at that point, they know exactly who done
8 it.

9 So what you do is, you call -- you make a phone
10 call and we set up operation inside the patrol place
11 because we want it be controlled. If it's not
12 controlled, then it could be dangerous for us. It
13 could be dangerous for the person actually calling
14 the people. And it also can be dangerous for the
15 suspect. So our goal is to make it as safe as
16 possible.

17 So in this particular incident, we used
18 Ms. Williams' house due to it being confined. We
19 already searched it. We knew where everything was.
20 We knew there was no weapons inside, but then -- so,
21 basically, you just call -- have the one suspect
22 call another suspect who they normally deal with.

23 And we don't ask them to call a certain person.
24 I don't come to you and say, "Hey, can you call
25 Jane?" No. I -- what we do is, we ask them, "Hey,

1 who are you getting your drugs from?" They tell us.

2 "Can you call them up?" "Yes." And that's what

3 happened with Ms. Williams.

4 Q. So Ms. Williams ended up making a call to a guy
5 named Stewart Ferguson?

6 A. That is correct.

7 Q. And did -- did Mr. Ferguson eventually show up
8 to that residence?

9 A. Mr. Ferguson did arrive.

10 Q. Okay. And can you describe -- describe to the
11 jury where you were when Mr. Ferguson walked in and
12 where everybody else was and kind of how that whole
13 thing went down?

14 A. Okay. When Mr. Ferguson walked in, we had
15 moved actually from the kitchen area to
16 Ms. Williams' bedroom. Ms. Williams had a
17 surveillance system in her house, and you could
18 actually see the driveway from inside the house.
19 The cameras were not inside the house, so I couldn't
20 see anything in the house, but I could see all the
21 way around the house from the surveillance system
22 that she had.

23 Me and Ms. Williams was in the bedroom.
24 Lieutenant Graham, Sergeant Monts, and Investigator
25 Balchin was all in the living room, and they were

1 part of the -- the takedown team. And I'm calling
2 it a takedown team because their job was to actually
3 take the target down once they came inside to make
4 sure that everything was safe.

5 My job was the security of it. I was back
6 there with Ms. Williams to ensure that nothing did
7 happen to Ms. Williams. I was there to protect
8 Ms. Williams from anything. Anything that went
9 sideways or south, I would be there to protect
10 Ms. Williams.

11 Q. So when Mr. Ferguson first -- when he arrived,
12 you -- you didn't necessarily see that takedown?

13 A. I did not observe Mr. Ferguson's.

14 Q. Okay. So once that happened, were you kind of
15 listening to everything and kind of hearing what's
16 going on to determine what you do next? Is that how
17 that works?

18 A. Yes. Once I -- once I knew that they have him
19 down and I knew that it was safe for Ms. Williams, I
20 then walked out of the room.

21 Q. Did Ms. Williams walk over there with you?

22 A. No. Ms. Williams, she was instructed to stay
23 in the bedroom. I wanted her to stay in the bedroom
24 at all times.

25 Q. Okay. So then at that point, you came out and

1 you assisted law enforcement and what?

2 A. What we done is, when -- when I got out of the
3 bedroom, I think Mr. Ferguson was sitting in the
4 chair or maybe the couch. I can't remember which
5 one, but he was sitting down in like where the
6 kitchen and the living room kind of combines
7 together. He was sitting in a chair right through
8 there somewhere. And at that point, that's when
9 Sergeant Monts read the Miranda warning to
10 Mr. Ferguson..

11 And then we asked about this bookbag because he
12 had a black bookbag on, and he immediately told us
13 that there was methamphetamine in the bookbag and
14 stated that there was 8 ounces inside the bookbag.

15 Q. And these pictures have already been
16 introduced -- 17, 18, through 22. I'm going to put
17 these pictures up on the screen. I know this has
18 already been gone over. Is that the vehicle that
19 you saw Mr. Ferguson come in?

20 A. That is.

21 Q. All right. And this is State's No. 18. You
22 said that's the bookbag?

23 A. That is correct.

24 Q. And y'all eventually got in that bookbag,
25 correct?

1 A. Yes.

2 Q. And then State's 21. Can you tell us what that
3 is?

4 A. Yes. That is packaged methamphetamine.

5 Q. All right. And this is Mr. Ferguson's,
6 correct?

7 A. That is correct.

8 Q. And then State's 22?

9 A. And that is the methamphetamine package --
10 methamphetamine with the field test kit.

11 Q. Can you tell us what a field test kit is?

12 A. Yeah. A field test kit is just this little kit
13 that we buy from a place called "searching." What
14 we do with it is, we take a little bit of the
15 methamphetamine out of the bag. Of course, we have
16 to put on rubber gloves so that we don't expose
17 ourself to the methamphetamine.

18 We take it out of the bag, and then it's got
19 this little -- little strip with it that you
20 actually put a little bit of meth on. And then you
21 pop this open, and then drop a little piece of the
22 meth in the test kit. It doesn't take much at all.
23 And then you buzz the meth kit from left to right.
24 And if it turns blue, that is it tests positive for
25 methamphetamine.

1 The reason we do that is because there's a lot
2 of times that people will falsely sell drugs or
3 falsely have drugs which is made to represent
4 narcotics, but it's not narcotics. So we want to
5 make sure that when we arrest someone for narcotics
6 that it's actually narcotics.

7 Q. And this is like a -- this is a field test.
8 How long does it take this process to -- to work on
9 this field test kit?

10 A. As soon as you pop the last bottle on the
11 right, it turns immediately if it's really strong
12 dope. If it's diluted, you have to sit there and
13 actually thump it for a -- for a few seconds before
14 it actually turns. It just basically depends on how
15 pure it is as to how quick it turns, in my
16 experience with it. This one turned blue
17 immediately.

18 Q. And blue indicates what?

19 A. The blue -- blueish purple. It's a dark bluish
20 purple, but it indicates that it is positive for
21 methamphetamine or the drug that you're testing. As
22 you can see, it's got a color chart on it for what
23 color we're looking for.

24 MR. BLACK: And there are different -- like you
25 said, there are different colors.

1 May I approach the witness, Your Honor?

2 THE COURT: Sure.

3 BY MR. BLACK:

4 Q. State's 22. What other drugs does that kit
5 actually test for?

6 A. This one actually tests heroin or morphine MDMA
7 or ecstasy and amphetamines or meth. And this one
8 actually is more of a purple. This kit is more of
9 a -- not a purple, but a violet so I apologize.
10 This one right here is a different test kit that we
11 run.

12 Q. Okay. But even after you do that field test,
13 you end up -- y'all end up sending that thing off to
14 SLED?

15 A. We do. That is correct.

16 Q. And tell the jury what -- what that is.

17 A. So we send it to South Carolina Law Enforcement
18 Division to their -- we send it down there to get it
19 analyzed. They come back with the -- I guess the
20 purity or also make sure that it is methamphetamine.
21 And then also it comes back with the weight without
22 the bag and stuff. Because when we send it, we --
23 when we originally weigh it, I don't want to take
24 all of it out of the bag, so we put the whole bag on
25 the scale and weigh the whole entire bag.

1 Q. Okay. And y'all would've done that with this?

2 A. That is -- we did do that with that.

3 Q. Okay. All right. So you -- you talked to
4 Mr. Ferguson. Once you talked to Mr. Ferguson,
5 did -- did a conversation ensue with Mr. Ferguson
6 that also took place that y'all had previously
7 talked to with Ms. Williams, Angela Williams?

8 A. Could you repeat that, sir?

9 Q. Let me ask. Did y'all -- did Mr. Ferguson end
10 up calling anybody else?

11 A. He did.

12 Q. So the buy-bust continued?

13 A. That is correct. It continued on.

14 Q. How did that conversation go?

15 A. Mr. Ferguson was asked if he wanted to do the
16 same thing as Ms. Williams done. And he sat there
17 and said that he wanted to think about it. And we
18 told him it's up to him. It's his decision.

19 He sat there and thought about it, and it's
20 probably -- probably took us 30 minutes or so
21 because we did go outside and search his vehicle and
22 we did have to field test the meth and take pictures
23 and stuff like that.

24 So after we were finished up, Mr. Ferguson told
25 us that he did want to continue on and did -- would

1 call someone. And as I told y'all earlier, we don't
2 tell them who to call. He stated that he would call
3 Mr. McGill who's sitting in the blue shirt right
4 here.

5 Q. Okay. And so he ended up calling Mr. McGill;
6 is that correct?

7 A. That is correct.

8 Q. And I know the jury's already heard this, but
9 that phone call, was it recorded?

10 A. It was recorded.

11 Q. Who -- who actually recorded that phone call?

12 A. That would've been Sergeant Monts that recorded
13 the phone call.

14 Q. And you've listened to these phone calls?

15 A. That is correct.

16 Q. Where were you at when the phone call was made?

17 A. I believe that I was in -- I believe I was
18 still in Ms. Williams' bedroom.

19 Q. Okay. So you didn't actually hear the phone
20 call?

21 A. Not -- not when it was being made, I don't
22 believe.

23 Q. Okay. All right. I'll ask another officer
24 about that.

25 So after the -- after the decision was made to

1 do another buy-bust and Mr. McGill showed up, can
2 you tell the jury where you were at when
3 Mr. McGill -- did he eventually show up?

4 A. Mr. McGill did -- did arrive after Mr. Ferguson
5 called him.

6 Q. And can you tell us where you were stationed on
7 this particular buy-bust ---

8 A. Yes.

9 Q. --- when Mr. McGill showed up?

10 A. Due to them only being two officers that was
11 left because Lieutenant Graham was in the bedroom
12 with Mr. Ferguson, I kind of stationed myself in the
13 kitchen area between Ms. Williams' bedroom and the
14 front door, just in case that the other two officers
15 needed assistance.

16 Again, we don't -- didn't know who Mr. McGill
17 was. And when there's drugs, there's usually
18 weapons and I was concerned for my safety, their
19 safety, and everyone in that home's safety at that
20 point.

21 So I positioned myself in the kitchen just in
22 case anything went wrong, I could be there to help
23 the other officers.

24 Q. And when Mr. McGill showed up, what -- what
25 vehicle was he driving?

1 A. Mr. McGill was driving a -- I think it was a --
2 I think it was a Chevrolet truck.

3 Q. What color was it? Do you remember?

4 A. I want to say white.

5 Q. All right. And did Mr. McGill end up coming
6 inside the house?

7 A. He did.

8 Q. How did he get inside the house?

9 A. Ms. Williams yelled for him to enter after he
10 knocked. She actually knew he was coming up because
11 of the surveillance system that she has in her
12 house.

13 Q. When Mr. McGill entered the -- the room, who
14 was -- who all was standing there kind of within
15 arm's length of him?

16 A. That would -- arm's length would've been
17 Sergeant Monts and Investigator Balchin.

18 Q. And how far away were you from him?

19 A. I was probably from -- probably from me to you
20 across from him.

21 Q. Okay. And so once he comes in, do y'all say
22 anything to him?

23 A. Yes. Immediately we identified ourselves as
24 sheriff's office and told him to get on the ground.

25 Q. And what happened to Mr. McGill?

1 A. Mr. McGill froze at first, and I did observe
2 Mr. McGill throw a black bag that he had in his
3 right hand, threw it on the ground.

4 At that point, he did not comply with any of
5 the commands and started walking towards me and
6 was -- would not listen to commands to get on the
7 ground, just continued to walk towards me, towards
8 the bedroom where Ms. Williams was.

9 Q. So what did y'all do?

10 A. At that point, due to the safety of
11 Ms. Williams and us, we did escort Mr. McGill to the
12 ground.

13 Q. And at that point, what happened after that?

14 A. At that point, he was handcuffed. Then he was
15 set back up, just like Mr. Ferguson was set into a
16 chair and Sergeant Monts read the Miranda.

17 Q. And he read him his Miranda rights?

18 A. That is correct.

19 Q. And did y'all have conver -- and what are
20 the -- what are the Miranda rights? Do you know
21 them off the top of your head?

22 A. It's "You have the right to remain silent.
23 Anything you say can be used against you in a court
24 of law. You have the right to talk to an attorney.
25 If you cannot afford to hire an attorney, one will

1 be appointed to represent you free of cost. You can
2 stop answering any questions or making any statement
3 at time. Do you understand these rights?"
4 Something like that. We usually read it off a card
5 though.

6 Q. And y'all typically have a card?

7 A. We do.

8 Q. And usually -- who usually reads those rights?

9 A. Then Sergeant Monts would always read the
10 rights and use the metal card that we have.
11 Sergeant Monts, that was one of his jobs or duties
12 when we were having operations was to read the
13 Miranda rights. Whether it was a buy-bust situation
14 or a search warrant, it was Sergeant Monts who read
15 the Miranda rights to people.

16 Q. So after his rights were read to him, did --
17 did y'all have a conversation with him?

18 A. We did.

19 Q. And how did that conversation go?

20 A. The conversation was at first, he was asked
21 about the bag. He denied any kind of ownership of
22 the bag. Basically said that we do not know -- he
23 didn't know.

24 At that time Sergeant Monts explained to him as
25 far -- and myself as well, explained to him that it

1 was a buy-bust, that this guy -- someone called this
2 guy, and this guy, Mr. Ferguson here, and
3 Mr. Ferguson brought drugs. And Mr. Ferguson called
4 you, and you brought drugs. And that it was on the
5 recording, that we actually heard the phone
6 conversation.

7 And then at that time, Mr. McGill told us that
8 he did actually have methamphetamine inside the bag.

9 Q. And did you look inside that bag?

10 A. Yes. The bag was looked inside of. And it was
11 a clear, crystal-like substance, which from my
12 training and experience, I knew it to be
13 methamphetamine.

14 MR. BLACK: Can I approach the witness, Your
15 Honor?

16 THE COURT: Sure.

17 BY MR. BLACK:

18 Q. I'm going to show you what's been marked as
19 State's 23 through 37. Can you just look through
20 these pictures?

21 A. Uh-huh.

22 Q. And Mr. Epps has seen those pictures. Do you
23 recognize those photographs?

24 A. I do.

25 Q. What are those photographs?

1 A. This -- this is Ms. Williams' house with
2 Mr. McGill's vehicle that is parked out in front of
3 it.

4 Then also, there's pictures of inside of his
5 truck.

6 And there is pictures of money that's wrapped
7 in -- appears to be electrical tape.

8 Then there's pictures of the actual
9 methamphetamine and the money together.

10 And then there's individual pictures of
11 methamphetamine on digital scales.

12 And then there is a tally of what denominations
13 of U.S. currency and how much the total of the U.S.
14 currency is written on a piece of paper.

15 And then there's just pictures of just the --
16 just the money.

17 And then there is a picture of the money and
18 methamphetamine together.

19 MR. BLACK: Your Honor, at this point, the
20 State moves 23 through 37 into evidence and ask to
21 publish to the jury.

22 THE COURT: What says the defense?

23 MR. EPPS: No objection to those photographs,
24 Your Honor.

25 THE COURT: Okay. Without objection, 23

1 through 37 into evidence for the State.

2 (State's Exhibit Nos. 23 through 37 received
3 into evidence.)

4 BY MR. BLACK:

5 Q. Investigator Hines, I am going to put these up
6 on the screen. If you can just explain what's going
7 on in these photographs.

8 Before we do that, I'm also going to show you
9 State's 47. Could you identify this document for us
10 as well?

11 A. Yes. This is an Abbeville County consent to
12 search a vehicle form that is signed by Mr. McGill
13 the day of, which is August the 21st, 2018, at 260
14 Suttles Landing Road.

15 Q. And he agreed to consent for his vehicle to be
16 searched?

17 A. Yes. Because he did tell us that he had a
18 large amount of cash in the vehicle as well.

19 Q. Okay. And did you -- did you witness him
20 signing that?

21 A. I did.

22 Q. You were part of that conversation?

23 A. Yes.

24 MR. BLACK: Your Honor, the State moves Number
25 47 into evidence as well.

1 THE COURT: What says the defense?

2 MR. EPPS: No objection.

3 THE COURT: Without objection, 47 into evidence
4 for the State.

5 (State's Exhibit No. 47 was received into
6 evidence.)

7 BY MR. BLACK:

8 Q. All right. Investigator Hines, I'm going to
9 start with these photographs. I'm going to show you
10 State's 23. Is that a vehicle? What is this?

11 A. That is -- that is Mr. McGill's vehicle parked
12 out in front of Angela Williams' residence.

13 Q. Okay. And I'm going to put -- go ahead and put
14 State's 47 up here. What is this again?

15 A. That is the consent to search form that I just
16 told the jury about.

17 Q. And Mr. McGill signed that?

18 A. That is correct.

19 Q. And I think I see your name on here as well?

20 A. That is correct.

21 Q. And that's for this vehicle that was shown on
22 State's 23?

23 A. That is for that vehicle.

24 Q. Did y'all search that vehicle?

25 A. We did.

1 Q. Can you describe State's 24 for us?

2 A. That's the inside of the vehicle.

3 Q. State's -- I know these are probably the same
4 photographs. Can you just describe kind of what you
5 see in this photograph?

6 A. I just see a bunch of items scattered about the
7 floorboard. Looks like a -- maybe a cordless drill
8 or some sort of power tool, a phone charger, and a
9 cup in the console.

10 Q. And State's 25. What is this a picture of?

11 A. That is a picture of inside of the dash. And
12 if you just see where it says, "I heart somebody."
13 I can't really make that out. It's on the dash
14 right there. If you'll look straight up from that,
15 you'll see a black rectangle. And that is actually
16 U.S. currency wrapped in electrical tape up here.

17 Q. And is the -- the drill in this picture as
18 well?

19 A. Yes.

20 Q. And that's the same picture ---

21 A. That is correct. Where there's a drill. Yes,
22 sir. It's just at a higher angle when we were
23 shooting down towards the -- towards the money.

24 Q. And State's 25.

25 A. It's just -- it's the same thing, just a

1 different angle.

2 Q. I'm sorry. That was State's 26.

3 A. That's -- can you go back to -- can you go back
4 to the last one, please, because I think that's a
5 different compartment of the dash.

6 Q. (Complying.)

7 A. Okay. That is.

8 Q. Is that just a different angle?

9 A. Yeah. It's a different angle. That's correct.

10 Q. And what you're referring to, you said it
11 was -- what did you say it was again?

12 A. It is U.S. currency wrapped in electrical tape.

13 Q. And State's 27?

14 A. And that's just a different angle, a closer
15 view I think.

16 Q. I'm going to skip ahead to State's 29.

17 A. Okay. And that -- that is two -- two
18 rectangular -- wrapped with electrical tape,
19 rectangular shape. That's currency on the inside of
20 it underneath the electrical tape.

21 Q. And who's holding the currency in that picture?

22 A. It's going to be one of the -- one of the
23 officers on scene. I'm not sure who it was at the
24 time.

25 Q. Was it you or you just don't remember?

1 A. I don't recall. It could've been me, but I
2 don't recall because I'm -- I am the one that
3 searched the vehicle, so it could've been me holding
4 it.

5 Q. Okay. Did you ever -- did you ever lay a hand
6 on any of that money?

7 A. Lay a hand on it?

8 Q. Did you -- did you actually ever hold it?

9 A. Yes.

10 Q. Was there anything unusual about it?

11 A. Yeah, the -- it was kind of -- it was kind of
12 damp. As it -- it was just, you know, kind of --
13 the electrical tape and stuff was kind of damp. And
14 when we started unwrapping it, you can definitely
15 tell that it was damp when you start unwrapping it
16 because it was so stringy and sticky.

17 Q. And was that significant to you in any way?

18 A. It was. From -- from my training and
19 experience, the -- the money people wrap is commonly
20 wrapped like that when they're transporting money
21 for narcotics. And, again, you know, from -- it was
22 significant to me because it was almost like the
23 money had been maybe buried in the ground or
24 something why it was wet.

25 Q. State's 30. What's in this photograph?

1 A. That is the -- the cash, the two bundles of
2 cash, and then I think the loose cash that
3 Mr. McGill had on his person and the
4 methamphetamine.

5 Q. And this is all the two -- I see two -- there
6 are two things of methamphetamine back there.

7 A. That is correct.

8 Q. Was this just Mr. McGill's or was it
9 Mr. Ferguson's?

10 A. That was all Mr. McGill's. That was not
11 Mr. Ferguson's. Any of the -- any of the cash or
12 the money there was -- all of that was Mr. McGill's.

13 Q. State's 31. I'm -- I'll skip ahead to State's
14 32. Can you tell us what that is?

15 A. That is -- that is the methamphetamine. One
16 bag of it was opened and field tested, and it did
17 field test positive for methamphetamine.

18 Q. And this is the same thing y'all did with
19 Mr. Ferguson's meth, correct?

20 A. That's the same thing we did with
21 Mr. Ferguson's and Ms. Williams' actually.

22 Q. And y'all -- did you -- what did y'all -- what
23 did y'all do with it? Did y'all eventually send it
24 down to SLED too?

25 A. Yes. Yes, sir. Everything was sent down to

1 SLED.

2 Q. And is that a standard procedure that you guys
3 do?

4 A. Yes, it is. It's a standard procedure --
5 procedure that any time that we get narcotics, we
6 have to send them off to SLED if they need to be
7 analyzed as far as tested to make sure they're real.
8 So, therefore, if we -- we charge someone, then we
9 have to send it to SLED to get it tested.

10 Q. State's 32 -- or I'm sorry, 33?

11 A. That is a bag of methamphetamine that was
12 belonging to Mr. McGill.

13 Q. And it's got a -- looks like a "K-5" on it?

14 A. That is correct.

15 Q. What is that?

16 A. That is how we mark it to make sure that we do
17 not -- we separate the bags of meth, so we mark them
18 to make sure that we know whose each bag of meth we
19 have. So "K," that stands for Kenny or Kenneth.

20 Q. And did y'all put an "S" on it?

21 A. I put a -- we put an "S" for Stewart -- for
22 Stewart Ferguson who was also a suspect in this
23 case.

24 Q. And then State's 34, same thing?

25 A. Yes, sir. That's just the other bag, K-6.

1 Q. Did -- did y'all do an accounting of the money
2 that was seized from Mr. McGill's vehicle?

3 A. Yes, sir. I think more than one of us counted
4 it to make sure that it was the right amount of
5 money.

6 Q. So you assisted in that process?

7 A. I did.

8 Q. And I'm going to show you what's been marked as
9 State's 36. Can you tell us what's in that
10 photograph?

11 A. Yes. That is the money that was seized. It
12 was the money that was seized from Mr. McGill. What
13 we did is, we took it and we put it in different
14 denominations and just laid it straight across the
15 table.

16 Q. Okay. And while that's up there, I'm going to
17 show you State's 35. Can you tell us what State's
18 35 is?

19 A. Yes. It's a -- basically a breakdown of the
20 denomination that's up there on the screen. There
21 was four \$1 bills; one \$5 bill; two \$10 bills;
22 twelve \$50 bills; there was 326 \$20 bills; and 66
23 \$100 bills, which is a total of \$13,749.

24 Q. And how many hundreds did you say it was?

25 A. Sixty-six hundred.

- 1 Q. So how much -- how much money is that?
- 2 A. That's \$6600.
- 3 Q. How many twenties?
- 4 A. There is 326 twenties.
- 5 Q. So what does that equal?
- 6 A. \$6,520.
- 7 Q. And the next one is tens?
- 8 A. Yes, sir.
- 9 Q. How many were there?
- 10 A. Two.
- 11 Q. So that's 20?
- 12 A. Twenty.
- 13 Q. How many fives?
- 14 A. One five which is five.
- 15 Q. And how many ones?
- 16 A. Four, which is \$4.
- 17 Q. And repeat that total number again.
- 18 A. \$13,749.
- 19 Q. And y'all put it on a sheet of paper to keep up
- 20 with that?
- 21 A. Yes, sir. To help us keep up with it when we
- 22 were recounting to accept because it was such a
- 23 large amount of money.
- 24 Q. And I'm sure multiple people counted that?
- 25 A. That is correct.

1 Q. Finally, I'm going to show you State's 37. Can
2 you show us what this photograph is?

3 A. Yeah, that's the -- that's the money that was
4 seized and the drugs that were seized.

5 Q. And that's with all the codefendants, correct?

6 A. Yes.

7 Q. All the drugs?

8 A. Yes. All the drugs together.

9 Q. And do you remember the rough estimate that
10 Mr. McGill -- the weight that Mr. McGill had?

11 A. It's written down in the report. I know it was
12 like -- I know it was over 100 grams. It was
13 117.2 grams is what it weighted out when we weighed
14 it.

15 Q. And I'm going to show you State's 26. It's
16 been marked for ident -- identification purposes
17 only. Do you recognize this?

18 A. Yes, sir.

19 Q. What is it?

20 A. This is a SLED best pack that we have to fill
21 out, which is not this plastic piece here, but
22 inside here. We fill it out and we put the drugs
23 inside, which this is the methamphetamine that
24 Mr. McGill had when he came in the residence. And I
25 know that because the bag was marked, as y'all can

1 see, "K" right there. So this is the bag that came
2 from Mr. McGill.

3 Q. And this best pack that you're referring to,
4 explain to the jury what that is.

5 A. All right. So what we do is, we have to fill
6 out this -- this sheet of paper basically that is
7 kind of like a chain-of-custody form to be sent to
8 SLED inside of this plastic folder here.

9 Once we send it to SLED, they actually test it
10 through their lab, and then they send it back to us
11 with the lab results actually e-mailed to us.

12 Then they repackage it and reseal it and send
13 it back to us. And they usually initial the seal to
14 make sure that it's not broken back in to.

15 Q. And this is -- y'all do this for every -- every
16 drug case?

17 A. Every drug case that we make an arrest on.

18 Q. And this is something that you've got to do for
19 y'all's purposes and for SLED's purposes?

20 A. Yes.

21 Q. Okay. I'm going to show you what's been marked
22 as State's -- I'll take that back. I'm going to
23 show you what's been marked as State's 48. I'm
24 going to show you State's 48 marked for
25 identification purposes only right now. Can you

1 describe -- can you tell me what that is?

2 A. Yes. This is an Abbeville County
3 chain-of-custody form. It's a form that we fill
4 out. Once we seize something from someone or we
5 recover something, we have to fill out a
6 chain-of-custody form that is mandated by our
7 office.

8 Q. And y'all do that -- why do y'all do that?

9 A. To make sure that the integrity of the custody
10 as far as is not broken, so that way I know that I'm
11 the one who put this in here or that my -- my
12 captain gets it out for SLED verification or picks
13 it up from SLED or takes it from SLED, just to keep
14 track on who's got their hands on the evidence.

15 Q. Okay. And you actually didn't fill out that
16 chain-of-custody form, did you?

17 A. I did not fill out this chain-of-custody. I
18 actually know -- I was with Sergeant Monts when this
19 was filled out.

20 Q. Okay. So you -- so Sergeant Monts filled that
21 out?

22 A. That is correct.

23 Q. And your name, does it appear on there
24 anywhere?

25 A. No, sir.

1 Q. What about the second page?

2 A. Yes, sir.

3 Q. And what was that for?

4 A. Continued chain-of-custody for court purposes.

5 Q. What was the item?

6 A. It was the -- I believe it was the actual
7 chain-of-custody that I had to go get from -- I had
8 to go get from the -- from the courthouse --
9 excuse me -- from the evidence room. I had to go
10 get it and bring it to the courthouse ---

11 Q. Okay.

12 A. --- for Mr. Epps.

13 Q. Okay. All right. I'll take that back from
14 you. And this may seem like a silly question,
15 Investigator Hines, but where -- where did this
16 thing take place at?

17 A. It happened at Angela Williams' house at 260
18 Suttles Landing Road in Iva, South Carolina, which
19 is within the county of Abbeville. It's right at
20 the -- it's right at the county line. I can throw a
21 rock and be in Anderson County.

22 Q. And did Mr. McGill, is he here in the
23 courtroom?

24 A. Mr. McGill is here in the courtroom.

25 Q. Can you point him out, please?

1 A. Uh-huh. He is sitting right there in the
2 blue -- blue shirt with glasses on.

3 THE COURT: Let the record reflect he's
4 identified the defendant.

5 BY MR. BLACK:

6 Q. He was the third individual that showed up at
7 the house that -- that day?

8 A. No, sir. He was the second individual that
9 showed up.

10 Q. Okay.

11 A. Ms. Williams was already there.

12 MR. BLACK: That's right. My -- my -- my
13 apologies. I think that's all the questions I have.
14 Please answer any that Mr. Epps might have for you.

