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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Anderson County

Honorable R. Lawton McIntosh, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMEY CHRISTOPHER GILLIAM,

APPELLANT

APPELLATE CASE NO. 2020-000877

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

**STATE’S EXHIBIT NOS. 13 AND 14
(COLOR PHOTOGRAPHS OF BROKEN GLASS PIPE)**

STATE OF SOUTH CAROLINA	)	IN THE GENERAL SESSIONS COURT
	)	
COUNTY OF ANDERSON	)	TENTH JUDICIAL CIRCUIT
State of South Carolina,	)	Case No. 2018-GS-04-02863
	)	
Plaintiff,	)	2018-GS-04-02864
	)	
vs.	)	
	)	TRIAL BEFORE
Jamey Christopher Gilliam,	)	
	)	THE HONORABLE R. SCOTT SPROUSE
Defendant.	)	(DAY ONE)

Date of Trial:	February 24, 2020
Presiding Judge:	The Honorable R. Scott Sprouse
Attorney for State:	Lauren Price, Assistant Solicitor
Attorneys for Defendant:	A. Hadden Lucas
	Tori Gurney
Court Reporter:	Vickie J. Stewart, CVR

A trial was held in the above-referenced matter in the General Sessions Court, Tenth Judicial Circuit, 100 South Main Street, Anderson, South Carolina, commencing at 9:37 a.m.

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1 (Court's Exhibit 5 marked by court reporter and entered into
2 evidence by the Court)

3 (Off the record)

4 (Jury reenters the courtroom at this time)

5 By the Court:

6 Okay. Let's go on the record. We are back on the
7 record in the case of the State versus Jamey Christopher
8 Gilliam. Mr. Lucas, I believe you have a motion.

9 By Mr. Lucas:

10 Yes, Your Honor. We move for a Jackson vs. Denno
11 Hearing, and specifically we're asking to suppress the
12 drugs that were found inside of a small metal pill
13 container as being the product of an illegal,
14 warrantless search that both lacked probable cause and
15 does not meet any exception to the Fourth Amendment's
16 warrant requirement. We're also moving to suppress all
17 derivative evidence that resulted from that. And
18 lastly, Your Honor, the Jackson v. Denno is also based
19 upon our contention that law enforcement did not have
20 reasonable suspicion for the stop of Mr. Gilliam.

21 And Your Honor, we would bring to the Court's
22 attention that, under the State versus Bultron, 457
23 S.E.2d 616 (1995), that the State has the burden of
24 probable cause -- or of establishing probable cause and
25 the existence of circumstances that satisfy the -- or --

1 I'm sorry -- that constitute an exception to the warrant
2 requirement. So we would ask that they call such
3 witnesses that are necessary to meet their burden in
4 this regard.

5 By the Court:

6 Thank you, Mr. Lucas. Ms. Price?

7 By Ms. Price:

8 Your Honor, just a point of clarification. I want to
9 make sure we're doing a suppression motion, and then
10 Jackson v. Denno goes to the voluntariness of any
11 statements, so that would be a separate hearing. Is
12 that the Court's understanding? Is that your intent?

13 By the Court:

14 Are you seeking to -- Mr. Lucas, what I read surrounding
15 the suppression hearing -- is there a statement by the
16 Defendant that the State is seeking to put in?

17 By Mr. Lucas:

18 There is ---

19 By Ms. Price:

20 Yes.

21 By Mr. Lucas:

22 --- I think, Your Honor. But it's always been my
23 understanding that a suppression hearing is usually
24 referred to as a Jackson v Denno. But what we are
25 seeking is a suppression hearing, and we can certainly

1 follow that with a Jackson v Denno.

2 I think that, as to the statement itself, we
3 contend that the statement is a fruit, so it's also
4 covered by the suppression hearing.

5 By the Court:

6 All right. Well, let's start -- Ms. Price, you proffer
7 the evidence on the suppression hearing ---

8 By Ms. Price:

9 Yes, sir.

10 By the Court:

11 --- and then we'll go from there.

12 By Ms. Price:

13 Your Honor, I've read Mr. Lucas' memorandum in support
14 of his motion to suppress. Pursuant to State v Vanda,
15 it has to be specific and articulated. And I think he
16 did that here; I just want to make sure. He states that
17 his issue is the warrantless search of the metal pill
18 bottle justified by any exception to the Fourth
19 Amendment's Warrant Requirement. And I would like to
20 make sure that that is the sole issue that we're dealing
21 with, because that's the only issue in this memorandum.

22 By the Court:

23 And I read ---

24 By Mr. Lucas:

25 It's not, Your Honor. I briefed that issue at length.

1 However, we also contend that this stop was not
2 supported by reasonable suspicion. It's perfectly
3 appropriate to make that motion correlate, which I'm
4 doing here today. And we think that there are
5 sufficient facts to support going forward with that as
6 well. So it's a suppression ---

7 By the Court:

8 So it's the same witnesses for both?

9 By Mr. Lucas:

10 That's correct, Your Honor.

11 By the Court:

12 Okay. All right. Call your witnesses.

13 By Ms. Price:

14 Yes, sir, Your Honor. I just wanted to make sure I was
15 addressing both things with the testimony of this
16 officer. Your Honor, the State calls Jonathan Velez to
17 the stand.

18 By the Court:

19 And, Ms. Price, are all our other witnesses sequestered?

20 By Ms. Price:

21 They are, Your Honor. I have instructed the two
22 witnesses who are dealing specifically with the
23 laboratory analysis that they will probably not be
24 needed before tomorrow morning, but they are on standby
25 notice. The other two officers that the State intends

1 to call as witnesses are in the arbitration room,
2 prepared to testify at the Court's request.

3 JONATHAN VELEZ is sworn in by the Court at this time.

4 By the Clerk of Court:

5 Take the witness stand and state your name and spell
6 your last name for the reporter, please.

7 By the Witness:

8 Good afternoon. My name is Jonathan Michael Velez.

9 It's V-e-l-e-z.

10 The witness, being duly sworn, testified as follows:

11 Direct Examination by Ms. Price:

12 Q. And Detective Velez, who do you work for and in what
13 capacity?

14 A. I work for Anderson County Sheriff's Office. I work in
15 the Narcotics Investigations Unit.

16 Q. Okay. And what sort of duties or responsibilities are
17 associated with your current position?

18 A. With my current position, I conduct long-term drug
19 investigations, complaints, things of that nature.

20 Q. And how long have you been in law enforcement?

21 A. Approximately 13 years by the end of -- by this fall.

22 Q. What was your position on May 1st of 2018 with the
23 Anderson County Sheriff's Office?

24 A. I worked in a street narcotics unit.

25 Q. And up and until May 1st, 2018, what was your experience

1 in the area of narcotics?

2 A. I had been working in a specialized unit pertaining to
3 street narcotics and crime suppression for approximately
4 three or four years.

5 Q. Do you recall the encounter with this Defendant that's
6 led you to be in Court today?

7 A. Yes, ma'am.

8 Q. Do you recall what time of day this encounter took
9 place?

10 A. It was approximately 6:20 p.m. on May 1st of 2018.

11 Q. Okay. And where did this encounter take place?

12 A. It occurred at an abandoned property that belonged to
13 Ingle's Corporation. It was at the intersection of
14 Pearman Dairy Road and Michelin Boulevard, Anderson.

15 Q. Can you describe that property for me?

16 A. At the time when the incident occurred, the building was
17 in ruins. It had just been destroyed by Ingle's
18 Corporation due to issues of people stealing metal and
19 loitering, and people -- homeless people living on the
20 property. They were having issues with that. So I
21 think, due to legal issues that they were concerned
22 about, they destroyed the property.

23 Q. Was this public property at that time?

24 A. No, ma'am.

25 Q. It was still private property belonging to Ingle's?

1 A. Yes, ma'am.

2 Q. Okay. And describe for me the first moment that you
3 observed this Defendant.

4 A. Initially, while I was -- I was actually driving to our
5 office; I was just completing some other tasks, work-
6 related, and I was actually on the way to the office to
7 complete my day. As I was turning onto Michelin
8 Boulevard, I observed to my left a vehicle awkwardly
9 placed where the ruins of the building used to once be.
10 That location is barricaded. There's wires or signs
11 stating that nobody could trespass on the said lots. I
12 found it to be a little odd. It drew my attention.

13 Q. Is there any vegetation?

14 A. At that point in time, yes. There was overgrowth of
15 plants and trees throughout that whole general area.
16 Now if you were to drive by there, it's been clear-cut.
17 So -- but at that time, there was a lot of vegetation.

18 Q. So you observed the Defendant's vehicle?

19 A. I could, yes.

20 Q. What vehicle was it?

21 A. It was a ---

22 Q. What type? Sorry.

23 A. It was a light SUV, gold in color, at that time when I
24 observed it parked out there in that general area.

25 Q. Okay. And was it out by the curb? Was it back in an

1 area where some of this vegetation was?

2 A. It was in a vegetated area, you know. There was --
3 there was an actual driveway or roadway there at one
4 given point in time, but that had overgrown and it was
5 way off the road.

6 Q. It was way off the road?

7 A. Yes, ma'am.

8 Q. So not in a normal area where you would expect a vehicle
9 to be?

10 A. No, ma'am. There's a lot of people that sometimes park
11 there in that general property, in the front half,
12 closer to the high school when parents come to pick up
13 their children. In most cases, the SO has to run them
14 off the premises.

15 Q. Okay. But not in this area?

16 A. No, ma'am. This is farther back on the property.

17 Q. Okay. And did that draw your attention?

18 A. Yes, ma'am.

19 Q. Okay. And in what county is this located ---

20 A. This all occurred ---

21 Q. --- just to get that out of the way?

22 A. --- in Anderson County.

23 Q. Okay. And you said you were driving back to the office
24 when you encountered this vehicle?

25 A. Yes, ma'am, I observed the vehicle as I was turning onto

1 Michelin Boulevard and started driving towards Highway
2 24.

3 Q. Okay.

4 A. I actually turned around on Michelin Boulevard to go
5 back towards the property.

6 Q. To see what was happening?

7 A. Yes, ma'am.

8 Q. And tell me about your approach.

9 A. I just pulled -- I found -- I had to find a location
10 actually to access the property, because there's a lot
11 of things blocking the roadway's entrances to that lot.
12 So once I found an area to get -- to make an access, I
13 pulled on in there directly in front of their -- the
14 vehicle that was in that area.

15 Q. Did you approach the vehicle at that time?

16 A. I did.

17 Q. Were your lights or sirens on?

18 A. No. I have a marked patrol car. And I had my Anderson
19 County-issued equipment on, badge and every other issued
20 equipment that I had on at the time, when I made
21 contact.

22 Q. What did you observe as you approached the vehicle?

23 A. I actually heard like loud -- it sounded initially to me
24 like they were arguing while I was walking up towards
25 the vehicle. I really wasn't too sure if they were just

1 talking loud or if they were yelling. But I went ahead
2 and made contact with the passenger side, because that's
3 where I saw the male half being.

4 Q. And --

5 By Ms. Gurdy:

6 I'm sorry. Just to interrupt, Detective Velez, can you
7 speak up? We can't hear you.

8 By the Witness:

9 I'm sorry. My apologizes.

10 By the Court:

11 Yeah, there you go. Thank you.

12 By the Witness:

13 A. Let me see I can get closer. I'm sorry about that.

14 Direct Examination Resumed by Ms. Price:

15 Q. All right. Let's go back to what we were saying.

16 Detective Velez, tell me what you observed so that
17 everyone can hear as you approached the vehicle.

18 A. As I approached the vehicle, I could hear the two
19 individuals. It sounded like they were arguing, or I
20 believed them to be arguing at that given point in time
21 as I approached. I made contact with the passenger's
22 side due to that's where I could observe the male being
23 in that side of the vehicle.

24 Q. And you say there was a male. Was there an additional
25 person in the vehicle?

1 A. There was a female in the driver's seat of the vehicle.

2 Q. Okay. Can you describe the male to me?

3 A. It was a heavysset white male subject with salt-and-
4 pepper hair and some light, scruffy-like beard, goatee.

5 Q. Did you get out of your vehicle and approach that
6 vehicle?

7 A. I did.

8 Q. Okay. And you said you approached the passenger side?

9 A. Yes. That's where the male half was, so I felt that to
10 me, personally, that was my bigger threat in that
11 situation.

12 Q. And what did you do when you approached the -- or what
13 did you observe as you approached the passenger side of
14 the vehicle?

15 A. I just made contact and identified myself, who I was.
16 And as I was talking to the male subject, I could see an
17 open contained of beer in the center console area.

18 Q. Did anything else happen as the subject -- did the
19 subject stay in the vehicle, exit the vehicle?

20 A. They were both just looking at me, for the most part,
21 and I was just telling them who I was and why I was
22 pretty much getting out with them. And at that point in
23 time, I didn't know if they were having a domestic
24 issue, or if they were related, or what exactly was
25 going on. So therefore, I just asked the male party,

1 because I was by myself, to step out of the vehicle.

2 Q. Okay. What happened next?

3 A. At that point in time, I went ahead and just opened the
4 door as he was exiting, and I observed him to drop a
5 glass pipe, which is indicative of using
6 methamphetamines. It was a long pipe with a bowl at the
7 end of it.

8 Q. Okay. And did anything happen to that pipe when it hit
9 the ground?

10 A. It shattered -- partially shattered. The stem was still
11 intact, but the bowl area broke.

12 Q. And you said that you know that pipe to be used with
13 methamphetamine?

14 A. It's commonly used. A lot of people buy those at gas
15 stations. They usually have little flowers in it, and
16 most people punch a hole in it and they smoke their
17 illegal drugs in it.