15 THE WITNESS: Yes, sir.

16 THE COURT: Mr. Epps?

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

19 CROSS-EXAMINATION

20 BY MR. EPPS:

21 Q. Investigator Hines, how are you?

22 A. I'm good. Thank you, sir.

23 Q. All right. And you -- you testified that you
24 have -- you've been in law enforcement for over 13
25 years?

1 A. For approximately 13 years. That's correct.

2 Q. And you've been in -- and you've been in --
3 with Abbeville County Sheriff's Department for how
4 long?

5 A. Approximately, six years.

6 Q. Six years. Okay. So 2013; is that right?

7 A. That sounds about right.

8 Q. Okay. And did you prior to -- well, prior --
9 what year did you start in narcotics?

10 A. In -- in Abbeville County or in general?

11 Q. Well, let me ask you, have you -- prior to
12 Abbeville County, did you -- were you in narcotics
13 in Greenville?

14 A. Yes, I was.

15 Q. Okay. How -- how long did you ---

16 A. I worked there for approximately three years,
17 and I got moved to the -- it's called a crime
18 response team. It's basically a low-level narcotics
19 unit. It's under the -- it's like long-term. And
20 then they -- we work short-term narcotics.

21 So we basically was like a direct patrol unit,
22 but our lieutenant was the lieutenant in narcotics.
23 We had the same lieutenant, so we were able to make
24 buys. And, basically, that's all we worked was
25 drugs.

1 Q. And on August 21st of 2018, you responded --
2 you were with the team that responded to Angela
3 Williams' house on 260 Suttles Landing Road; is that
4 right?

5 A. That is correct.

6 Q. Okay. And you testified that y'all went there
7 with Probation Agent Sorrow?

8 A. That is correct.

9 Q. With some drug -- with some drug complaints?

10 A. That is correct.

11 Q. Is that complaints of selling meth?

12 A. Yes.

13 Q. And, in fact, Ms. Williams had a -- had a
14 pending or had a -- had an arrest warrant for
15 trafficking methamphetamine, right?

16 A. She did.

17 Q. Second offense?

18 A. Yes, it was.

19 Q. Okay. And that was -- what was that, 28 to
20 100 grams?

21 A. It was 28 grams. That is correct.

22 Q. Twenty-eight grams. And that's from July of
23 2018?

24 A. That is correct.

25 Q. Okay. So that was the month prior to everybody

1 going to Ms. Williams' house, right?

2 A. Yes. That is correct.

3 Q. Okay. All right. Did you intend -- was it
4 your intention once you got to Ms. Williams' house
5 to set up these controlled buys -- these buy-busts?

6 A. It was not our intention when we got there.

7 Q. Okay. And once you -- but once -- how long --
8 but y'all -- did y'all ride to the location or
9 follow the probation officer to the location?

10 A. We actually was at the church I believe and
11 waiting for Agent Sorrow to make contact with
12 Ms. Williams.

13 Q. Okay. Now, so y'all set up -- y'all set up at
14 the -- at the -- at the church?

15 A. Yes, I believe so.

16 Q. How far is it -- is the church from the house?

17 A. It's right at the line. So, again, you could
18 probably hit a rock with it.

19 Q. Okay. But y'all didn't have any warrants or
20 any kind of anything to go in and -- go into
21 Ms. Williams' house; right?

22 A. No. We did not.

23 Q. Okay. And you didn't have to because she's on
24 probation, right?

25 A. That is correct.

1 Q. And the probation officer can basically go in
2 and do a well-check or do whatever he wants. They
3 waive those rights when they're on probation, right?

4 A. Yes. That's my understanding of probation.

5 Q. Okay. Probation went in first. And did -- did
6 Probation Officer Sorrow contact you or somebody
7 from Abbeville Sheriff's Department located at the
8 church and say, "Hey, come on in"?

9 A. I believe he let us know.

10 Q. He let y'all know?

11 A. Uh-huh.

12 Q. Okay. And then y'all went into the house,
13 correct?

14 A. We did.

15 Q. Okay. Now, who was -- was had -- who was --
16 who was -- was Angela Williams the only one in the
17 house?

18 A. I think there was -- I think there was one
19 other -- one or two other people there maybe.

20 Q. Who was the one or two other ---

21 A. They -- they actually were friends of Angela
22 and they left.

23 Q. And they left? Do you know their names?

24 A. No, sir.

25 Q. Were they listed in your report?

1 A. No, sir.

2 Q. Were they searched?

3 A. When they -- no, sir. They were not.

4 Q. Did you identify who these individuals were?

5 A. No, sir.

6 Q. Okay. All right. Was Ms. Williams' son there?

7 A. No, sir.

8 Q. Okay. When you went into the house, were you

9 the one that was directed to the drugs in the

10 bathroom?

11 A. That would've been Lieutenant Graham that was

12 directed to the drugs in the bathroom.

13 Q. Okay.

14 A. She told all of us together when we were

15 standing there, but Lieutenant Graham had actually

16 walked with her to the bathroom.

17 Q. And how much -- how much meth was found in

18 Angela Williams' house?

19 A. Approximately, an ounce of methamphetamine

20 Ms. Williams had.

21 Q. Was it about 28 grams?

22 A. Yes, sir. About 28 grams.

23 Q. Okay. And she had a pending trafficking

24 warrant, correct?

25 A. That is correct.

1 Q. Okay. And y'all didn't arrest her on that day?

2 A. We did not.

3 Q. Okay. Did you call DSS for her child?

4 A. Her child was not on scene.

5 Q. Okay. But you -- but you testified that you
6 let her -- because she cooperated, you didn't take
7 her in or take her into custody or arrest her that
8 day, right?

9 A. That is correct.

10 Q. Okay. Because that was -- and that would've
11 been -- that would've been -- and she was on
12 probation for a distribution of meth charge,
13 correct?

14 A. Yes. That's correct.

15 Q. All right. And that was when, in April of
16 2019?

17 A. I'm not -- I'm not sure when that was.

18 Q. It was a few months -- wasn't it a few months
19 and then she got the outstanding warrant for
20 trafficking methamphetamine, right?

21 A. The -- we -- that -- that warrant was signed on
22 her the month before we went to her house, I
23 believe.

24 Q. July of 2018?

25 A. That is correct.

1 Q. Okay. Do you know the allegations -- are you
2 the affiant on that warrant?

3 A. I don't think I was the affiant.

4 Q. Okay. But you were aware of that warrant when
5 you went into the house that day?

6 A. I was.

7 Q. Okay. And you also were aware of the 28 grams
8 of meth that was found in the bathroom?

9 A. I was.

10 Q. Okay. Now, was that -- that was kind of out in
11 the open, correct?

12 A. It was not in the open.

13 Q. But it wasn't secured, right?

14 A. It was secured in her bedroom and inside her
15 bathroom.

16 Q. Okay.

17 A. It was inside the box.

18 Q. Okay. But was the box locked?

19 A. The box was not locked.

20 Q. Okay. And it was kind of a -- kind of a
21 cartoonish-type bag she had it in; is that right?

22 A. I would have to see a picture, but she did have
23 it in a bag.

24 Q. (Showing exhibit.)

25 A. It appears to be a Betty Boop bag.

1 Q. A Betty Boop bag?

2 A. Uh-huh.

3 Q. And is -- was that the meth that was in that
4 Betty Boop bag?

5 A. Yes.

6 Q. Was that like a zip-up bag?

7 A. It was in a Ziploc bag. That is correct.

8 Q. Okay. And was that Betty Boop bag found in the
9 bathroom?

10 A. It was.

11 Q. Okay. Did you -- and you said there was also
12 meth in her bedroom, right?

13 A. In the bathroom.

14 Q. In the bathroom. Now, all of it was in the
15 bathroom, correct?

16 A. All of it was in the bathroom.

17 Q. Okay.

18 A. Inside her bedroom is what -- the bathroom
19 inside her bedroom.

20 Q. All right. And that's where -- that's where
21 the Betty Boop bag was found, correct, in the
22 open -- in the open like a Tupperware-type
23 container?

24 A. That is correct.

25 Q. Okay. With no lid on it or no lock or anything

1 like that, correct?

2 A. Yes.

3 Q. Okay. So anybody could've come in, her son or
4 anybody, the other children in the house, they
5 couldn't -- if they went searching through the house
6 or digging through the house, they could've -- they
7 could've got up into this stuff. Do you agree with
8 that?

9 A. Yes. I agree with that.

10 Q. Okay. She had it -- basically, she had -- it
11 wasn't -- it wasn't that well hid, right?

12 A. I mean, it wasn't -- it wasn't hid the best
13 I've found.

14 Q. Okay. And you testified that you let her turn
15 herself in. Well, she turned herself in a month
16 later, correct?

17 A. That is correct.

18 Q. Okay. Are you aware that she still had her
19 child with her?

20 A. Her -- I have no clue if she did or not. I
21 know the child was staying with his sib -- with his
22 sister, which is -- I think she's around 32 years
23 old.

24 Q. Okay. But you testified earlier that you let
25 her stay -- stay in a home and not take her to jail

1 that day because she had cooperated and that she had
2 a child to take care of?

3 A. To make arrangements for her child.

4 Q. Okay. All right. But that would concern you
5 leaving the child in that home with somebody with --
6 that's on probation for meth and as of that date,
7 two pending trafficking charges for methamphetamine,
8 correct?

9 A. Yes, sir. I was -- I -- the kid was 14 years
10 old I believe, 13 or 14.

11 Q. And do y'all got to visit -- usually if that
12 happens, do y'all call DSS?

13 A. It depends.

14 Q. Okay. All right. Did y'all consider calling
15 DSS?

16 A. No, sir, I did not.

17 Q. Okay. All right. Now -- now -- and you
18 testified when y'all came in, y'all decide -- how
19 long had y'all been in the house when y'all decided
20 y'all were going to set up a buy-bust?

21 A. With -- you -- which one are you talking about
22 with Mr. or Ms. ---

23 Q. Ms. Williams. When y'all went into the
24 house -- when Probation Agent Sorrow signaled y'all
25 to come into the house, Angela Williams' house ---

1 A. Uh-huh.

2 Q. --- okay, how long upon entering the residence
3 did you decide -- did y'all decide to set up a
4 buy-best?

5 A. It wasn't long at all. Like I said previously,
6 Ms. Williams cooperated 100 percent and she named
7 out Mr. -- Mr. Ferguson right away. It wasn't long
8 at all that she stated that she wanted to call her
9 supplier because she was done with selling
10 methamphetamine and she didn't care if she got
11 burnt.

12 Q. And at that time she was under -- she was in
13 custody, would you agree with that?

14 A. No, sir. I mean, she was never told that she
15 was under arrest that day.

16 Q. Okay. Even after finding the meth ---

17 A. No, sir.

18 Q. --- in the house?

19 A. No, sir.

20 Q. Okay. All right. But you testified that y'all
21 set up this buy-bust -- you set up this, the area of
22 operations was her home, correct?

23 A. That is correct.

24 Q. All right. And that's -- that's the -- so that
25 was the basis of your operations ---

1 A. That's correct.

2 Q. --- or your operation this day? All right.

3 Also, and that's a control -- that's -- that's --
4 y'all were able -- law -- you and Anderson County
5 Sheriff's Department controlled that house,
6 controlled that area?

7 A. That is false.

8 Q. Okay.

9 A. Anderson County Sheriff's Office was not
10 involved in this operation.

11 Q. Excuse me. Abbeville County Sheriff's Office?

12 A. Yes.

13 Q. Okay. Abbeville County Sheriff's Office
14 controlled Angela Williams' house that day, correct?

15 A. Yes, sir.

16 Q. Okay. And that was consistent with just
17 setting up the operations for this buy-bust, right?

18 A. That is correct.

19 Q. Okay. Now -- so y'all controlled also the
20 aspect of Angela Williams making the phone call to
21 Stewart Ferguson?

22 A. What do you mean by "control," sir?

23 Q. Y'all recorded that call and monitored that
24 call, correct?

25 A. That is correct.

1 Q. And y'all facilitated that call from Angela
2 Williams to Stuart Ferguson, correct?

3 A. Yes. That is correct.

4 Q. Okay. And at this time, did you know who
5 Stewart Ferguson was?

6 A. I did not.

7 Q. Did Abbeville County Sheriff's Department know
8 who Stewart Ferguson was?

9 A. No, sir.

10 Q. And even at this time, did you know who Kenneth
11 McGill was?

12 A. No, sir. All I knew was that Angela Williams
13 said that Stewart Ferguson was bringing
14 methamphetamine inside of Abbeville County, and
15 Sheriff Watson has hired us and put us in our
16 position to get drugs off the streets of Abbeville
17 County. And it doesn't matter where they come from,
18 they're coming to Abbeville County and the majority
19 of our drugs are coming from Anderson County.

20 Q. Okay. But you didn't know -- you didn't
21 know -- you didn't know Kenneth McGill?

22 A. No.

23 Q. And the narcotics unit at Abbeville County
24 Sheriff's Department had no idea who Kenneth McGill
25 was until August 21, 2018, right?

1 A. That is correct.

2 Q. Okay. And there was no -- Kenneth McGill had
3 not been targeted, correct, prior to August 21st of
4 2018?

5 A. He has not been a target of Abbeville County
6 Sheriff's Office.

7 Q. He had never been targeted by -- he'd never
8 been investigated by Abbeville County Sheriff's
9 Department, correct?

10 A. No, sir.

11 Q. Basically, you had no idea who he was until
12 that day?

13 A. No, sir. No idea.

14 Q. Okay. Now, once -- and then Stewart Ferguson
15 shows up, right?

16 A. He did.

17 Q. All right. And who all was in that -- who all
18 from Abbeville County Sheriff's Department was in
19 the home?

20 A. From Abbeville County Sheriff's Office, it was
21 me, Sergeant Monts, and Lieutenant Graham at the
22 time. Now he's Captain Graham. He was Lieutenant
23 Graham at the time.

24 Q. Okay. And there was one other. Who was -- was
25 there another officer?

1 A. There was another officer there.

2 Q. What's his name?

3 A. Investigator Balchin. He's part of our
4 narcotics task force in the city of Abbeville.

5 Q. Okay. All right. So is -- is -- Mr. Balchin,
6 is he still with Abbeville City Police Department?

7 A. He is.

8 Q. Okay. All right. And then once Ferguson --
9 now, let me ask -- let me ask you this: Angela
10 Williams had surveillance video around her house?

11 A. That is correct.

12 Q. Is that the front and back all around or
13 just ---

14 A. It's the front and -- and then it goes off to
15 the back toward her buildings and stuff.

16 Q. Okay. Did y'all download or save any of these
17 videos?

18 A. No, sir.

19 Q. Did y'all ---

20 A. Her -- her video system did not record at all,
21 so we did not have access to saving these.

22 Q. Okay. So y'all -- there was no -- nothing to
23 save?

24 A. Just live feed. That's all it was.

25 Q. Okay. Did you have -- going into this house,

1 are y'all issued cell phones ---

2 A. We are.

3 Q. --- by the sheriff's department?

4 A. We are issued cell phones.

5 Q. Are these cell phones able to record activity?

6 A. They are.

7 Q. Okay. Did anybody -- did -- did anybody on --

8 in the narcotics unit or sheriff's department or

9 Abbeville City Police Department audio record

10 anything that happened in that house?

11 A. We did.

12 Q. Okay. You did?

13 A. Yes, sir.

14 Q. So there were recordings other than phone calls

15 made to Stewart Ferguson and Kenneth McGill?

16 A. No, sir.

17 Q. Okay. So nothing else was recorded, right?

18 A. Nothing else besides the phone calls.

19 Q. Okay. And do those county issued cell phones,

20 do they also video record? Are they able to video

21 record?

22 A. Yes, sir, they are.

23 Q. Were there any -- any video surveillance or

24 video recording of anything that happened in that

25 house?

1 A. No, sir.

2 Q. Okay. From the time Stewart Ferguson got --
3 from the time y'all went in for Angela Williams,
4 nobody took any video of inside the house, correct?

5 A. No, sir.

6 Q. Okay. And nobody took any video of Stewart
7 Ferguson coming in and the actual takedown, correct?

8 A. That would be extremely dangerous to hold a
9 cell phone during a takedown.

10 Q. Okay. But there were multiple people there,
11 but y'all never ---

12 A. No, sir.

13 Q. --- y'all didn't video? Y'all didn't have any
14 video surveillance of any of that?

15 A. No, sir.

16 Q. Okay. Now -- now, once you had -- now, were
17 you -- were you in the bedroom with Angela Williams?

18 A. Which time?

19 Q. The first time.

20 A. When?

21 Q. After she made -- after she made the phone call
22 to Stewart Ferguson.

23 A. Yes. I was in the bedroom with her during
24 that -- that time.

25 Q. Okay. Who actually recorded the phone call

1 with Angela Williams and Stewart Ferguson?

2 A. I believe that would've been Sergeant Monts as
3 well.

4 Q. Sergeant Monts. And you were in the bedroom
5 with Angela -- Angela Williams?

6 A. That's correct.

7 Q. Did you leave at any time -- did you ever leave
8 the bedroom?

9 A. After -- after the takedown, I did leave the
10 bedroom, as I did with Mr. McGill the same -- the
11 same way.

12 Q. Okay. And who stayed in -- and you said -- was
13 it Lieutenant Graham at the time stayed in the
14 bedroom with Stewart Ferguson?

15 A. Are you -- which -- are you talking about
16 when -- now, are you moving on? You're kind of
17 confusing me. Are you moving on to the second
18 buy-bust, or are we still on the Ferguson buy-bust?

19 Q. Well, I'm just -- I mean, Lieutenant Graham was
20 in the -- when Stewart Ferguson was in his bedroom,
21 Lieutenant Graham was in the bedroom with him,
22 correct?

23 A. Yes. During the second buy.

24 Q. And you were still in the bedroom with Angela
25 Williams, right?

1 A. Not during the second buy-bust, I was not.

2 Q. Okay. Now -- and let's go back. I don't want
3 to confuse you. We're going to go back to when
4 Angela Williams called Stewart Ferguson and Ferguson
5 showed up, right?

6 A. Yes, sir.

7 Q. Okay. And at that point in time, y'all decided
8 to do another buy-bust, right?

9 A. Yes, sir.

10 Q. Okay. And, again, y'all controlled that
11 scenario, right?

12 A. That is correct.

13 Q. Okay. And that was the -- that was -- the
14 intent was to do a buy-bust and that was your base
15 of operations?

16 A. That is right.

17 Q. Okay. And you said Stewart Ferguson sat there
18 and thought about it, right?

19 A. He did.

20 Q. Okay. Now, did he tell y'all or did y'all
21 question him or did y'all have a -- did y'all speak
22 or have a conversation with Stewart Ferguson?

23 A. What -- what -- what kind of conversation?

24 Q. Did you sit down? Did you -- did he tell you
25 what he was doing?

1 A. Yes.

2 Q. Okay. And y'all Mirandized him, right?

3 A. That is correct.

4 Q. Did he tell you about Head?

5 A. I don't recall if he did there on the scene or
6 not.

7 Q. Did he tell you about his trafficking meth
8 in -- in -- methamphetamine in Atlanta, Georgia?

9 A. I'm not sure if he did on the scene or not. I
10 know that Mr. Ferguson has told us that, but I'm not
11 sure if it was on the scene or later at the
12 detention center.

13 Q. So did he tell you about any of those other
14 customers, Vedera?

15 A. Yes.

16 Q. Wolf Man?

17 A. Yes, he did.

18 Q. Did he tell you that on -- at Angela Williams
19 house or later?

20 A. I can't recall when he told us, but he did tell
21 us about all his customers down to about how much
22 each of them -- one of them was getting a piece.

23 Q. Okay. And then -- and then he said he recalled
24 Mr. McGill, right?

25 A. He told us that Mr. McGill was one -- one of

1 his suppliers and that he would call him, that --
2 that he would be able to bring drugs and he would
3 bring money because he was going to Atlanta in the
4 morning. So he did speak about Atlanta because he
5 told us that he was going to Atlanta to pick up the
6 next morning.

7 Q. Now, did y'all tell Kenneth -- did y'all tell
8 Stewart Ferguson to tell -- tell Kenneth McGill to
9 bring 4 ounces?

10 A. I think we asked -- I -- I believe that we
11 asked him what's the normal, because when we do
12 this, we don't want to seem odd. We don't want to
13 seem odd. We don't want to -- for a person that
14 normally gets 4 ounces, I don't want to ask for 4
15 pounds because that's going to throw up a red flag.
16 So I think we asked Stewart what would be normal and
17 not, you know, out of the ordinary, and he stated 4
18 ounces. So that's why we ordered 4 ounces and told
19 him 4 ounces was fine.

20 Q. Okay. So -- so you said -- you -- you said you
21 ordered 4 ounces?

22 A. Uh-huh.

23 Q. Okay. And did you tell him to bring money as
24 well?

25 A. We did not.

1 Q. Okay. You didn't advise him that you knew
2 that -- you didn't advise him to also tell Mr. --
3 Mr. McGill to bring money?

4 A. Not that I recall. I recall that he said that
5 Mr. McGill was supposed to bring money to go buy
6 tomorrow as far as more meth from Atlanta, and he
7 told Mr. McGill to bring the money home, is the way
8 I understood -- stand. I didn't hear us ask to
9 bring money.

10 Q. So -- all right. And did you -- did you
11 monitor -- were you there for both phone calls?

12 A. I was at the house. That's correct.

13 Q. Okay. And were you aware that Mr. Ferguson had
14 to give directions to Angela Williams' house?

15 A. I was made aware earlier. That's correct.

16 Q. Okay. So it took awhile for him to get there,
17 correct?

18 A. It took about 45 minutes or so for him to get
19 there..

20 Q. And Angela Williams had testified that y'all --
21 that -- that law enforcement was at her house from
22 about 3:00 to 8:00 that day?

23 A. That's -- that's fair and accurate to say.

24 Q. Okay.

25 A. About -- about 3:00, 3:30 to 8:00.

1 Q. So y'all were there a good amount of time,
2 correct?

3 A. That's correct.

4 Q. Okay. Now -- now, was Mr. Ferguson handcuffed
5 this whole time?

6 A. I do believe so.

7 Q. Okay. And where did he make the phone call?

8 A. He made the phone call in -- I believe it was
9 the kitchen area.

10 Q. Okay. All right. And then how long after he
11 made that phone call -- Mr. Ferguson made that phone
12 call to Mr. McGill? How long did it take for
13 Mr. McGill to actually show up?

14 A. Probably about 45 minutes approximately, give
15 or take.

16 Q. About 45 minutes. Okay. And you said that
17 when Mr. -- Mr. McGill came in, that y'all
18 conducted a takedown, correct?

19 A. That is correct.

20 Q. Okay. And that's consistent with what y'all
21 did with Mr. Ferguson, right?

22 A. That is correct.

23 Q. Okay. And -- and then that's -- Investigator
24 Monts issued Miranda, right?

25 A. That is correct.

1 Q. Okay. Now, you testified that you also --
2 you -- did you personally go through Mr. McGill's
3 vehicle?

4 A. I did.

5 Q. Okay. And he signed a consent to search the
6 vehicle?

7 A. He did.

8 Q. Okay. So, essentially, he cooperated, correct?

9 A. At -- at first he did not, but then after we
10 explained the situation to him, he did start
11 cooperating once he knew that it was an actual
12 buy-bust.

13 Q. Okay. And, ultimately, he signed the money
14 over to Abbeville County Sheriff's Department,
15 right?

16 A. He did. He did -- he did sign it over.

17 Q. Okay. As a form of cooperation, correct?

18 A. Yes. I would -- I would -- yes.

19 Q. Okay. And you -- basically, he -- he would --
20 he was allowed to keep his truck, right?

21 A. Yes.

22 Q. Okay. Now, did you -- did you collect or you
23 have any hand in field testing the substance?

24 A. I don't recall that I field tested the
25 substance here.

1 Q. Okay. Did you handle the substance that day?

2 A. I think I did pick it up.

3 Q. Okay. Did you pick up Angela Williams' meth?

4 A. No, sir.

5 Q. Pick up Stewart Ferguson's meth?

6 A. I did.

7 Q. Okay. What about Kenneth McGill?

8 A. Yes. That's the one that I -- I just answered
9 that question for you.

10 Q. Okay. But did you put it -- were you the one
11 that put it in the best kit?

12 A. No, sir.

13 Q. Huh?

14 A. No, sir.

15 Q. You were not?

16 A. It's on -- it's on the best pack on who put it
17 in the best pack.

18 Q. Okay. What happened to the -- what happened to
19 the -- to the -- to the control -- what happened to
20 the substances at the house that day? Who
21 handled -- who handled the drugs?

22 A. They were put into a bag and then transported
23 to the sheriff's office.

24 Q. What kind of bag were they put in?

25 A. We put it in a -- it should've been an evidence

1 bag. So it would've either been a paper bag or a
2 plastic bag. We have both, so I'm not sure which
3 one it was put in to transport.

4 Q. Okay. A paper bag or a plastic bag?

5 A. It could've been a paper bag or a plastic bag.

6 Q. And aren't you supposed to put -- put the
7 substance as soon as possible in the best kit, a
8 sealed bag?

9 A. No, sir. There is no law or -- or any policy
10 that says I have a certain amount of time to put a
11 substance in and package it. There's no ---

12 Q. Okay.

13 A. --- no such thing.

14 Q. Okay. So how did y'all -- did you -- but you
15 said you put it in a paper bag?

16 A. It was either a paper bag or a plastic bag to
17 transport it, so that way it would not -- it
18 wouldn't be loose going down the -- the road and
19 bust in a car while we're transporting it.

20 Q. Who put it in the paper bag?

21 A. I'm not sure. I don't recall.

22 Q. Where was -- where was the paper bag or the bag
23 placed?

24 A. I do not recall.

25 Q. You don't know?

1 A. It may have been in the vehicle with us.

2 Q. Okay. But you don't know, right?

3 A. No, sir.

4 Q. Okay. Because I noticed you identified a --
5 a -- I guess what's known as a best kit; is that
6 right?

7 A. Yes, sir.

8 Q. It said was sealed August 22nd of 2018?

9 A. That is correct.

10 Q. That's the next day?

11 A. Yes, sir.

12 Q. Okay. Do you know whether this sub -- do you
13 know what this substance was or these substances
14 were from the 21st ---

15 A. Can I look at the property and evidence sheet,
16 and I'll be happy to tell you what it was.

17 Q. But you don't know, absent looking at -- you
18 didn't -- absent looking at the sheet, you don't
19 know where it was, right?

20 A. No. If I -- if I read actual -- I -- I
21 identified the sheet. I did not read all the
22 property on the sheet. If that was in evidence, it
23 would tell you on evidence -- on the property and
24 evidence sheet.

25 Q. But you didn't have any direct control over the

1 substances from Angela Williams' house to Abbeville
2 County Sheriff's Department?

3 A. I would've had constructive possession of it,
4 which would mean it would've been in my presence,
5 but I didn't have physical control of it. Whoever
6 is on the chain-of-custody would actually have the
7 physical control of it as far as the scene and who
8 transported it. And they would have to put it into
9 our property and evidence boxes at the sheriff's
10 office.

11 We have a key. So we put it in a box -- in a
12 cabinet rather, put the evidence in. Take our key,
13 you lock it. There's a slit that's in there. You
14 slide the key through the slit, that way no one else
15 can lock it or get inside or mess with the evidence.

16 Q. Okay. Now, you say constructive. You didn't
17 have your hands on it, right?

18 A. No, sir. Not on -- not on the way down there.

19 Q. Did you have -- were you involved with the
20 interview with Stewart Ferguson?

21 A. I believe so.

22 Q. Okay. Did you -- were you involved in
23 contacting Anderson County Sheriff's Department
24 about ---

25 A. I was.

1 Q. Okay. Did you -- did Anderson County Sheriff's
2 Department respond to Abbeville?

3 A. They did.

4 Q. Okay. And they come and talked to Stewart
5 Ferguson?

6 A. They did.

7 Q. Okay. And they ultimately got a search warrant
8 for his home, right?

9 A. That is correct.

10 Q. Okay. And did you accompany -- did you
11 accompany Anderson County to 225 Kitty Corner
12 Circle?

13 A. I did.

14 Q. You did?

15 A. (Nonverbal response.)

16 Q. Okay. Who else from Abbeville County Sheriff's
17 Department went to Anderson County?

18 A. That would've been myself, Captain Graham,
19 Monts, and I think Balchin went as well. Not
20 100 percent if Balchin went, but I'm pretty sure
21 Monts, Graham, and myself went.

22 Q. So were you there when the meth and the guns
23 and the money were found?

24 A. I was.

25 Q. Okay. And so you left with 18 grams of meth

1 and 15 firearms and \$5700 in cash were found from
2 Stewart Ferguson's residence?

3 A. I'm not 100 percent how much -- how much of the
4 meth was found because I did not weigh it or see it
5 weighed.

6 Q. Okay. Did anybody from Abbeville County --
7 this was -- this was basically started -- this --
8 this started from the interview with Stewart
9 Ferguson, correct?

10 A. Uh-huh.

11 Q. Did anybody from Abbeville County Sheriff's
12 Department direct for Anderson County to prosecute
13 or arrest Stewart Ferguson?

14 A. Anderson County is Anderson County. I work in
15 Abbeville County. I can't control what Anderson
16 County Sheriff's Office does.