18 Q. And your testimony that it's commonly used with drugs,
19 is that based on your experience and training as a
20 narcotics officer?

21 A. Yes, ma'am.

22 Q. And it was at the time?

23 A. Yes, ma'am.

24 Q. Okay. What happened next?

25 A. At that point in time, I advised him I was going to

1 detain him due to the circumstances of the unknown and
2 everything else, the totality of the circumstances that
3 had already been presented. But being by myself and
4 Mr. Gilliam being such a large man, I went ahead and
5 just placed handcuffs on him and advised him he was
6 being detained.

7 Q. You advised him he was being detained ---

8 A. Yes, ma'am.

9 Q. --- and you placed handcuffs on him?

10 A. Yes, ma'am.

11 Q. Okay. What occurred, if anything, while you were
12 placing handcuffs on him?

13 A. As I was placing handcuffs on him, I had initially
14 placed a handcuff on his right hand and then as I was
15 doing it to his left hand, I observed him clutching onto
16 something on his left hand, unknown what the subject --
17 the item was. I asked him multiple -- "Hey, what's that
18 in your hand? Can you tell me what's in your hand?" He
19 wouldn't answer me, so I went ahead and just secured the
20 handcuffs on both arms on Mr. Gilliam and I retrieved
21 the item from his hand.

22 Q. And what was that item?

23 A. It was a metal -- silver metal pill container.

24 Q. Okay. And what did you do next?

25 A. I opened the container.

1 Q. And what did you determine to be in the container?

2 A. The container, I assumed -- most people use those to
3 keep their personal prescription medication in it. I --
4 I opened it, and when I looked within it, there was two
5 bags in plain -- that I could see without actually, you
6 know, messing with the items inside the container.

7 Q. Okay. You saw baggies?

8 A. Two baggies, yes, initially.

9 Q. And what did you do next?

10 A. I retrieved the items. I looked at them to see what
11 exactly they were consistent of. And one looked like to
12 be like it contained cocaine, and the other one looked
13 like methamphetamines, from just official ---

14 Q. What did you do with Mr. Gilliam at that point?

15 A. I still had him detained at that point in time. And I
16 advised him that, you know, due to the items I just
17 retrieved from his hand, that he was under arrest. And
18 I asked for an additional unit to come assist me in the
19 matter.

20 Q. Okay. And did you search his person at that time?

21 A. Once he was advised that he was under arrest, I started
22 patting him down for weapons and other contraband,
23 because I was going to try to secure him in an alternate
24 vehicle.

25 Q. Okay. And did you secure him in your patrol vehicle?

1 A. I actually waited till an additional officer arrived on
2 scene. And I went ahead and patted him down pretty
3 thoroughly, and at that point in time I actually located
4 some more substance inside his front right pocket of his
5 sweatpants.

6 Q. Okay. And why were you patting him down?

7 A. Because at that point, I advised him he was under
8 arrest, and due to the circumstances, I always
9 thoroughly check people before I place them in my car.
10 Because a lot times, people will drop guns, drugs,
11 needles and things in the backseat of my patrol car.

12 Q. Weapons or contraband?

13 A. Yes, ma'am.

14 Q. Evidence of crimes?

15 A. Yes, ma'am.

16 Q. Okay. Did other officers arrive on scene?

17 A. Officer Jeremy Pickens, I believe, was the first person
18 to respond to assist me out there.

19 By Ms. Price:

20 Your Honor, that's the testimony with regard to the
21 issue that was briefed in Mr. Lucas' motion.

22 By the Court:

23 All right. Well, Mr. Lucas, do you have any cross-
24 examination questions on this issue?

25 By Mr. Lucas:

1 We've covered most of it, Judge, but I think that I have
2 a few brief questions.

3 By the Court:

4 Okay. Go ahead. You'll be questioning him on this
5 issue?

6 By Mr. Lucas:

7 I'll be happy to. And then Ms. Price can move to the
8 other issue ---

9 By the Court:

10 That's what ---

11 By Mr. Lucas:

12 --- if that suits.

13 By the Court:

14 That's what we'll do. Okay.

15 Cross-Examination by Mr. Lucas:

16 Q. Master Deputy Velez, a couple of questions for you.
17 You've covered a lot of what we're going to talk about.
18 First off, in your report, you say that after you opened
19 -- no; I'm sorry. Let me back up. In your report, you
20 say that you detained Mr. Gilliam by handcuffing him
21 after he got out of the car?

22 A. Yes, sir; I placed handcuffs on him.

23 Q. And at that point, he was detained; correct?

24 A. He was detained, yes, sir.

25 Q. And you didn't advise him that he was under arrest at

1 that time?

2 A. Not prior to retrieving the metal container from his
3 hand. He was just advised initially that he was just
4 being detained.

5 Q. And he ---

6 A. Officer safety matters.

7 Q. I'm sorry. You didn't read his Miranda rights at that
8 point?

9 A. I didn't speak to him, nor did I read him any Miranda.
10 I just advised him he was going to be detained for that
11 moment.

12 Q. And at that point, you hadn't yet placed him in the back
13 of your squad car, either?

14 A. No, sir.

15 Q. And in your report, you say that you took the pill
16 bottle from Mr. Gilliam's left hand?

17 A. Yes, sir; it was in his left hand. He had it clutched
18 in his hand.

19 Q. And you actually referred to it as a medication
20 container in your report, but it's actually a medical
21 bottle?

22 A. It's a container most people use commonly for
23 medication.

24 Q. And it's got a screw on top?

25 A. Yes, sir.

1 Q. And the pill bottle is made of silver metal, correct?

2 A. Yes, sir.

3 Q. You can't see through it?

4 A. No.

5 Q. And when you got it out of Mr. Gilliam's hand, the cap
6 was closed?

7 A. Correct.

8 Q. And you couldn't see inside of it without taking the cap
9 off?

10 A. I had to open the said container in order to look at the
11 items inside.

12 Q. And at no time did you ask for Mr. Gilliam to consent to
13 you looking inside the pill bottle?

14 A. No, sir. I thought I had enough reasonable suspicions
15 to look at the said item, because he'd just dropped a
16 meth pipe in front of me, and I figured that said
17 container was probably going to contain drugs.

18 Q. And that was the sole basis of the search, him dropping
19 the -- what you described as a glass smoking pipe in
20 front of you?

21 A. There was an element of different things. There was an
22 open container of alcohol that I deemed to be an
23 arrestable offense; there was the dropping of the meth
24 pipe in front of me; there was a pill container that he
25 wouldn't answer to with being in his hands. So to me, I

1 felt like it was reasonable enough for me to determine
2 that there was probably drugs on the person.

3 Q. You didn't mention the open container of alcohol in your
4 report, did you?

5 A. I don't have it in front of me. But there was an open
6 container of beer, and there's photographs of it.

7 By Mr. Lucas:

8 Your Honor, may I have permission to approach the
9 witness?

10 By the Court:

11 Yes, sir.

12 By Mr. Lucas:

13 And this is just the incident report.

14 By Ms. Price:

15 Sure.

16 By Mr. Lucas:

17 I just beg the Court's indulgence for just a moment,
18 Your Honor.

19 Cross-Examination Resumed by Mr. Lucas:

20 Q. Are you familiar with these documents, sir?

21 A. Yes, sir.

22 Q. And is this, in fact, your incident report that you
23 prepared on May 1st of 2018?

24 A. The written report; yes. This is a brief case summary.
25 This was conducted on a different day, within a ten-day

1 period, to turn in to the case jacket.

2 Q. Okay. But I have -- the first page of what I've handed
3 to you is the brief case summary, and then the second
4 page is the beginning of your incident report, correct?

5 A. Yes, sir. Mm-hmm (affirmative).

6 Q. And on the first page of your report, when you explained
7 the initial contact, you don't mention anything about an
8 open beer can, do you?

9 A. No, sir. But there was photographs taken of the beer
10 container.

11 Q. And then on the second page, you explain your reasoning
12 for opening the container, correct?

13 A. Yes, sir.

14 Q. And you state -- and I quote -- "Due to the Velez
15 observing Gilliam throwing the glass smoking pipe, he
16 opened the container and observed the contents to be as
17 follows"?

18 A. Mm-hmm (affirmative).

19 Q. Is that accurate?

20 A. Mm-hmm (affirmative).

21 By Mr. Lucas:

22 And I'll just let the record reflect that as a "yes."

23 By the Court:

24 Yes.

25 Witness Continues:

1 A. Yes, sir. I'm sorry.

2 By the Court:

3 Try to say "yes" or "no."

4 Witness Continues:

5 A. My apologies.

6 By Mr. Lucas:

7 And it's fine, Judge. I'm not trying to be smart. I'm
8 just creating a record.

9 Witness Continues:

10 A. No; I'm sorry. I wasn't even noticing I was doing that.
11 My apologies.

12 Q. And moving back to after you searched the pill
13 container, you found two baggies of drugs inside; is
14 that correct?

15 A. Yes, sir. And pills. There was a white pill and a
16 yellow pill.

17 Q. And you observed the pills?

18 A. They were not legible. The imprint on the pills were
19 destroyed, so that there was no point in pursuing that.

20 Q. And one of the baggies -- or the alleged drugs inside
21 one of the baggies tested positive for meth, correct?

22 A. The -- yes, one tested for meth. Yes, sir.

23 Q. And the other for cocaine base?

24 A. Correct.

25 Q. And after opening the pill container and finding drugs,

1 you then placed Mr. Gilliam under arrest?

2 A. I advised him he was under arrest, yes.

3 Q. And you did that after field-testing the substances that
4 are alleged to be drugs?

5 A. No. I didn't field test them at that point in time,
6 because I had enough common knowledge to know what the
7 said drugs were based on my visual experience.

8 Q. And isn't it true that Detective -- or Officer Purdy
9 actually had to bring a presumptive field test to the
10 scene?

11 A. That's correct.

12 Q. So at the point when you've arrested Mr. Gilliam, you've
13 had not field-tested anything inside the pipe or the two
14 baggies of drugs; would that be accurate to say?

15 A. That's correct.

16 Q. And after you arrested Mr. Gilliam, you searched his
17 person incident to arrest?

18 A. Correct.

19 Q. And you found a small amount of cocaine base in his
20 sweatpants?

21 A. In his front right pocket; yes, sir.

22 Q. And then after that, you had occasion to speak with Beth
23 Shovlin after you secured Mr. Gilliam in your squad car?

24 A. Once Officer Pickens arrived on the scene and I could
25 properly place Mr. Gilliam in my patrol car. He's a

1 very large man, so it took me a moment to get him inside
2 the patrol car. But, yes, we could speak with -- I
3 spoke with her; we both did.

4 Q. And did you Mirandize her before speaking with her?

5 A. Yes. Officer Pickens actually read her Miranda. I
6 actually asked him to do so while I was placing
7 Mr. Gilliam in the patrol car. She was also placed into
8 handcuffs by Officer Pickens; she was placed in
9 detention.

10 Q. And what did Ms. Shovlin tell you?

11 A. Initially, she was stating a lot of different things
12 that I can't recall. But at that point in time after
13 being read Miranda by Officer -- Corporal Pickens at the
14 time, she stated that she had something to tell. And so
15 I then approached her, and she stated that there was
16 more drugs in the vehicle, that as I approached -- and
17 I'm paraphrasing -- but she stated that he had placed a
18 bag behind her seat in the floorboard of the backseat,
19 behind the driver's seat. And she said she didn't know
20 exactly what the substance was, but she believed it to
21 be methamphetamines.

22 Q. And after that, you went into the car and retrieved the
23 bag from the car?

24 A. That's correct.

25 Q. And prior to that point, you had not searched the car,

1 correct?

2 A. That's correct.

3 Q. And in your report, you did not note anything regarding
4 the contents of the glass smoking pipe, correct?

5 A. It was -- it was shattered, and the area which normally
6 -- that houses the said drugs that they smoke out of was
7 dispersed throughout the floor. So I mean, I would have
8 had to have a broom to sweep it all up. It seems kind
9 of pointless for me to try to retrieve those items.

10 Q. And did you pick it up or examine it in any way before
11 detaining Mr. Gilliam?

12 A. No.

13 Q. And in fact, that pipe was not collected?

14 A. No. It's a safety hazard. Our evidence doesn't want
15 items of that nature in their lock boxes and stuff,
16 because the individuals who work in evidence are prone
17 to get stuck by glass or sharp items. We photographed
18 it prior to it being touched.

19 Q. I understand.

20 By Mr. Lucas:

21 May I beg the Court's indulgence for just a moment, Your
22 Honor?

23 By the Court:

24 Yes, sir.

25 By Mr. Lucas:

1 Okay. Thank you, Your Honor.

2 Cross-Examination Resumed by Mr. Lucas:

3 Q. Now, Officer Velez, you testified earlier that you first
4 saw Mr. Gilliam's car parked behind the demolished
5 Ingle's building?

6 A. In the ruins of it; yes, sir.

7 Q. And which -- that's quite a big lot. Which side are we
8 talking about? Was he on the Stay Inn side or was he on
9 the Michelin Boulevard side?

10 A. It was in between both locations that you just
11 mentioned.

12 Q. And in the photographs, it shows the car parked back in
13 the woods a ways, but there's also a bit of pavement
14 there?

15 A. Right. There was a driveway at one time there that --
16 I believe that trucks used whenever they made deliveries
17 at the back side of the building.

18 Q. So how far back in the woods was the car?

19 A. It's -- if I was to guess from -- how far it was from
20 Pearman Dairy Road, I would say probably 75 yards off
21 the road. That's a guesstimation.