17 Q. You are aware that nobody got arrested, that
18 Stewart Ferguson did not get arrested?

19 A. We did arrest Stewart Ferguson, sir. He -- he
20 was arrested and charged with trafficking
21 methamphetamine ---

22 Q. In Abbeville County?

23 A. --- in Abbeville County, so that's where --
24 when he came to Abbeville County, Abbeville County
25 arrested Stewart Ferguson. I don't work for

1 Anderson County, so I can't answer that question.

2 Q. I understand that, but then this whole thing
3 started with Abbeville County?

4 A. Yes, sir.

5 Q. Okay. Y'all called Anderson County up to
6 Abbeville County to talk to Ferguson?

7 A. Yes, sir.

8 Q. Then you went on a -- then you went with
9 Anderson County ---

10 A. That is correct.

11 Q. --- to execute a search warrant on his mother's
12 house or the house he lived at at 225 Kitty Corner
13 Circle.

14 A. That is correct.

15 Q. Did you ever question the fact he never got
16 arrested?

17 A. No, sir. That's up to Anderson County.

18 Q. Okay.

19 A. That's going to be on them. We arrested him
20 for trafficking methamphetamine inside of our
21 county, which is Abbeville.

22 Q. Were you aware some of those firearms were
23 stolen?

24 A. No, sir. I was not. I did run the firearms.
25 Anderson County ran the firearms through their

1 dispatch. I didn't know they were stolen.

2 Q. Did they let you know what was going on?

3 A. No, sir.

4 Q. They didn't let you -- I mean, you

5 participated -- y'all participated in the search.

6 Y'all participated in the going in that house.

7 Participated in finding the meth, the guns, and the

8 drugs, and the money, and y'all didn't inquire

9 about -- do any follow-up about any arrest or

10 prosecution or what was going on with what was

11 found?

12 A. No, sir. I'm -- I'm concerned about Abbeville

13 County. That's where I work, so I'm concerned about

14 Abbeville County. He was arrested in Abbeville

15 County and charged with trafficking over 200, less

16 than 400 grams.

17 Q. So you don't care about Anderson County?

18 A. I'm not saying that. I'm saying that I work

19 for Abbeville County.

20 Q. I understand that, but you took the time to

21 ride and go to Anderson County.

22 A. We went to Anderson County because Stewart

23 Ferguson said that he had more drugs and guns and

24 money, so we did our proper due diligence -- due

25 diligence to let Anderson County know, hey, this man

1 has drugs, guns, and money in your county.

2 What they do with it, I can't control that.

3 Our sheriff's office can't control that. It's up to
4 them whether they want to charge or not. They have
5 discretion just like we have discretion, so I can't
6 answer your question on Anderson County. You'll
7 have to ask someone from Anderson County.

8 Q. Does that not concern you that he's not been
9 charged with 18 grams of meth, 15 firearms, and --
10 and the money that was found?

11 A. Like I said, he was charged with trafficking
12 methamphetamine in Abbeville County, 200 to 400
13 grams. That's what I was concerned about, the meth
14 that he brought into Abbeville County and going to
15 sell to our citizens that live in Abbeville County.

16 Q. Were you aware the -- his -- the phone that
17 was -- that was taken by the DEA to do a phone dump
18 on?

19 A. I was.

20 Q. Okay. And were you aware of Stewart Ferguson's
21 cooperation in a Federal drug case?

22 A. I -- I'm not aware of what happened. I know
23 that he did speak to DEA, but I'm not sure the stint
24 of his cooperation.

25 MR. EPPS: All right. Your Honor, I have no

1 further questions.

2 THE COURT: Any redirect?

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

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

5 THE WITNESS: Thank you, Your Honor.

6 (Witness excused.)

7 THE COURT: All right. Madam forelady and
8 ladies and gentlemen of the jury, this will be a
9 good time to take a break.

10 I failed to mention to you previously that if
11 any time you need a break and I haven't given you
12 one, just raise your hand. Okay. I try not to -- I
13 try not to go past an hour and a half clip at any
14 particular time, but in your particular situation
15 you may need to take a break before then so all you
16 have to do is just raise your hand. Okay?

17 All right. If you'll go back to the jury room.
18 Again, I'll advise you no discussion among
19 yourselves and we'll get you back out shortly.

20 (At 2:48 p.m., jury left the courtroom.)

21 (From 2:48 to 3:10 p.m., recess.)

22 THE COURT: All right. Are we ready for the
23 jury, gentlemen?

24 MR. BLACK: Yes, sir.

25 MR. EPPS: Yes, sir.

1 THE COURT: All right. Bring the jury out,
2 please.

3 THE BAILIFF: (Complying.)

4 (At 3:10 p.m., jury entered the courtroom.)

5 THE COURT: Let the record reflect the jury is
6 back in.

7 Solicitor, are you ready to call your next
8 witness?

9 MR. BLACK: Yes, sir. The State calls Josh
10 Monts.

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

12 (Witness approaching.)

13 THE CLERK: Put your left hand on the Bible and
14 raise your right.

15 THE WITNESS: (Complying.)

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

19 THE WITNESS: Yes.

20 INVESTIGATOR JOSHUA MONTS,
21 having been produced and first duly sworn as a
22 witness on behalf of the State, testified as
23 follows:

24 DIRECT EXAMINATION

25 BY MR. BLACK:

1 Q. Can you introduce yourself to the jury, please?

2 A. Josh Monts.

3 Q. And are you in law enforcement?

4 A. Yes.

5 Q. Where do you work at?

6 A. I currently work at the Greenwood County
7 Sheriff's Office.

8 Q. And how long have you been with Greenwood
9 County?

10 A. Just a few months. Since the middle of July
11 this year.

12 Q. And what's your job over there?

13 A. A road deputy.

14 Q. And prior to that, did you work in law
15 enforcement?

16 A. Yes.

17 Q. Did you work at Abbeville County?

18 A. I did.

19 Q. How long did you work in Abbeville County?

20 A. Since the beginning of 2017.

21 Q. Okay. And what was your position at Abbeville
22 County?

23 A. I was an investigator with the narcotics task
24 force.

25 Q. And prior to that, did you work at Abbeville

1 City?

2 A. Yes.

3 Q. How long did you work at Abbeville City?

4 A. Since about April or May of 2012.

5 Q. Okay. And so you've been in law enforcement
6 since 2012?

7 A. Yes.

8 Q. About seven years or so?

9 A. Yes.

10 Q. And you went to the academy down in Columbia
11 and graduated?

12 A. I did.

13 Q. Okay. You continue taking classes as well?

14 A. Yes.

15 Q. All right. Let's fast forward to this
16 particular day. This will be August the 21st of
17 2018 last year. Do you remember that day?

18 A. I do.

19 Q. Were you working at Abbeville County at the
20 time?

21 A. I was.

22 Q. Did you guys respond to 260 Suttles Landing?

23 A. Yes.

24 Q. And where is that at?

25 A. It's right inside of Abbeville County near the

1 lake.

2 Q. And who -- who lives there?

3 A. Angela Williams.

4 Q. And what was the reason y'all went out there?

5 A. We went over there. Probation was going to do
6 a home visit. She'd also had an arrest warrant for
7 a drug offense, so we went over there. Probation
8 showed up to do a home visit with her. Law
9 enforcement showed up shortly after.

10 Q. Did she agree to allow you guys to come in?

11 A. Yes.

12 Q. And what law enforcement officers were there
13 with you?

14 A. It was Sergeant Hines, Lieutenant Graham,
15 Investigator Balchin, and myself.

16 Q. Okay. And did y'all search Ms. Williams'
17 house?

18 A. We did.

19 Q. And y'all found about an ounce of
20 methamphetamine, correct?

21 A. Yes.

22 Q. Was she -- was she compliant and showed you
23 guys where it was?

24 A. Yes.

25 Q. Based on that, did you further confer with

1 Ms. Williams and speak with her about calling
2 somebody?

3 A. Yes.

4 Q. And did she do that?

5 A. Yes.

6 Q. Who did she call?

7 A. She called a subject, Stewart Ferguson.

8 Q. And were you there when that conversation took
9 place?

10 A. Yes.

11 Q. And did Mr. Ferguson eventually show up to her
12 house?

13 A. Yes.

14 Q. About how long did it take for Mr. Ferguson to
15 get there?

16 A. I don't recall exactly. Maybe a couple of
17 hours, give or take a little bit. I'm not
18 100 percent.

19 Q. And y'all were out there at this house for a
20 pretty -- a pretty good time period; is that right?

21 A. Yes.

22 Q. And what's -- do you remember about what time
23 y'all got there?

24 A. Late afternoon, maybe 4:00 or 5:00. I'm not
25 100 percent.

1 Q. And when y'all -- when y'all left, was it still
2 daylight out or was it dark?

3 A. It was dark.

4 Q. And that would've been August 21st, so it
5 would've still been getting dark pretty late; is
6 that correct?

7 A. Yes.

8 Q. So y'all were -- it's fair to say y'all were
9 out there for several hours?

10 A. Yes.

11 Q. All right. When Mr. Ferguson came into the
12 residence, where were you stationed?

13 A. As you walk in the front door, you turn to the
14 right, just going down the hallway. I was right
15 behind a door right behind Investigator Balchin.

16 Q. And when he came in, did y'all have guns drawn
17 on him?

18 A. He did -- he did, Investigator Balchin.

19 Q. And did y'all inform Mr. Ferguson who you guys
20 were?

21 A. Yes. When they did -- right when he walked in,
22 we immediately identified ourselves as being law
23 enforcement.

24 Q. And what did he do based on that?

25 A. He -- he complied. When we told him to get on

1 the ground, he complied at the time.

2 Q. And did he have anything on him?

3 A. It was a bookbag.

4 Q. And what was in the bookbag?

5 A. It was later found out that it was a quantity
6 of methamphetamine inside that bookbag.

7 Q. And so once he got on the ground, did you cuff
8 him at that point?

9 A. Yes, sir. He was cuffed and detained, patted
10 for weapons for safety reasons. We sat him back up.
11 De-escalate the situation. Explained what was going
12 on. Further explained that we were law enforcement
13 conducting a controlled narcotics buy-bust
14 transaction. He was advised of his Miranda rights
15 that I advised him of and it transpired from there.

16 Q. You typically read those Miranda rights,
17 correct?

18 A. Yes.

19 Q. When y'all work in a team like this?

20 A. Yes.

21 Q. And you used Investigator Balchin's card; is
22 that correct?

23 A. Yes.

24 Q. Do you have that with you?

25 A. I do.

1 Q. Could you read that for us?

2 A. This is the Miranda card that I usually read
3 off of. It states, "You have the right to remain
4 silent. Anything you say can and will be used
5 against you in a court of law. You have the right
6 to talk to a lawyer and have him or her present with
7 you while you're being questioned. If you cannot
8 afford to hire a lawyer, one will be appointed to
9 represent you before any questions if you wish. You
10 can decide at any time to exercise these rights and
11 not answer any questions or make any statements."

12 At the bottom it has a waiver section that
13 says, "Do you understand each of these rights that
14 I've explained to you? Having those rights in mind,
15 do you wish to speak with us?"

16 Q. And you read that to Stewart Ferguson?

17 A. Yes.

18 Q. And once you read that to Mr. Ferguson, he
19 ultimately decided to speak with you guys; is that
20 correct?

21 A. Yes.

22 Q. And how'd that conversation go?

23 A. He -- he admitted that there was a quantity of
24 methamphetamine in that bookbag, at which time it
25 was retrieved.

1 As the conversation ensued, he stated that he'd
2 call another subject that he stated was Mr. McGill,
3 that he was supposed to bring a quantity of money
4 and some more methamphetamine to him later on in the
5 evening or night for him to make a trip to Atlanta
6 or wherever he needed to go.

7 At which point, a phone call was made to that
8 subject being Mr. McGill and he later arrived at the
9 house.

10 Q. And did you record that conversation?

11 A. Yes.

12 Q. And I don't know if you were in here when
13 these con -- when these audio clips were played, but
14 I'm going to play -- I'm going to play the second
15 clip. Okay?

16 THE COURT: I believe that's Exhibit 16 for the
17 State.

18 MR. BLACK: That is correct, Exhibit 16.

19 (Playing tape.)

20 BY MR. BLACK:

21 Q. All right. I'm going to talk about the end of
22 that, and this was referenced to previously. What
23 was -- what was going on at the end of that when
24 y'all were talking about Patrick?

25 A. Uniform patrol wasn't aware of what was going

1 on. They were spotted riding up and down that
2 roadway, just on regular routine patrol. And we
3 didn't want anyone to spot our vehicles down the
4 road or know what we were -- what we were doing at
5 the time.

6 So that's what that conversation between me and
7 Lieutenant Graham was, and he was stating that he
8 was going to call Lieutenant Thompson to stay away
9 from the area.

10 Q. And Patrick is Patrick Thompson?

11 A. Patrick Thompson. Yes, sir.

12 Q. And so that was just to get other law
13 enforcement officers away from the area?

14 A. Away from the area.

15 Q. Okay. I understand. All right. Now going
16 back to the substance of the phone call. You
17 recorded that phone call?

18 A. Yes.

19 Q. And who -- who was -- was that phone call done
20 in the presence of you?

21 A. Yes.

22 Q. And who made that phone call?

23 A. Stewart Ferguson.

24 Q. And what was his demeanor like as he was making
25 this phone call?

1 A. He was calm.

2 Q. Okay. Did he have trouble giving directions?

3 A. Yes. As you -- as you can hear it, having
4 difficulties trying to explain which direction for
5 Mr. McGill to go.

6 Q. Okay. Did anybody show up after that phone
7 conversation?

8 A. There was some other gentleman. Don't know who
9 it is. I'm the one that actually spoke to the
10 gentleman. I think it was just somebody that showed
11 up to be a user, just looking for some -- some
12 personal use amount to speak with Angel.

13 He had -- obviously, he did not have any idea
14 what was going on. I made contact with him at the
15 door stating nobody was there, and he left.

16 Q. Okay. Did Mr. McGill ever show up?

17 A. Yes.

18 Q. Where were you when Mr. McGill showed up?

19 A. In the same place. If you enter through the
20 front door towards the right going down the hallway,
21 I was right behind Investigator Balchin in the
22 doorway area.

23 Q. And did Investigator Balchin, did he have --
24 did he have his gun drawn when Mr. McGill showed up?

25 A. Yes. When he initially walked through the

1 door, yes.

2 Q. What about you? Did you have your gun drawn?

3 A. No. Due to safety reasons. The hallway we
4 were in was very narrow. I didn't want to have my
5 gun towards Investigator Balchin's back in case
6 something were to happen. So we decided that all
7 we -- what we consider the "hands-on person" if
8 something were to go bad, we would have Investigator
9 Balchin with his gun drawn and I would go hands-on
10 if we needed to.

11 Q. Okay. You didn't have your gun drawn, but you
12 were behind Investigator Balchin to intercept
13 Mr. McGill when he walked in?

14 A. Right.

15 Q. Okay. And is Mr. McGill the guy that came in?
16 The last guy that came in, is he here in the
17 courtroom today?

18 A. Yes.

19 Q. Can you identify him?

20 A. He's right there in that blue shirt sitting
21 down.

22 THE COURT: All right. Let the record reflect
23 he's identified the defendant.

24 BY MR. BLACK:

25 Q. And when Mr. McGill walked in, how -- how

1 did -- how was he able to come inside the house?

2 How did y'all get him inside the house?

3 A. When he come up to the door and knocked on the
4 door, Angel called out from her bedroom telling him
5 to come on in, the door was unlocked. At which time
6 he did open the door and entered through the front
7 door.

8 When he did, he looked to our -- to -- to his
9 right. Looked directly at me and Investigator
10 Balchin. I observed him clutching a black plastic
11 bag in his right hand. As we were identifying
12 ourselves as law enforcement and telling him to get
13 on the ground, he dropped the bag in the living room
14 floor area and started walking towards Sergeant
15 Hines' direction, who was back -- towards the back
16 bedroom where Ms. Williams was.

17 We told him several times, at least two or
18 three times, to get on -- simply get on the ground.
19 At which time he didn't comply while he was still
20 walking towards Sergeant Hines. At which time I
21 went hands-on with him and we took him to the
22 ground.

23 Q. Okay. And you said he had a plastic bag with
24 him?

25 A. Yes.

1 Q. And you observed him drop it to the ground?

2 A. Yes.

3 Q. Once you did intercept Mr. McGill, what did you
4 do? Did you place him in handcuffs at that time?

5 A. I did. We placed him in handcuffs and detained
6 him. Patted him down for weapons for safety
7 reasons. We sat him up. We got the situation
8 de-escalated and sat him in a chair. I explained to
9 him who we were again, that we were law enforcement,
10 and what did this -- what was going on, this was a
11 controlled buy-bust transaction.

12 At which time I, again, advised him of his
13 Miranda rights as I did Mr. Ferguson.

14 Q. And you used the same card to do that?

15 A. Yes.

16 Q. You read exactly the same rights?

17 A. Yes.

18 Q. At that point, did you speak with Mr. McGill?

19 A. Yes.

20 Q. And how -- how did that conversation go?

21 A. I explained to him further that we knew that he
22 was supposed to bring of quantity of -- a large
23 amount of money and a quantity of methamphetamine
24 over to Mr. Ferguson. I explained to him that I
25 knew this because I was the one that was standing

1 next to Mr. Ferguson when he made the phone call for
2 him to bring both those items over to Ms. Williams'
3 residence.

4 Mr. McGill, when I asked him if there was --
5 the bag that I saw him throw -- dropped in the
6 living room floor, he initially denied any knowledge
7 of it, having possession of it, any knowledge of a
8 bag.

9 When I explained to him that I -- again, that I
10 saw him clutching in his right hand and he dropped
11 it as we made contact with him and that I knew that
12 he was supposed to be bringing over methamphetamine
13 and a large sum of money, that's when he then led on
14 and admitted there was methamphetamine in that bag.

15 Q. And at that point, did y'all secure that bag?

16 A. Yes.

17 Q. Did you look inside the contents of that bag?

18 A. Yes.

19 MR. BLACK: And I'm going to show you what's
20 been -- Your Honor, may I approach the witness?

21 THE COURT: You can.

22 BY MR. BLACK:

23 Q. I'm going to show you what's been marked as
24 State's No. 46 for identification purposes. Can you
25 identify that?

1 A. Yes.

2 Q. What is that?

3 A. This is a crystal-like substance that it did
4 field test positive for methamphetamine on the
5 scene. This is the SLED best pack envelope that I
6 sealed it up in to be sent off to SLED for further
7 analysis.

8 Q. And you actually sealed it up in the best kit;
9 is that right?

10 A. I did.

11 Q. And your initials are on there?

12 A. Yes.

13 Q. Your name's on there?

14 A. Yes.

15 Q. And you actually transported -- well, let me
16 show you what's marked as State's 48. Can you
17 identify this for us?

18 A. Yes. This is the sheriff's office
19 chain-of-custody form that was filled out.

20 Q. And what's a chain-of-custody form?

21 A. Basically, whenever we seize a quantity of
22 evidence, whether it be drugs or stolen property or
23 anything, we bring it back to the sheriff's office
24 as we're packaging it -- packaging it further into
25 evidence bags to be placed and submitted into

1 evidence.

2 We fill out this chain-of-custody form -- who
3 on the scene seized it at the time; who it was
4 seized from; what it was pursuant to. In this case,
5 it was a drug investigation and an arrest was made,
6 the address or area where the item was seized, and
7 each item is numbered separately as to what it is.
8 In this particular situation, it's JM-1, -2, -3, and
9 so on and so forth as far as the items that were
10 seized on scene.

11 Q. And what's the State's number? That sticker
12 down at the bottom is State's, is that 48, on that
13 sheet of paper -- the custody -- chain-of-custody
14 form?

15 A. Say the question again.

16 Q. I'm sorry. The sticker ---

17 THE COURT: The exhibit number.

18 THE WITNESS: It's 48.

19 MR. BLACK: Forty-eight. Your Honor, at this
20 point, the State moves Number 48 into evidence, and
21 that would be the chain-of-custody form.

22 MR. EPPS: I'm going to object, Your Honor. I
23 mean, he -- he can testify to he signed it, but, I
24 mean, unless everybody else has signed it that's in
25 that chain, he's not the only person in that chain.

1 THE COURT: Right. Well let me ask you, I
2 think -- I think it would be premature at this stage
3 to admit it into evidence until the chain-of-custody
4 witnesses were to -- to testify. So I think it
5 would be a little premature.

6 You can certainly ask this witness his
7 involvement with the -- with the drugs insofar as
8 the chain-of-custody. You can do that, but putting
9 it into evidence at this stage would be a little
10 premature.

11 BY MR. BLACK:

12 Q. Let me ask you this, Sergeant Monts: You
13 filled out the top part of this chain-of-custody
14 form?

15 A. Yes.

16 Q. And I see your name at the top; is that right?

17 A. Right.

18 Q. And then you listed all the property that was
19 seized that day?

20 A. Yes.

21 Q. And that's listed on this chain-of-custody
22 form?

23 A. Yes.

24 Q. And then at the bottom, it's got dates and
25 names and whatnot on here; is that right?

1 A. Yes.

2 Q. And is your name on there?

3 A. It is.

4 Q. And is your name first?

5 A. Yes.

6 Q. Is there a date beside it?

7 A. Yes.

8 Q. What's that date?

9 A. 8/21 of '18.

10 Q. And you signed it?

11 A. Yes.

12 Q. What did you do -- so you were in charge of the
13 evidence from the scene to the sheriff's department;
14 is that correct?

15 A. Right.

16 Q. And what did you do with it once you got to the
17 sheriff's department?

18 A. Once we got there, we -- it was organized more
19 accordingly, especially the currency and all the
20 narcotics that were seized on scene. There it was
21 all separated and placed into different best
22 packs -- SLED best packages. This being one of
23 those.

24 After they were filled out, I then submitted it
25 into an evidence locker ---

1 Q. Is that ---

2 A. --- for storage?

3 Q. And is that -- is that your standard protocol?

4 A. Yes.

5 Q. And do you have an evidence custodian?

6 A. Yes.

7 Q. Who is the evidence custodian for Abbeville
8 County?

9 A. Ken Smith.

10 Q. Okay. Does his name appear on this sheet?

11 A. Yes.

12 Q. Is he the next one under your name?

13 A. Yes.

14 Q. Is there a date beside that?

15 A. It is.

16 Q. What's that date?

17 A. 8/24 of '18.

18 Q. Okay. When you stated you put this evidence in
19 the -- in a locked -- I think you described it as a
20 locked box-type situation?

21 A. Like a locker basically.

22 Q. And what do you do with the key?

23 A. It's -- sometimes if there's a lot of evidence
24 that needs to be submitted, but we don't want a lot
25 of loose evidence sitting out in the squad room, for

1 security reasons I'll put it in there and I'll lock
2 it and I'll hold onto the key while I'm placing
3 other evidence in their correct packaging. And then
4 I'll go back and retrieve the other evidence and put
5 it in its correct packaging.

6 And then when it's all finished, I'll put it
7 all back in the locker.

8 Q. So you put that key in there as well?

9 A. Yes.

10 Q. Okay. And so once it goes -- once you lock it
11 up and you put it into evidence, who has access to
12 it?

13 A. Only Ken Smith at that time, but the evidence
14 custodian.

15 Q. So you can't get back there and retrieve that?

16 A. No, sir.

17 Q. So your evidence room is a locked storage room
18 that's under lock and key?

19 A. Yes. And there's -- on the lockers, there are
20 little slot ports on the doors. So once it's locked
21 and you slide the key in there, it drops in the
22 locker so no one has any access to get it, unless
23 you're inside the evidence room on the inside.

24 Q. Which is locked?

25 A. Which is locked. Yes, sir.

1 Q. Nobody can go inside the evidence room?

2 A. Correct.

3 Q. Unless Ken Smith is with them?

4 A. Correct.

5 Q. Okay. And that's how it works with not just
6 this case but any case?

7 A. That's correct.

8 MR. BLACK: Okay. Your Honor, I -- I -- I
9 think at this point, the -- the foundation's been
10 laid for this chain-of-custody form to come in. And
11 I -- I would -- I would move that into evidence.

12 MR. EPPS: I still got that same objection,
13 Your Honor. There are more individuals.

14 THE COURT: Yeah, I don't have a problem with
15 the chain-of-custody form coming in at this time.
16 The -- the drugs or any of the evidence seized at
17 the home, again, I think it's a little premature to
18 put those in until the chain-of-custody has been
19 established.

20 MR. BLACK: I'm not putting ---

21 THE COURT: The form -- the form itself does
22 not conclusively establish the chain-of-custody.

23 MR. EPPS: Yes, sir.

24 THE COURT: Okay?

25 MR. EPPS: Yes, sir.

1 THE COURT: I want to make sure that's clear.

2 MR. EPPS: Yes, sir.

3 THE COURT: But I don't have a problem since
4 he -- he completed this form. And go through the
5 rest of the form, Officer Monts, if you would.

6 MR. BLACK: Can you -- can you just identify
7 all the names on there?

8 THE COURT: And what they did.

9 THE WITNESS: Yes. The first name at the top
10 is -- obviously, it's mine. It's signed over. The
11 received by name. I wrote evidence. That's just
12 showing that I am the one that submitted it into the
13 evidence locker for the evidence custodian to
14 further submit it into evidence.

15 Up under there, it's evidence locker no. 4.
16 That's the locker that it was submitted to. And it
17 was signed from, relinquished by evidence, signed
18 over to Ken Smith, is who the evidence custodian is.

19 On -- on the -- 8/30 of '18, it has Ken Smith's
20 signature again, who was relinquishing it over to
21 Matthew Graham, who's name is under the received by.
22 And that reason out to the side was to submit it
23 into iLAB. That's for SLED -- online for SLED so
24 they know that it's getting ready to be submitted
25 for further analysis.

1 MR. BLACK: Okay.

2 THE WITNESS: It's then signed back over to Ken
3 Smith back into evidence.

4 It's then signed out by Ken Smith again to
5 Jonathan Pratt, reason being is to sign it out where
6 it can -- so it could be taken down to SLED for the
7 analysis.

8 And then it's signed back in. Ken Smith again
9 is signing -- signing it out to Jarvis Reader. This
10 was for a phone dump that can be conducted. The
11 phone was signed out to Jarvis Reader.

12 And then it was signed back into evidence
13 locker no. 4. It looks like Ken Smith's signature
14 again from what I -- I can tell for storage.

15 MR. BLACK: At this point, Judge, we're just
16 asking for the chain-of-custody form to be put into
17 evidence, but not the -- the drugs though.

18 THE COURT: Subject to defense's objection,
19 I'll allow it, the form itself into evidence at this
20 time.

21 MR. EPPS: Yes, sir.

22 (State's Exhibit No. 48 was received into
23 evidence.)

24 MR. BLACK: I think that's all the questions I
25 have for you. Please answer any questions Mr. Epps

1 might have.

2 THE COURT: Let me see the lawyers for just one
3 second, please.

4 (Sidebar discussion.)

5 CROSS-EXAMINATION

6 BY MR. EPPS:

7 Q. Investigator Monts, how are you?

8 A. Good, sir.

9 Q. Good. Okay. So you -- you are now with
10 Greenwood County, correct?

11 A. Yes, sir.

12 Q. Like in August of ---

13 THE COURT: Hold on a second. Come back
14 around.

15 (Sidebar discussion.)

16 THE COURT: You may proceed, Mr. Epps.

17 MR. EPPS: Yes, sir. Thank you, Your Honor.

18 BY MR. EPPS:

19 Q. And you were an Abbeville County Sheriff's
20 officer -- narcotics investigator in August of 2018,
21 correct?

22 A. Yes.

23 Q. Okay. And you responded to Angela Williams'
24 house, right?

25 A. Yes.

1 Q. Okay. And you agree, y'all had -- were
2 y'all -- y'all had planned on going into Angela
3 Williams' house that day, right?

4 A. Yes.

5 Q. Okay. You're aware that Angela Williams had a
6 pending trafficking methamphetamine charge?

7 A. Yes.

8 Q. Okay. And her probation officer, Sorrow, went
9 in first, right?

10 A. Yes.

11 Q. Okay. And he did that because he was able to
12 do a well-check and do that as -- because -- because
13 Angela Williams was on probation?

14 A. Yes.

15 Q. Okay. So y'all waited and y'all got a call
16 from him before you entered the house?

17 A. Yes.

18 Q. So that way you didn't have to have a warrant
19 or anything like -- anything like that, correct?

20 A. Correct.

21 Q. Okay. So at -- and upon entering the house,
22 you discovered that Angela Williams had
23 methamphetamine in the house?

24 A. Yes.

25 Q. Okay. And were you aware -- and it's -- you

1 were aware that at that point in time she had been
2 on probation for distribution of meth and had a
3 pending trafficking charge, right?

4 A. Yes.

5 Q. Okay. And she got charged again for that --
6 for the meth in her house that day, correct?

7 A. That's correct.

8 Q. Okay. And did you have any hand in not taking
9 her to jail that day or arresting her that day?

10 A. It was upon our discretion after me, Sergeant
11 Hines, Lieutenant Graham, and Investigator Balchin
12 had spoke on it. We decided to let her turn herself
13 in at a later time.

14 Q. Okay. She turned herself in a month later,
15 correct?

16 A. I believe so. I'm not 100 percent what day it
17 was.

18 Q. Okay. But it was -- it was in September of
19 2018?

20 A. Yes, sir.

21 Q. Okay. And did you agree -- what was the reason
22 to not let her -- to not take her into custody or
23 arrest her that day?

24 A. I believe most of it had to do with her trying
25 to work out her childcare issues.

1 Q. Okay. Her childcare issues?

2 A. Yes, sir.

3 Q. Okay. But she had a -- she had a son, a minor
4 child in the house, correct?

5 A. Uh-huh.

6 Q. Okay. Had that -- was that son living there
7 with her at that time?

8 A. Yes, sir.

9 Q. He was?

10 A. (Nonverbal response.)

11 Q. Okay. Did anybody -- did you contact the
12 Department of Social Services?

13 A. No.

14 Q. Okay. Did anybody from Abbeville County
15 Sheriff's Department contact the Department of
16 Social Services?

17 A. No.

18 Q. Okay. Do you think it would be appropriate to
19 contact the Department of Social Services
20 considering the meth that was found in the home and
21 she being on probation?

22 A. Well, at the time the child -- once we got
23 there, the child got home from school and the child
24 was removed and taken by her daughter.

25 Q. Okay. So the child showed up from school that

1 day, right?

2 A. Uh-huh.

3 Q. Okay. So that ---

4 THE COURT: You need to verbally respond.

5 THE WITNESS: Oh, I'm sorry. Yes.

6 BY MR. EPPS:

7 Q. Okay. So the child came to the home. Okay.

8 And I think you testified, was there another

9 individual while -- while y'all were at

10 Ms. Williams' residence, another individual

11 approached that residence to see Ms. Williams?

12 A. Yes.

13 Q. Okay. Do you know who that person was?

14 A. I do not.

15 Q. That person was there to buy the meth?

16 A. I'm not sure what they were there for.

17 Q. Okay. Did -- did -- did you speak to that
18 person or were the one that advised that person to
19 leave?

20 A. Yes, sir.

21 Q. Okay. Did that person, did you think to search
22 him or have any reason to search this person?

23 A. No.

24 Q. Are you -- did you have -- what kind of
25 conversation did you have with this person?

1 A. It was very brief. He come up to the door
2 knocking on the front door. Obviously, with the
3 situation we had at hand, I cracked the door and he
4 had asked where Angel was, Angel being Ms. Angela
5 Williams. I told him that she was not there. He
6 had to come back at a later time, at which time he
7 left.

8 Q. Okay. And at that point in time upon going
9 into that residence, I guess Abbeville County
10 Sheriff's Department decided to set up a buy-bust
11 operation, right?

12 A. Yes.

13 Q. Okay. And y'all were there, would you agree,
14 approximately, probably about five hours?

15 A. Approximately, yes, sir.

16 Q. Okay. And in setting up a buy-bust operation,
17 y'all were using Ms. Williams' house as a -- as a
18 base of operations, right?

19 A. Yes.

20 Q. Okay. And y'all controlled the -- the home,
21 right?

22 A. Yes.

23 Q. And you controlled the mode and manner of the
24 operation of the buy-bust, correct?

25 A. Yes.

1. Q. Okay. And Angela Williams made a call to
2 Stewart Ferguson?

3 A. Yes.

4 Q. Okay. And you -- you actually recorded that
5 phone call, right?

6 A. Yes. I believe I -- I did.

7 Q. Okay. You -- you recorded that phone call and
8 Stewart Ferguson showed up at the house with 8 -- 8
9 ounces of meth in a backpack?

10 A. Yes.

11 Q. Okay. That was over 200 grams, right?

12 A. Yes.

13 Q. Okay. And at that time Stewart -- Stewart
14 Ferguson was taken into custody, right?

15 A. He was detained at that time.

16 Q. Okay. And you were by -- if you come into that
17 trailer, you were the second guy to the right when
18 Mr. Ferguson entered?

19 A. Yes.

20 Q. Okay. So the -- the officer in front of you,
21 what was his name again? I'm sorry.

22 A. Dwayne Balchin.

23 Q. Balchin. Okay. He had his gun drawn, right?

24 A. Yes.

25 Q. And y'all took Mr. Ferguson down?

1 A. Yes.

2 Q. Okay. And then did it take -- how long did it
3 take for Mr. Ferguson -- did you -- ultimately, at
4 that point in time was it the plan of the Abbeville
5 Sheriff's Department to continue the buy-bust?

6 A. Yes. Mr. Ferguson stated that he could -- he
7 could make another phone call and have another
8 subject come and bring a ---

9 Q. Okay.

10 A. --- quantity of drugs to the house.

11 Q. All right. Did y'all approach him -- did y'all
12 approach him or did you -- did y'all approach him
13 and sell or talk to him about that once y'all had
14 him in custody?

15 A. After we advised him of his Miranda rights and
16 it was determined that he did have methamphetamine
17 in that bookbag, that's when the decision -- he --
18 after he told us that he could make another phone
19 call -- or make a phone call, that's when we decided
20 to make another buy-bust transaction.

21 Q. Okay. Did he have to think about it for a
22 while?

23 A. Not really.

24 Q. Okay. Did you have to have a con -- did you
25 have a conversation -- did you talk to Mr. Ferguson?

1 Did he give you details about what he was doing
2 about his drug trafficking business?

3 A. I don't understand the question.

4 Q. Did he tell you about his contacts in Atlanta?

5 A. He stated that -- the only part of Atlanta that
6 I was aware of was, he said that he could call a
7 subject, Kenneth McGill, and that was -- he was
8 supposed to go to Atlanta for Mr. McGill.

9 Q. So you didn't -- so y'all didn't -- so
10 Mr. Ferguson didn't sit there for an hour thinking
11 about whether he was going to participate in this
12 buy-bust?

13 A. I don't recall how long it was.

14 Q. Okay. Did -- did you ask Mr. Ferguson who he
15 could call?

16 A. We just told him whoever -- whoever he had in
17 mind that he wanted to call.

18 Q. Did he happen to tell you about a guy named
19 Head in Atlanta who he was dealing drugs with?

20 A. I briefly heard that name, but I didn't carry
21 on that much of a conversation.

22 Q. Okay. So you -- the name Head came up at
23 Angela Williams' house?

24 A. Briefly.

25 Q. Okay. What about any other individuals that

1 Stewart Ferguson was -- was dealing to?

2 A. The only other one was Mr. McGill ---

3 Q. Okay.

4 A. --- that I was aware of.

5 Q. Okay. But he brought Mr. McGill's name up; is
6 that right?

7 A. Yes.

8 Q. And, obviously, he brought Mr. McGill's name up
9 in an effort to help him with what he had going on
10 with Abbeville County Sheriff's Office --
11 Department, correct?

12 A. Yes.

13 Q. Okay. And based on that, at that point in
14 time, had -- before then, had you ever heard of
15 Kenneth McGill?

16 A. No.

17 Q. Okay. Had Kenneth McGill ever been under
18 investigation by the Abbeville County Sheriff's
19 Department?

20 A. Not that I'm aware of.

21 Q. Had -- had Kenneth McGill ever been a target of
22 Abbeville County Sheriff's Department?

23 A. Not that I'm aware of.

24 Q. Okay. And do y'all work -- are there times
25 when y'all work with other counties, other -- other

1 narcotics task force, so on and so forth?

2 A. Yes.

3 Q. Okay. Any -- at that point, had you ever heard
4 of Kenneth McGill?

5 A. I had not.

6 Q. Had not. And didn't even -- didn't know who he
7 was until he walked in that door at Angela -- Angela
8 Williams' house, correct?

9 A. That's correct.

10 Q. Okay. And you recorded that phone call from
11 Stewart Ferguson to Kenneth McGill, correct?

12 A. Yes.

13 Q. All right. Did law enforcement tell Kenneth --
14 Stewart Ferguson to tell -- for Kenneth McGill to
15 bring -- tell him to bring 4 ounces of meth?

16 A. We didn't tell him specifically what to say.
17 He -- we let him speak in his own words that he
18 wanted -- the conversation he wanted to have with
19 Mr. McGill.

20 Q. Okay. But the whole subject of the buy-bust
21 was to get somebody over there with drugs on their
22 person, correct?

23 A. Yes.

24 Q. The sole reason for that call was to get an
25 individual, in this case Mr. McGill, to come to

1 Abbeville County to come to Angela Williams' house
2 with a quantity of drugs, right?

3 A. Yes.

4 Q. Okay. And -- and -- and money; is that right?

5 A. That's right.

6 Q. Okay. So you recorded that call and that was
7 all under the -- the -- the watchful eye and the
8 operation of the Abbeville -- Abbeville County
9 Sheriff's Office, right?

10 A. Yes.

11 Q. Okay. And, again, at that time, y'all had
12 never heard or had any knowledge of Kenneth McGill?

13 A. Correct.

14 Q. Okay. And, in fact, that second call that was
15 made, that was -- that was Stewart Ferguson giving
16 directions to Angela Williams' house to Kenneth
17 McGill?

18 A. Yes.

19 Q. Because he didn't know how to get there?

20 A. Correct.

21 Q. Okay. And Angela Williams didn't know Kenneth
22 McGill, right?

23 A. Correct.

24 Q. Okay. And, in fact, Stewart Ferguson was given
25 the wrong directions; is that correct?

1 A. He was having a hard time.

2 Q. He was having a hard time. All right. So,
3 finally, how long was it -- it was awhile before the
4 time -- before Kenneth -- before Mr. McGill got to
5 the house; is that correct?

6 A. Yes.

7 Q. Would you say over an hour?

8 A. Approximately. I'm not 100 percent, but
9 approximately.

10 Q. But it took awhile; is that right?

11 A. Yes, sir.

12 Q. Okay. Now -- and -- and he came in -- and he
13 came in and then the takedown took place in the --
14 how -- what y'all did, the same thing with Stewart
15 Ferguson, correct?

16 A. Yes.

17 Q. Okay. And, again, that was all set up and
18 organized and -- and -- and performed by the
19 Abbeville County Sheriff's Department, right?

20 A. Yes.

21 Q. Okay. And that's how y'all -- and had y'all
22 done buy-busts in the past?

23 A. Yes.

24 Q. Okay. So that's y'all's -- your operation
25 y'all set up. And y'all were totally responsible

1 for the organization and operation of the buy-bust,
2 right?

3 A. Yes, sir.

4 Q. Okay. Now, when you -- now, Mr. -- Mr. McGill,
5 and -- and -- and Mr. Ferguson were taken into
6 custody, right?

7 A. Yes.

8 Q. Okay. And you are aware -- you were aware that
9 subsequent to Mr. Ferguson being taken into custody,
10 his phone was confiscated, correct?

11 A. Yes.

12 Q. Okay. And that he -- there was a phone dump
13 and a lot of images of meth and porn?

14 A. As far as what happened with the phone, I don't
15 have knowledge of it. I wasn't around the ---

16 Q. I understand.

17 A. --- situation with the phone.

18 Q. I understand. But you're aware that there was
19 an interview with Stewart Ferguson the next day,
20 right?

21 A. I suppose. I -- I wasn't around for that, but
22 I'm aware of it.

23 Q. Okay. And did you -- you are aware that his --
24 his home in Anderson County was -- was raided by
25 Anderson County Sheriff's Department as well as

1 Abbeville County Sheriffs?

2 A. Yes, sir.

3 Q. And did you participate in that -- did you go
4 to Anderson to Stewart Ferguson's residence ---

5 A. Yes.

6 Q. --- during the execution of that search
7 warrant?

8 A. Yes.

9 Q. Okay. And you were there -- you were there
10 when 18 grams of meth, 15 firearms, and \$5700 in
11 currency was found?

12 A. I'm not sure exactly of the details of the
13 amount of each item, but I was there. I know there
14 were money, drugs, and firearms.

15 Q. Okay. Were y'all aware that some of those
16 firearms were stolen?

17 A. I wasn't aware of that.

18 Q. Okay. Did y'all request anybody from Abbeville
19 County Sheriff's Office to request -- Abbeville
20 County Sheriff's Department request anybody from
21 Anderson County to arrest Mr. Ferguson for the drugs
22 at the house on that day?

23 A. I -- I'm not aware of any of that. That was --
24 we were in Anderson County. That was solely based
25 off of what they decided to do.

1 Q. Okay. But that was -- that -- that whole
2 search warrant -- that execution of that search
3 warrant happened because of your interview with
4 Stewart Ferguson based on this Abbeville ---

5 A. Yes.

6 Q. --- arrest, right?

7 A. Yes.

8 Q. Mr. Ferguson came into that house with a heavy
9 amount of drugs, right?

10 A. Yes.

11 Q. In fact, he came in with over 200 grams of
12 methamphetamine, which is more than anybody else
13 that was in that house, right?

14 A. Yes.

15 Q. Okay. So if anybody was the weight man in that
16 house, it would've been Stewart -- Stewart Ferguson,
17 right?

18 A. Yes.

19 Q. And after that day, after August 21st of 2018,
20 did y'all take -- in the course of your
21 investigation, did y'all take and confiscate
22 Mr. McGill's phone?

23 A. I believe so. I'm not a hundred percent.

24 Q. Is it in that evidence form that you testified
25 to?

1 A. Stewart Ferguson's.

2 Q. All right. Did you ever take Mr. McGill's
3 phone?

4 A. I personally don't recall taking it.

5 Q. Okay. So that was never -- there was never any
6 kind of phone dump or anything done on Mr. McGill's
7 phone?

8 A. Not that I'm aware of.

9 Q. Okay. And nobody from Abbeville County
10 contacted Anderson regarding doing a search warrant
11 at Mr. McGill's home?

12 A. I'm not sure.

13 Q. And nobody ever executed -- or Abbeville County
14 Sheriff's Department didn't have any role or even
15 attempt to contact Anderson County about going to
16 Mr. McGill's home, right?

17 A. I personally didn't.

18 Q. Okay. But did anybody else?

19 A. I'm not -- I'm not sure.

20 Q. Okay. But you were -- you were the affiant on
21 the arrest warrants, correct?

22 A. Yes, sir.

23 Q. Okay. So you were involved in all aspects of
24 what went down and what happened on August 21st of
25 2018, right?

1 A. Yes.

2 Q. And you were aware that Mr. Ferguson's phone
3 was confiscated and held into evidence?

4 A. Yes.

5 Q. Okay. And to your knowledge, that --
6 Mr. McGill's phone was never taken, right?

7 A. Not to my knowledge.

8 Q. Nor was his property or nor was there any
9 effort or anything done as far as contacting
10 Anderson County to get a search warrant to go to
11 his -- go to his property like it was
12 Mr. Ferguson's, correct?

13 A. Not to my knowledge.

14 Q. Okay. But if that had been -- if that -- if
15 that would've happened, you certainly would've been
16 a part of it, correct?

17 A. It's a good possibility.

18 Q. Okay. Because you were a part of what they did
19 with Stewart Ferguson?

20 A. Yes, sir.

21 MR. EPPS: If the Court would grant me few
22 moments.

23 THE COURT: Sure.

24 BY MR. EPPS:

25 Q. Did you -- was Mr. Ferguson handcuffed the

1 entire time he was at Angela Williams' residence?

2 A. I believe so.

3 Q. Was the handcuffs ever taken off?

4 A. I don't believe they were.

5 MR. EPPS: May I approach, Your Honor?

6 THE COURT: Sure.

7 BY MR. EPPS:

8 Q. This picture, is that Angela Williams' home?

9 A. Yes.

10 Q. Okay. Is that on the -- on the edge of that
11 couch, is that Stewart Ferguson?

12 A. It's possible. Yes, sir.

13 Q. Okay. But he's not cuffed in that picture; is
14 that right?

15 A. No, sir.

16 Q. All right. Now, when did you put -- did you
17 put -- you were -- when did you put the controlled
18 substance -- the contraband or the drugs in -- in
19 the best kit?

20 A. Later on that night when we got done with the
21 paperwork.

22 Q. Later on that night on the 21st?

23 A. I believe it had rolled onto the next morning,
24 so I believe it was dated for the 22nd.

25 Q. Okay. So -- so it was the next day, correct?

1 A. The following morning. Yes, sir.

2 Q. Okay. What were the -- do you have any idea
3 what the drugs were packaged in prior to being put
4 in a sealed best kit?

5 A. Ask it again.

6 Q. Do you have any idea what the drugs were
7 packaged in prior to being put into a sealed best
8 kit?

9 A. They were in separate plastic bags just like
10 you have.

11 Q. Were they -- were they -- were they together or
12 separated?

13 A. They were two separate bags that were in the
14 black bag.

15 Q. Okay. But that's -- you're talking about the
16 back -- black bags that came with Stewart -- the
17 black bag that came with Stewart Ferguson and then
18 one with Mr. McGill?

19 A. I don't understand your question.

20 Q. I understand. Let me -- did you -- at any time
21 prior, you -- you testified that they were put in a
22 sealed best kit on August 22nd of 2018, which is the
23 next day, right?

24 A. The drugs from Mr. McGill?

25 Q. All of it.

1 A. They were all in separate plastic bags. The
2 ones for Mr. McGill, the black plastic bag he was
3 clutching, had two separate clear plastic bags of a
4 substance.

5 Mr. Ferguson had the substances in another
6 black bag, but they were -- they, too, were separate
7 into four clear plastic bags that were in the
8 bookbag.

9 Q. Okay. So they were never packaged up together
10 before they were put in separated -- I mean, sealed
11 best kits?

12 A. No, sir.

13 Q. So they wasn't separately packaged up before
14 they were put into that best kit?

15 A. They -- the packages -- the clear packages that
16 were, those were placed into the best kits.

17 Q. Right. On the 22nd?

18 A. On the 22nd.

19 Q. Were you the only one that had your hands on
20 the -- on the drugs on the 21st?

21 A. I don't believe so. I was the only one that
22 had a hand in packaging them in the best pack.

23 Q. In the best pack?

24 A. Yes, sir.

25 MR. EPPS: Okay. Nothing further, Your Honor.

1 MR. BLACK: Just briefly.

2 REDIRECT EXAMINATION

3 BY MR. BLACK:

4 Q. You -- your job out there on scene, you were
5 the paperwork guy and you collected all the evidence
6 out there, correct?

7 A. That's correct.

8 Q. And just to be clear, you -- you wrote the --
9 did you write the incident report?

10 A. Yes.

11 Q. And you wrote the chain-of-custody, which I
12 think you have, that's your form?

13 A. Yes.

14 Q. You filled out this paperwork?

15 A. Yes.

16 Q. And the drugs that all three of those folks
17 had, you took possession of them on scene?

18 A. Yes.

19 Q. And then transported them to the Sheriff's
20 Department?

21 A. Yes.

22 Q. You made -- were you by yourself in a different
23 vehicle, or was there some -- another officer with
24 you?

25 A. I believe they were in -- we put it all in

1 Lieutenant Graham's vehicle, which I rode in.

2 Q. So -- so you rode with Lieutenant Graham back
3 to the sheriff's department, but, otherwise, that
4 stuff was always in your possession?

5 A. It was in my possession.

6 Q. And you've had to fill out the paperwork?

7 A. Yes.

8 Q. You had to fill out the best kit?

9 A. Yes.

10 Q. And so once you ended up getting that done, it
11 probably rolled passed midnight on the 22nd?

12 A. Yes. There was a lot of paperwork to get done
13 and was late before we even left Ms. Williams'
14 residence. And after organizing the evidence,
15 getting everything photographed, tested, weighed,
16 and doing all the other paperwork, it had rolled
17 over past midnight.

18 Q. Okay.

19 A. Which is why it's dated the following morning
20 when that evidence got submitted into the best pack.

21 Q. Okay. And then you put it in the evidence
22 locker?

23 A. After it was all packaged up and sealed, it was
24 placed back into the evidence locker.

25 Q. Which is under lock and key?

1 A. Yes.

2 Q. Once it goes in there, you don't have access to
3 it?

4 A. That's correct.

5 Q. Only the evidence custodian?

6 A. Yes.

7 Q. Who is Ken Smith?

8 A. Yes.

9 Q. Okay. And you didn't know Stewart Ferguson,
10 right?

11 A. I did not.

12 Q. And you didn't know Kenny McGill?

13 A. I do not.

14 Q. And you don't know the Mexicans in Atlanta?

15 A. No.

16 Q. You didn't know any of the people?

17 A. I did not.

18 Q. But as a narcotics officer, your job is to get
19 drugs off the street in Abbeville County?

20 A. That's correct.

21 Q. And at the time you were working for Abbeville
22 County ---

23 A. Yes, sir.

24 Q. --- did you work for Anderson County?

25 A. No.

1 Q. Can you arrest anybody in Anderson County?

2 A. No.

3 Q. Only in Abbeville County?

4 A. Yes.

5 Q. And you work for Greenwood now, right?

6 A. That's right.

7 Q. So you can arrest people in Greenwood County?

8 A. Yes.

9 Q. What about Abbeville County?

10 A. No.

11 Q. Just Greenwood County?

12 A. Right.

13 RECROSS-EXAMINATION

14 BY MR. EPPS:

15 Q. Investigator Monts, do you care what happened
16 to people -- what happens to people in Abbeville
17 County?

18 A. Yes.

19 Q. Do you care what happens to people in Anderson
20 County?

21 A. Yes.

22 Q. Do you care what happens to people in Green --
23 Greenwood -- you as a law enforcement officer, your
24 job is to serve and protect, correct?

25 A. Yes.

1 Q. Does it give you a problem that nobody arrested
2 Stewart Ferguson for the drugs, the stolen guns, and
3 the -- and the money contained in his house?

4 A. My personal thoughts and feelings of it is not
5 going to change my jurisdictional boundaries.

6 Q. I understand that, but that's not my question.
7 You would serve -- as a law enforcement officer,
8 y'all took the time out to contact Anderson County
9 to bring them to Abbeville County?

10 A. Yes.

11 Q. Okay. As -- and as a result, a search warrant
12 was issued and executed on Stewart Ferguson's
13 property in Anderson and nothing happened?

14 A. What they did from there, I do not know.

15 Q. Okay. But -- and then the grams. Does it
16 concern you the amount of methamphetamine that he
17 brought into that house and the fact that he was
18 dealing with Mexicans in Atlanta, Georgia, and
19 dealing with an individual that's incarcerated in
20 Atlanta, Georgia, trafficking and dealing in
21 methamphetamine?

22 And then he comes into this court and -- and --
23 where he's looking at a 25-year life sentence --
24 25-year mandatory minimum sentence, and now he's
25 looking at three to ten? Does that bother you?

1 A. I'll leave that discretion up to the Courts.

2 Q. But that doesn't bother you personally?

3 A. No.

4 Q. Does it bother you personally that Stewart
5 Ferguson is continuing to use methamphetamine?

6 A. Yes.

7 Q. Okay. And that he's still out there? Does
8 that concern you?

9 A. Yes.

10 Q. And would you ever package -- the proper thing
11 to do with -- what you're supposed to do, I guess,
12 when -- as a narcotics agent, when you find
13 contraband or you find drugs, you put it -- you --
14 you -- you put it in a sealed best kit, correct?

15 A. Yes.

16 Q. Okay. Now, did you place that -- but it wasn't
17 in a best kit leaving Ms. Angela -- Angela Williams'
18 house, right?

19 A. No, it was not.

20 Q. Did you ever put -- did you put that substance
21 of that contraband in a -- in a paper bag?

22 A. Yes. They were packaged in paper bags,
23 evidence bags. But once they got back to the
24 sheriff's office, they were taken out of the bags
25 and submitted them to the SLED best kits.

1 Q. Okay. When you say like -- when you say
2 evidence bag, it's like a regular paper bag?

3 A. Yeah, sometimes. I'm not a hundred percent if
4 there was any writing on them. Sometimes whatever
5 we have to separate, they package it to keep it
6 secure for the time being until we can get back to
7 the office.

8 Q. What did you have these drugs secured in before
9 they got sealed in the best kit?

10 A. I believe they were all in paper bags.

11 Q. Okay. But you -- do you know for sure?

12 A. I can't recall.

13 Q. You can't recall?

14 A. (Nonverbal response.)

15 MR. EPPS: No further questions.

16 THE COURT: Okay. You can step down.

17 (Witness excused.)

18 MR. BROWN: State calls Ken Smith.

19 (Witness approached.)

20 THE CLERK: The evidence you're about to give
21 the Court be the truth, the whole truth, and nothing
22 but the truth?

23 THE WITNESS: Yes, ma'am.

24 DEPUTY KEN SMITH,

25 having been produced and first duly sworn as a

1 witness on behalf of the State, testified as
2 follows:

3 DIRECT EXAMINATION

4 BY MR. BROWN:

5 Q. Good afternoon, Mr. Smith.

6 A. How are you doing?

7 Q. Mr. Smith, where do you work?

8 A. Abbeville County Sheriff's Office.

9 Q. And what are your job descriptions for the
10 sheriff's department?

11 A. I'm the evidence custodian. I do court
12 security, handle sex offenders, and anything else
13 that needs to be done around the office.

14 Q. With regard to this case, are you -- were you
15 the acting evidence custodian back in August of
16 2018?

17 A. Yes, sir.

18 Q. How long have you been the evidence custodian?

19 A. About two years.

20 Q. What does that entail?

21 A. Sir?

22 Q. What does that mean? What do you do as
23 evidence custodian?

24 A. I collect evidence out of the evidence locker
25 and log it in my own log. If anything needs to go

1 to SLED, I have to get it situated and get it logged
2 into iLAB to go down to SLED, things like that.

3 Q. In this particular case, for example, when
4 Sergeant Monts brings in the evidence and drug
5 evidence, what we're talking about, how is that
6 placed into the evidence room?

7 A. I got five evidence lockers that join into the
8 evidence room that's only from the -- you can put
9 your stuff in from the outside of it.

10 Once you put stuff in there and put your
11 evidence in there, you put your evidence log sheet
12 and then you lock the lock and there's a slip in the
13 door, just drop it in there.

14 And then I have to go in through a locked door,
15 which goes into the evidence room. And I have to
16 unlock it from the other side.

17 Q. Who has a key to that evidence room?

18 A. Sir?

19 Q. Who has the key to that evidence room?

20 A. At that time, I did and Chief Talbert did.

21 Q. So only two people ---

22 A. At that time. Now it's only just me.

23 Q. Just you. And why is that?

24 A. She has retired, and I'm the one.

25 Q. Why is it the practice of the sheriff's

1 department to only have one or two keys out?

2 A. That's to keep other people from going in there
3 and messing with the evidence and disturbing it.

4 Q. Is that the highest priority is to keep the
5 integrity of those packages of that evidence intact?

6 A. Yes, sir.

7 Q. Especially drug evidence that could possibly be
8 tampered with?

9 A. Yes, sir.

10 Q. Once officers collect drug evidence, what is
11 the protocol of the Abbeville County Sheriff's
12 Office and also SLED on how that's packaged?

13 A. When they -- when they bring it in, items are
14 set to the side like they got these best packs.
15 They get a best pack from there and they put -- put
16 the drugs into the best pack, fill everything out,
17 and then they put it into evidence and lock -- lock
18 it up.

19 I take it. I usually -- or Captain Graham
20 usually puts it in our lab, and then I get it back
21 and then it's sent to SLED by one of the
22 investigators.

23 Q. And in this case, specifically talking about
24 Mr. McGill's or the drugs that was collected off of
25 Mr. McGill, do you recognize this, State's 46 for ID

1 purposes?

2 A. When I see this, it's not -- it's inside of an
3 envelope. And all I do is recognize the envelope
4 with the number on the outside.

5 Q. And is this a heat-sealed pouch?

6 A. Yes, sir.

7 Q. And what does that mean?

8 A. That comes back from SLED for whoever examined
9 it. They heat seal the package and send it back to
10 us. That way it cannot be tampered with in
11 evidence.

12 Q. And prior to going down to SLED, inside of this
13 heat-sealed pouch, is this another bag inside?

14 A. Yes, sir. That's what comes inside the best
15 kit. You see where Mr. Monts filled out the drug
16 slip and set -- put it inside there.

17 Q. And is that bag sealed as well?

18 A. Yes, sir.

19 Q. And why is it sealed?

20 A. That way nobody can get into it and contaminate
21 it or mess with any evidence.

22 Q. Officer Smith, when was that -- this particular
23 State's ID 46 entered into the Abbeville County
24 Sheriff's Office?

25 A. It shows as being put into evidence on 8/21/18.

1 Q. And who put that in?

2 A. Monts -- Sergeant Monts did.

3 Q. Did you have the opportunity to arrange this
4 evidence in the evidence locker once it was placed
5 into the Abbeville County Sheriff's Office?

6 A. I took it out of the evidence locker to do the
7 documentation that I do, and then I put it back on
8 8/24/18.

9 Q. And after that, who had contact with this
10 sealed pouch of drug evidence from Mr. McGill?

11 A. On 8/30/2018, I signed it out from Patrick
12 Gilmore to be -- to Matthew Graham to be put in our
13 iLAB.

14 Q. What does that mean to be assigned out and put
15 in iLAB?

16 A. It's a chain-of-custody where he -- he receives
17 this -- these best packs. And then he has to go
18 enter them into iLAB, which is a SLED computer. He
19 has to enter into iLAB so they can analyze it down
20 there. Has to have a control number and all that.