22 Q. And it was your testimony that you saw his Jeep from the
23 road?

24 A. From Michelin Boulevard.

25 Q. From Michelin Boulevard?

1 A. Yes, sir.

2 Q. And it was parked back in the woods?

3 A. Well, I'm not sure if you know the diagram of that
4 roadway, but Pearman Dairy Road goes in this direction.
5 I was taking a right-hand turn off of Pearman Dairy
6 Road. The vehicle would have been looking directly at
7 me if I had looked over to my left shoulder as I was
8 going further down Michelin Boulevard at that time.

9 Q. So you were driving past on Pearman Dairy and taking a
10 left on Michelin?

11 A. No, sir.

12 Q. Or you were driving on Pearman Dairy and taking a right
13 on Michelin?

14 A. I was taking a right onto Michelin Boulevard off of
15 Pearman Dairy Road.

16 Q. Okay. So, then, when you take a right, the bulldozed
17 area is kind of open, right?

18 A. No, not at that set point in time. No, sir. There was
19 a lot of overgrowth on both sides of that -- of the
20 pavement that you were speaking about. There was
21 overgrowth on both ends of it, so all you can see is
22 pretty much a straight shot at that point.

23 Q. Sure. So what we have is a bulldozed location where the
24 building was, and then that runs back into the woods.
25 And you're saying that he was parked back in the woods?

1 A. He was parked on the pavement, like the photographs
2 show. I think I've explained it as much as I could to
3 you. There's a pavement there. It's kind of falling
4 apart. There's overgrowth to the right side of the
5 vehicle, and there was overgrowth and trees to the left
6 side of the vehicle.

7 Q. Okay. What I'm trying to clarify -- and I was there
8 yesterday -- you have a line there where the old part of
9 the building and parking lot location stops and the
10 woods begin, correct?

11 A. You have to take into consideration, two years ago, that
12 property isn't the exact same way that it is now. It's
13 been cleaned. I don't know if the county or Ingle's
14 hired a company to come and completely clear out that
15 whole lot. So that lot at that given point in time,
16 there was metal; there was rubble; there was a lot of
17 different things on that lot that people -- Ingle's used
18 to complain about people stealing from them or people
19 getting injured on that same property. So that's why,
20 within that two-year period, they have come and cleaned
21 that lot out.

22 Q. Sure. Sure. And so my question would be this. Where
23 there's a wood line there now, was he pulled back into
24 the woods or was he not?

25 A. He was on that pavement.

1 Q. And when you first saw the car, did you have any reason
2 to believe that he was engaged in a criminal act that
3 day?

4 A. Yeah. He was trespassing.

5 Q. Did you go -- do you know which side of the property he
6 accessed at all?

7 A. There's multiple areas you can access. You can cross
8 over the sidewalk onto the -- from the motel. You can
9 pull in to where somebody had torn the wiring to be able
10 to -- there's about eight locations you can access it.

11 Q. Sure. Sure.

12 A. Most of it's been blocked off.

13 Q. And isn't it true that the passenger, Ms. Shovlin,
14 according to the address given in your report, she was
15 living at the Stay Lodge, or the Extended Stay?

16 A. No. She actually told me she was living in the woods
17 there. She had a tent there. She advised that she was
18 living in the woods.

19 Q. But does your report not give the Extended Stay as her
20 address?

21 A. That was her last known, I believe, on her driver's
22 license, but she had advised me on the scene that she
23 was living in the woods. I didn't ---

24 Q. And ---

25 A. --- really think that was relevant.

1 Q. I'm sorry. Go ahead. I didn't mean to interrupt.

2 A. I didn't go further into it filing the report, because I
3 didn't think it was very relevant.

4 Q. Okay. So you don't know how they had gotten into the
5 property?

6 A. No.

7 Q. And did you check to see if there were no-trespassing
8 signs by the Stay Inn or the Extended Stay?

9 A. There's -- there was multiple. I'm not sure from the
10 Stay Lodge side, but it's marked off on three corners of
11 that property of no trespassing, or they used to have a
12 big sign that said "Ingle's Property" previously made
13 out of wood.

14 Q. So it's marked on some of the sides, but you don't know
15 about the Stay Inn side?

16 A. It's heavily marked. There's pillars.

17 Q. And then let's move back to your report. Do you still
18 have it with you?

19 A. Yes, sir. I've got your copy here.

20 Q. Please show me where you mention your suspicion of
21 trespassing in that.

22 A. Where I say that they parked behind the remnants of an
23 old Ingle's building that was demolished.

24 Q. You didn't say trespassing?

25 A. No, sir.

1 Q. Did you put that anywhere else in your report?

2 A. No, sir.

3 By Ms. Price:

4 Your Honor, if Mr. Lucas is going to show him his report
5 in a CAD detail, I'd like for him to mark those as
6 Defense exhibits so we have a clean record.

7 By Mr. Lucas:

8 I'll be happy to do that, Your Honor. If we want to
9 mark them as either exhibits for purposes of this
10 hearing or ---

11 By the Court:

12 If you're going to ask him about it, he's entitled to be
13 able to see it.

14 By Mr. Lucas:

15 Oh, I'm sure we'll get to ---

16 By the Court:

17 Show him as an exhibit if you're going to ---

18 By Ms. Price:

19 Do you have a clean copy?

20 By Mr. Lucas:

21 I do not. I'm going to give him ---

22 By Ms. Price:

23 Okay. Great.

24 By Mr. Lucas:

25 --- a clean copy. Your Honor, I'm just showing it to

1 opposing counsel, but I'm going to show it to him here
2 in a second.

3 By the Court:

4 Okay.

5 By Mr. Lucas:

6 I'm just consulting regarding it.

7 Cross-Examination Resumed by Mr. Lucas:

8 Q. Have you seen this document before, Officer Velez?

9 A. Briefly.

10 Q. And can you tell the Court what it is, please?

11 A. It's a CAD report from dispatch.

12 Q. And the CAD report reflects your communications with the
13 dispatcher, does it not?

14 A. Yes, sir; her interpretation of the communications.
15 Yes, sir. Yes.

16 Q. And it shows -- if you'll go down to on-scene date and
17 time, it shows that as 18:21:11, correct?

18 A. That's the time that the dispatcher placed it on here.
19 Yes.

20 Q. And there's a little bit further down a remark from an
21 officer notated as N41; is that correct?

22 A. That would be my unit number. Yes.

23 Q. Okay. And the remark is 1DET, correct?

24 A. That was detained. Yes.

25 Q. So 1 detained?

1 A. Mm-hmm (affirmative).

2 Q. And that remark is -- occurred at 18:21:53?

3 A. Fifty-two. Yes.

4 Q. 18:21:52; is that correct?

5 A. Yes, sir.

6 Q. So this is indicating that you detained Mr. Gilliam
7 within 40 seconds of arriving?

8 A. On this documentation, it does state that, but I can
9 explain, if I ---

10 Q. Please ---

11 A. --- could.

12 Q. Please do. I'm happy to allow it.

13 A. While I approach the vehicle -- most officers don't
14 necessarily call out directly on the scene until they're
15 making either an approach or as they pull up. So most
16 of the times, there's a discrepancy on times. Because
17 sometimes you can key up on the radio and it be a one-
18 minute difference, two-minute difference. Sometimes it
19 take a dispatcher a few minutes to enter a call into the
20 CAD system. So this is, like I stated, their
21 interpretation of the call when it's coming out. More
22 than likely, I believe I was -- when I was walking up
23 towards the vehicle, I was already -- I was keying up on
24 my handheld mike, saying I was getting out with these
25 individuals.

1 Q. Okay. Thank you.

2 A. Yes, sir. Would you like these copies?

3 Q. Yes.

4 By Mr. Lucas:

5 And Your Honor, if there's no objection, I'll have these
6 marked as Court's exhibits.

7 By Ms. Price:

8 I think those would be Defendant's exhibits, Your Honor.

9 By Mr. Lucas:

10 It doesn't -- that's fine. It doesn't make any
11 difference.

12 By the Court:

13 Defendant's exhibits.

14 By Ms. Price:

15 Thank you.

16 By the Court:

17 Ms. Price, you don't have any objection to this?

18 By Ms. Price:

19 No, I don't have any objection to making them ---

20 By the Court:

21 Okay.

22 By Ms. Price:

23 --- part of the record. Thank you.

24 By the Court:

25 Okay.

1 By Mr. Lucas:

2 And so I'll offer the incident report as Defendant's
3 Exhibit 1 for the sole purposes of the suppression
4 hearing, and then the CAD detail as Defendant's Exhibit
5 2.

6 (Defendant's Exhibits 1 and 2 marked by court reporter and
7 entered into evidence by the Court)

8 By Mr. Lucas:

9 And, Your Honor, I don't have any further questions.

10 Actually, I have one further question.

11 Cross-Examination Resumed by Mr. Lucas:

12 Q. Officer Velez, did you have your gun out when you
13 approached the car?

14 A. Not that I recall.

15 Q. Okay. Thank you.

16 A. Yes, sir.

17 Q. But you're not certain as to that?

18 A. It was two years ago. No, sir, I don't recall.

19 Q. Okay. Thank you.

20 By the Court:

21 All right. Ms. Price?

22 By Ms. Price:

23 Your Honor, I don't have any additional questions for
24 the suppression motion, but if you'd like for me to
25 start with Jackson v. Denno questions, I'm happy to do

1 that now.

2 By the Court:

3 All right. Well, let's do this. Mr. Lucas, any further
4 argument regarding the first motion to suppress?

5 By Mr. Lucas:

6 Absolutely, Your Honor. So, Your Honor, the argument is
7 no different than set forth in the supporting brief.
8 Essentially what we have, Your Honor, is the State is
9 obligated -- in the event of a warrantless search, they
10 have to prove, to admit the evidence, that both there
11 was probable cause for it and, if it's warrantless
12 search, that it falls under an exception to the warrant
13 requirement.

14 Here, Your Honor, I think that it's very clear that
15 it does not fall under any exception to the warrant
16 requirement. As I set forth, there are seven that are
17 recognized by the courts. Hot pursuit is the first one.
18 Nothing here to support that. Also, it's not in plain
19 view, because we know that the top of the pill bottle
20 was closed. It's not consent, because Mr. Gilliam
21 didn't consent to the search. And it's not abandonment,
22 because he held the pill bottle in his hand.

23 So that leaves us with just three warrant
24 exceptions, Judge. And the first one that I'd like to
25 talk about is search incident to arrest. And what is

1 very clear about the law there, Your Honor -- and I'd
2 cite you to Smith vs. Ohio, 494 U.S. 541, which is a
3 Supreme Court -- a U.S. Supreme Court case -- is that
4 the search incident to arrest exception actually
5 requires that a person be under arrest at the time they
6 were searched. Here, Mr. Gilliam was not under arrest.
7 The officer's testimony is that he was simply handcuffed
8 and detained. He had not been advised that he was under
9 arrest; he had not been Mirandized; he had not been
10 placed into the back of a car. So the officer's own
11 report said that he was detained, not arrested. And
12 there would be no reason for Mr. Gilliam to believe that
13 he was arrested. So based on that, it can't be search
14 incident to arrest.

15 Well, the next one only of the other two that
16 remain would be a stop and frisk, a Terry stop, for
17 instance. Well, the law is real clear that what you get
18 in a Terry stop is a pat-down of outer clothing. And
19 the sole purpose of that is to search for weapons. You
20 don't get to open any containers up; you don't get to go
21 into somebody's pocket. You just get to pat down. So
22 it can't be justified by stop and frisk.

23 So, then, we're left with the automobile exception.
24 Well, it can't be that, either, Judge, because the
25 automobile exception only applies, as the cases I put in

1 the memo demonstrate -- and as is set out in Wyoming vs.
2 Houghton, 526 U.S. 295 -- an automobile exception search
3 covers very simply an automobile and its contents and
4 anything inside of the automobile. What it does not
5 apply to, Your Honor, is the search of someone's
6 person, and that that is subject to heightened
7 protection. So what we're dealing with here is not the
8 search of an automobile and not the search of its
9 contents, but the search of a pill bottle that's being
10 held in Mr. Gilliam's hand, part of his person.

11 So, Your Honor, what we're left with is that no
12 warrant exceptions apply. And because this is
13 undoubtedly a warrantless search, nobody got a search
14 warrant, had to open up the pill container, take the top
15 off, which was closed, and then look inside. That's a
16 search. So it's made without a search warrant, and
17 because it doesn't fit any warrant exception, the State
18 can't make the necessary showing.

19 In addition, Your Honor, I think it's a little bit
20 closer call, but I would argue to you that the State
21 can't show that this search is supported by probable
22 cause. What we know is that that Officer Velez says
23 that they were parked behind this demolished Ingle's; he
24 walks up, hears some arguing going on, doesn't really
25 know what it's about. He thinks it might be a domestic

1 situation; he's not quite sure what's going on. He gets
2 Mr. Gilliam to step out of the car. Gilliam is in the
3 passenger seat; Ms. Shovlin is in the driver's seat.
4 He gets him out, and then out of the car, when the door
5 is open, falls a -- what he calls in his report a glass
6 smoking pipe. The glass smoking pipe shatters. He
7 says that it's consistent with pipes used to smoke
8 methamphetamine, but he doesn't actually look in the
9 contents. It shattered. He immediately detains
10 Mr. Gilliam and then sees this pill container, opens it
11 up, and searches it before even looking at the, you
12 know, glass smoking pipe. So he didn't look at it to
13 see what was in it, what's in the bowl, was there
14 anything in the stem. And then, in addition, Your
15 Honor, he didn't field-test anything from that pipe.

16 So what we'd ask the Court to consider is, by
17 analogy, what would be required for a magistrate or
18 circuit court judge when issuing an arrest warrant or,
19 say, issuing a search warrant for a house based upon
20 findings of drugs? Well, it's the same analysis, Your
21 Honor. And I would submit to you that what a court
22 would require to find that probable cause exists is, at
23 bare minimum, a field test to show that something is
24 what the police are saying that it is. I think that
25 that's very commonly done.

1 So, Your Honor, that's the basis of the motion to
2 suppress the drugs as the result of an unlawful
3 warrantless search, which is that it's clearly a search,
4 clearly the police officer didn't have a warrant,
5 clearly no exception to the warrant requirement is met,
6 and it seems like probable cause is a bit iffy as well.
7 But the State has to show and they have the burden of
8 proof to show it -- it's not for me to disprove it --
9 that both probable cause and a warrant exception exist.
10 So that's the basis of that argument, Your Honor.

11 And so what we have is, we're left with this
12 unlawful search of the pill bottle that uncovers two
13 baggies of drugs. As a result of that, immediately
14 thereafter, Mr. Gilliam is searched. This time -- so
15 he's arrested, then he's searched. And in his pocket is
16 found another small baggie of -- I believe it's cocaine
17 that, according to the incident report, weighed .1
18 grams. That's derivative evidence.

19 And then the same thing after that. It's a fruit.
20 And then, immediately thereafter, Mr. Gilliam is put in
21 the squad car. They talk to Ms. Shovlin, and she says,
22 "Look in the back of the car. There's some drugs
23 there." That's also derivative evidence, Your Honor.
24 It would not have occurred but for this initial unlawful
25 search. And, you know, of course, Ms. Shovlin is

1 sitting in the front seat as well when these drugs are
2 found behind the front seat.

3 So, Your Honor, that's the basis of the motion made
4 regarding the warrantless search, and I'll get into the
5 reasonable suspicion argument at the appropriate time.

6 By the Court:

7 Okay. Well, let me have you heard on that one as well,
8 and then I'll turn it over to Ms. Price. Anything
9 further on reasonable suspicion?

10 By Mr. Lucas:

11 Yes, Your Honor. So in terms of reasonable suspicion,
12 the case law allows an officer to detain and question
13 for investigative purposes when the officer has
14 reasonable suspicion that the person is engaged in
15 unlawful activity. And that can't be just some general
16 statement; it has to be a reasonable, articulable
17 suspicion.

18 So what we have is that we see in the incident
19 report and the officer testifying about the incident
20 report that he doesn't put anything in there about
21 suspicion of Mr. Gilliam trespassing, nothing in there
22 about whether the property was fully marked with no-
23 trespassing signs. Indeed, he acknowledges that, for
24 one side of this property, which is very large, Your
25 Honor, that he didn't know whether there were no-

1 trespassing signs.

2 So I think that that argument is a red herring,
3 because the key towards determining reasonable suspicion
4 is not whether or not Officer Velez can come in today
5 and invent some ex post facto explanation, but what was
6 it reasonable for him to believe at that time. And Your
7 Honor, that's best demonstrated by what he put in his
8 police report. And there isn't anything in there about
9 trespassing.

10 So -- and in addition, Your Honor, in terms of his
11 testimony, when I asked about what kind of
12 particularized criminal suspicion that he had, he
13 mentioned trespassing, and then in addition he mentioned
14 that it was -- I don't think he used the words exactly,
15 but it implied that it was a high-drug area. And I
16 would point out State versus Fowler, 322 South Carolina
17 263, a Court of Appeals case from 1996 that says
18 presence in a high-crime area, standing alone, is
19 insufficient to support reasonable suspicion of criminal
20 activity. And that's a case where officers were
21 patrolling a high-drug area, saw a defendant come from
22 the front yard of a suspected drug house, and then
23 stopped him and frisked him a few minutes later. Pretty
24 similar to what we have here, Your Honor. We just have
25 this generalized suspicion. So respectfully, Your

1 Honor, we think that it was not appropriate for Deputy
2 Velez to go up to the car and pull him out because he's
3 just acting on a hunch, which is not enough.

4 In addition, the CAD detail certainly suggests that
5 this took place much more aggressively than Officer
6 Velez is testifying to now, because between getting to
7 the car and handcuffing somebody within 40 seconds,
8 that's really fast.

9 So that's the basis of the motion, Your Honor.

10 By the Court:

11 Thank you, Mr. Lucas. All right. Ms. Price, your
12 response on these two issues.

13 By Ms. Price:

14 Yes, sir. May it please the Court. I'm going to
15 flipflop a little bit. I'm going to address the
16 reasonable suspicion first.

17 Your Honor, as the Court is aware, it has to be
18 based on specific and articulable facts, which, taken
19 together with rational inferences from those facts,
20 reasonably warrant the stop. Your Honor, additionally,
21 there have to -- you have to take the whole picture into
22 consideration. That's U.S. v. Sokolow, 109 Supreme
23 Court 1581.

24 Your Honor, the -- this could also be founded on
25 the specific reasonable inferences the officer is

1 entitled to draw from the facts in light of his
2 experience. There was testimony that this officer had
3 been working in narcotics for at least three years prior
4 to the stop. Your Honor, he had experience in that
5 area. He sees a vehicle in a -- on private property;
6 it's not supposed to there. He says that he's seen
7 other activity of that nature in this area before. He
8 approaches the vehicle to see what's going on and hears
9 screaming back and forth. Well, at that point,
10 something is certainly going on. So he has every right
11 at that point to suspect that something is going on.

12 And in light of the trespassing, which he testified
13 to today, it's not in his report, but a suspicious
14 vehicle call is in his report. So that's, in and of
15 itself, evidence of the fact that he thought something
16 was already suspicious about the location of the
17 vehicle, on its face.

18 Your Honor, then he immediately sees drug
19 paraphernalia as soon as the door is opened. So I think
20 that we are beyond -- immediately almost beyond
21 reasonable suspicion and directly into probable cause at
22 that point, because we've got paraphernalia that's not
23 just something that's used; he testified specifically
24 that what the paraphernalia was was a glass pipe used to
25 smoke methamphetamine, in his training and experience.

1 So, Your Honor, he didn't say it was corncob pipe or a
2 tobacco pipe or anything that was confusing in any way,
3 shape, or form. He went directly to, his knowledge and
4 experience tells him, this is used for a specific
5 purpose, which is smoking illegal contraband, namely
6 methamphetamine.

7 Your Honor, mere presence in a high-crime area
8 isn't enough. I think that he touched on that, but this
9 goes beyond mere presence. He, like I said,
10 additionally has yelling back and forth between these
11 individuals when he comes up on the vehicle. So he has
12 every right to investigate what's going on at that time
13 and has every normal reasonable suspicion. An objective
14 individual who saw a car that was in an area it wasn't
15 supposed to be in behind no-trespassing signs, among
16 high brush, and approached to hear two people yelling
17 would immediately suspect that something was going on; a
18 normal, average, everyday person, not just a narcotics
19 officer. So, Your Honor, I think there was clearly
20 reasonable suspicion here.

21 The second issue, Your Honor, that Mr. Lucas
22 brought up -- and again, I received his motion right
23 before we broke for lunch, so forgive me for
24 patchworking what I'm about to do and for referring to
25 my notes a good bit. But I'm going to present Mr. Lucas

1 and the Court with a copy of what I actually think is
2 controlling case law on this issue, and it's pretty
3 specific to the issue. Your Honor, it is the State's
4 position that this is a search that was incident to
5 arrest.

6 And I'm going to direct the Court, if you will, to
7 page 3. And the -- we'll just start there. If the
8 Court doesn't mind, I'd like to publish some of this.
9 This is State v. Moultrie. Your Honor, it's 316 S.C.
10 547. This is good case law. I looked it up during the
11 break, Your Honor, and the only treatment of this case
12 that is negative at all is a second issue, that is not
13 the part that I am about to discuss.

14 Your Honor, it says, "The fact that an arresting
15 officer improperly based a search of an individual on a
16 Terry-stop rationale does not prevent the State from
17 otherwise justifying the search by proving probable
18 cause to make a warrantless arrest of the individual if
19 the probable cause existed prior to the search. The
20 fact that the officers did not believe there was
21 probable cause and proceeded on a consensual stop
22 rationale would not foreclose the state from justifying
23 the defendant's custody by proving probable cause."
24 Your Honor, if you'll go further down, it says, "Once
25 probable cause exists for a warrantless arrest it is

1 immaterial that a warrantless search precedes the
2 arrest." It also says, "where the facts and
3 circumstances within the arresting officer's knowledge
4 are sufficient for a reasonable person to believe that a
5 crime has been or is being committed by the person to be
6 arrested means that probable cause for a warrantless
7 arrest generally existed." Your Honor, it also says,
8 "In assessing whether an officer has probable cause, the
9 totality of the circumstances surrounding information at
10 the officer's disposal must be considered." Your Honor,
11 it also says, "A warrantless search of the suspect
12 person" -- and this is from a case called *Accord United*
13 *v. Morgan* -- "that revealed a large sum of money was
14 held lawful as a search incident to arrest, even though
15 the officer told the suspect he was not under arrest at
16 the time of the search, because the officer had probable
17 cause before he removed the money from the suspect's
18 pocket."

19 Your Honor, they cite another case, *United States*
20 *v. Trusheim*, that says, "A warrantless search of the
21 defendant's person that produced illegal drugs, prior to
22 his arrest, was supported by probable cause and was
23 upheld as a search incident to arrest, even though the
24 officers told the defendant, at the time of the search,
25 that he was not under arrest, but only under

1 investigative detention." Your Honor, this says, "A
2 warrantless search that precedes a formal arrest is
3 nonetheless valid if the arrest quickly follows."

4 Your Honor, this -- in this instance, the arrest is
5 contemporaneous with the detainment. This is -- you
6 know, even Mr. Lucas himself said 40 seconds. I believe
7 there's a 40-second timeline in the CAD report between
8 the suspicious vehicle and the detention, and then we
9 get into an arrest. The officer's characterization is
10 of detention versus arrest with that contemporaneous
11 immediate timeline, Your Honor, under good case law,
12 means that this is still a lawful search incident to
13 arrest.

14 Your Honor, forgive me a moment. I have a little
15 bit more on this issue. Your Honor, I will cite another
16 case, State v. Brown, 289 S.C. 581. And it says, "A
17 search can be conducted incident to arrest only if it is
18 substantially contemporaneous with the arrest and is
19 confined to the immediate vicinity of the arrest." Your
20 Honor, that is the case we have in front of us. It is
21 definitely the immediate vicinity; it is the
22 individual's hand. And, Your Honor, it is absolutely
23 contemporaneous, with him placing the cuffs on this
24 Defendant.

25 Your Honor, I can address Terry as well. I think

1 that Mr. Lucas addressed the stop-and-frisk issue.
2 Well, Your Honor, I would cite to the Court U.S. v.
3 Sharpe 470 U.S. 625, where officers suspect illegal
4 activity that established law does not require them to
5 simply, quote, "shrug their shoulders and allow a crime
6 to occur." This is an individual who is not letting the
7 officer see what's in his hand. It is the natural
8 assumption of a narcotics officer, and indeed anybody,
9 even a layperson, that if someone has a pipe used to
10 smoke methamphetamine and they have a pill container
11 used for medication in their hand, and they are not
12 telling an officer what it is, then that is likely going
13 to contain contraband.

14 Your Honor, Terry also recognized that officers can
15 detain an individual to resolve the ambiguity of that
16 defendant's actions or that individual's actions. And
17 that nervous, evasive behavior can be a pertinent factor
18 when determining reasonable suspicion. I think that
19 goes to both of Mr. Lucas' points. Your Honor, I would
20 also cite to the Court U.S. v. Sakyi -- it's 160 F.3rd
21 164 -- where they said a generalized concern for officer
22 safety during a lawful traffic stop. And, again, here
23 it's not necessarily a stop, but it -- this approach,
24 coupled with a reasonable suspicion that drugs are
25 located somewhere in the vehicle, justifies a frisk of

1 passengers. An officer can seize nonthreatening
2 contraband detected through a sense of touch during a
3 protected pat-down search if he complies with Terry. If
4 he lawfully pats down a person's outer clothing --
5 squeezing is permissible -- and feels an object whose
6 contour and mass makes its identify immediately
7 apparent, there is no invasion of that person's privacy
8 beyond that already authorized by the officer's search
9 for weapons. That's in State v. Smith. That's 329 S.C.
10 550.

11 Your Honor, I can continue and find additional
12 support. Oh, yes, I have one more case, Your Honor, I'd
13 like to present to the Court. Courts will allow the
14 search of a container following its plain-view seizure
15 where the contents are a foregone conclusion. And Your
16 Honor, in this case, a medication container, coupled
17 with a methamphetamine pipe, seems to me to indicate a
18 foregone conclusion of illegal contraband.

19 Your Honor, also, I know that Mr. Lucas cited
20 Wyoming v. Houghton, 119 S.C Ct. 1297, and State v.
21 Bultran, Your Honor. It does say that, if probable
22 cause to exist justifies a warrantless search of
23 lawfully stopped vehicles, it justifies the search of
24 every part of that vehicle and its contents that may
25 conceal the object in the search.

1 Your Honor, I would also state that all of the rest
2 of it aside, with the broken methamphetamine pipe,
3 assuming that the Court finds that although, again, I
4 submit to the Court that there's nothing wrong with the
5 warrantless search of this metal pill container and it's
6 pursuant to a lawful arrest, if the Court finds that
7 that is excluded, then there's inevitable discovery to
8 still get to the remainder of the drugs. He was going
9 to be searched incident to arrest. There's as a second-
10 party individual, this woman, who gives a statement and
11 says, "Hey, there are drugs in this car." So they were
12 absolutely going to inventory that car, at a minimum,
13 they were going to search the car based on her
14 statement, Your Honor, and then they were going to
15 search his person. So there's an inevitable discovery
16 net underneath all of this.