21 And then he brings it back to me or puts it in
22 an evidence thing and I put it back in storage until
23 it gets sent down to SLED.

24 Q. And when Mr. Graham -- Captain Graham submitted
25 it back to you, was the bag still intact?

1 A. Yes, sir.

2 Q. So the integrity of the bag was still there?

3 A. Yes, sir.

4 Q. After Mr. Graham gave it back to you to store
5 in Abbeville County Sheriff's Office, who is the
6 next person -- or who else did you assign this drug
7 evidence out to?

8 A. I signed it out to Jonathan Pratt on -- I
9 believe it's 9/26 of '18 to be sent down to SLED.

10 Q. And at that point, Mr. Pratt took that to SLED?

11 A. Yes, sir.

12 Q. To be analyzed?

13 A. Yes, sir.

14 Q. And when you assigned that out to Mr. Pratt,
15 was the bag still intact?

16 A. Yes, sir.

17 Q. Hadn't been tampered with?

18 A. Yes, sir.

19 Q. When did Abbeville County Sheriff's Office
20 retain custody of these drugs?

21 A. I got it back into the evidence locker on 4/25
22 of '19.

23 THE COURT: What was the date?

24 THE WITNESS: 4/25 of '19.

25 BY MR. BROWN:

1 Q. And who brought that back?

2 A. Jonathan Pratt brought it back.

3 Q. And has States's 46 for ID purposes, is that
4 where it's been stored ever since?

5 A. Yes, sir.

6 Q. Up until trial date?

7 A. Yes, sir.

8 Q. And it's in a different bag from when you sent
9 it down to SLED?

10 A. Yes, sir.

11 Q. Is that due to being analyzed by SLED?

12 A. Yes, sir.

13 Q. Now, is this the complete chain-of-custody of
14 Item 46, Abbeville County?

15 A. Yes, sir.

16 Q. Is this all the participation you had in this
17 case as being the evidence custodian over the drugs
18 that were submitted, the cell phone that's been
19 mentioned, and other evidence in this case?

20 A. Yes, sir.

21 Q. And can you say on the stand that while it's
22 been in Abbeville County custody, that's it's not
23 been tampered with by any means?

24 A. No. It hasn't been tampered with.

25 MR. BROWN: No further questions for Mr. Smith.

1 THE COURT: Cross-examination?

2 MR. EPPS: Yes, sir.

3 CROSS-EXAMINATION

4 BY MR. EPPS:

5 Q. Officer Smith?

6 A. Yes, sir.

7 Q. Again, you're the evidence -- evidence
8 custodian. You didn't have any hand in -- in the
9 execution of going into Ms. Williams' house or -- or
10 the buy-bust that took place, the phone call to
11 Mr. Ferguson and Mr. McGill, and anything that
12 happened at Ms. Williams' house, correct?

13 A. No, sir, I haven't.

14 Q. Okay. And I noticed when -- when something
15 goes into evidence, like if drugs go into evidence,
16 once they get in that evidence locker, that's it,
17 right?

18 A. Yes, sir.

19 Q. You're the only one that can get it out?

20 A. Yes, sir.

21 Q. So when it goes into evidence, it would be
22 sealed up in a best -- best kit?

23 A. Yes, sir.

24 Q. Okay. So when evidence was put on -- when the
25 evidence was -- was -- when -- when the contraband

1 in this case was put into evidence, that was on 8/21
2 of '18; is that right?

3 A. That's what is says.

4 Q. Okay. And it was received by evidence for the
5 purpose of -- purposes of storage, right?

6 A. Yes.

7 Q. So once it had gone into evidence, it had
8 been -- it -- it would've been in that best kit?

9 A. Yes, sir.

10 Q. Okay. When you ---

11 A. Should've been.

12 Q. --- now, let me ask you this: Did you -- the
13 last time on the second -- on the second item, which
14 is 8/24/2018, that says one through six. Is that
15 items one -- is that everything?

16 A. That means what was on this sheet right here
17 was accepted into my evidence when I -- when I put
18 it in there.

19 Q. Okay. And that's evidence lock up. What is
20 that? I can't ---

21 A. Locker four. It come out of locker four.

22 Q. All right. So you got it out of locker four on
23 the 24th, right?

24 A. Yes, sir.

25 Q. So when you got it out, did you -- okay. Did

1 you see it before the 24th?

2 A. No, sir.

3 Q. But based on this document, it went into
4 evidence -- went into storage on August 21st of
5 2018, right?

6 A. That's correct.

7 Q. Okay. And then you saw it and you put it in a
8 locker. Well, what did you do once -- what did you
9 do on the 24th?

10 A. I -- I took it out of the evidence locker.
11 no. 4, and I put it back in the evidence -- in the
12 evidence room.

13 Q. In the evidence room?

14 A. Yes, sir.

15 Q. Okay. Once that goes into storage on the 21st,
16 nobody would have access to it, right?

17 A. No, sir.

18 Q. Okay. Only you, correct?

19 A. Well, at the time, yeah, I had the key. And
20 like I said, Chief Talbert had the key.

21 Q. Okay. But nobody else from the 21st through
22 the 24th -- you're saying nobody else had access
23 or -- or -- to this evidence that was in storage?

24 A. Shouldn't have.

25 Q. Okay. And once this -- once this contraband

1 goes into evidence, it was -- should be in a -- in a
2 best kit, right?

3 A. Should've been in a best pack.

4 Q. Is there any reason why the date of this best
5 kit says August 22, 2018?

6 A. Like I said -- well, it could've been -- he
7 could've done it after midnight and still had to put
8 the same date of the 21st when he collected the
9 evidence.

10 Q. Well, the purpose is, it says date 8/21/18, and
11 you got to sign it and be accurate and state for the
12 purpose of -- purpose of putting it into evidence
13 for storage, right?

14 A. Yes, sir.

15 Q. But you would want to be accurate on the -- on
16 the dates?

17 A. I didn't fill it out, so I have no idea.

18 Q. I understand. Okay. But you agree that the
19 date that the -- that the -- that what was gathered
20 in this case is listed on this form as 8/21/18,
21 right?

22 A. That's what it says, sir.

23 Q. Okay. And you just -- you're right. You said
24 when it goes into evidence, it would be in a best
25 kit?

1 A. Yes, sir.

2 Q. Okay. That best kit says 8/22nd -- 8/22/2018,
3 right?

4 A. Yes, sir.

5 Q. Okay. And nobody was supposed to have access
6 between the 21st and the 24th when you got it,
7 correct?

8 A. Correct.

9 Q. Okay. Now, at the bottom where it says
10 4/25/19, put into evidence locker four. When it
11 says relinquished by, what does -- did --
12 is evidence locker four -- who -- who does -- who is
13 that? What is that?

14 A. What it was, was Officer Pratt went down and
15 got it from SLED.

16 Q. Yes, sir.

17 A. I might not have been in there at the time, you
18 know, when he brought it in. So he puts it in the
19 evidence -- he puts it into evidence locker with
20 this sheet right here showing that he received it
21 from SLED ---

22 Q. Okay.

23 A. --- this right here. And so when I fill it
24 out, I took it out of evidence number four and I put
25 it back in storage.

1 Q. Okay. So -- but it doesn't say who put it into
2 evidence locker four, right?

3 A. That's where it was at, but it shows where
4 Jonathan Pratt brought -- brought all the evidence
5 back to the Abbeville chain-of-custody.

6 Q. But that's not on -- I'm talking about the
7 Abbeville -- you're looking at the Abbeville
8 chain-of-custody, right?

9 A. Yes, sir.

10 Q. It doesn't say who put it into evidence locker
11 four, right?

12 A. No, sir. It does not.

13 Q. And when it says evidence, same way with on
14 8/24/2018, is that -- you received it, but it says
15 relinquished by evidence. Is that you getting that
16 out, that evidence out of locker four, correct ---

17 A. Say it to me ---

18 Q. --- on 8/24/2018?

19 A. Yes, sir. It shows where I got it out of
20 evidence locker four.

21 MR. EPPS: Okay. Nothing further, Your Honor.

22 THE COURT: Redirect?

23 MR. BROWN: No redirect. Your Honor, may we
24 approach?

25 (Sidebar discussion.)

1 MR. BROWN: State calls Larry Zivkovich.

2 THE CLERK: Put your left hand on the Bible and
3 raise your right.

4 THE WITNESS: (Complying.)

5 THE CLERK: The evidence you're about to give
6 the Court will be the truth, the whole truth, and
7 nothing but the truth?

8 THE WITNESS: Yes, ma'am.

9 LARRY ZIVKOVICH,
10 having been produced and first duly sworn as a
11 witness on behalf of the State, testified as
12 follows:

13 DIRECT EXAMINATION

14 BY MR. BROWN:

15 Q. Good afternoon. Please state your name and
16 spell it for the court reporter.

17 A. Lawrence Zivkovich, Z-i-v-k-o-v-i-c-h.

18 Q. And, Mr. Zivkovich, where do you work?

19 A. I work at the South Carolina Law Enforcement
20 Division, commonly known as SLED.

21 Q. And how long have you been there?

22 A. Approximately, 13 and a half years.

23 Q. What is your job duty or duties at SLED?

24 A. I'm a forensic scientist and -- pardon me.
25 What I do is, I examine evidence that's been

1 submitted by outside agencies for the presence of
2 controlled substances.

3 Q. And you've been doing that for 13 years?

4 A. Yes, sir.

5 Q. Tell me about your educational background.

6 A. I got a degree of chemistry, bachelors of
7 science, from the University of South Carolina.

8 And then after I got hired with SLED, I
9 received approximately six months training as a
10 forensic scientist.

11 And then after that, I went to seminars at both
12 the University of West Virginia and the Drug
13 Enforcement Administration.

14 Q. And in addition to that training, does SLED
15 have their own inhouse training and continuing
16 education on forensic science and more
17 particularly -- particularly the identification of
18 narcotics?

19 A. Yes, sir. We send different members of our
20 section out to seminars on a continuing basis, and
21 then they brief everyone in the lab with what they
22 found out at the seminars.

23 Q. Now, Mr. Zivkovich, have you ever been
24 qualified as an expert in forensic science -- in
25 forensic science, more importantly, the

1 identification of narcotics in the Court of General
2 Sessions in South Carolina?

3 A. I have.

4 Q. And how have you been qualified as an expert?

5 A. Sir?

6 Q. What's the -- how are you -- how are you
7 usually qualified?

8 A. Usually, they go over my educational background
9 and my training and qualify me as an expert witness.

10 MR. BROWN: And, Your Honor, at this time, the
11 State would move Mr. Zivkovich as an expert in
12 forensic science in the identification of narcotics
13 and chemistry.

14 THE COURT: Okay. What says the defense?

15 MR. EPPS: No objection, Your Honor.

16 THE COURT: All right. Without objection, this
17 witness is qualified as an expert in the -- I'm just
18 going to say in the area of drug analysis.

19 MR. BROWN: Yes, sir.

20 THE COURT: Ladies and gentlemen, let me
21 explain to you very briefly concerning the expert
22 witnesses.

23 Normally, witnesses are not permitted to render
24 opinions, with a few exceptions, but generally not
25 allowed to render opinions in this case. They can

1 only testify as to what they've seen, heard, or that
2 sort of thing.

3 An exception to that rule deals with expert
4 witnesses. When someone by virtue of training,
5 education, and experience is found to be an expert
6 in a particular field or area, then they will be
7 permitted to render certain opinions in their field
8 about the case and the basis for their opinions.

9 However, just because I have qualified this
10 gentleman as an expert in the area of drug analysis
11 does not mean that you have to automatically find
12 his testimony to be credible. You view his
13 testimony in the same way that you view anybody
14 else's testimony and determine its credibility and
15 the weight you believe, if any, that you should give
16 the testimony.

17 You may proceed.

18 MR. BROWN: Thank you, Your Honor.

19 BY MR. BROWN:

20 Q. Mr. Zivkovich, in this particular case, did you
21 have the opportunity to analyze some narcotics that
22 were sent down by Abbeville County Sheriff's Office?

23 A. I believe I did. Yes, sir.

24 Q. And to be able to properly identify these --
25 these packages or this evidence, what kind of

1 identifying mark or lab number does SLED give
2 individual items?

3 A. When outside agencies submit evidence to SLED,
4 once the technicians down in our evidence receiving
5 area have logged the evidence in, each piece of
6 evidence is given a unique SLED lab number.

7 Q. And in this particular case, what is that lab
8 number?

9 A. The lab number I have is L18-14113.

10 Q. And the subject on that lab number is Kenneth
11 McGill?

12 A. Yes, sir.

13 Q. Now, I'm going to show you what's been marked
14 for identification purposes as State's No. 49. Take
15 a look at that and tell me what that is.

16 A. This is a SLED chain-of-custody for the Case
17 No. L18-14113.

18 Q. And, Mr. Zivkovich, can you tell me what
19 officer brought those or referenced this lab number,
20 the suspected narcotics to SLED from Abbeville
21 County Sheriff's Office?

22 A. Yes, sir. Sergeant Johnson -- Jonathan Pratt
23 of the Abbeville County Sheriff's Office.

24 Q. And once it was delivered to SLED, what
25 happened with those drugs?

1 A. So once the officer dropped them off, they can
2 either drop them off in person if a technician is
3 available. If not, we have secured lockers that we
4 can lock the evidence in.

5 And then when a technician becomes free, they
6 can go over and open the locker and log the evidence
7 in as -- in assigning the SLED lab number.

8 And in this particular instance, Bethany
9 Davidson picked up the evidence on September 26th
10 and logged it in.

11 Q. And what day did Mr. Pratt from the sheriff's
12 office drop that off at SLED?

13 A. I'm not sure if that part is listed on this
14 particular chain.

15 Q. This is 9/26. What day did Bethany
16 Davidson ---

17 A. She picked it up on September 26th.

18 Q. On September 26th. After Ms. Davis -- Davidson
19 picked the drugs up, as a technician, what are their
20 job duties?

21 A. Their job duties are to inspect evidence that's
22 been submitted to make sure that it's been properly
23 annotated as far as the paperwork goes, then to
24 inspect to make sure it's been sealed.

25 And once they do that, they assign the SLED lab

1 number to it, and then they make sure that the
2 departments that have to do any analysis on it are
3 notified.

4 Once that's happened, then they put it in their
5 secure evidence area until the departments that have
6 to do analysis to come pick it up.

7 Q. In the event that hypothetically drugs that are
8 submitted down, the best kit is not sealed
9 correctly, what's SLED's protocol with regard to
10 that?

11 A. The person that would notice that it was
12 properly sealed, first they take photographs of it,
13 then they annotate it in our information system.

14 And then once they've then -- once they've
15 annotated it and taken photographs of it, then they
16 seal the evidence. And any report that's issued on
17 that case would have that the evidence was not
18 properly sealed when submitted.

19 Q. And that's not annotated in this case, is it?

20 A. No, sir.

21 Q. And that would -- that would suggest that the
22 drugs were properly sealed in the best evidence kit?

23 A. Well, that and also on our worksheet, we would
24 indicate if the evidence was -- evidence was
25 unsealed.

1 Q. Yes, sir. And what exactly is the best
2 evidence kit?

3 A. It's basically what SLED issues to outside
4 agencies so -- so that they can have a uniform way
5 of bringing drug evidence into SLED.

6 Q. And after Ms. Davidson had transported or moved
7 the -- what I have marked down as State's ID 46,
8 once it arrived at SLED, which is also referenced to
9 SLED lab number L18-14113, what does she do with
10 that?

11 A. So once she logged in it, she placed it in the
12 evidence holding area on the same day, September 26,
13 2018.

14 And then I requested the evidence on
15 January the 25th, 2019, and that's when Jackie
16 Davis, one of our technicians, picked up the
17 evidence from the holder area and transferred the
18 evidence to myself for analysis.

19 Q. And so the only two people at SLED that came in
20 contact with State's 46 before you tested them, were
21 Ms. Davidson and Ms. Davis?

22 A. That's correct.

23 Q. I want to show you what's been marked for
24 identification purposes as State's 43. Do you
25 recognize that item?

1 A. I do. This is SLED Lab No. L18-14113. And
2 it's a drug case that I worked where I sealed --
3 where I signed that the seal was intact when I
4 received it on January 25th. And then I heat sealed
5 the evidence after conclusion of my analysis on
6 February 9, 2019.

7 Q. And with items such as Item 46, how do you
8 analyze that evidence?

9 A. Well, this particular piece of evidence, the
10 first thing I do is obviously match it to make sure
11 that what they've written on the request is what
12 they actually submitted.

13 Once we've done an inventory of it, then we'll
14 weigh the sample without any packaging. And then in
15 this particular case, I did a color test which is
16 just an indicative test. It gives you a rough idea
17 of what type of controlled substances may possibly
18 be contained.

19 And once I've done that, then I actually take a
20 small sample of the evidence and I run it on our
21 instrumentation for confirmation of the substances.

22 Q. And how are these substances, this crystal
23 substance, how was it packaged inside of the best
24 kit?

25 A. It was packaged as two plastic bags that I

1 described as crystal substances.

2 Q. And after running your analysis and your
3 testing on those two plastic bags, what were the
4 results?

5 A. I found both of the bags to contain
6 methamphetamine.

7 Q. And what was the total net weight?

8 A. The total net weight was 111.67 grams.

9 Q. 111.67 grams?

10 A. Yes, sir.

11 MR. BROWN: Your Honor, at this time the State
12 would move State's No. 46 in as evidence and also
13 the internal chain, State's No. 49 of SLED.

14 THE COURT: What about the SLED report? Is
15 that what you have?

16 MR. BROWN: I -- I wasn't going to put the SLED
17 report in. The SLED report is marked for
18 identification as 50.

19 THE COURT: Fifty. All right. I'm going to
20 reserve ruling on that coming in pending the
21 testimony from -- I think there's two other -- two
22 other witnesses.

23 MR. BROWN: Yes, sir.

24 THE COURT: So the offer has been made.

25 MR. BROWN: I would also offer State's 52.

1 THE COURT: Okay. All right.

2 MR. EPPS: Yes, sir. Subject to my objection.

3 THE COURT: Right. And, again, the State has
4 made the offer. I will rule after the other
5 witnesses testify. The SLED chain, is that what you
6 offered as 49, the SLED chain?

7 MR. BROWN: Yes, sir. Forty-nine.

8 THE COURT: Okay. I will -- I will admit that
9 into evidence. That's the SLED chain.

10 MR. BROWN: Yes, sir.

11 THE COURT: So I'll admit that into evidence.
12 And 48 is already in. That's the Abbeville chain,
13 but the -- what exhibit number is the drugs?

14 MR. BROWN: The exhibit number is 48 -- pardon
15 me -- 46.

16 THE COURT: Forty-six.

17 MR. BROWN: And the report is 50.

18 THE COURT: Okay. All right. Fifty, I'll
19 reserve ruling on that as well.

20 (State's Exhibit No. 49 was received into
21 evidence.)

22 BY MR. BROWN:

23 Q. Mr. Zivkovich, after you get done testing the
24 narcotics and methamphetamine, how do you package
25 that back up?

1 A. I put everything back into a heat sealed bag
2 and I'll put the date that I'm sealing it and my
3 initials and then heat seal over the top of it.

4 Q. After you've done the heat sealing and you've
5 done your report and you've documented your
6 findings, is the local law enforcement agency, in
7 this case Abbeville County Sheriff's Office,
8 notified to retrieve those items?

9 A. I don't know if they actually send them a
10 notification to retrieve items. Mostly people come
11 down frequently enough that we just put it in
12 storage, and when they come down to drop off any new
13 evidence, we'll send the old evidence back with
14 them.

15 Q. Yes, sir. And after you were done testing the
16 item in this case, who else technician handled
17 State's 46 before it was sent back or retrieved by
18 Abbeville County Sheriff's Office?

19 A. So once I completed my examination and the drug
20 report was peer reviewed, I sealed up the evidence
21 and took it down to the evidence log-in area on
22 February 26th to Doris Yarbrough.

23 She then took the evidence, put it in the
24 storage area until it could be picked back up by the
25 Abbeville County Sheriff's Office.

1 And Jackie Davis picked it up from evidence
2 storage on April 25th and returned it to the
3 Abbeville County Sheriff's Office.

4 Q. You mentioned before after packaging it up that
5 you have peer review. Is that done on all of these
6 tests that somebody and other scientists also looks
7 at it to make sure everything is done correctly, the
8 testing?

9 A. That's correct. They'll review our data and
10 they'll also review our conclusions just to make
11 sure that they agree with the evidence that we've
12 shown and the conclusions we've come to.

13 And once that process has taken place, then the
14 report will be logged, and then it will be available
15 for whoever needs the report.

16 Q. So two SLED chemists verified the findings in
17 this case?

18 A. Well, one works the case ---

19 Q. Yes, sir.

20 A. --- and then another randomly will review it.

21 MR. BROWN: Yes, sir. Thank you. I have no
22 further questions.

23 THE COURT: Okay. Any cross-examination?

24 MR. EPPS: Just real briefly.

25 THE COURT: Okay.

CROSS-EXAMINATION

1
2 BY MR. EPPS:

3 Q. Yes, sir. Do you know who reviewed this
4 sample?

5 A. I would -- I would actually have to look in the
6 laboratory managing system. Anytime somebody
7 reviews it, that's recorded in the management
8 system.

9 Q. Okay. And that's not recorded on the -- on the
10 report; is that right?

11 A. No, sir.

12 Q. But a separate individual did review these
13 findings, correct?

14 A. Yes, sir.

15 Q. But you don't know the name of that individual,
16 correct?

17 A. I'm sorry, sir. What?

18 Q. You don't know the name of that individual?

19 A. I would if I looked at the report.

20 Q. But it's not listed on your report?

21 A. That's correct.

22 Q. And just briefly on -- and you testified as to
23 when -- when the best kit or the substance get --
24 gets to SLED, then certain individuals take --
25 forensic technicians take, I guess, custody of it

1 and then notify you -- notify you as the forensic
2 scientist, right?

3 A. What they do is, they put the tasks that are
4 required for any individual evidence. And so once
5 they put a task into our information system, then
6 the department is notified and the department
7 supervisor will then tell particular people which
8 cases they need to work.

9 Q. Okay. And that's the procedure by which --
10 because you're not with the individuals when they
11 specifically take -- when they deal with this
12 contraband; is that right?

13 A. What was the question?

14 Q. You -- you're not -- you're not with these
15 people -- you're not when they actually take or they
16 deal with this contraband, correct? You're basing
17 that off this report, right?

18 A. I'm not with the technician? Is that what
19 you're asking?

20 Q. That's what I'm asking.

21 A. Yes, sir. I'm not.

22 Q. You're not. Okay.

23 A. Except for, obviously, when I actually go down
24 and physically pick it up.

25 Q. That's right. So they -- you just -- what you

1 testified to is, you're -- you're just testifying
2 off this report of what it says on this report,
3 correct?

4 A. That's correct.

5 Q. Okay. You're not physically with these
6 individuals when they are doing what they do?

7 A. That's correct. They check the evidence and
8 they put it in evidence holding. And then when I
9 pick it up, that's the first time I actually witness
10 the evidence.

11 Q. Yes, sir. And then you test it and then you
12 contact a technician, and they -- you put it back in
13 the secured place, correct?

14 A. That's correct.

15 MR. EPPS: Okay. Thank you, Your Honor. No
16 further questions.

17 MR. BROWN: Just one quick follow-up.

18 REDIRECT EXAMINATION

19 BY MR. BROWN:

20 Q. When the evidence technicians are moving the
21 best kit or best pack from one location then to the
22 other, they're not opening this up, are they?

23 A. Correct.

24 Q. They're just moving it from one ---

25 A. The only thing they do is, they will check the

1 evidence to make sure it's not -- that it's properly
2 sealed. And if it's not properly sealed, then their
3 job is to take photographs and seal it. But the
4 only thing that they're allowed to do is move from
5 the receiving area to the holding area.

6 Q. And all of this is to maintain the integrity of
7 the bag to make sure nothing's tipped with or
8 altered in any fashion?

9 A. That's correct. Any time anybody moves it,
10 then it has to be electronically scanned. So if it
11 gets moved from one location to another, it'll also
12 be in our information system.

13 Q. And the first time that package was open was
14 when you, in fact, opened it and tested it?

15 A. That's correct.

16 MR. BROWN: No further questions.

17 THE COURT: You can step down, sir. You're
18 free to leave the courthouse.

19 THE WITNESS: Thank you.

20 (Witness excused.)

21 THE COURT: Ladies and gentlemen, I'm going to
22 ask that you go back to the jury room for just a
23 moment. I'm going to talk with the lawyers and just
24 kind of get an idea of whether or not we're going to
25 continue this afternoon or start back up in the

1 morning. So if you'll go back to the jury room for
2 just a minute, and we'll get you back out shortly.

3 (At 4:42 p.m., jury left the courtroom.)

4 THE COURT: Okay. Solicitor, I think you've
5 got two more witnesses; is that correct, Graham and
6 Pratt?

7 MR. BLACK: And I also have Jarvis Reader that
8 I was planning on calling as well.

9 THE COURT: Right. Reader. Okay. At least
10 right now, that's what -- that would be your case?

11 MR. BLACK: That appears to be. Yes, sir.

12 MR. BROWN: Judge, we -- Chris Wilkie in our
13 office has actually called down to the other
14 witnesses, the technicians in the chain at SLED. I
15 think they only have three technicians ---

16 THE COURT: Right.

17 MR. BROWN: --- that run the thing and ---

18 THE COURT: I'm not going to require the techs,
19 and then I will give my reason in just a minute.

20 MR. BROWN: Yes, sir.

21 THE COURT: Okay. All right. My thinking is
22 tomorrow morning is have the jury come in a little
23 later. That can give us a chance to talk about the
24 charge, and then you can put up -- and then, of
25 course, after I've advised the defendant of his

1 rights about testifying, and I understand what you
2 had indicated back in chambers, and then they can
3 make a firm decision what they're going to do there.

4 So I'm kind of thinking maybe having the jury
5 report back about 10:30, and that'll give us a
6 chance -- I can get you -- these -- these Solicitors
7 know because they try cases before me all the time.
8 Mr. Epps, you don't know. I provide a draft of a
9 charge. I can e-mail or give you a hard copy,
10 whatever -- whatever is good, and I can do that
11 first thing in the morning. Look at it. Have an
12 informal charge conference. Make whatever changes,
13 additions, whatever we need to make, put on the
14 record at some point in time what we need to, and so
15 handle it in that fashion.

16 So that's kind of what I'm thinking, and then
17 Graham and Pratt and Reader can all testify. They
18 will be reasonably short I'm assuming.

19 MR. BLACK: Yes, sir. I would -- I would
20 guess.

21 THE COURT: Right. And so kind of handle it in
22 that fashion. Y'all good with that kind of time
23 frame?

24 MR. BLACK: Yes, sir. That's fine with us.

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

1 THE COURT: Okay. All right.

2 MR. BLACK: What time did you want to start the
3 charging conference, probably 9:00, 9:30, or so?

4 THE COURT: Yeah, 9:30. That gives us a chance
5 to firm up my draft. And so, yeah, 9:00, 9:30
6 probably would be -- would be good or maybe -- I
7 tell you what. We'll get to you around 9:30 the
8 draft, and then we can talk about it.

9 MR. BLACK: Yes, sir.

10 MR. EPPS: Okay. Yes, sir.

11 THE COURT: Very good. All right. So let's
12 bring the jury out and go ahead and cut them loose.

13 MR. BLACK: Before we get to that, Judge, are
14 you going to make a ruling on the -- on some of the
15 items that were mentioned that we tried to move in,
16 or are you going to wait and hold off until Graham
17 and Pratt testify?

18 THE COURT: Right. I need to go ahead -- let
19 me go ahead and put on the record. I am not going
20 to require the technicians at SLED, based upon *State*
21 *v. Pope*, 2014 case, *State v. Trapp*, 2017 case. It
22 just kind of confirmed what I understood the law to
23 be is that not everybody in the chain has to -- has
24 to testify.

25 And these techs are purely administrative

1 people, moving a package from one part of SLED to
2 another part of SLED, and so they would not be
3 required to testify. Trapp is actually a drug case
4 as well, so I'm not going to require them.
5 Certainly, require the other three officers to
6 testify.

7 And -- but I am going to -- once the three
8 officers testify as to the chain, then I'll make a
9 ruling on the 46 and 50 coming in.

10 MR. BLACK: And 49, did you allow that to come
11 in, Judge? I think that's the SLED chain.

12 THE COURT: Yeah, I've already allowed that to
13 come in.

14 MR. BLACK: Okay. So reserving ruling on 46
15 and 50?

16 THE COURT: Right. Until those three
17 witnesses.

18 MR. BLACK: Yes, sir.

19 THE COURT: All right. Let's bring the jury
20 back in.

21 THE BAILIFF: (Complying.)

22 (At 4:48 p.m., jury entered the courtroom.)