17 Thank you, Judge.

18 By Mr. Lucas:

19 Your Honor, if I may respond.

20 By the Court:

21 I've heard enough.

22 By Mr. Lucas:

23 But, Your Honor, I need to clarify a few things, because
24 there have been some misstatements especially about the
25 meaning of the case. And if you've decided, I still

1 need to make it for the record.

2 By the Court:

3 All right. Well, be brief. I've heard enough of this.

4 By Mr. Lucas:

5 Yes, Your Honor. So in terms of a Terry stop, that just
6 gets you a frisk. It doesn't get you into containers.
7 The whole immediately apparent, in that the officer knew
8 what he was going to find in the pill container, he said
9 that wasn't the case. He said it's often used to hold
10 pills. Your Honor, that -- you just can't say, "Oh,
11 wait. I know what's in here." That's doesn't make any
12 sense.

13 In terms of the case handed up -- the State vs.
14 Moultrie handed up by the State, it's been
15 mischaracterized, Your Honor. And I'll point you
16 exactly to where the State is citing. Head note 3 and
17 4, where they say that, "A warrantless search that
18 precedes a formal arrest is nonetheless valid if the
19 arrest quickly follows," Your Honor, I'd point you down
20 one sentence beyond that. That says, "The fruits of
21 such a search, however, cannot be used to justify the
22 arrest." Well, that is precisely the situation we have
23 here, Judge, in that the fruits of the arrest -- that
24 is, the drugs found inside the pill container -- are
25 being used to justify the arrest. That's clear, because

1 he wasn't under arrest before that.

2 In addition, Moultrie is very distinguishable
3 because what was found on his person and what they're
4 trying to get in and referring to here was cash. In
5 Moultrie, they found there was a bag of marijuana on the
6 ground and then a brown paper bag with cocaine, crack,
7 and more marijuana on the ground 10 to 15 feet away.
8 That's very different from a search of the person.

9 Ms. Gurney, if you want to, can speak to inevitable
10 discovery at greater length, but I would point out, as
11 to this inventory search that the State is alleging that
12 would have occurred, they didn't inventory the car and,
13 in fact, they let Ms. Shovlin take the car away. They
14 released it to her, and I think Ms. Gurdy wishes to
15 respond briefly ---

16 By the Court:

17 I'm not going to base it on inevitable discovery, so I
18 don't need to hear anything further on that.

19 All right. I've heard from both sides on this
20 issue. I have reviewed multiple cases. I've also
21 reviewed Mr. Lucas' brief, which is very thorough. And
22 Mr. Lucas produced a lot of information for the Court to
23 digest, and I've looked at the appropriate case law.

24 And after hearing the testimony proffered, I find
25 that, on the basis of the law, this would be classified

1 as a search incident to arrest. The Defendant was
2 handcuffed, the Defendant was not allowed to leave, and
3 a reasonable person would have thought themselves to be
4 in custody. I think the State correctly stated wholly
5 on the Moultrie case wouldn't allow a search under those
6 circumstances.

7 As to the probable cause issue, the Court must
8 review the evidence considering the totality of the
9 circumstances. The Court considers the actions of the
10 officers and must give them new weight considering
11 common sense and the judgments reached by the officers
12 in light of their experience and training. In this
13 case, several articulable facts have been established in
14 the record; high-crime area, car parked in an unusual
15 way, loud noises that could have possibly indicated a
16 domestic incident, an open container in plain view, a
17 pipe commonly used in illegal drugs falling on the
18 ground.

19 All of these, taken in conjunction with one
20 another, would establish probable cause. Mr. Lucas,
21 your arguments, that were well made arguments regarding
22 omitted details from the report, those go toward the
23 weight and not the admissibility of the evidence. Also,
24 the arguments you ably pointed out regarding the CAD
25 report, that -- again, that goes to the weight, not the

1 admissibility.

2 So for those reasons, I'm going to deny the
3 Defense's Motion to Suppress the Evidence. Let's
4 proceed to the Jackson v. Denno portion.

5 By Ms. Price:

6 Yes, Your Honor.

7 Direct Examination Resumed by Ms. Price:

8 Q. Detective Velez, you're still under oath.

9 A. Yes, ma'am.

10 Q. Did you have occasion to speak with Defendant in this
11 case?

12 A. I did.

13 Q. Okay. And who is the Defendant?

14 A. Jamey Gilliam.

15 Q. Okay.

16 A. I think I'm saying his last name correctly.

17 Q. Yes. Was he in custody when he spoke with you?

18 A. He was.

19 Q. Okay. And did you speak with him once or twice ---

20 A. I tried ---

21 Q. --- or attempt to?

22 A. I tried to speak with him when I first made contact with
23 him. And then once he was arrested, I secured him in
24 the car and then Mirandized him and spoke with him at
25 that point in time.

1 Q. Okay. And when you first made contact with him, did he
2 speak with you?

3 A. It was pertaining more so to the issue of them -- they
4 were arguing and they were -- it was very faint. They
5 didn't really give me an answer if they were arguing or
6 not.

7 Q. This is as you were watching the -- or watching the pipe
8 fall to the ground, et cetera?

9 A. Yes. Yes, ma'am. I was ---

10 Q. Okay.

11 A. I was speaking to both them at the same time I was
12 asking him to step out of the car.

13 Q. Okay. And at that point in time, he wasn't in custody?

14 A. He wasn't.

15 Q. Okay. But after he was in custody, did you speak with
16 him?

17 A. Yes, ma'am.

18 Q. Okay. And how many people were present when you spoke
19 with him?

20 A. That I'm aware of, it was Corporal Pickens at that
21 segment of time.

22 Q. Okay. Was with you when you spoke to the Defendant?

23 A. Yes, ma'am.

24 Q. And were you in uniform at that time?

25 A. I was -- I believe I was wearing plain clothes on top of

1 -- over my plain clothes, I had a Sheriff's Office-
2 issued vest, and I had my gun, and my badge was visible.

3 Q. Okay. So you had a weapon, but you believe it was
4 holstered when you were ---

5 A. Yes.

6 Q. --- speaking with him?

7 A. Yes, ma'am. My vehicle was also parked at the Sheriff's
8 Office.

9 Q. Okay. During the time that you spoke with the
10 Defendant, did he appear to be comfortable, as
11 comfortable as someone can be in a patrol car?

12 A. Inside the patrol car?

13 Q. Yes. What kind of car do you drive?

14 A. At that point in time, I was driving a Ford Explorer.

15 Q. Okay. So there was a mention earlier, and we'll mention
16 it, of the Defendant being a larger sized individual; is
17 that right?

18 A. It was a tight fit for him inside the vehicle. Yes.

19 Q. Okay. But he didn't tell you he was uncomfortable?

20 A. No, ma'am.

21 Q. Okay. Did he ask for anything?

22 A. The only thing after his Marandizing that he asked was
23 if he could release the vehicle, give it to -- I was
24 fixing to tow it -- to help him with his expenses. So
25 therefore, I said, "If you request for me to release the

1 vehicle" to the female subject, the Beth subject, I said
2 I could grant that request.

3 Q. Did he ask you to use the restroom at all?

4 A. Not that I'm aware of.

5 Q. To have a snack or a drink?

6 A. Our conversation with each other was very brief.

7 Q. Okay. He didn't ask you for any amenity that you
8 declined to give him; is that correct?

9 A. The only thing that he asked for was to not tow his
10 vehicle.

11 Q. Okay. And you actually accommodated that request?

12 A. Yes, ma'am.

13 Q. Okay. Did the Defendant -- so you mentioned Mirandizing
14 the Defendant. How did you do that?

15 A. I read him a card that's actually issued through the
16 department, that all our officers in our division are
17 issued. And I read him that card.

18 Q. Do you have that card with you today?

19 A. I think so, yes, ma'am. It's in my wallet.

20 Q. Can you read off what you would have read to the
21 Defendant that day?

22 A. Yes, ma'am. It's notated Miranda Warning, and it just
23 has a notation of bullet points. And it pretty much
24 states -- It says, "You have the right to remain
25 silent." Then it says, "Anything you say can and will be

1 used against you in a court of law." It says, "You have
2 the right to talk to a lawyer and have him present with
3 you while you are being questioned." And it states, "If
4 you cannot afford to hire an attorney or a lawyer, one
5 will be appointed to represent you before any
6 questioning, if you wish. You can decide at any time to
7 exercise these rights and not answer any questions or
8 make any statements." Then below that, it says "Waiver.
9 Do you understand each of these rights I have explained
10 to you? Having these rights in mind, do you still wish
11 to speak with me" -- or, "Do you wish to talk to us
12 now?"

13 Q. Did you read him those rights and speak with him before
14 or after you spoke with Ms. Shovlin?

15 A. I spoke with Ms. Shovlin first.

16 Q. Okay. And so you Mirandized this Defendant, and then
17 did you ask him questions, or did he volunteer
18 information, or was it a combination of the two?

19 A. I attempted to speak with him in further detail about
20 everything that was going on. He just stated that the
21 drugs were his. He didn't really get into indications
22 of what was going on, if they were smoking drugs in the
23 car. Based off my job, most cases, we attempt to try to
24 see if these individuals wish to work off said charges.
25 So at that point in time, I would have asked him

1 questions, if he cared to or wished to speak to a
2 narcotics investigator or detective at that point in
3 time to possibly help him with his charges. And he
4 declined that said request to speak with a detective,
5 and he was pretty much saying kind of like, "Let's go to
6 jail. Let's get this kind of over and done with."

7 Q. Okay. But he -- so he declined to speak with an
8 additional narcotics detective to work off charges or --
9 and did he tell you that the drugs were Ms. Shovlin's?

10 A. No. He claimed ownership of the drugs.

11 Q. Okay.

12 A. He said all the drugs were his. He didn't indicate
13 which -- any particular drugs, but he said the drugs
14 were his.

15 Q. Okay. He just said, "The drugs are mine"?

16 A. Yes.

17 Q. Did he say, "The drugs in the car are mine"?

18 A. He just said the drugs were his ---

19 Q. Okay.

20 A. --- that I recall.

21 Q. All right. Did you threaten him or intimidate him to
22 make that ---

23 A. No, ma'am.

24 Q. --- statement? You said that you offered to let him
25 work off this charge?

1 A. (Nods head affirmatively)

2 Q. Did you tell him that there would be consequences if he
3 didn't agree to work off his charge?

4 A. Only that the said charges would uphold

5 Q. Okay.

6 A. --- based off of whenever I ---

7 Q. All right. Is that -- and you said that's common for
8 people in the Special Narcotics Unit?

9 A. In the Street Narcotics, our ---

10 Q. Street Narcotics. I'm sorry.

11 A. --- main objective is to look for low-level drug sales
12 being conducted in general areas, and also to -- when we
13 do make arrests, to try to have these individuals
14 basically become informants for our detectives in our
15 division.

16 Q. In this case, were you looking for this individual, or
17 was this happenstance?

18 A. I didn't know this individual. It was just a freak
19 chance that I saw that vehicle on the way home.

20 Q. And that's a common offer that you made to people with
21 low-level drug offenses at that time?

22 A. Yes, ma'am; especially if it's possession or PWID. We
23 -- you know, they purchase their drugs from somebody who
24 has a much larger weight of drugs.

25 Q. Did he tell you he wanted to speak with an attorney at

1 any point in time?

2 A. Not that I'm aware of, no.

3 Q. Did he speak with you freely and voluntarily?

4 A. He did while being Mirandized, yes, ma'am, just that
5 brief information.

6 Q. He didn't elaborate?

7 A. No, ma'am.

8 Q. Did the content of what he was saying to you seem
9 coherent? He seemed like -- did he seem like he knew
10 what he was doing, knew what he was saying at the time?

11 A. Yes, ma'am.

12 Q. Okay. And he gave you a verbal statement?

13 A. Yes, ma'am.

14 Q. Okay. Was it audio recorded or video recorded?

15 A. No.

16 Q. Okay. Was there a written statement to go along with
17 this verbal statement?

18 A. No, ma'am.

19 Q. Okay. And was there anything other than claiming the
20 drugs that he said to you?

21 A. No.

22 Q. Okay.

23 By Ms. Price:

24 I don't have any further questions.

25 By Mr. Lucas:

1 Just a couple of questions. I'll be brief.

2 Cross-Examination by Mr. Lucas:

3 Q. Did you inquire into his age or education?

4 A. No, sir.

5 Q. Did you inquire whether he could read or write?

6 A. I didn't provide any documents, so I didn't feel that
7 was necessary at that point in time.

8 Q. Did you ask him to sign a Miranda waiver?

9 A. No, sir.

10 Q. Why not?

11 A. We don't normally do that when we're field-interviewing
12 individuals.

13 Q. When you're what?

14 A. Conducting field interviews; we do not sign waivers.

15 Q. And is ---

16 A. Most of ---

17 Q. --- that -- I'm sorry. Go ahead. I didn't mean to
18 interrupt you.

19 A. Most of the time when waivers are signed, it's in a
20 closed environment much, like a detention center, where
21 an individual can not be in handcuffs and sign a
22 document. He was in handcuffs. We were in a public
23 area, for the most part, and it was us and an individual
24 we're taking into custody. I'm not going to take
25 handcuffs off somebody who I'm taking into custody at

1 any given point in time unless he's having a medical
2 emergency or needs to adjust his handcuffs. It's just
3 -- it's an officer safety issue.

4 Q. And you never asked him to sign a written statement?

5 A. No, sir. I'm not going to take his handcuffs off of
6 him.

7 Q. Well, I mean, you took him back to the police station,
8 right?

9 A. We took him to the detention center. And at the point
10 in time, he stated he didn't to want to speak to anybody
11 else in regards to the case, so I didn't feel the need
12 to.

13 Q. Okay.

14 By Mr. Lucas:

15 Nothing further. Thank you. We don't have any argument
16 to offer, Your Honor.

17 By the Court:

18 Thank you, Officer. You can step down.

19 By the Witness:

20 Thank you.

21 By the Court:

22 All right. After conducting the in camera hearing,
23 based on the standards set forth in Jackson v. Denno,
24 after hearing testimony and reviewing the evidence
25 presented, I find the statement given by the Defendant,

1 namely, "The drugs were mine," if I remember -- if I
2 have the testimony correct, to law enforcement was
3 voluntary and knowing. And it was a custodial
4 statement, and the Defendant was handcuffed and in
5 custody at the time. I further find the Defendant
6 knowingly and intelligently waived his Miranda rights
7 when he gave the statement in question. The Court
8 considered the totality of the circumstances, which
9 include the place and manner of the questioning, the
10 lack of request for an attorney, the lack of any
11 evidence of coercion or threats, I find that the
12 statement was voluntarily for admissibility purposes.
13 So the Defendant's Motion to Suppress will be denied.

14 All right. Is there anything further?

15 By Ms. Price:

16 Nothing further from the State, sir.

17 By the Court:

18 Anything further from the Defendant?

19 By Mr. Lucas:

20 Nothing at this time, Your Honor.

21 By the Court:

22 Okay. All right. I'm going to let y'all take a short
23 break and gather yourselves before we start, and then we
24 will deal with Mr. Hager's client. I appreciate your
25 patience, Mr. Hager.

1 So theoretically, he could walk in ---

2 By Ms. Price:

3 Yes, sir.

4 By the Court:

5 --- at any time, so -- let's get our jury.

6 By Mr. Lucas:

7 Your Honor, I just -- I neglected to do it earlier,

8 but could you make the brief in support of the

9 Motion to Suppress a Court's exhibit?

10 By the Court:

11 Yes. Yes, sir. Well, has it been filed?

12 By Mr. Lucas:

13 It has, Your Honor.

14 By the Court:

15 Okay. Let's call it -- make that as Court's exhibit.

16 By the Court Reporter:

17 That will be Number 6.

18 (Court's Exhibit 6 marked by court reporter and entered into
19 evidence by the Court)

20 (Jury reenters the courtroom at this time)

21 By the Court:

22 All right. Mr. Foreman, ladies and gentlemen of the
23 jury, thank you for your patience. I know you've been
24 sitting back there for an extended period. We had some
25 matters of law that we had to take up which were more

1 involved than they first appeared and they took some
2 time. But we appreciate your patience. We're now ready
3 to proceed. Ms. Price?

4 STATE'S OPENING STATEMENT

5 BY MS. PRICE:

6 Thank you, Your Honor. May it please the Court,
7 Mr. Lucas.

8 Good afternoon, ladies and gentlemen of the jury.
9 As you heard earlier my name is Lauren Price. I'm an
10 Assistant Solicitor for the Tenth Circuit Solicitor's
11 Office, serving Anderson County. And it's my job to
12 prosecute folks who have been charged with violating the
13 laws of our state. I want to thank all of you for being
14 here today. I know it's already been a long day, but
15 this is an important case. It's important to the State,
16 it's important to this Defendant, and I hope it's
17 important to you today as well, and tomorrow if we go
18 into tomorrow.

19 It's an important case, but it's also not
20 complicated. So like every case that goes in front of a
21 jury in our state, it matters. But I am going to try to
22 respect the time that you've given us out of your lives
23 by keeping things as straightforward and organized as
24 possible. To that end, I'm going to very briefly go
25 over three things with you right now: what this case is

1 about, what we're required to and what we intend to
2 prove, and how we intend to prove it.

3 Ladies and gentlemen, this Defendant is charged of
4 possession of two kinds of drugs, with possession of
5 methamphetamine and with possession of cocaine. The
6 Judge is going to tell you, and he'll tell you multiple
7 times throughout this case, that as the State, it's my
8 job to prove these charges to you beyond a reasonable
9 doubt. Now, you're going to hear that, on May 1st of
10 2018, Detective Velez, who you already met, with the
11 Anderson County Sheriff's Office, saw a suspicious
12 vehicle. You're going to hear that he determined that
13 there were two people in that vehicle. One of those two
14 people was the Defendant in this case. You're going to
15 hear that drugs were found on the Defendant, both in his
16 pocket and in a metal pill container that he had in his
17 hand. You're also going to hear that drugs were found
18 in a car that belonged to this Defendant that day as
19 well.

20 We're going to prove Mr. Gilliam's guilt to you
21 today through the presentation of physical evidence,
22 including the drugs, and photographic evidence. We're
23 also going to have several people testify. We're going
24 to have some law enforcement officials and expert
25 witnesses.

1 And ladies and gentlemen, at the close of all of
2 the presentation of evidence and testimony, I'm going to
3 submit to you that you're going to find this Defendant
4 guilty beyond a reasonable doubt. You're going to be
5 firmly convinced that he possessed both cocaine and
6 methamphetamine, and I'm going to ask you to bring back
7 a guilty verdict. Thank you for your time and for your
8 attention.

9 By the Court:

10 Mr. Lucas?

11 DEFENSE OPENING STATEMENT

12 By Mr. Lucas:

13 May it please the Court.

14 Thank you for being here and serving on the jury
15 today. As you heard from Ms. Price, this is a drug
16 possession case. And even though it's a case that
17 involves a small amount of drugs, less than a gram added
18 up altogether, this is going to take up some of your
19 time, the rest of today and certainly into tomorrow as
20 well. I ask only for your patience, that you pay close
21 attention, and that you question the testimony that's
22 put before you.

23 Now, you've already heard that the State has the
24 burden of proof. And that's accurate. The State, as
25 the Judge will instruct you at the end of this case, has

1 the obligation to prove my client, Mr. Gilliam, guilty
2 beyond a reasonable doubt. And at the end of this case,
3 I'll come back and I'll talk to you about what that
4 means. But what you need to understand here at the
5 beginning is just two things about that. One, that's a
6 really high burden of proof; and two, that the Defense
7 has no burden of proof. We don't have to prove anything
8 to you; we don't have to prove Mr. Gilliam's innocence.

9 Now, in the course of this case, you're going to
10 hear from a number of witnesses. Most of those
11 witnesses work for the State. You're going to hear from
12 at least three police officers. The most important of
13 those is Officer Velez. And what I'm going to ask you
14 to consider about his testimony is, is it verifiable?
15 And when you are back deliberating, I want you to ask
16 that question: Can you verify it, and why do you believe
17 this?

18 Now, another thing I think that I want you to keep
19 in mind during the course of this case is that it
20 involves -- well, it's not quite a traffic stop. There
21 were two people in a car: Mr. Gilliam, my client, and
22 then there was another woman in the car, Beth Shovlin.
23 Mr. Gilliam was in the passenger seat; Ms. Shovlin was
24 in the driver's seat. So I'd ask that you take that
25 into consideration during the course of the case.

1 And then, at the end of the case, I'm going to come
2 back and talk to you about the facts, and I'm going to
3 ask you to find that Mr. Gilliam was not guilty of what
4 he's charged with, because the State will not be able to
5 show sufficient evidence to convict. And because of
6 that, we're going to ask that you find him not guilty.
7 Thank you.

8 By the Court:

9 Ms. Price, call your first witness.

10 By Ms. Price:

11 Thank you, Your Honor. The State is going to call
12 Jeremy Pickens to the stand. Your Honor, I'm a bit
13 short-staffed, so I'm going to have to grab him myself.

14 LIEUTENANT JEREMY PICKENS is sworn in by the Court at this
15 time.

16 By the Clerk of Court:

17 If you would take the witness stand, please, sir, and
18 state your name and spell your last name for the
19 reporter, please.

20 THE WITNESS:

21 Jeremy Pickens, P-i-c-k-e-n-s.

22 The witness, being duly sworn, testified as follows:

23 Direct Examination by Ms. Price:

24 Q. And Lieutenant Pickens, where do you work?

25 A. Anderson County Sheriff's Office.

1 Q. Okay. And how long have you worked there?

2 A. I've worked at the Sheriff's Office for about three and
3 a half years.

4 Q. Okay. Were you working for the Sheriff's Office on May
5 1st of 2018?

6 A. Yes.

7 Q. Okay. And what was your position there at that time?

8 A. At the time, I was a Corporal in Special Investigations.

9 Q. Okay. Did you respond to a call on May 1st of 2018
10 that's led you to be in Court today?

11 A. Yes, ma'am.

12 Q. How did you become involved in this case?

13 A. Detective Velez had been out to a vehicle on 28 Bypass
14 in Anderson County, had requested assistance. So I was
15 one of the closer units, and I responded to assist him.

16 Q. And when you respond, do you get a call from dispatch?

17 A. Usually they'll request someone from dispatch through
18 the radio. Naturally, we hear that traffic. So me
19 being fairly close, I went ahead and responded.

20 Q. And you responded to where?

21 A. It was near 28 Bypass and Michelin Boulevard in Anderson
22 County.

23 Q. Is that on Pearman Dairy Road as well?

24 A. Yes; 28 is commonly called Pearman Dairy.

25 Q. And you said that's in Anderson County?

1 A. Yes, ma'am.

2 Q. And that's your jurisdiction?

3 A. That's correct.

4 Q. Okay. What did you observe when you arrived to assist
5 Detective Velez?

6 A. I observed him speaking to some individuals inside the
7 car. I believe they were still inside the car, if I
8 recall correctly. But there was a male and a female I
9 assumed that he was speaking with when I arrived.

10 Q. And can you describe the area that you responded to for
11 me, please?

12 A. Yes. We have gotten calls for service and we often
13 check it due to complaints. It's an area behind the --
14 I believe it was an Ingle's store at one time, almost
15 directly across from Westside High School. And it's a
16 woody area. We have homeless people often camp out, or
17 people would go to use illegal drugs, drink. It's kind
18 of just secluded, so a good place to kind of not be seen
19 and do things that we ought not do.

20 Q. And is there vegetation there?

21 A. Yes, ma'am.

22 Q. Okay. Do you recall what kind of vehicle the Defendant
23 was driving that day?

24 A. If I recall correctly, it was an SUV of some type.

25 Q. Okay. Did additional officers arrive on scene after

1 you?

2 A. I don't specifically recall anyone else arriving.

3 Q. Okay. What did you do when you arrived?

4 A. I arrived. So either they were already out or they got
5 out after I arrived. I spoke with Detective Velez, who
6 advised me of what was going on. At some point, they
7 were removed from the vehicle, and I believe he found
8 some contraband. He asked me to photograph the scene
9 for him.

10 Q. Okay. So you took photographs at the scene?

11 A. Yes, ma'am.

12 Q. Okay. What did you do with the photographs that you
13 took?

14 A. I took them and placed them on a disk and placed them on
15 our server at the Sheriff's Office, where they're
16 processed as evidence.

17 Q. Lieutenant Pickens, I'm showing you what's been marked
18 as State's Exhibits 3 through 20. Can you take a look
19 at those and tell me if you recognize those exhibits,
20 please?

21 A. (Witness reviewing exhibits.) Yes, ma'am, I recognize
22 them.

23 Q. Okay. And what are those?

24 A. These are the photographs that I took on the day in
25 question.

1 Q. And do they fairly and accurately represent the scene
2 and the evidence as it appeared that day?

3 A. Yes, ma'am.

4 Q. Have they been altered in any way, the pictures that you
5 took?

6 A. No, ma'am.

7 Q. And they look as they did when you took them initially?

8 A. That's correct.

9 Q. Okay.

10 By Ms. Price:

11 Your Honor, at this time the State would seek to admit
12 Exhibits 3 through 20 into evidence and we would request
13 permission to publish those to the jury.

14 By the Court:

15 Any objection?

16 By Mr. Lucas:

17 Your Honor, none except those noted at the Suppression
18 Hearing.

19 By the Court:

20 Yes, sir. So noted. Thank you.

21 By Mr. Lucas:

22 And I assume that it's overruled?

23 By the Court:

24 Yes. Yes.

25 By Mr. Lucas:

1 Thank you.

2 By the Court:

3 State's Exhibits 3 through 20 will be admitted.

4 (State's Exhibits 3-20, previously marked by court reporter,
5 are entered into evidence by the Court)

6 Direct Examination Resumed by Ms. Price:

7 Q. Before we publish those, do you have a process that you
8 follow when you take photographs of evidence or a scene?

9 A. Yes, ma'am, typically when we're photographing a scene,
10 we do what we call overalls; take pictures of the
11 outside, and then we worked our way into the inside.
12 That's whether it's a vehicle or a house, just so that
13 we have a complete understanding of the everything
14 that's going on.

15 Q. So if you are documenting evidence, you'll take a
16 picture of the area where the evidence is found before
17 moving that evidence?

18 A. Yes, ma'am.

19 Q. And then you'll take a picture of the evidence itself?

20 A. Yes, ma'am.

21 Q. And do you do this so there's context for where that
22 evidence is found?

23 A. That's correct.

24 Q. Do you mind stepping down for me? Thank you. You
25 brought those with you. Thank you. Lieutenant Pickens,

1 can you stand?