23 THE COURT: Okay. Ladies and gentlemen, here's
24 the plan: We're going to go ahead and stop for
25 the -- for this evening, and I want you back here at

1 10:30 in the morning. Starting a little later, but
2 I've got some work to do with the lawyers. And my
3 understanding, at least right now the plan from the
4 State is, they'll have three witnesses left and then
5 we'll go from there.

6 So 10:30. Maybe you can slip in a little bit
7 later. I don't know, but we'll start back then.
8 Okay. Again, remember all my instructions and get
9 some good rest tonight and we'll see you in the
10 morning at 10:30. Okay. Have a good evening.

11 (At 4:50 p.m., jury left the courtroom.)

12 THE COURT: All right. If there's nothing
13 further, we'll see you gentlemen in the morning at
14 9:30.

15 MR. EPPS: Thank you, Your Honor.

16 THE COURT: Thank you.

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

18 November 6, 2019

19 THE COURT: Go ahead and bring them in.

20 THE BAILIFF: (Complying.)

21 (At 10:40 a.m., jury entered the courtroom.)

22 THE COURT: All right. Let the jury -- let the
23 record reflect rather that the jury is in. Good
24 morning, ladies and gentlemen.

25 THE JURY: (Collectively:) Good morning.

1 THE COURT: The candy that was left in the jury
2 room you saw this morning, that's compliments of my
3 law clerk.

4 THE JURY: Thank you.

5 THE COURT: Okay. All right. Solicitor, you
6 ready to call your next witness?

7 MR. BLACK: I am, Your Honor.

8 THE COURT: Okay.

9 MR. BLACK: Matthew Graham.

10 THE COURT: Come around, please, sir.

11 THE WITNESS: (Complying.)

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

14 THE WITNESS: (Complying.)

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

18 THE WITNESS: Yes, ma'am.

19 MATTHEW GRAHAM,
20 having been produced and first duly sworn as a
21 witness on behalf of the State, testified as
22 follows:

23 DIRECT EXAMINATION

24 BY MR. BLACK:

25 Q. Can you state your name for the record, sir?

- 1 A. Matthew Graham.
- 2 Q. And you work at the sheriff's department?
- 3 A. Yes, sir.
- 4 Q. How long have you been there?
- 5 A. Approximately, nine years.
- 6 Q. And what's your rank over there?
- 7 A. Captain over investigations.
- 8 Q. How -- and you said you've been with the
- 9 sheriff's department for nine years?
- 10 A. Yes, sir.
- 11 Q. How long have you been in law enforcement?
- 12 A. Nine years.
- 13 Q. You went to the Criminal Justice Academy down
- 14 in Columbia?
- 15 A. Yes, sir.
- 16 Q. And steadily worked your way up through the
- 17 sheriff's department?
- 18 A. That's correct.
- 19 Q. Started out as a road deputy?
- 20 A. Yes, sir.
- 21 Q. Moved to investigations?
- 22 A. Yes, sir.
- 23 Q. And now you said you're captain over
- 24 investigations?
- 25 A. Yes, sir.

1 Q. All right. Let's talk about last year. Were
2 you working August the 21st of 2018?

3 A. I was.

4 Q. And were you involved in a buy-bust at 260
5 Suttles Landing?

6 A. Yes.

7 Q. And who all was there?

8 A. Myself, Sergeant Hines, Sergeant Monts,
9 Corporal Balchin with the Abbeville Police
10 Department, and Agent Sorrow with Probation and
11 Parole.

12 Q. And Agent Sorrow, he was there initially,
13 correct?

14 A. That's correct.

15 Q. And he eventually left; is that right?

16 A. Yes.

17 Q. And who lived at 260 Suttles Landing?

18 A. Angelina Williams.

19 Q. And is that in Abbeville County?

20 A. It is.

21 Q. And how long -- do you remember about what time
22 you guys got there?

23 A. Roughly, three o'clock.

24 Q. And about what time you guys left?

25 A. Around 8:00.

1 Q. Okay. So y'all were there for a bit -- a good
2 little bit?

3 A. Yes, sir.

4 Q. And when you first got there, you made contact
5 with Ms. Williams?

6 A. We did.

7 Q. And did you find any methamphetamine there?

8 A. We did.

9 Q. How much did you find?

10 A. Approximately, an ounce.

11 Q. An ounce is again how much?

12 A. Twenty-eight grams, 28.35.

13 Q. And she complied with your request?

14 A. She did.

15 Q. And did she take -- take you to that meth?

16 A. She led us right to it in the bathroom.

17 Q. And at that point, a conversation ensued with
18 Ms. Williams; is that right?

19 A. That's correct.

20 Q. She eventually called Mr. Ferguson?

21 A. She did.

22 Q. Did Mr. Ferguson ever show up?

23 A. He did.

24 MR. EPPS: Your Honor, I just -- I would --
25 like I say, I would object to leading.

1 THE COURT: Okay. All right..

2 MR. EPPS: I would also object -- I mean, I
3 understand, but, I mean, it's cumulative to previous
4 witnesses we've had in this -- in this -- in this
5 case or investigators that were actually on the
6 scene.

7 THE COURT: Okay. Well, I'm going to sustain
8 the objection on leading. Try to rephrase,
9 Solicitor. I think the State has the right to go
10 through whatever they view the facts to be with
11 their various witnesses. So while it may be
12 cumulative, I'm not going to prevent the State from
13 going over this.

14 MR. EPPS: Yes, sir.

15 THE COURT: Try to rephrase again, Solicitor.

16 MR. BLACK: Yes, sir.

17 BY MR. BLACK:

18 Q. Did Mr. Ferguson ever show up?

19 A. He did.

20 Q. What did he bring with him?

21 A. Approximately, 8 ounces of methamphetamine.

22 Q. And what happened after Mr. Ferguson showed up?

23 A. Once Mr. Ferguson showed up, a conversation
24 ensued with him. And he advised that he could call
25 someone to bring over more methamphetamine.

- 1 Q. And did -- did the -- did he call somebody?
- 2 A. He called Kenneth McGill.
- 3 Q. And were you present during that phone call?
- 4 A. I was.
- 5 Q. And was that phone call recorded?
- 6 A. Yes, sir.
- 7 Q. And did Mr. McGill ever show up?
- 8 A. He did.
- 9 Q. When Mr. McGill showed up, where exactly were
10 you?
- 11 A. When Mr. McGill showed up, I was in the back
12 bedroom. As soon as you walk in the front door, if
13 you take a right through a hallway, it leads down to
14 the child's bedroom. I was in there with
15 Mr. Ferguson just to ensure his safety.
- 16 Q. So you didn't actually see Mr. McGill come in
17 the door?
- 18 A. I did not.
- 19 Q. Okay. But he did show up?
- 20 A. He did.
- 21 Q. And was he placed under arrest?
- 22 A. He was.
- 23 Q. And is he here in the courtroom?
- 24 A. Yes, sir. Right there.
- 25 Q. Is he wearing that red shirt?

1 A. Yes, sir.

2 Q. All right. Did he have methamphetamine with
3 him?

4 A. He did.

5 Q. And y'all went over his rights?

6 A. Yes, sir. Sergeant Monts actually read him his
7 Miranda rights on scene.

8 Q. And y'all had a conversation with him?

9 A. Yes, sir.

10 Q. And how did that conversation go?

11 A. At first, he initially denied bringing in any
12 methamphetamine, and then he actually admitted to
13 it.

14 Q. After you talked with him, did you ultimately
15 get consent to search his vehicle?

16 A. We did.

17 Q. Who -- who out -- who went out there to search
18 his vehicle?

19 A. Myself and Sergeant Hines were the only ones
20 outside searching the vehicle. A written voluntary
21 consent to search form was signed by Mr. McGill.

22 At that point in time, I photographed the
23 outside of the vehicle, and then I photographed the
24 inside of the vehicle before anything was removed.

25 And at that time, Sergeant Hines started

1 searching the vehicle while I just kind of
2 overlooked it and took the pictures.

3 Q. Did y'all find anything in the vehicle?

4 A. Inside the vehicle in the dash, I found money
5 wrapped in electrical tape.

6 Q. Approximately, how much money was it?

7 A. I know the exact amount. It was 13,749.

8 Q. And y'all counted that money several times to
9 make sure it was all there?

10 A. With several of us around it, yes, sir.

11 Q. Okay. All right. I'm going to -- I'm going to
12 show you what's been marked as State's No. 48. Do
13 you recognize this item?

14 A. Yes, sir. This is our chain-of-custody for the
15 sheriff's office.

16 Q. And just briefly describe what the
17 chain-of-custody is, sir.

18 A. So any time we collect any evidence on scene or
19 seize anything from any individual, we have to log
20 it into evidence to show that we put it into
21 evidence at that time and date.

22 Q. And in this particular case, who started the
23 chain-of-custody log?

24 A. Sergeant Monts.

25 Q. So what was Sergeant Monts' responsibility out

1 there?

2 A. As far as?

3 Q. Well, I mean, what -- did he -- did he -- did
4 he seize control of the evidence out there?

5 A. Yes. He collected the evidence on scene.

6 Q. And he started the chain-of-custody?

7 A. That's correct.

8 Q. And does your name appear on that
9 chain-of-custody form?

10 A. It does.

11 Q. Where does it appear at?

12 A. On 8/30/2018, I received the evidence from
13 Sergeant Ken Smith, the evidence custodian, and
14 entered these substances into iLAB.

15 Q. And can you just tell the jury who may not be
16 aware of what iLAB is, what -- what is this process
17 and why do you do it?

18 A. So iLAB is a system that we use with SLED,
19 which is also considered South Carolina Law
20 Enforcement Division. We enter any kind of drugs,
21 narcotics, anything like that into that system and
22 request an analysis to be done on that particular
23 narcotics.

24 Q. And do you have to enter that in the computer?
25 You can't just show up to SLED?

1 A. That's correct. We -- we manually enter it
2 into the computer, and we have another individual
3 take it down to SLED and hand deliver it.

4 Q. So you had to take the item down to evidence to
5 enter it into iLAB?

6 A. That's correct.

7 Q. I'm going to showing you what's been marked as
8 State's 46. Do you recognize this item?

9 A. Yes, sir.

10 Q. And what is that?

11 A. This is the methamphetamine that was seized
12 from Kenneth McGill on 8/21/2018.

13 Q. And is that the item that you took out of iLAB
14 to enter it into -- or took out of evidence and
15 enter in iLAB? I'm sorry.

16 A. Yes, sir.

17 Q. And does your name appear on that
18 chain-of-custody form any -- anymore?

19 A. No, sir. Just on the 30th.

20 Q. Okay. And then once you entered it into iLAB,
21 what did you do with it?

22 A. I turned it back over to Sergeant Smith.

23 Q. And he's the evidence custodian?

24 A. That's correct.

25 Q. And did he take possession of it after you did?

1 A. He did. He put it back into evidence for
2 safekeeping until it was transferred to SLED.

3 Q. And that's notated on that chain-of-custody
4 form?

5 A. It is.

6 Q. All right. And you were out there the whole
7 time at 260 Suttles Landing?

8 A. I was.

9 Q. And, approximately, how much methamphetamine
10 did y'all seize from Mr. McGill?

11 A. It was approximately 2 ounces. Roughly, 110,
12 111 grams.

13 Q. Of methamphetamine?

14 A. Yes, sir.

15 MR. BLACK: Okay. I think that's all the
16 questions I have. Please answer any questions that
17 Mr. Epps might have for you.

18 THE COURT: Cross-examination, Mr. Epps?

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

20 CROSS-EXAMINATION

21 BY MR. EPPS:

22 Q. Captain Graham, how are you?

23 A. Doing well.

24 Q. Okay. And you were -- you were -- you were
25 involved in this -- this buy-bust at Angela

1 Williams' house; is that correct?

2 A. Yes, sir.

3 Q. Okay. And y'all were staged at the church
4 close to that house prior to going into Angela
5 Williams' house?

6 A. Yes, sir.

7 Q. Okay. And as testified previously, Probation
8 Agent Sorrow went into the house on a wellness check
9 for Ms. Williams who's on probation, correct?

10 A. I wouldn't say went into the house. He went to
11 the residence to make contact.

12 Q. He went to the residence. She let him in,
13 right?

14 A. I wasn't there. I don't know if he went in
15 eventually or not.

16 Q. Okay. But he went in and made the call, and
17 then y'all proceeded into Ms. Williams' house,
18 right?

19 A. That's correct.

20 Q. Okay. All right. At that point in time,
21 had -- y'all were -- located a -- an ounce of
22 methamphetamine from Ms. Williams, right?

23 A. After speaking with her. Yes, sir.

24 Q. Okay. And then y'all decided to set up a
25 buy-bust, right?

1 A. Yes, sir.

2 Q. Okay. And that was an operation that the
3 Abbeville County Sheriff's Department set up and
4 organized, right?

5 A. No, sir. Ms. Angela Williams asked if there
6 was anything she could do to help herself and
7 offered to call her supplier -- supplier, Stewart
8 Ferguson.

9 Q. Okay. But y'all decided to set up a buy-bust?

10 A. Yes, sir.

11 Q. Okay. And you used Ms. Williams' house as a
12 base of operation, right?

13 A. That's correct.

14 Q. And y'all had control of that -- of her home
15 during the buy-bust, right?

16 A. Yes, sir.

17 Q. Okay. And that operation lasted from probably
18 about five hours, would you say?

19 A. That's correct.

20 Q. Okay. And during that whole time, during the
21 phone calls, that was recorded by law enforcement,
22 correct?

23 A. Yes, sir.

24 Q. And the phone calls were made at -- well, or
25 with the consent of law enforcement, correct?

1 A. Yes, sir.

2 Q. Okay. And once those phone calls were made,
3 they were recorded?

4 A. They were.

5 Q. Okay. But y'all were also -- how did you
6 record those phone calls?

7 A. Sergeant Monts recorded them with his county
8 issued cell phone.

9 Q. Okay. And the county issued cell phone has --
10 has the ability to record conversations and audio
11 record, correct?

12 A. That's correct.

13 Q. They also have the ability to video record; is
14 that correct?

15 A. That's correct.

16 Q. Okay. And there's no video recording of
17 anything that transpired in that house that day,
18 right?

19 A. No, sir.

20 Q. Okay. All right. And the only audio recording
21 would be the phone calls made to Stewart Ferguson,
22 as well as Kenneth McGill, correct?

23 A. That's correct.

24 Q. Okay. No Miranda was audio recorded inside
25 Ms. Williams' house?

1 A. No, sir.

2 Q. And there was no video of Miranda conducted
3 inside Ms. Williams' house, right?

4 A. No, sir.

5 Q. Okay. All right. Now, were you present at the
6 house -- now, are you aware that Ms. Williams had a
7 pending trafficking in methamphetamine charge from
8 July of 2018, about a month prior?

9 A. Yes, sir.

10 Q. Okay. And, obviously, she was charged with
11 trafficking in methamphetamine from August 21, 2018,
12 right?

13 A. Yes, sir.

14 Q. Okay. Did her child come home during this
15 operation from school?

16 A. He came home, not during the actual operation,
17 but he did come home while we were inside the
18 residence. And Ms. Angelina's daughter, Ekela
19 Harris, came and removed him from the location
20 before anything transpired.

21 Q. Okay. But that child had been living in that
22 home prior to the -- prior to August 21st of 2018,
23 right?

24 A. That's correct.

25 Q. Now, y'all didn't take Angela Williams to jail

1 that day, did you?

2 A. No, sir.

3 Q. You allowed her to turn herself in about a
4 month later; is that right?

5 A. That's correct.

6 Q. Okay. Was one of the reasons that she
7 cooperated?

8 A. There were several factors. She did cooperate.
9 She was in good -- good standings with probation and
10 needed to make arrangements for her child to be
11 somewhere else.

12 Q. And she had to make -- she had to take care of
13 her child. Did y'all contact DSS?

14 A. No, sir.

15 Q. Okay. Now, she had to -- she was in good
16 standing with probation?

17 A. Yes, sir.

18 Q. So she had -- and how long had she been on
19 probation?

20 A. I don't know that.

21 Q. Okay. But she was on probation for
22 distribution of meth?

23 A. She was on probation. I don't know what for,
24 but she was on probation.

25 Q. Okay. And she had a pending trafficking charge

1 from July, correct?

2 A. That's correct.

3 Q. And got another trafficking charge on
4 August 21st, right?

5 A. That's correct.

6 Q. And you said she was in good standing with
7 probation?

8 A. Yes, sir.

9 Q. Okay. Even after August 21st of 2018?

10 A. Yes, sir.

11 Q. And that meth was laying in a Betty Boop bag in
12 her bathroom; is that right -- in her bedroom?

13 A. That's correct.

14 Q. And it wasn't necessarily just concealed or
15 locked. I mean, it was pretty easy to find and get
16 access to, right?

17 A. Yes, sir.

18 Q. Okay. All right. So if any children had been
19 in the house and gone in that bathroom, there's a
20 chance that they could've found it, got into it, or
21 something could've happened; is that right?

22 A. That's a possibility.

23 Q. Okay. All right. Now -- and at that point in
24 time on August 21st of 2018, did you -- did -- you
25 did not know Mr. McGill?

1 A. I did not.

2 Q. Okay. You ever -- ever heard of Mr. McGill?

3 A. I have not.

4 Q. Abbeville County Sheriff's Office ever had any
5 investigation into Mr. McGill?

6 A. No, sir.

7 Q. Okay. And he'd never been -- he had never been
8 a target of any investigation, correct?

9 A. Not that I'm aware of.

10 Q. Okay. Now, does Abbeville County Sheriff's --
11 narcotics unit communicate and coordinate with other
12 surrounding counties regarding drug interdiction?

13 A. We do.

14 Q. Okay. So even -- even -- and that would
15 include Anderson County, Pickens County, Oconee
16 County, things like that, surrounding counties?

17 A. Yes, sir. That's fair to say.

18 Q. Laurens? Okay. Mr. McGill's name ever come
19 up?

20 A. No -- no, sir.

21 Q. Okay. So the first time that you even knew or
22 heard about or had any -- knew anything about
23 Kenneth McGill was when he walked in that house at
24 Angela Williams?

25 A. That's correct.

1 Q. Okay. Now, you found -- you -- and there
2 was -- and Mr. McGill and -- cooperated; is that
3 correct?

4 A. Say that again.

5 Q. He signed a consent to search his vehicle?

6 A. Yes, sir. He did.

7 Q. And that's where you found the money, right?

8 A. Yes, sir.

9 Q. All right. Did y'all tell him that y'all would
10 help him if -- if he would cooperate?

11 A. I don't recall saying that.

12 Q. Okay. Did you ultimately -- did he ultimately
13 agree to sign the money over to the sheriff's
14 department?

15 A. He did.

16 Q. And did y'all tell him that y'all would help
17 him if he cooperated or that would be some
18 cooperation if he -- if he signed the money over?

19 A. I -- I don't think I was present during that
20 time where the money was signed over, so I wouldn't
21 recall that or not.

22 Q. Okay. And did you ultimately broker a deal or
23 go into a deal that y'all receive the money and that
24 Mr. McGill would receive his truck back?

25 A. I don't recall saying that.

1 Q. You don't recall that?

2 A. No, sir.

3 Q. Okay. Now, you were in the room when that --
4 when that conversation took place? You don't
5 remember that?

6 A. In the room when what conversation took place?

7 Q. At Abbeville County Sheriff's Department.

8 A. When what conversation took place?

9 Q. When y'all discussed signing the money over to
10 the sheriff's department and Mr. McGill get his
11 truck back.

12 A. I don't recall that conversation.

13 Q. Okay. All right. But you agree that happened?

14 A. That the money was signed over, yes, sir.

15 Q. Okay. Mr. McGill got his truck back, right?

16 A. Yes, sir.

17 Q. Okay. Now, did you -- did you also -- you also
18 had a conversation and an interview with Stewart
19 Ferguson?

20 A. Yes, sir.

21 Q. Stewart Ferguson told you he had meth --
22 meth -- meth and money at his house, correct, in
23 Anderson?

24 A. Yes, sir.

25 Q. Okay. And were you -- did -- did you or

1 somebody from Abbeville County Sheriff's Office
2 contact Anderson County Sheriff's Department?

3 A. We did.

4 Q. Did narcotics agents from Anderson County come
5 to Abbeville?

6 A. Yes, sir.

7 Q. Okay. And they interviewed Stewart Ferguson,
8 right?

9 A. Yes, sir.

10 Q. Okay. And they ultimately got a search warrant
11 for his house in Anderson County?

12 A. Yes, sir.

13 Q. Okay. And you're aware that 18 grams of
14 methamphetamine, firearms, and money was found at
15 that residence?

16 A. I was.

17 Q. Okay. Were you aware that his brother tried to
18 hide or move the methamphetamine?

19 A. I was.

20 Q. Okay. And were you aware that some of the --
21 the firearms in his house were stolen?

22 A. Yes, sir.

23 Q. Okay. You knew about that, right?

24 A. Yes, sir.

25 Q. Okay. And you're aware that no -- there's been

1 no arrest made in regards to -- to that search or
2 what was found in Stewart Ferguson's house?

3 A. I had no idea. That's Anderson County. I
4 can't control what they do or do not do.

5 Q. I understand that, but does that bother you?

6 A. I can just control what we do here in Abbeville
7 County.

8 Q. I understand that, but does that bother you?

9 A. Does that bother me?

10 Q. Uh-huh.

11 A. No, sir. That's Anderson County. How they
12 handle it, I don't know if they obtained warrants on
13 him or not.

14 Q. Okay. So an individuals got -- but y'all --
15 but y'all contact Anderson County to come to
16 Abbeville to discuss a -- a -- a drug case and have
17 an individual who admits to having drugs, guns, and
18 money at his house, and y'all -- they execute a
19 search warrant and contraband and stolen weapons
20 were found and nothing happened, nobody gets
21 arrested. That didn't bother you?

22 A. Like I said, once we turn that information over
23 to Anderson County, it's left up to them how they
24 handle their investigation from that standpoint.

25 Q. But you were on scene. You went to Anderson

1 County with them, correct?

2 A. I did.

3 Q. And you participated in that search, correct?

4 A. I stood by. Yes, sir.

5 Q. Okay. Did you ever have a conversation with
6 them about charging Mr. Ferguson?

7 A. No, sir.

8 Q. Okay. And Mr. Ferguson was the one that came
9 to that house with -- with the most methamphetamine;
10 is that right?

11 A. He did.

12 Q. He had the weight so-called. He was the weight
13 man from the -- from the individuals in the house,
14 right?

15 A. That night. Yes, sir.

16 Q. Okay. And also his cell phone was taken,
17 correct?

18 A. Mr. Ferguson's?

19 Q. Yes.

20 A. Yes, sir.

21 Q. Okay. And you're aware that the DEA took his
22 cell phone to do a cell phone dump; is that right?

23 A. Yes, sir.

24 Q. Okay. And the DEA, you have an agent that's
25 attached -- Jarvis Reader who's attached to the DEA

1 task force; is that right?

2 A. That's correct.

3 Q. And they interdict -- and they -- they can
4 interdict and conduct drug -- drug operations,
5 particular -- particularly when they cross state
6 lines, right?

7 A. Being DEA, yes, sir.

8 Q. Yes. Okay. And were you aware -- did Stewart
9 Ferguson tell you about his contacts in -- in -- in
10 the state of Georgia?

11 A. When we interviewed him?

12 Q. Yes, sir.

13 A. Yeah, he mentioned several different people.

14 Q. Okay. Did he mention his partner Head who's
15 in -- who's in prison in the state of Georgia that
16 he's partnering -- he's partnered with in his
17 dealing?

18 A. He did.

19 Q. Okay. And did he tell you about the Mexicans
20 he would meet in Atlanta to get 6 to 10 pounds
21 of ---

22 A. Yes, sir.

23 Q. --- methamphetamine?

24 A. Yes, sir.

25 Q. Okay. And is that why it was turned over to

1 the DEA?

2 A. Yes, sir.

3 Q. Or the DEA got interested in that?

4 A. It was turned over to the DEA.

5 Q. Do you know if any arrests or any investigation
6 has been done regarding the Atlanta connections of
7 Stewart Ferguson?

8 A. No, sir. I have no idea.

9 Q. Okay. Now, Mr. McGill's cell phone was never
10 taken or -- or confiscated by Abbeville Sheriff's
11 Department, correct?

12 A. No, sir.

13 Q. Okay. So it was never -- there was never -- it
14 was never taken or seized as a part of this -- this
15 drug buy, correct?

16 A. No, sir.

17 Q. Okay. And, in fact, there was no attempt to
18 get Anderson County to get a search warrant to
19 search Mr. McGill's camper; is that right?

20 A. That's correct.

21 Q. Okay. And Mr. McGill is 68 years old; is that
22 correct?

23 A. Yes, sir.

24 Q. Okay. He was probably 67 when this happened.

25 Is that ---

1 A. Depending on when his birthday is, yes, sir.

2 Q. Okay. But you didn't know anything about --
3 obviously, you don't know -- you've never been to or
4 never had anybody discuss or contemplate any
5 investigation into Mr. McGill ---

6 A. No.

7 Q. --- after August of 2018?

8 A. No, sir.

9 Q. Okay. And there was even an attempt to talk to
10 Anderson about talking with Kenneth McGill regarding
11 his cell phone or searching his property?

12 A. No, sir.

13 Q. Okay. Are you aware that he lives in a small
14 camper?

15 A. No, sir.

16 Q. Okay. Now, how were the drugs transported?
17 Obviously -- who transported the drugs from Angela
18 Williams' residence to the sheriff's department?

19 A. Myself and Sergeant Monts.

20 Q. Okay. And what form -- how -- what manner were
21 they taken to the sheriff's department?

22 A. They were packaged in evidence bags.

23 Q. Okay. What kind of evidence bags?

24 A. I believe it was paper bags if I recall.

25 Q. Paper bags?

1 A. Yes, sir.

2 Q. Okay. Did you assist in putting -- putting
3 the -- the drugs in the -- in the best kit?

4 A. No, sir.

5 Q. Okay. Now, did you -- did -- were -- what
6 were -- in the best kit, those bags, there's little
7 zip bags. Who put -- who put the drugs in the zip
8 bags?

9 A. Zip bags?

10 Q. Yes. What were the -- what were the drugs
11 wrapped in?

12 A. The drugs were in like little plastic bags.

13 Q. Little plastic bags. And they were kind of
14 rolled up. They wasn't in zip bags -- zip -- Ziploc
15 bags; is that right?

16 A. I -- I didn't handle the evidence, so I don't
17 know. I just took photographs.

18 Q. I understand. And I'm just going to hand you
19 these Ziploc bags.

20 A. Yes, sir.

21 Q. Okay. Did -- who put the drugs in the Ziploc
22 bags?

23 A. I don't know. I didn't do it.

24 Q. You don't know?

25 A. No, sir.

1 Q. Were they in the Ziploc bags prior to going
2 into the best kit?

3 A. I didn't have to go into the best kit. All I
4 did was got the control number off the best pack and
5 manually submitted that way. I don't -- I can't
6 open the best pack back up once it's sealed.

7 Q. I understand that.

8 A. So I don't have to have the actual best pack.
9 All I have to have is the control number ---

10 Q. Okay.

11 A. --- for the stuff to get with the entry.

12 Q. But you don't know how -- but this is not the
13 original zip bag that these drugs were in, correct?

14 A. No, sir. Not that I'm aware of.

15 Q. Oh, they're not? That's not the original
16 best -- they weren't -- they were not originally in
17 that Ziploc bag, right?

18 A. I don't recall.

19 Q. Okay. All right. But if you look at the
20 photographs -- well, there's photographs that are
21 entered that show what -- what they were in on
22 August 21st.

23 A. Yes, sir.

24 Q. And that's not these bags right here?

25 A. No, sir.

1 Q. Okay. But you're saying you don't know -- you
2 didn't do it -- you didn't put -- all right. And
3 you don't know -- you got no knowledge of who would
4 put or change the bag -- change the bags out or put
5 the -- the contraband in the Ziploc bag, right?

6 A. No, sir.

7 Q. But, obviously, that had to be done before it
8 goes into the best kit, correct?

9 A. Yes, sir.

10 Q. Okay. So at some time -- and when did they go
11 into -- when did the best kit get signed? When
12 did -- when did the drugs go into the best kit?

13 A. The best kit was actually filled out on 8/22 by
14 Sergeant Monts. And the reason that being is, it
15 was a long operation that day on 8/21.

16 By the time that we finished with the paperwork
17 and everything, it rolled over into midnight. So it
18 would've been 8/22, and that's why the date on the
19 best pack was 8/22.

20 Q. Okay. But it said that it was received by
21 evidence for storage on the Abbeville County
22 Sheriff's Office chain-of-custody on 8/21/18, right?

23 A. The actual evidence, yes, sir.

24 Q. Okay. But you agree that before the drugs went
25 into evidence or storage, they would be in the best

1 kit?