2 By Ms. Price:

3 Judge, can you see?

4 By the Court:

5 Yes.

6 Direct Examination Resumed by Ms. Price:

7 Q. I'm showing you what's marked as State's Exhibit 3. Do
8 you recognize this exhibit?

9 A. Yes.

10 Q. Okay. And what is it?

11 A. This is the vehicle that Detective Velez was at when I
12 arrived.

13 Q. Okay. And, in fact, is that Detective Velez?

14 A. Yes.

15 Q. If you need to look down here, you can look as well.

16 Okay. And State's Exhibit 4?

17 A. That is a picture of the ID of Mr. Gilliam, who is the
18 Defendant in this case.

19 Q. State's Exhibit 5?

20 A. That's the picture of the female who accompanied him at
21 the time that Detective Velez made contact with the
22 vehicle.

23 Q. State's Exhibit 6?

24 A. That is a picture of a round cylinder-like container
25 that evidence was located inside.

1 Q. And you can see a green bag --

2 A. Yes, ma'am.

3 Q. -- in the container; is that right? And then looking at
4 State's Exhibit 7?

5 A. That's the bag that was removed from the container in
6 the previous picture.

7 Q. So that's what you're talking about when you say you do
8 an overall and then a more directed photograph; is that
9 correct?

10 A. Yes, ma'am.

11 Q. Or one example of it?

12 A. Yes.

13 Q. State's Exhibit 8 is that same can?

14 A. I believe it's the same cylinder with content under the
15 bag that was previously removed.

16 Q. So we have one bag ---

17 A. Yes.

18 Q. --- and this a different bag?

19 A. Correct.

20 Q. State's Exhibit 9; is that the next bag?

21 A. That would be the second bag, that was in the previous
22 picture.

23 Q. State's Exhibit 10?

24 A. And that's loose content in the cylinder under the two
25 previous bags.

1 Q. Okay. State's Exhibit 11?

2 A. Again, this is just what I refer to as an overall
3 picture of the interior of the vehicle. I don't think
4 at this point anything specific. I'm just giving a
5 general idea of where things are located in the vehicle.

6 Q. State's Exhibit 12?

7 A. A closer picture. You do you see an open container of
8 alcohol.

9 Q. State's Exhibit 13?

10 A. A picture of like the passenger exterior of the vehicle.

11 Q. And the ground?

12 A. And the ground. You can see an object.

13 Q. And State's Exhibit 14, a closer up?

14 A. It's a closer-up of the previous picture. There appears
15 to be a pipe commonly used for smoking illegal
16 narcotics.

17 Q. And going back to State's Exhibit 13 -- State's Exhibit
18 14, does that appear to be closer-up picture of State's
19 Exhibit 13?

20 A. Yes, ma'am.

21 Q. Of this on the ground?

22 A. Correct.

23 Q. Okay. State's Exhibit 15?

24 A. Again, an overall picture of the rear passenger
25 compartment of the vehicle.

1 Q. State's Exhibit 16?

2 A. An exterior picture from the driver's rear of the
3 vehicle, the driver's side of the vehicle.

4 Q. And is there an individual, Ms. Shovlin, at the front
5 side?

6 A. Yes.

7 Q. Is that the way she looked at that time?

8 A. That's correct.

9 Q. Okay. And whose vehicle is that?

10 A. I believe that vehicle belongs to Detective Velez.

11 Q. Okay. State's Exhibit 17?

12 A. That's another picture, a closer picture of that rear
13 driver's side of the vehicle.

14 Q. Okay.

15 A. That's a closer picture from the same angle of the
16 floorboard area of the vehicle.

17 Q. Okay. And then something on the floorboard of the
18 vehicle?

19 A. Yes; a Zip-Lock bag containing some contraband.

20 Q. It's a little fuzzy, but is this a close-up picture of
21 that?

22 A. Yes.

23 Q. Okay. And finally, State's Exhibit 20?

24 A. This is a test kit that we regularly use in the field to
25 test -- to get an initial test of something possibly

1 being -- actually, we'll do an initial test, and then
2 it's sent to a lab for confirmation. As you can see,
3 the blue area here is giving a positive for a field test
4 for illegal narcotics.

5 Q. Thank you, Lieutenant. You can take the stand again,
6 please. And Lieutenant Pickens, you were present on
7 scene when Detective Velez was detaining the Defendant
8 in this case, were you not?

9 A. Yes, I was.

10 Q. The individual by the name of Jamey Gilliam?

11 A. Yes, ma'am.

12 Q. Okay. And so you were present when he ---

13 By Mr. Lucas:

14 I'm going to object to leading, Your Honor.

15 By Ms. Price:

16 I'm sorry.

17 Direct Examination Resumed by Ms. Price:

18 Q. Were you present when he spoke with him, with the
19 Defendant?

20 A. Yes.

21 Q. Okay. Were you the lead officer in this case?

22 A. No, I was not.

23 Q. Did you have a limited role in this case?

24 A. I did.

25 Q. What, other than taking photographs, did you do?

1 A. I don't recall doing anything else, except my primary
2 role was to assist him. There being two people on
3 scene, we like to have at least one officer for each
4 person represented on scene and also to assist in
5 photographing the scene ---

6 Q. Is it ---

7 A. --- which is my primary role.

8 Q. I'm sorry, Lieutenant. Is it possible you did
9 additional things on scene that you don't remember
10 today, two years later?

11 A. It's possible, but usually anything we do is documented.

12 Q. Okay. Thank you.

13 By Ms. Price:

14 Please answer any questions that Mr. Lucas has for you.

15 By the Witness:

16 Yes, ma'am.

17 By the Court:

18 Mr. Lucas, your witness.

19 Cross-Examination by Ms. Gurney:

20 Q. Officer Pickens, what time did you say that you arrived
21 on scene?

22 A. I can't recall what time.

23 Q. You can't recall? If I approach you with the CAD Report
24 would that refresh your recollection?

25 A. Yes.

1 By Ms. Price:

2 Your Honor, may we make this a Defense Exhibit, if it's
3 going to be shown to him for him to testify?

4 By Ms. Gurney:

5 Yes. Yes, we're just offering it to refresh his memory;
6 we're not trying to enter it into evidence as an
7 exhibit.

8 By the Court:

9 At such time that they seek to admit it, then they can
10 mark it as an exhibit.

11 By Ms. Price:

12 Thank you, Your Honor.

13 By Ms. Gurney:

14 May I approach the witness?

15 By the Court:

16 Yes, ma'am.

17 Cross-Examination Resumed by Ms. Gurney:

18 Q. Do you recall now what time you arrived on scene?

19 A. Based on the CAD Report, it's marked 18:27. That would
20 convert into 6:27 p.m.

21 Q. Thank you. And how long did you say you've worked in
22 law enforcement?

23 A. A total of about 13 years.

24 Q. Thirteen years. You've been trained to write reports to
25 memorialize your investigations and arrests?

1 A. Yes, ma'am.

2 Q. And those reports are important because you would rely
3 on them to testify when a case goes to trial?

4 A. Yes, ma'am.

5 Q. That's because there can be a big time lapse between an
6 arrest and a trial?

7 A. That's correct.

8 Q. And indeed in this case it's been almost two years?

9 A. Yes, ma'am.

10 Q. And you prepared a report related to your involvement in
11 this case as well?

12 A. I did.

13 Q. There's nothing in your report about witnessing any
14 statements made by Mr. Gilliam?

15 A. That's correct.

16 Q. There's nothing in your report about anything that he
17 may have stated to you or Officer Velez?

18 A. Correct.

19 Q. There's nothing in your report about reading Mr. Gilliam
20 his Miranda rights?

21 A. That's correct.

22 Q. And you did not wear a body camera on this interaction,
23 did you?

24 A. No, ma'am.

25 Q. But you do have a county-issued cell phone?

1 A. That's correct.

2 Q. Okay. Does that cell phone have a video recording
3 option?

4 A. Yes, it does.

5 Q. Okay. But you didn't use that to record any
6 interactions?

7 A. No.

8 Q. Okay. And you've already testified that you took photos
9 in this case?

10 A. That's correct.

11 Q. So you also have a county-issued camera?

12 A. Yes. I did at the time.

13 Q. At the time, yes?

14 A. Yes.

15 Q. And does that have a record function?

16 A. I do not recall if it did or did not.

17 Q. If it did, you did not use it to record ---

18 A. No.

19 Q. --- any interactions?

20 A. I did not.

21 Q. And were you involved in collecting any evidence in this
22 case?

23 A. I do not recall collecting evidence, no, ma'am.

24 Q. Okay.

25 By Ms. Gurney:

1 I beg the Court's indulgence.

2 Cross-Examination Resumed by Ms. Gurney:

3 Q. And just to confirm your previous testimony, did you
4 state that Mr. Gilliam was in the car when he was
5 interviewed -- in Deputy Velez' patrol car?

6 A. No, I did not testify to that.

7 Q. You did not? Do you recall where he was questioned?

8 A. I don't recall.

9 Q. Thank you.

10 A. Yes, ma'am.

11 By Ms. Gurney:

12 I have no further questions.

13 By the Court:

14 Anything further for this witness?

15 By Ms. Price:

16 No, sir, nothing further. May he be excused?

17 By the Court:

18 Thank you, Officer. You are excused.

19 By the Witness:

20 Yes, sir.

21 By Ms. Price:

22 Your Honor, at this time, the State would call Corporal
23 Casey Purdy to the stand.

24 CORPORAL CASEY PURDY is sworn in by the Court at this time.

25 By the Clerk of Court:

1 If you would take the witness stand, please, sir, and
2 state your name and spell your last name for the
3 reporter, please.

4 THE WITNESS:

5 My name is Casey Purdy, P-u-r-d-y.

6 The witness, being duly sworn, testified as follows:

7 Direct Examination by Ms. Price:

8 Q. Corporal Purdy, who do you work for?

9 A. I work with the Anderson County Sheriff's Office.

10 Q. How long have you worked for them?

11 A. Approximately six years.

12 Q. Okay. And how long have you been in law enforcement?

13 A. Approximately six years.

14 Q. So you started with the Sheriff's Office?

15 A. Yes, ma'am.

16 Q. Okay. Were you working for the Sheriff's Office on May
17 1st of 2018?

18 A. Yes, ma'am.

19 Q. Okay. And at that time, what was your position?

20 A. I was a Master Deputy assigned the Street Narcotics
21 Unit.

22 Q. Okay. What is the Street Narcotics Unit?

23 A. A group of guys assigned to work problem areas and
24 narcotics complaints within the County of Anderson.

25 Q. Okay. Did you respond to a call on May 1st of 2018

1 that's led you to be in Court today?

2 A. I did.

3 Q. What was that call?

4 A. I was contacted by Master Deputy Jonathan Velez
5 requesting we respond to assist him with a suspicious
6 vehicle.

7 By Mr. Lucas:

8 Your Honor, I would object to hearsay. He's not allowed
9 to testify as to what Officer Velez said to him.

10 By the Court:

11 Rephrase your question. State -- rephrase your
12 question.

13 Direct Examination Resumed by Ms. Price:

14 Q. Did you respond to an incident location on May 1st,
15 2018?

16 A. I did.

17 Q. Who did you respond to assist?

18 A. Master Deputy Jonathan Velez.

19 Q. Were you asked to bring a specific item to that
20 individual?

21 A. I was.

22 Q. What item was that?

23 A. Field test kits for methamphetamine and cocaine base.

24 Q. Okay. Can you describe the area where you responded?

25 A. It was a vacant parking lot at the intersection of

1 Pearman Dairy Road and Michelin Boulevard.

2 Q. And what county is that located in?

3 A. Within Anderson County.

4 Q. Okay. What did you observe when you arrived?

5 A. I observed Master Deputy Velez, his patrol vehicle and a
6 gold Jeep Cherokee. There was a white female that was
7 detained there and there was also a white male that was
8 detained.

9 Q. Okay. And were there additional officers on scene when
10 you arrived?

11 A. Yes, ma'am. At the time he was a Corporal, but he's now
12 Lieutenant -- Lieutenant Jeremy Pickens.

13 Q. Do you remember anyone else on scene?

14 A. Not to my recollection, no.

15 Q. Okay. What did you do when you arrived?

16 A. I provided Master Deputy Velez with a field test kit for
17 cocaine base and methamphetamine.

18 Q. Okay. What's a field testing kit?

19 A. It's a kit used by officers to determine what a
20 substance is. You place a small amount of the substance
21 in the test kit and based on its -- the reaction, it can
22 determine whether you get a preliminary positive result
23 for a substance.

24 Q. Okay. So it's for the field?

25 A. Correct.

1 Q. Is that right?

2 A. Yes, ma'am.

3 Q. What is the field?

4 A. Out on the street. When you're out working, if you're
5 conducting different investigations or just traffic
6 stops, you encounter substances, and it can be tested.

7 Q. Okay. I'm going to show you what's been marked as
8 State's Exhibit 20. Are you familiar with what's in
9 that photograph?

10 A. Yes, ma'am.

11 Q. Okay. And it's been previously admitted under
12 Lieutenant Pickens. So can you step down and we're
13 going to look at it together on this overhead projector,
14 please.

15 A. Sure.

16 Q. Okay. What are we looking at?

17 A. It's a field test kit for cocaine base.

18 Q. Okay. And does it have an indication of a result?

19 A. It does. It appears to be a positive result.

20 Q. How can you tell?

21 A. On that particular field test kit, the substance -- the
22 color change that would indicate a positive result is a
23 pink liquid, and the substance would be blue, like light
24 blue.

25 Q. Okay. So you take a piece of that substance?

1 A. Yes, ma'am.

2 Q. And do what with it?

3 A. Place it in the field test kit.

4 Q. Okay.

5 A. And then you -- there's an ampule out of that test kit
6 that conducts -- that contains a re-agent, a chemical.
7 When you break the ampule, it releases the chemical into
8 it. It creates the color change.