2 A. Rephrase that.

3 Q. They would be -- they would be in the best kit,
4 correct?

5 A. That's correct.

6 Q. Okay. Because once it goes into storage --
7 once it goes into the evidence locker, the only
8 person that can get to it is the evidence custodian,
9 correct?

10 A. That's correct.

11 Q. Which is Ken Smith?

12 A. Yes, sir.

13 Q. Okay. All right. So it would be -- it's
14 important to be accurate in regards to dates of when
15 that evidence goes into storage, correct?

16 A. It was accurate as far as the initial
17 chain-of-custody started on 8/21/2018 when Sergeant
18 Monts finished with the best kit and completion of
19 the best kit. As I said before, it rolled over into
20 midnight. So in order for him to properly document
21 the best pack, it would've been 8/22 after midnight.

22 Q. Okay. All right. But he would've put them in
23 the best kit before they were placed into evidence,
24 but the -- but the chain-of-custody says the 21st,
25 right?

1 A. Yes, sir.

2 Q. All right. So there is a discrepancy?

3 A. But the date he signed the best pack is 8/22.

4 Q. That's right.

5 A. The date he sealed it was 8/22.

6 Q. Right. Okay. And you would agree there's a
7 discrepancy between the dates?

8 A. As far as when it was entered into evidence and
9 as far as the date he signed the best pack?

10 Q. Uh-huh. Yes.

11 A. No, sir.

12 Q. Okay. But it says he put them in storage on
13 the 21st. And if it goes into storing, the
14 evidence -- the drugs would've been in the best
15 pack?

16 A. Yes, sir.

17 Q. But the date that the best pack was sealed,
18 which would be when the drugs -- when the drugs were
19 put in the best pack; is that correct?

20 A. Yes, sir.

21 Q. States the 22nd -- August 22nd?

22 A. Yes, sir.

23 MR. EPPS: Okay. Thank you, Your Honor. I
24 have no further questions.

25 THE COURT: Redirect?

1 MR. BLACK: Yes, sir.

2 REDIRECT EXAMINATION

3 BY MR. BLACK:

4 Q. Captain Graham, you've been doing this about
5 ten years; is that right?

6 A. Approximately, nine. A little over nine, yes,
7 sir.

8 Q. All right. And you've -- you've been in drug
9 investigations, correct?

10 A. I have.

11 Q. And you have seen -- what types of packaging
12 have you seen in your career that you see drugs
13 being packaged in on the street?

14 A. A lot of times they're in Ziploc -- it's like
15 sandwich bags.

16 Q. And you've seen zip -- actually zip bags,
17 correct?

18 A. Yes, sir.

19 Q. What about like just twisty bags?

20 A. Yes, sir.

21 Q. Without a zip?

22 A. Yes, sir.

23 Q. And you've seen -- I mean, you've seen
24 different types, correct?

25 A. I have.

1 Q. And in this particular case, what kind of bags
2 were they in?

3 A. Do you have a picture so I can kind of refresh
4 my memory?

5 Q. I'm going to see -- I'm going to see if I can
6 find one. I'm going to show you 34 -- State's 34 on
7 the -- on the screen. Do you recognize that?

8 A. Yes, sir.

9 Q. Okay. And what kind of bag is that?

10 A. Just a little sandwich baggy ---

11 Q. And is there a --

12 A. -- clear -- I always classify it as a clear
13 baggy.

14 Q. And did y'all mark that?

15 A. Yes, sir.

16 Q. And how's it marked?

17 A. K-6.

18 Q. And why did you mark it like that?

19 A. To show that it was Kenneth McGill's and it was
20 just K-6 for Kenneth.

21 Q. And is there a zip on that bag?

22 A. I can't see. No, sir.

23 MR. BLACK: Okay. I'm going to show you ---
24 may I approach, Your Honor?

25 THE COURT: Sure.

1 BY MR. BLACK:

2 Q. --- State's 46. Is that bag in its packaging?

3 A. Yes, sir.

4 Q. Okay. And in your experience when you get
5 items back from SLED, is it back in the packaging
6 that's initially submitted?

7 A. Not always.

8 Q. Okay. Does SLED put it in a separate bag
9 typically?

10 A. They could. Yes, sir.

11 Q. Okay. Is there a Ziploc bag in there?

12 A. There is.

13 Q. Would you agree with me that a Ziploc bag is
14 more secure than a bag with no zip?

15 A. I would.

16 Q. And is that something SLED probably did?

17 A. Yes, sir.

18 MR. EPPS: I'm going to object as to
19 conjecture, unless he's got some knowledge.

20 THE COURT: Well, based on his knowledge and
21 experience, if he can respond to that question, I
22 will -- I'll allow it.

23 MR. EPPS: That's -- I mean, did he -- that --
24 that's -- my objection would be is who did it? If
25 he didn't do it and didn't know who did it, I

1 think -- I think it's conjecture. He said SLED did
2 it.

3 THE COURT: Based upon his knowledge and
4 experience, I'll allow him to answer the question if
5 he knows.

6 THE WITNESS: There is initials on this bag.

7 BY MR. BLACK:

8 Q. What are the initials?

9 A. The initials -- I can't read the initials, but
10 the lab number, if I'm correct, on -- on here are
11 the lab number and the initials and a signature.

12 Q. Can you read the signature?

13 A. I can't make out what it is.

14 Q. Okay. And you were -- you weren't in here
15 yesterday when Larry Zivkovich testified, were you?

16 A. No, sir.

17 Q. And I can't really read this either, but do you
18 see a "Z" on there, on the initials?

19 A. It appears to be a "Z," yes, sir.

20 MR. EPPS: I would object, Your Honor. I think
21 it's asked and answered. He's already said, "I
22 can't -- he's already answered, "I can't read the
23 initials."

24 THE COURT: Right. I'll sustain.

25 BY MR. BLACK:

1 Q. But you would agree that that's marked K-6?

2 A. Yes, sir.

3 Q. And you would agree, I know it's kind of hard
4 to see, but ---

5 A. I can see it's K-6 inside the bag as well.

6 MR. BLACK: Okay. I don't have any further
7 questions.

8 THE COURT: You can step down, sir.

9 THE WITNESS: Thank you.

10 (Witness excused.)

11 THE COURT: Next witness, Solicitor.

12 MR. BLACK: Jonathan Pratt.

13 (Witness approached.)

14 THE CLERK: Put your left hand on the Bible and
15 raise your right.

16 THE WITNESS: (Complying.)

17 THE CLERK: The evidence you're about to give
18 the Court be the truth, the whole truth, and nothing
19 but the truth?

20 THE WITNESS: Yes, ma'am.

21 SERGEANT JONATHAN PRATT,
22 having been produced and first duly sworn as a
23 witness on behalf of the State, testified as
24 follows:

25 DIRECT EXAMINATION

1 BY MR. BLACK:

2 Q. Can you state your name, sir?

3 A. Sergeant Jonathan Lee Pratt.

4 Q. And you work at Abbeville County Sheriff's
5 Department?

6 A. Yes, sir, I do.

7 Q. How long have you been there?

8 A. Approximately, about six-and-a-half years.

9 Q. And how long have you been in law enforcement
10 total?

11 A. I'm working on year 26 now.

12 Q. And you also worked Greenwood previously,
13 correct?

14 A. Previously, yes, sir.

15 Q. What's your -- what's your job right now?

16 A. Investigator -- criminal investigator.

17 Q. All right. And August 21st, you -- you weren't
18 out at 260 Suttles Landing, were you?

19 A. No, sir.

20 Q. You had nothing to do with that -- that ordeal?

21 A. No, sir.

22 Q. All right. Is part of your job to take items
23 to and from SLED?

24 A. Yes, it is.

25 Q. And when you take items to and from SLED,

1 typically are you taking single items, or is it --
2 do you take multiple items?

3 A. Multiple items. Sometimes we wait. Since it's
4 an hour or so away in Columbia, we wait to get
5 enough and then we take it down.

6 Q. How often do y'all -- do you anticipate that
7 somebody from the sheriff's department makes that
8 trip?

9 A. It depends on how busy we are. There's no real
10 set time on it.

11 Q. Okay. If -- if you had to est -- if you had to
12 give an estimate, maybe a couple of times a month?

13 A. I would say at least.

14 Q. Okay. And I'm going to show you what's been
15 marked as State's 48. Do you recognize this?

16 A. Yes, I do.

17 Q. And -- and what is this?

18 A. This is a chain-of-custody we use at the
19 sheriff's department.

20 Q. Does your name appear on that form?

21 A. Yes, it does.

22 Q. And your signature?

23 A. Yes, it does.

24 Q. And what's the date on that?

25 A. The date is -- looks like 9/26.

1 Q. And that would be your handwriting, correct?

2 A. Yes, it is.

3 Q. Does it have a purpose of why you actually had
4 possession of these -- the drugs at this point?

5 A. It's marked as SLED, which means that's what I
6 was transporting down to SLED.

7 Q. Okay. Do you specifically remember this item?
8 If I were to show you this item, would you
9 specifically remember transporting this item?

10 A. Not specifically, but that's familiar. I've
11 transported items like that before.

12 Q. Okay. And you said it was -- you said 9/26?

13 A. Yes, sir. 9/26/2018.

14 Q. Okay. And you dropped it off at SLED that day,
15 correct?

16 A. Yes. I sign and take it straight down.

17 Q. All right. And did you -- did you ever have
18 possession of the items again?

19 A. When I brought them back.

20 Q. Is there -- is there a date on that?

21 A. There's not a date on this. I wouldn't have
22 access to the original chain-of-custody. SLED
23 doesn't recognize our chain-of-custody on here. But
24 when I brought it back, I show it here. This is
25 when I retrieved it from SLED. This is their

1 evidence release receipt from SLED, which I brought
2 it back on 4/25/2019.

3 Q. Okay. And I'm going to show you what's been
4 marked as State's 49. What -- what is State's 49?

5 MR. EPPS: Can I -- Your Honor, may I? If he's
6 looking at something?

7 THE COURT: Yeah. Hand it back, Solicitor
8 Black, so you can show it to Mr. Epps before you ---

9 MR. EPPS: I also -- what he pulled out is
10 what -- what the witness pulled out and is looking
11 at himself.

12 THE COURT: Yeah.

13 (Counsel reviewed.)

14 MR. EPPS: And I apologize, Your Honor. This
15 is a document I have not seen until today.

16 THE COURT: Okay. All right. Take your time.

17 (Counsel continued reviewing.)

18 MR. BLACK: I'm going to give you your
19 paperwork back.

20 THE WITNESS: Thank you, sir.

21 MR. BLACK: All right. And I'm going to show
22 you State's 49, which I believe is actually in
23 evidence if I'm not mistaken.

24 THE COURT: Forty-nine is in evidence.

25 BY MR. BLACK:

1 Q. And do you know what that is?

2 A. This is the chain-of-custody from SLED itself.

3 Q. That's SLED's chain-of-custody, correct?

4 A. Yes, sir.

5 Q. And does your name appear on that?

6 A. Yes, sir, it is.

7 Q. And where is that at?

8 A. Right here on the document. That's my
9 handwriting.

10 Q. So it's at the very top?

11 A. It's there and then I signed for it on the
12 bottom. Yes, sir.

13 Q. Okay. And is there a date on your signature?

14 A. It's 4/25/2019.

15 Q. And that would've been when you picked it up?

16 A. That is when it says "returned to agency," yes.

17 Q. And this is Abbeville's chain-of-custody I
18 believe, correct?

19 A. It is.

20 Q. And you would've returned it to Abbeville at
21 that point?

22 A. I would have brought it into Abbeville, yes,
23 sir.

24 Q. And how did you turn it back into Ken Smith and
25 put it back into evidence?

1 A. At the time when I bring it back to the office,
2 I go straight through back to the office. If
3 Sergeant Smith is there, I return it straight to him
4 and so he can sign it right back in. If it's not,
5 if I put it back in the evidence locker, at which
6 time the key is secured and it's put back in the
7 slot. And Mr. Smith, he takes it and puts it back
8 into evidence.

9 Q. And how did -- how did it go about this time?

10 A. He was not present so, therefore, I put it in
11 an evidence locker and put the key in and take it
12 out from there.

13 Q. And after you put it in and put the key in the
14 slip, then you don't have access to it any longer?

15 A. No, sir. I don't have any access to it.

16 MR. BLACK: I think that's all the questions I
17 have. Please answer any question Mr. Epps might
18 have.

19 THE COURT: Cross-examination?

20 MR. EPPS: Very briefly.

21 CROSS-EXAMINATION

22 BY MR. EPPS:

23 Q. Officer Pratt, how are you?

24 A. Good, sir.

25 Q. Okay. So you only -- the only involvement --

1 you were not at Angela Williams' house -- you did
2 go -- you were not on -- you're not a part of nar --
3 the narcotics unit; is that right?

4 A. No, sir.

5 Q. Okay. So you -- so you weren't there at
6 Ms. Williams -- Angela Williams' house on
7 August 21, 2018, correct?

8 A. No, sir.

9 Q. And the only sole involvement in this case that
10 you had, was you transported -- you -- you made a
11 transport from Abbeville County Sheriff's Office
12 down to SLED, correct?

13 A. Yes, sir.

14 Q. Okay. Now, on your -- I'm going to hand you --
15 well, and I just -- State's Exhibit 48. And you
16 testified you trans -- you went down to SLED -- you
17 went to Columbia to SLED and -- and brought the
18 substances back to the Abbeville County Sheriff's
19 Department, correct?

20 A. Yes, sir.

21 Q. Okay. Now, did you sign in on the Abbeville
22 chain-of-custody on April 25, 2019? Did you
23 actually sign that you put it back into the evidence
24 locker?

25 A. On this right here, this is our evidence chain.

1 Q. Yes, sir.

2 A. SLED doesn't recognize it, so we sign it out.
3 It stays with our records here. At that time I do
4 not have access to the original form, so I wouldn't
5 have been able to sign this right here. So it was
6 placed into the evidence locker and then sealed.
7 That would be the only access they had to anything.

8 Q. I gotcha.

9 A. So I would not have access to this form. Just
10 sign it at that time.

11 Q. Okay. So did you sign any form -- well, I
12 noticed because you signed it out on the 26th.

13 A. I did have access to that form at that time.
14 Yes, sir. I was able to sign it, and my purpose for
15 it was for taking it out.

16 Q. Right. And that's your signature on the 26th,
17 which I understand that, but you weren't able to
18 sign this on the 20 -- on April 25th of '19?

19 A. I did not have access to that form.

20 Q. Why would you not have access?

21 A. It was secured in the evidence room, sir. I
22 don't have access to that.

23 Q. Okay. Now, the other document that you had on
24 you, that was -- do you still have that document?

25 A. Yes, sir.

1 Q. Okay. Which is different than any other
2 document I've seen up till today.

3 A. This is part of SLED's paperwork. This
4 would've been turned in along with the rest of it.
5 It's the lab evidence release slip, which -- which I
6 signed, which was when I take it back on 4/25/2019.

7 Q. Okay. And may I see it again?

8 A. (Complying.)

9 Q. But this is something -- would this -- would
10 this -- would this have been with the other
11 documentation provided?

12 A. After it was all entered, yes, sir. It
13 would've been probably included with it. That's
14 what's handed to me by SLED.

15 Q. Okay. You got any idea why this was not
16 included in any kind of discovery or any documents
17 or items in this case?

18 A. No, sir. That's what I have.

19 Q. Now, this was your laboratory evidence release
20 receipt. You also took other stuff to SLED.

21 A. Yes, sir.

22 Q. And picked it up; is that right?

23 A. Yes, sir.

24 Q. It looks like a receipt from the -- from the
25 time -- from the day you picked it up, right?

1 A. Yes, sir.

2 Q. Let me ask you something. I noticed -- and I
3 don't know. I noticed that the department -- it has
4 department case numbers, right?

5 A. Obviously so.

6 Q. Okay. Now, there's two of them, specifically
7 Stewart and Williams, which is a part of this case.
8 There's an asterisk by their department case number.

9 A. That's the SLED paperwork. I have no -- I
10 don't know what the meaning would be for SLED, sir.
11 I'm not with SLED.

12 Q. I understand that. But you have no idea why
13 there would be asterisk?

14 A. No, sir, I don't.

15 Q. Okay.

16 A. SLED's paperwork.

17 Q. But you don't know what it means or anything of
18 that nature?

19 A. No, sir.

20 MR. EPPS: Okay. Nothing further, Your Honor.

21 MR. BLACK: Your Honor, at this point the State
22 moves 46 and 50 into evidence. I think the chain's
23 been laid out sufficiently.

24 THE COURT: Isn't there one more witness in
25 the -- in the chain?

1 MR. BLACK: Well, I think it pertains to just
2 the cell phone, but I ---

3 THE COURT: Oh, the third witness is not
4 involved in the chain on the drugs?

5 MR. BLACK: No, sir.

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

8 THE WITNESS: Thank you, sir.

9 (Witness excused.)

10 THE COURT: All right. I will allow 46 and 50
11 into evidence.

12 MR. BLACK: Thank you, Your Honor.

13 (State's Exhibit Nos. 46 and 50 were received
14 into evidence.)

15 MR. BLACK: The State calls Jarvis Reader.

16 (Witness approached.)

17 MR. EPPS: And, Your Honor, I guess for the
18 record, it's clear I would state an objection. Not
19 all of the persons from the chain-of-custody came in
20 to testify ---

21 THE COURT: Right.

22 MR. EPPS: --- so I'm stating my objection.

23 THE COURT: Right. I think that was noted on
24 the record yesterday afternoon.

25 MR. EPPS: And there's also an issue about the

1 review. There's apparently a review of the SLED
2 forensic chemist test that was done. That person is
3 unknown and there's no documentation.

4 THE COURT: Very good.

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

7 THE WITNESS: (Complying.)

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

11 THE WITNESS: Yes, I swear.

12 INVESTIGATOR JARVIS READER,
13 having been produced and first duly sworn as a
14 witness on behalf of the State, then testified as
15 follows:

16 DIRECT EXAMINATION

17 BY MR. BROWN:

18 Q. Good morning.

19 A. Good morning.

20 Q. State your name and your rank.

21 A. Jarvis Reader, investigator with the Abbeville
22 County Sheriff's Office.

23 Q. And, Mr. Reader, how long have you been with
24 Abbeville County?

25 A. Fourteen months.

1 Q. And prior to that, tell me your background in
2 law enforcement?

3 A. I've been in law enforcement for almost
4 21 years. I worked at Greenwood County Sheriff's
5 Office for 16. I worked at Laurens County for
6 18 months, and 14 months here at Abbeville County.

7 Q. And as part of investigations here at Abbeville
8 County, what else were you doing with Abbeville
9 County?

10 A. I'm currently assigned to the United States
11 Drug Enforcement Administration, commonly known as
12 DEA, as a contract employee.

13 Q. Are you on a DEA task force?

14 A. I am.

15 Q. And what does DEA do?

16 A. We investigate narcotics across the United
17 States.

18 Q. Mr. Reader, how did you get involved or did you
19 become involved with Mr. Kenneth McGill, Stewart
20 Ferguson, and Ms. Williams?

21 A. I'm assigned to a group out of Greenville where
22 I work every day. And Mr. Ferguson, we retrieved a
23 phone from evidence here in Abbeville, and I
24 transported that phone to our office in Greenville
25 County where we performed a phone dump on it.

1 Q. Now, that phone was collected as part of the
2 arrest on August 21, 2018, correct?

3 A. That's -- that's correct.

4 Q. And in addition to Mr. Ferguson and
5 Ms. Williams, Mr. McGill was also charged with
6 trafficking at that time, right?

7 A. Yes, sir.

8 Q. Now, were you involved with the initial arrest
9 on August 21, 2018?

10 A. I was not.

11 Q. You weren't there?

12 A. I wasn't.

13 Q. As part of your duties with DEA, was
14 information relayed to you that could be helpful to
15 the -- to the DEA?

16 A. Yes. We were currently working a Federal
17 investigation that we're -- that involved
18 individuals in Anderson County and possibly
19 individuals here in Abbeville County as well.

20 Q. And during that time it's been testified to,
21 did Mr. Ferguson assist the DEA?

22 A. He did.

23 Q. And in part of assisting the DEA, did he allow
24 you or assist in giving up his phone and
25 information?

1 A. Yes. He cooperated with the Federal government
2 and he gave a debriefing, which would -- which is
3 basically spilling his guts on all of his drug past
4 and information and things that he had done.

5 Q. In his dealings during this debriefing, did you
6 learn how long he was involved with actually
7 transporting or dealing drugs?

8 A. Yeah, he indicated that he would travel out of
9 state across state lines over into Georgia to
10 retrieve or purchase methamphetamine.

11 Q. Had that been going on very long?

12 A. For some time if I recall.

13 Q. A couple months?

14 A. Yes, sir.

15 Q. But not years or anything like that?

16 A. No, sir.

17 Q. Mr. Ferguson ended up giving names?

18 A. He did.

19 Q. Names in Georgia?

20 A. His main connection, I think he originally
21 started out here in Abbeville with a guy. And then
22 that guy was subsequent -- he was arrested and he
23 continued to go on his own over to Georgia. And he
24 met with a guy they call Head who -- some relatives
25 of Head who was in the Department of Corrections in

1 Georgia.

2 Q. But in all, Mr. Ferguson assisted the DEA?

3 A. He did.

4 Q. And did Mr. Ferguson's debriefing and
5 assistance to the DEA lead to other people being
6 arrested?

7 A. The information that he provided did lead to
8 the arrest of a couple of individuals in a Federal
9 case.

10 Q. Federal charges?

11 A. Yes.

12 MR. BROWN: No further questions.

13 THE COURT: Cross-examination?

14 MR. EPPS: Yes, sir.

15 CROSS-EXAMINATION

16 BY MR. EPPS:

17 Q. Investigator Reader, how are you?

18 A. I'm good. Good.

19 Q. And how long have you been with the -- attached
20 to the DEA task force?

21 A. This is my second -- second time.

22 Q. Yes, sir.

23 A. From 2005 to 2008, I was a -- I was on the task
24 force for three years, and currently since I've been
25 employed at Abbeville County Sheriff's Office for

1 the last 14 months.

2 Q. Okay. And the only -- the sole involvement in
3 this case that we're here for today, is that you
4 came down to Abbeville Sheriff's Department to get
5 the phone -- get Stewart Ferguson's phone to take it
6 back to the DEA office in Greenville to do a phone
7 dump on it, correct?

8 A. That's correct.

9 Q. Okay. And you -- were you present -- Stewart
10 Ferguson came and did a debrief with the DEA; is
11 that right?

12 A. He did.

13 Q. And were you present for that -- for that
14 debrief?

15 A. I was.

16 Q. Okay. And he tried -- so, basically, he was
17 giving information. Did the DEA want to know about
18 his -- his contacts in -- in -- in Atlanta, Georgia?

19 A. I didn't understand that question.

20 Q. Did the DEA want to confirm Stewart Ferguson's
21 con -- contacts in the state of Georgia?

22 A. We wanted to confirm his contacts in the state
23 of Georgia as well as South Carolina.

24 Q. Okay. And did y'all do a complete phone dump
25 on Mr. Ferguson's phone?

1 A. I retrieved that phone. I took the phone to
2 our intel analyst. Our analyst performed a phone
3 dump of that phone.

4 Q. Okay. And what did -- what -- what -- what was
5 the contents of what -- what was generated? What
6 was -- what did -- was received by that phone dump?

7 A. There was conversations, text messages, images,
8 videos of such.

9 Q. What was -- what did the videos depict?

10 A. There were videos of methamphetamine, videos of
11 porn, and there was also cell phone conversations
12 between Mr. Ferguson. I think he had a name with
13 Angel on there and also Kenny.

14 Q. Okay. And -- and a bunch of other individuals
15 too; is that right?

16 A. Yes, sir.

17 Q. Okay. And, in fact, he had over 27,000
18 pictures on his phone dealing with meth and porn,
19 right?

20 A. He had 26,188 images. And those images range
21 from pictures of family members, of methamphetamine,
22 and of porn.

23 Q. Okay. And, in fact, did y'all have problems --
24 did it lock a DEA computer up in trying to do a
25 phone up?

1 A. Actually, we didn't have a problem locking the
2 computer up. We had a problem extracting those
3 files because of the firewall that the Federal
4 government places on our computer systems.

5 Q. Well, it wasn't pleasant material to look at;
6 is that right? It was not pleasant material to look
7 at, correct?

8 A. I mean, it depends on who's looking at them.

9 Q. I understand, but me and you had several
10 conversations because this issue came up several
11 weeks before the start of this trial; is that right?

12 A. No. This issue came up -- I think I text you
13 and talked to you Friday morning about 9:30 and made
14 those images available for you to see.

15 Q. Yeah, but we discussed -- but there was an
16 issue about actually putting them on a disk to be
17 able to look at them; is that right?

18 A. Yes. We actually got those on a disk, but our
19 phone dump would not allow those because of the
20 Government firewalls to be seen by the general
21 public.

22 Q. And that was last Friday?

23 A. That was Friday when you and I talked.

24 Q. Yes. Yes. And there was -- and we
25 discussed -- and you discussed that y'all was

1 going -- y'all didn't look at all 27,000
2 photographs, did you?

3 A. No, sir. I had no reason to look at all of
4 them.

5 Q. Okay. And you didn't look at the actual text
6 messages, did you?

7 A. Not all of them.

8 Q. Okay. And y'all -- did you look at probably
9 about a thousand and then stop looking at it?

10 A. Yes.

11 Q. Okay. And I -- we never could get it -- and,
12 in fact, you -- I mean, I -- we tried to deal with
13 this issue about getting a copy of the phone dump
14 Friday and Monday?

15 A. Yes, sir.

16 Q. Did we not?

17 A. Yes, sir.

18 Q. And, in fact, you were kind enough or good
19 enough to bring the phone over here to -- to -- to
20 the Abbeville County Courthouse?

21 A. I didn't bring the phone.

22 Q. You didn't bring the phone?

23 A. I brought -- I brought the phone Friday and
24 transferred custody of that phone to Lieutenant
25 Jeffrey Hines.

1 Q. Okay. And we were able to leave the phone --
2 the phone was here today -- I mean, the phone's been
3 here since then, correct?

4 A. I have no idea.

5 Q. Okay.

6 A. I transferred that phone on Friday to
7 Lieutenant Hines. I think on Highway 25. We met
8 halfway when the phone was issued.

9 Q. Okay. All right. But then we tried to still
10 get it on some form of disk to be able to look at
11 it, the contents of the phone dump even Monday
12 morning, correct?

13 A. No. What we tried to do on Monday morning was,
14 we tried to use that thumb drive and extract the
15 information from it, but the firewall would not
16 allow us to use it.

17 Q. That's right. I mean, we just -- we attempted
18 to at least have access to the phone dump, but we
19 couldn't do it -- we couldn't do it here; is that
20 right?

21 A. That's correct.

22 Q. Okay. And you said -- and Stewart Ferguson did
23 a debrief, right? And he debriefed regarding
24 individuals in a Federal drug conspiracy case,
25 *United States v. Brian Zapata*, correct?

1 A. Yes. That's correct.

2 Q. Okay. And who were the individuals that --
3 that he was given information on?

4 A. Basically, his debrief, he -- he talked about a
5 guy named Head. He talked about Angela Skelton.

6 Q. Okay. And did he try to attempt to set up a --
7 set up -- set up Angela Skelton?

8 A. He did.

9 Q. Okay. Was he successful?

10 A. It was not.

11 Q. Okay. But she, ultimately, was involved and
12 indicted in that Federal case, correct?

13 A. She was.

14 Q. Okay. Now, did he also -- and he discussed
15 his -- his contacts or his -- his partner,
16 so-to-speak, Head in -- in Atlanta, Georgia,
17 correct?

18 A. He did.

19 Q. And is Head incarcerated in a penitentiary?

20 A. Yes. To my knowledge.

21 Q. Do you know who Head is?

22 A. Other than the nickname.

23 Q. Okay. Did he not give you a name of Head?

24 A. He possibly did, but I don't recall it. I
25 don't have the document to ---

1 Q. Do you know what penitentiary Head is in?

2 A. I do not.

3 Q. Does it concern you and the DEA that he's --
4 he's partnering up with an individual in the state
5 of Georgia in a penitentiary running a drug -- drug
6 organization?

7 A. It does not concern me because I wasn't
8 assigned to that case. I was assisting another
9 group from Anderson County that was investigating
10 this Brian Zapata organization that basically took
11 place in Anderson County.

12 Q. Okay. But Mr. McGill is not a part of that,
13 right?

14 A. I can't say if he was or he wasn't.

15 Q. Okay. All right. And who were the individuals
16 in Anderson County? Was that -- was that Anderson
17 narcotics -- Anderson County narcotics unit?

18 A. It was actually a task force officer from
19 Anderson County as well as a DEA agent from our
20 office.

21 Q. Did y'all get any information regarding the
22 Mexicans that Stewart Ferguson would meet in Atlanta
23 after it's coordinated with?

24 A. I -- I cannot answer that. I don't know.

25 Q. You don't know?

1 A. No, sir.

2 Q. Okay. Were you aware of the search warrant
3 that was executed on Stewart Ferguson's home on
4 August 22, 2018?

5 A. Actually, August the 20 -- 22nd?

6 Q. Yes, sir.

7 A. I was not even employed with the Abbeville
8 County Sheriff's Office at the time.

9 Q. Of 2018?

10 A. That's correct.

11 Q. Okay. Okay. So you don't know anything about
12 the drugs, the guns, and the money that was found in
13 Stewart -- Stewart Ferguson's house the day after
14 August 21st of 2018?

15 A. No, sir.

16 MR. EPPS: Okay. Thank you, Your Honor. I
17 have no further questions.

18 THE COURT: Redirect?

19 MR. BROWN: Just briefly.

20 REDIRECT EXAMINATION

21 BY MR. BROWN:

22 Q. Mr. Reader, you mentioned on cross that the
23 reason you looked at that phone dump was to
24 constitute or confirm contacts in Georgia and South
25 Carolina?

1 A. That's correct.

2 Q. And there were a number of text messages
3 between individuals and Mr. Ferguson?

4 A. Yes.

5 Q. You mentioned Angel?

6 A. Yes.

7 Q. Kenny?

8 A. Yes.

9 MR. BROWN: No further questions.

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

11 (Witness excused.)

12 THE COURT: State have any further witnesses?

13 MR. BROWN: Judge, can we take a moment to make
14 sure we have everything in evidence?

15 THE COURT: Sure.

16 MR. BROWN: And I believe that'll be it.

17 THE COURT: All right. Ladies and gentlemen, I
18 ask that you go back in the jury room, and I'm going
19 to give the State a few minutes to see if they have
20 any further witnesses. And remind you once again,
21 don't have any discussions about this case. We'll
22 get you back out in just a little bit.

23 (At 11:40 a.m., jury left the courtroom.)

24 THE COURT: All right. We'll be in a short
25 recess.

1 (From 11:41 to 11:58 a.m., recess.)

2 THE COURT: Do we have some more witnesses?

3 MR. BLACK: We don't, Your Honor. I did want
4 to -- I think we covered all of the exhibits, but I
5 wanted to go ahead and again put 1 through 50 into
6 evidence just to cover my bases and make sure
7 they're all into evidence. I believe they are now
8 that we've introduced those last two ---

9 THE COURT: Right.

10 MR. BLACK: --- but I wanted to do that once
11 again, and then we would -- we'd be resting after
12 that.

13 THE COURT: Okay. All right. According to my
14 notes, 1 through 50 are all into evidence.

15 MR. BLACK: Yes, sir.

16 THE COURT: Okay. All right. Mr. Epps, any
17 mid-trial motions you want to place on the record?

18 MR. EPPS: Yes, sir, Your Honor. May it please
19 the Court?

20 THE COURT: Certainly.

21 MR. EPPS: At this time I would like to make a
22 motion for directed verdict in this case as to the
23 indictment against the defendant, Mr. McGill,
24 trafficking in methamphetamine.

25 Specifically, Your Honor, renewing my argument

1 in regards to the indictment that as to
2 Mr. McGill's -- and that the indictment for
3 methamphetamine was tracked. The statutory language
4 is duplicitous and that is consistent with -- which
5 means the charging of the same offense in one or
6 more count of the indictment, and specifically, Your
7 Honor, the indictment for trafficking
8 methamphetamine in this case states that the
9 defendant, Kenneth Earl McGill, did on or about
10 August 21, 2018, in Abbeville County, South
11 Carolina, knowingly sell, manufacture, deliver,
12 purchase, or bring into this state or did provide
13 financial assistance or otherwise aid, abet,
14 attempt, or conspire to sell, manufacture, deliver,
15 purchase, or bring into this state or was knowingly
16 in actual constructive possession or knowingly
17 attempted to become in actual constructive
18 possession over 100 grams of methamphetamine or more
19 methamphetamine or otherwise pursuant to our code
20 section.

21 That -- Your Honor, that one sets forth
22 multiple counts of how to be convicted and charged
23 with meth -- trafficking methamphetamine.

24 And as I had raised earlier, that issue came up
25 by the Fourth Circuit Court of Appeals in the *United*

1 *States v. Furlow*, who found that that statute --
2 well, the -- the -- the part of that Statute
3 44-53-375(b) is divisible as such would mean that
4 that is multiple -- those are multiple counts of
5 elements in which you could be convicted of -- of
6 trafficking in methamphetamine -- in
7 methamphetamine.

8 And, in fact, the Fourth Circuit stated and
9 found in a footnote of that decision that the
10 Defendant Furlow in that case argued that our
11 recognition -- recognition of Section 44-53-375(b).
12 Now I know this is (c), but the statutory language
13 is pretty much the same. It's divisible and
14 renders -- and they based this decision on multiple
15 South Carolina court cases in their opinion --
16 renders finding that the Court found that the
17 statute is divisible renders duplicitous countless
18 State Court drug case indictments.

19 And they cite to *United States v. Burns*, which
20 states explaining that an indictment is duplicitous
21 when it is jointly -- when it joins a single count,
22 two or more distinct and separate offenses. And
23 that's what we've got here. We have got separate
24 and distinct offenses -- sell, manufacture, deliver,
25 purchase, bring into the state, financial

1 assistance, otherwise aid, abet, attempt, or
2 conspire to sell, manufacture, deliver, purchase, or
3 bring into this state.

4 So those are separate and distinct offenses by
5 which one could be convicted of trafficking
6 methamphetamine, which we believe renders this
7 indictment duplicitous and is defective. And,
8 certainly, Your Honor, I think sending that to the
9 jury is certainly conduct be a problem.

10 And, certainly, in -- in that the defendant
11 could suffer prejudice by avoiding policy
12 considerations and looking at a duplicitous
13 indictment and could avoid uncertainty of whether a
14 general verdict of guilty considered a finding of
15 guilty as to one crime and a finding of not guilty
16 as to another, avoiding the risk that jurors may not
17 have been unanimous as to any one of these crimes
18 charged, assuring that the defendant receives
19 adequate notice providing the basis for appropriate
20 sentencing and protecting against double jeopardy of
21 subsequent prosecutions.

22 I think it's clear that it is a duplicitous
23 indictment. It's got multiple ways, much of which
24 are not related to the conduct that's been alleged
25 here and today and the trial of this case, that

1 renders this indictment duplicitous, Your Honor.
2 And as such, we'd ask that the Court grant a direct
3 verdict on that motion on that basis.

4 THE COURT: Okay. State want to put a
5 response?

6 MR. BROWN: Yes, sir. Judge, I don't have that
7 particular Fourth Circuit case in front of me. I
8 know we argued that last month when this case was
9 being called to trial.

10 And if my memory serves correctly, that case
11 out of the Fourth Circuit did not deem our state
12 statute unconstitutional in any means. It was more
13 of an enhancement for Federal guidelines --
14 sentencing guidelines if anything. So I really
15 don't think that Fourth Circuit case applies to this
16 in any form or fashion.

17 And with all the different ways that Mr. McGill
18 can be found guilty of trafficking, I think it's
19 been laid out in testimony today that he pretty much
20 hits on every one of these in this trafficking
21 statute, and it would be appropriate. The statute
22 speaks for itself, that it's been sent to a jury
23 before. It's been ruled on by the South Carolina
24 Supreme Court and has not been found
25 unconstitutional.

1 Therefore, we do find that it is appropriate to
2 send the statute as written and the indictment to
3 the jury and also be charged on that to the jury as
4 in your instructions. So that would be the State's
5 position.

6 And, again, on that Fourth Circuit case, I
7 don't think it has any relevancy to this case at all
8 with regard to whether or not this statute is
9 constitutional or not.

10 MR. EPPS: And, Your Honor, if I may reply just
11 briefly?

12 That Fourth Circuit case also stated that even
13 if correct, Furlow identified a potential issue best
14 raised with and resolved by State prosecutors in
15 South Carolina courts, so that issue I believe it
16 needs to be addressed in this court.

17 I do have our Supreme Court case of *State v.*
18 *Samuels*. That is 403 S.C. 551. I could pass that
19 up dealing with duplicitous indictments.

20 THE COURT: Sure. (Reading.)

21 Let me throw this out, and I'm not suggesting
22 that I'm changing my previous ruling as to the
23 defense motion, but let's assume for the sake of
24 argument that there is a problem with the
25 indictment. If the jury gets a -- is requested by

1 way of a special verdict to designate which act in
2 the trafficking statute they unanimously believe
3 that Mr. McGill committed, would that cure --
4 assuming that there is a problem, would that not
5 cure them to say, okay, we find this act or acts he
6 committed under the -- under the trafficking
7 statute? I'm just throwing that out just for
8 discussion purposes. I'm not saying that I
9 necessarily would -- would do that.

10 MR. BROWN: Judge, I -- I would kind of liken
11 that to CSC, first indictment, where it has
12 different type sexual batteries that say we don't --
13 the case law does not require us to have the jury
14 find what specific battery occurred, and that could
15 be any type of oral sex, anal, sexual intercourse,
16 or any intrusion however slight. And I would
17 consider this to be the same thing.

18 I think you're adding a little bit more than
19 the law requires. So I would -- I would -- I would
20 kind of compare this to a CSC first. So if that's
21 not put on the sentencing sheet -- put on the
22 verdict forms, and so I don't think it would be
23 necessary to put a specific finding on this.

24 I think once they make their verdict, that they
25 have all -- and they're all polled. I know that's

1 usual at the end that they find that the verdict is
2 unanimous, that they have found in accordance with
3 the statute and to the jury charge, that they have
4 found him guilty of that trafficking. So I don't
5 think that would be required, and I don't think
6 there's anything wrong with the indictment that
7 would require that. So I think we'd be treading in
8 new territory and something that's not an issue
9 before shouldn't be an issue now.

10 THE COURT: All right.

11 MR. EPPS: That's what I'm saying because it
12 has been an issue. I mean, it has been. I don't
13 know about the CSC statute, but this is not what
14 this case is, but it has become an issue and it's
15 become an issue by the Fourth Circuit and public
16 opinion that utilize State Court cases to come to
17 the decision that, hey, 44-53-375 is devisable and
18 sets forth separate elements for trafficking, for
19 distribution, and the like.

20 And, again, it states the indictment is
21 duplicitous when it joins in a single count towards
22 distinct and separate offenses, and we've got
23 multiple offenses. I think at the very least, Your
24 Honor, I mean, that the indictment is defective and
25 I think, you know, if based on *State v. Samuel*,

1 which the Supreme Court -- our Supreme Court adopted
2 that version and they talk about prejudice and we
3 have to -- I mean, I think, you know, that remedy --
4 the whole thing, I don't know, but at the very least
5 would need to be a specific special verdict form.

6 THE COURT: Well, it's interesting that Justice
7 Herron in the Samuel's case started the opinion off
8 by quoting Black's Law Dictionary by saying
9 duplicity. I mean, he's charging of the same
10 offense in more than one count of an indictment and
11 that's not the case here. We have -- we have one
12 count. We're not charging the same offense in more
13 than one count.

14 MR. BROWN: And again, Judge, going back to
15 that Fourth Circuit case.

16 THE COURT: Yeah.

17 MR. BROWN: Again, I don't have it in front of
18 me, but what I remember is the Federal guidelines
19 are specifically broken down on what kind of charge
20 can enhance the Federal charge. And that's when
21 they would go back and try to look at a State
22 conviction to determine if that actually falls
23 within one of their Federal guidelines to enhance
24 it.

25 So -- and at any time, my remembering of that

1 case, did they say anything was unconstitutional.
2 It was just trying to fit in their parameters or
3 their framework on sentencing guidelines, which I
4 think would kind of -- jumping to a different
5 conclusion based on what that Fourth Circuit case
6 actually means to try to apply to say this case is
7 duplicitous or however you want to say it ---

8 THE COURT: Right.

9 MR. BROWN --- with regard to our
10 constitutionality of our statute, which to my
11 knowledge, and I could be wrong, to my knowledge, I
12 have not seen a case from the South Carolina Supreme
13 Court or any other higher court that says that this
14 statute is unconstitutional and the legislature is
15 not taking it up to rewrite this.

16 THE COURT: Okay.

17 MR. BROWN: So as far as I'm concerned, the
18 statute is constitutional. It is appropriate to go
19 to the jury as is, as well as the charge that we
20 previously accomplished.

21 THE COURT: Well, I'll -- I don't -- I don't
22 anticipate me changing my ruling. But since I'm
23 going to spend some time over lunch concerning the
24 defense request for a charge on entrapment ---

25 MR. EPPS: Yes, sir.

1 THE COURT: --- I'll take a look at this as
2 well, and then I'll give it a definitive ruling when
3 we return after -- after lunch.

4 MR. EPPS: Yes, sir.

5 THE COURT: Okay. All right. Let me get to my
6 script as far as advising Mr. McGill and his rights
7 to testify or not testify. If you've not had a
8 chance to explain that to him, Mr. Epps, if you
9 would do that now while I'm pulling up the script.

10 MR. EPPS: Yes, sir.

11 THE COURT: All right. Madam Clerk, would you
12 swear Mr. McGill in? If you'd please stand, sir.

13 THE DEFENDANT: (Complying.)

14 THE CLERK: Raise your right hand.

15 THE DEFENDANT: (Complying.)

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

19 THE DEFENDANT: I do.

20 THE COURT: Okay. Mr. McGill, at this time I'm
21 going to explain to you certain of your rights. If
22 you do not understand anything I say, please let me
23 know that. If you want me to explain anything in
24 more detail, please let me know that as well. Do
25 you understand, sir?

1 THE DEFENDANT: I understand.

2 THE COURT: We've now reached the stage of the
3 trial where you may present your defense. You have
4 the right to claim the protections given to you by
5 the Fifth Amendment to the Constitution of the
6 United States. And this amendment states in part:

7 No person shall be compelled in any criminal
8 case to be a witness against himself. This means
9 that you could not be required to testify in this
10 case. You have the right to testify in your own
11 behalf; however, no one can make you testify. This
12 is a personal right. No one can waive this right
13 except you, sir.

14 If you decide to testify, you'll be subject to
15 the same rules that govern other witnesses and you
16 may be examined and cross-examined on any relevant
17 issue in this case.

18 In addition, if you have any convictions
19 involving dishonesty or false statement or for
20 crimes punishable by imprisonment for more than one
21 year and this Court determines that probative value
22 of admitting this evidence outweighs its prejudicial
23 effect to you, the Solicitor would be able to
24 introduce your record to attack your credibility.

25 If you decide to testify, this decision on your

1 part must be freely, voluntarily, and intelligently
2 made with knowledge of the protections given to you
3 by the Fifth Amendment and the consequences of your
4 decision to testify.

5 If you decide not to testify, this decision
6 also must be made by you freely and voluntarily and
7 intelligently made. And if you decide not testify,
8 I will specifically instruct the jurors that they
9 could not give the fact that you did not testify any
10 consideration whatsoever, and that there's to be
11 absolutely no prejudice to you because you did not
12 testify.

13 It's left entirely up to you whether or not you
14 testify. You certainly have the right -- and I'm
15 sure you already have -- have the right to talk with
16 Mr. Epps and anyone else, but the final decision is
17 left entirely up to you. Have you understood what
18 I've explained to you, sir?

19 THE DEFENDANT: I do.

20 THE COURT: And do you have any questions of
21 what I've explained to you?

22 THE DEFENDANT: No, I don't.

23 THE COURT: Now, are you prepared to tell me
24 now whether or not you will testify in this case?

25 THE DEFENDANT: I am.

1 THE COURT: Okay. And what is your decision?

2 THE DEFENDANT: I do -- I do not want to
3 testify.

4 THE COURT: Okay. You will not testify?

5 THE DEFENDANT: No.

6 THE COURT: Is that decision made by you
7 freely, voluntarily, and intelligently?

8 THE DEFENDANT: Yes.

9 THE COURT: Okay. All right. Thank you, sir.
10 You can sit down.

11 THE DEFENDANT: (Complying.)

12 THE COURT: Okay. Here's what we're going to
13 do. I'm going to bring the jury out, cut them loose
14 for lunch, and we'll take a little longer lunch
15 break because we've got a little work to do, so I'm
16 going to have them back at two o'clock.

17 When I bring them back in, I'll need the State
18 to rest before the jury and also the defense to rest
19 before the jury. Okay?

20 MR. EPPS: Yes, sir.

21 MR. BLACK: Yes, sir.

22 THE COURT: Okay. All right. Let's bring the
23 jury out.

24 THE BAILIFF: (Complying.)

25 (At 12:17 p.m., jury entered the courtroom.)

1 THE COURT: Let the record reflect the jury is
2 back in.

3 Ladies and gentlemen, we're going to go ahead
4 and take our lunch break. I'm going to take a
5 little longer lunch break than normal. I want you
6 back by two o'clock.

7 And before I let you leave, Solicitor, any
8 further evidence from the State?

9 MR. BLACK: No, sir, Your Honor. At this time
10 the State rests.

11 THE COURT: Okay. Defense?

12 MR. EPPS: No, sir, Your Honor. At this time
13 the State rests.

14 THE COURT: The defense rests?

15 MR. EPPS: Defense rests. I'm sorry.

16 THE COURT: All right. The evidentiary record
17 in this case is now closed. So what we have left to
18 do, ladies and gentlemen, once you come back from
19 lunch is that we have -- the lawyers will make their
20 closing arguments to you and then I will instruct
21 you on the law in the case, and then we'll instruct
22 you when to begin your deliberations. Okay?

23 Again, I remind you, no discussion with anybody
24 about this case and we'll see you back at two
25 o'clock. Have a good lunch.

1 (At 12:19 p.m., jury left the courtroom for
2 lunch recess.)

3 THE COURT: Okay. One more thing for the
4 record. I had an in chambers informal charge
5 conference, and the State is -- is fine with the
6 proposed charge, correct?

7 MR. BLACK: Yes, sir, we are.

8 THE COURT: Okay. And the defense is fine with
9 the charge with the exception of the defense wants a
10 charge on entrapment, which I'm going to look at
11 over lunch, correct, Mr. Epps?

12 MR. EPPS: Yes, sir, Your Honor. As well as my
13 objection to the actual charge regarding the
14 trafficking methamphetamine statute.

15 THE COURT: Okay. All right. Now, you object
16 to me charging the entire statute. Is that what
17 you're telling me?

18 MR. EPPS: The way it is -- pursuant to my
19 motion for directed verdict on the duplicitous
20 indictment ---

21 THE COURT: Right.

22 MR. EPPS: --- my only objection would be to the
23 actual -- to the charge itself because the charge
24 tracks the indictment ---

25 THE COURT: Right.

1 MR. EPPS: --- as well as with the general
2 verdict form, so that -- that's my objection, Your
3 Honor.

4 THE COURT: Okay. All right. So if I deny,
5 once again, your motion concerning the indictment,
6 do you still have an objection to the Court charging
7 the entire trafficking statute?

8 MR. EPPS: Subject to my objection, but
9 that's -- I mean.

10 THE COURT: All right. I just want to make
11 sure we're clear.

12 MR. EPPS: Yes, sir.

13 THE COURT: That you object to charging the
14 entire trafficking statute as it relates to your
15 motion concerning the indictment? Is that ---

16 MR. EPPS: Yes. Yes, sir.

17 THE COURT: All right. Very good. Thank you.

18 MR. BROWN: Judge, one thing. I might've
19 misheard it or didn't hear it. I didn't -- don't
20 know if you ruled on the directed verdict motion
21 from Mr. Epps.

22 THE COURT: I'm going to do that when we come
23 back because it -- his motion for directed verdict
24 is intertwined with his motion ---

25 MR. BROWN: Yes, sir.

1 THE COURT: --- concerning the indictment, so
2 I'll just rule ---

3 MR. BROWN: --- yes, sir.

4 THE COURT: --- everything.

5 MR. BROWN: And I've read a little bit more on
6 Samuels and I just wanted to -- if I can before we
7 break.

8 THE COURT: Sure. Yeah.

9 MR. BROWN: My understanding reading just a
10 quick overview of Samuels is that, in Richland
11 County there were two people or two assaults and one
12 indictment.

13 THE COURT: Right.

14 MR. BROWN: And so when the verdict -- special
15 verdict form went back, they had to find that in
16 that one indictment that there were two assaults
17 done on that. One person was acquitted and then he
18 was found guilty on one assault. So I think that's
19 what the -- what our State Courts adopted from the
20 Federal guidelines or from Federal court with
21 duplicity on the indictment.

22 And here, I would say, is quite different.
23 We've made one charge. One allegation of the charge
24 and that's a trafficking statute. There are a
25 number of different avenues to reach a trafficking

1 statute. And what has been testified in court
2 during this trial, a lot of it actually fills up and
3 hits all the different ways, the avenues you can
4 reach a trafficking through the testimony.

5 So one thing in Samuels it does say is, the
6 sufficiency or the contents of the indictment, it is
7 sufficient. So the sufficiency of an indictment is
8 determined whether, one, the offense is stated with
9 sufficient certainty in particular areas to enable
10 the Court to know what judgment to pronounce, and
11 the defendant to know what he is called upon to
12 answer and whether he may plead on -- plead a
13 acquittal or conviction thereon. And, two, whether
14 it apprises the defendant of the elements of the
15 offense that is intended to be charged.

16 And I think the indictment has laid out, it
17 sufficiently tracks the language of the statute, and
18 also lays out the elements for which he has to
19 answer or not -- he doesn't have to answer -- what
20 the State has to prove.

21 THE COURT: Right.

22 MR. BROWN: And to whittle away at that would
23 whittle away the statute, but I think we've proven
24 that and it would be sufficient for the jury to hear
25 that.

1 THE COURT: Okay.

2 MR. BROWN: So that would be our argument with
3 the way Samuels -- the way I would read that and how
4 it relates to duplicity with charges and the
5 language in the indictment.

6 MR. EPPS: And, Your Honor, I would just
7 briefly say that Samuels, the notice requirement of
8 an indictment is different than issue of duplicity.
9 So that's what they quoted in Samuels and that's the
10 meaning of it, and they go into, again, the
11 duplicity in these indictments is duplicitous when
12 joined in a single count. That's what we have here,
13 two more distinct and separate offenses, which we
14 have I believe that sell and manufacture and
15 deliver. That's all separate and distinct offenses
16 for this -- for this statute.

17 THE COURT: Okay. All right. Very good.
18 Thank you. Y'all have a good lunch.

19 MR. EPPS: Yes, sir.

20 (From 12:24 to 2:00 p.m., court personnel took
21 lunch recess.)

22 THE COURT: All right. We are -- we're back on
23 the record. Anything further that needs to be put
24 on the record from the State?

25 MR. BROWN: Judge, just -- just the final

1 ruling on the entrapment charge and ---

2 THE COURT: Right. I'm -- I'm going to make a
3 ruling here in just a minute.

4 MR. BROWN: Other than that, nothing from the
5 State.

6 THE COURT: Okay. From the defense, anything
7 in addition?

8 MR. EPPS: Not at this time.

9 THE COURT: Okay. All right. I've got,
10 actually, I guess three issues raised by the
11 defense. Defense motion for a directed verdict.
12 I'm denying that. Viewing the evidence in the light
13 most favorable to the State, I find that there does
14 exist sufficient evidence to send the case to the
15 jury.

16 As to the defense' charge on entrapment, while
17 it's -- and I think I alluded to this when we were
18 just talking informally off the record a little
19 while ago, very -- pretty close issue, but I'm going
20 to deny charging the entrapment. And I'm going to
21 distinguish our case with the case of *State v.*
22 *Brown*, which the defense provided a copy of. I
23 think there's five distinguishing factors that
24 appear in -- in *Brown* and not in our case. One in
25 *Brown*, there was no evidence of any prior drug

1 dealing by the defendant. And in this case, there
2 is evidence. And, again, it's up to the jury
3 whether or not to believe Mr. Ferguson or not, but
4 there is evidence in this case not in Brown.

5 Secondly, SLED in the Brown case paid the
6 confidential informant to deal specifically with the
7 defendant. In our case, they just asked
8 Mr. Ferguson if he had anybody that he could call,
9 and they didn't specify Mr. McGill. That was
10 totally left up to Mr. Ferguson.

11 Thirdly, the Court in Brown noted that the
12 defendant Brown did not have any drugs with him and
13 he had to go get the drugs, an hour and a half to
14 have the drugs concerning the -- the buy. That's --
15 there's no evidence that -- that the defendant in
16 this case did not have any drugs with him.

17 Next, number four, in Brown, they indicated
18 that he had no significant cash on him. I think
19 it's like \$200, where in this case we have over
20 \$13,000 that was found in -- in the defendant's
21 vehicle.

22 And, lastly, the Court noted in Brown that
23 there was no evidence of any prior drug transactions
24 between the CI and the defendant. And in this case,
25 again, if you believe Mr. Ferguson, that there were

1 multiple transactions between the two.

2 So I do find predisposition in our case. I do
3 not find any trickery, fraud, or persuasion in our
4 case. And I find no inducement by law enforcement.
5 And, therefore, I respectfully deny the entrapment
6 requested charge.

7 And, lastly, to kind of rehash the argument
8 made to quash the indictment because of duplicity in
9 the State -- the case of *State v. Samuels*, that
10 dwelt with one count of the old charge of ABWIK,
11 a-b-w-i-k, with two victims in one count in the
12 indictment. And it appears that for an indictment
13 to be duplicitous, there has to be two distinct and
14 separate offenses in the same count or in the same
15 indictment.

16 In our case, we have just one offense and it
17 just sets out the various ways that you can
18 accomplish the one offense. Samuel had two separate
19 offenses.

20 And I also renew my findings that appear in my
21 previous order from last term -- the last -- the
22 order that I issued when I was here in September
23 which dealt with the defense motion to quash, I
24 renew all those findings that appear in the order.

25 Okay. Anything further before we bring the

1 jury out from the State?

2 MR. BLACK: Not from the state, Your Honor.

3 THE COURT: And from the defense?

4 MR. EPPS: And, Your Honor, I just want to make
5 sure that I'm just protected for the record. My
6 requested charge for the entrapment has been made a
7 Court's exhibit?

8 THE COURT: It has. The actual charge itself
9 that you presented to the Court, three pages ---

10 MR. EPPS: Yes, sir.

11 THE COURT: --- it is a Court's exhibit. It
12 sure is..

13 MR. EPPS: And, basically, Your Honor, we're
14 ask -- we would ask -- ask that -- make sure I'm
15 protected for the record, but just -- just to note
16 that certainly regarding sending -- and the Court
17 said it was a close case -- in sending that charge
18 to the jury, we believe that there was, even through
19 cross-examination and the Solicitor's case-in-chief,
20 that at least a little more -- a little more than a
21 scintilla of evidence was presented regarding
22 inducement regarding this organized drug buy-bust at
23 Angela Williams' house, that was set up, operated,
24 and organized -- organized at Angela Williams'
25 house, operated as a base of operations, and

1 directed -- the phone calls were directed from that
2 residence.

3 Obviously, again, Mr. McGill didn't know Angela
4 Williams, never been to Angela Williams' house,
5 would not have gone -- come to Abbeville to Angela
6 Williams' house but for that phone call at the -- we
7 believe at the behest of law enforcement.

8 So I believe that that's a -- it typically is a
9 question of fact for the jury. So, respectfully, I
10 just want to put that on the record, Your Honor.

11 THE COURT: Right. And I don't want there to
12 be misunderstanding when I say a close case.

13 MR. EPPS: Yes, sir.

14 THE COURT: I meant a close case insofar as the
15 very fine arguments that both sides have been made
16 on this issue. That's not an indication that a
17 close case meaning that there was more than a
18 scintilla of evidence presented. I don't believe
19 that there was, and so I want to make sure that my
20 use as far as close case was referring to the fine
21 arguments presented by both sides by all three
22 attorneys.

23 MR. EPPS: Yes, sir.

24 THE COURT: Okay. Thank you very much.

25 All right. Since the defense put up no case

1 and following the *State v. Beaty*, the State will
2 close in full, the defense will then close in full,
3 and there will be no reply or rebuttal of closing
4 argument allowed from the State.

5 MR. BLACK: Yes, sir. That's my understanding
6 as well.

7 MR. EPPS: Yes, sir.

8 THE COURT: All right. Thank you very much.
9 Let's bring the -- bring the jury out.

10 And, Mr. Epps, just for your information, I
11 don't put time limits on closing arguments.

12 MR. EPPS: Yes, sir. Thank you, Your Honor.

13 THE COURT: Saying that, I always like to
14 believe that lawyers use some discretion in the
15 length of time that they spend in closing arguments.

16 MR. EPPS: Yes, sir.

17 (At 2:09 p.m., jury entered the courtroom.)

18 THE COURT: Let the record reflect the jury is
19 back in.

20 Madam forelady and ladies and gentlemen of the
21 jury, as I indicated before we broke for lunch, what
22 is left in this case, a very important part of the
23 case are closing arguments. This is the last time
24 that each side gets to advocate on their -- for
25 their respective sides, so I want you to give these