9 Q. So is this like a glow stick where you break the glow
10 stick and shake it and there's one material in it that
11 mixes with another, and you see if there's a color?

12 A. Similar.

13 Q. A layperson would be familiar with that?

14 A. Yes, ma'am.

15 Q. Okay. All right. Please take the stand again. Other
16 than providing Detective Velez the field testing kit and
17 coming to Court to testify today, did you have any other
18 involvement in this case?

19 A. Not to my recollection, no, ma'am.

20 Q. Okay. Please answer any questions that Mr. Lucas or
21 Ms. Voisin have for you.

22 By the Court:

23 Mr. Lucas?

24 Cross-Examination by Mr. Lucas:

25 Q. Deputy Purdy, you testified that when you arrived, there

1 was a white female who was detained?

2 A. Yes, sir.

3 Q. And detained means she was handcuffed, right?

4 A. Based on Detective Velez' presence there making contact,
5 investigating a suspicious vehicle, I determined her to
6 be detained then. I can't recall if she was in
7 handcuffs or not.

8 Q. But usually when somebody is detained, they're
9 handcuffed; right?

10 A. It depends on the circumstances.

11 Q. But detain would mean that she was not free to leave,
12 right?

13 A. Yes, sir.

14 Q. Okay. And that female, was that Shovlin, if you know?

15 A. I don't know her name.

16 Q. And you also provided some testimony about field testing
17 kits, correct?

18 A. Yes. Yes.

19 Q. And you testified that you brought those to Officer
20 Velez?

21 A. I did.

22 Q. And it would be my understanding from that that he did
23 not have any field testing kits with him?

24 A. I don't know whether or not he had them with him. I
25 know he requested me to bring him some.

1 Q. Did it appear that the drugs had -- or the alleged drugs
2 had been field-tested when you arrived?

3 A. I can't recall. All I did was provide him with the test
4 kit, sir.

5 Q. And a test kit is what's known as a presumptive test,
6 right?

7 A. Yes, sir.

8 Q. And what that means is that it doesn't provide a
9 scientifically reliable result, right?

10 A. To my understanding, it allows you to determine whether
11 or not it contains a substance in the field. Normally
12 we send them to the lab afterwards to get a positive
13 identification, so ---

14 Q. Sure. And in your experience, it's necessary to
15 prosecute a case to take it to a lab and have it
16 forensically tested?

17 A. When we seize what we believe to be -- what we believe
18 to be illicit substances in the field, we typically
19 submit them to the lab for testing.

20 Q. Okay. Thank you.

21 By Mr. Lucas:

22 Nothing further. Thanks.

23 By the Court:

24 Anything further for this witness?

25 By Ms. Price:

State of South Carolina
County of Anderson

Court of General Sessions

State of South Carolina	)	
	)	
	)	Transcript of Record
v.	)	2018-GS-04-02863
	)	2018-GS-04-02864
Jamey Christopher Gilliam)	)	
	)	
<u>Defendant.</u>)	)	

February 25, 2020
Anderson, South Carolina

** DAY TWO **

B E F O R E:

The Honorable R. Scott Sprouse, Judge; and a
jury.

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

Lauren Price, Assistant Solicitor
Attorney for the State

Hadden Lucas, Assistant Public Defender
Attorney for the Defendant

Victoria Gurney, Assistant Public Defender
Attorney for the Defendant

Lisa Scott
Circuit Court Reporter

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- - -

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
1	State's - metal pill cont.		X
2	State's - drug envelope		X
21	State's - drug record		X
22	State's - lab report		X
23	State's - chain-of-custody		X

- - -

1 Ms. Price, call your next witness.

2 MS. PRICE: Thank you, Your Honor. May it
3 please the Court? The State calls Detective Velez
4 to the stand.

5 THE CLERK: If you'll please step forward and
6 raise your right hand.

7 THE WITNESS: (Complying.)

8 THE CLERK: Do you solemnly swear or affirm the
9 testimony you give this Court is the truth, the
10 whole truth, and nothing but the truth?

11 THE WITNESS: Yes, ma'am.

12 THE CLERK: Thank you. Please have a seat in
13 the witness chair.

14 THE WITNESS: (Complying.)

15 THE CLERK: If you would, please state your
16 full name for the record and spell your last name.

17 THE WITNESS: My name is Jonathan Michael
18 Velez, V-e-l-e-z.

19 DETECTIVE JONATHAN VELEZ,
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 MS. PRICE:

25 Q. Good morning, Detective Velez.

1 A. Good morning.

2 Q. Who do you work for and in what capacity?

3 A. I work for Anderson County Sheriff's Office and
4 I work with the special investigations division and
5 I'm assigned to the narcotics investigations unit.

6 Q. Okay. And what sort of duties and
7 responsibilities are associated with your position?

8 A. My duties, I'm a detective for that said unit
9 and we conduct long-term narcotics investigations.

10 Q. Is that the position you held in -- on May 1st
11 of 2018?

12 A. No, ma'am.

13 Q. Okay. What position did you hold then with the
14 Anderson County Sheriff's Office?

15 A. The unit was called the street narcotics unit.
16 It was under the same division, but we conducted
17 lower-scale drug investigations and basically did
18 proactive patrol as well.

19 Q. And how long have you been working in law
20 enforcement?

21 A. At that said point in time or currently?

22 Q. At that point in time and then currently.

23 A. I'm currently going on 13 years by the end of
24 this year, so it's been roughly 10 years at that
25 point in time.

1 Q. Do you recall an encounter with the defendant
2 in this case that's allegedly in court today?

3 A. Yes, ma'am.

4 Q. About what time of day did that occur do you
5 think?

6 A. I believe it was approximately 6:20 p.m.
7 roughly.

8 Q. Okay. And where did this encounter take place?

9 A. It occurred at an old Ingles building that's
10 located at the intersection of Pearman Dairy Road,
11 Highway 28 Bypass in Anderson.

12 Q. Can you describe that property to me a little
13 bit with more detail?

14 A. Yes. The property has been closed for quite
15 some time. There's no longer an Ingles there. It
16 got relocated to Highway 24. That building was in
17 ruins. They were having a lot of problems for many
18 years of people going in there stealing items,
19 stealing metal, people having sex in that said
20 building, homeless people living in there.

21 So at one point in time, Ingles ended up having
22 to actually have law enforcement assistance with
23 that building. And then later on, Ingles ended up
24 having to tear the building down due to the crimes.
25 So what was at that point in time ruins of a

1 building and a lot of overgrowth. There was a lot
2 of plants, trees, just growing on that said
3 property.

4 Q. Were there any signs up?

5 A. There was at one point in time there during
6 that -- during the encounter, there was a wooden
7 sign on the front half of the property pointing
8 towards Pearman Dairy Road that said "no
9 trespassing" on the property. The sign had been
10 there for quite some time. Much like everything
11 else on that property, it's falling apart.

12 Q. And this was still property owned by Ingles?

13 A. It was.

14 Q. And in what county did this occur?

15 A. Anderson.

16 Q. Okay. That was your jurisdiction?

17 A. Yes, ma'am.

18 Q. Where had you been prior to this encounter with
19 the defendant? What had you been doing just prior
20 to the meeting?

21 A. I can't recall exactly what I was doing prior
22 to, but I was actually on the way to the office. My
23 shift was ending. I was going back just to make
24 contact with my superiors prior to that.

25 Q. And tell me what direction you were driving.

1 A. I was on Highway 28, Pearman Dairy Road, going
2 in the direction of Highway 24, and I turned right
3 onto Michelin Boulevard.

4 Q. How is it that you saw the defendant or his
5 vehicle and what did you see?

6 A. When I turned right onto Michelin Boulevard and
7 proceeded to drive essentially straight, I observed
8 a vehicle parked off near the wood line on pavement
9 that used to be behind the building. I saw a gold
10 SUV from my peripheral side on my left side.

11 Q. Okay. And did that draw your attention?

12 A. It did.

13 Q. Again, why did it draw your attention?

14 A. Well, past -- past experience and knowing that
15 there was some problems with Ingles having people
16 constantly trespassing on that said property, I
17 figured it was either some high school students, you
18 know, with some form of shenanigans or homeless
19 people. We normally make contact with these
20 individuals and then run them off.

21 Q. And was anyone else with you in your vehicle
22 from law enforcement when you were approaching the
23 defendant's vehicle?

24 A. No, ma'am.

25 Q. Okay. Did you subsequently call for additional

1 members of law enforcement to join you on the scene?

2 A. Not initially, no, you know, until I made
3 contact and saw what was going on. I didn't really
4 feel there was a need at that point in time.

5 Q. Well, tell me about that. How did you make
6 contact with the defendant?

7 A. I made contact. I pulled up directly in front
8 of the said vehicle. I could see two individuals in
9 the vehicle, a male and a female. The male sat in
10 the passenger's seat.

11 As I approached walking from my vehicle, which
12 the two vehicles were fairly close to each other.
13 As I was walking from my vehicle to their vehicle, I
14 could hear an individual screaming. It sounded like
15 it was the female.

16 Q. Screaming?

17 A. Screaming; talking. It was loud chatter. I
18 couldn't exactly determine what exactly it was.
19 They were inside a vehicle and I was outside of it,
20 so I didn't know exactly what they were saying.

21 Q. Okay. And did you determine who that vehicle
22 belonged to during the course of your investigation?

23 A. I did.

24 Q. Who did it belong to?

25 A. It belonged to Mr. Gill.

1 Q. And what did you do next after you pulled up?

2 A. Well, I made contact to see what exactly was
3 going on inside the said vehicle because I initially
4 thought maybe it was a domestic issue. People tend
5 to argue.

6 Q. And what -- for -- for the jury, what does
7 "made contact" mean? Are you on foot at this point?

8 A. I just make a physical contact, speaking with
9 the said individual just identifying myself on who I
10 am, to what capacity I work for. I normally say I
11 work for the sheriff's office and exactly what's
12 going on. This is private property. I basically
13 make the forms identify -- identifying myself to
14 them.

15 Q. And you are outside of your car at this point?

16 A. I was.

17 Q. Okay. And you approached to what side?

18 A. To the passenger's side.

19 Q. Why did you do that?

20 A. Well, the male half was on that side. He was a
21 fairly stocky individual, so I figured that if there
22 was any threat to the situation, it would've been
23 coming from him.

24 Q. Can you describe that male for me?

25 A. Yes. Mr. Gilliam was a heavyset individual.

1 I'd say approximately around 300 pounds. He has
2 gray hair and a scruffy white beard.

3 Q. Okay. Is he African American? Is he white?
4 Is he Hispanic?

5 A. He was a white male.

6 Q. Okay. And you said there was a female, as
7 well?

8 A. Yes.

9 Q. Okay. And she's seated in the driver's seat?

10 A. She was.

11 Q. What happened next?

12 A. I made contact and asked what exactly was going
13 on with their situation. And neither one of them
14 could really advise me. Neither one really said
15 anything. So at that point in time, I went ahead
16 and asked the male half to go ahead and step out of
17 the vehicle just for officer safety matters. I
18 normally if I -- especially if I think it's maybe an
19 ongoing argument, I ask just to separate the two
20 parties, especially if they're inside a vehicle.

21 Q. Okay. And did he step out of the vehicle?

22 A. He did.

23 Q. What happened at that point?

24 A. Well, while he was stepping out, I could
25 obviously see there was an open container of alcohol

1 right there between the two subjects. But when he
2 stepped out, I observed him drop a glass pipe.

3 Q. Okay. And describe the glass pipe for me.

4 A. It's a common pipe that people use to smoke
5 methamphetamine. It's -- they sell them a lot -- a
6 lot of times at gas stations. They're -- it's a --
7 it's a long tube and it has like a bulb at the end.
8 People sell them at stores and they say it's for
9 flowers, but most commonly used for actually smoking
10 methamphetamine. People place the said substance in
11 there and they smoke it.

12 Q. What happened to the pipe?

13 A. It shattered. Well, a portion -- a portion of
14 it shattered the bulb end when it hit the ground.

15 Q. Okay. And the bulb end is the end that usually
16 holds drugs; is that correct?

17 A. That's correct.

18 Q. Okay. And what happened next?

19 A. At that point in time, I detained Mr. Gilliam
20 just due to everything that was going on and I
21 placed handcuffs on him.

22 Q. Okay. What happened as you were placing
23 handcuffs on Mr. Gilliam?

24 A. Mr. Gilliam had his left hand clenched. I
25 asked him multiple times, "What -- what exactly is

1 that in your hand?" and he wouldn't answer me. So
2 after I secured the -- the handcuff onto his right
3 hand, I went ahead and retrieved that said item in
4 his hand.

5 Q. Okay. What was in his hand?

6 A. It was a metal pill container. It's commonly
7 used or sold for people to put their prescription
8 medication to carry with them whenever they're out
9 and about.

10 Q. Okay. In your experience and training as a
11 narcotics officer, have you seen people keep other
12 items in there?

13 A. Correct. People commonly use -- especially if
14 -- I just saw an individual with -- with drug
15 paraphernalia on them and he's hiding a certain item
16 in his hand, and it's indicative of people -- things
17 that people hide drugs in. Yes, ma'am.

18 Q. What did you do next?

19 A. I -- I looked inside that said item.

20 Q. Okay. What was in that item?

21 A. It was multiple things inside that said item.
22 There was a clear plastic baggy. It was a makeshift
23 baggy that looked like it was from another plastic
24 bag that was in a knot that contained a powdery
25 substance that I could -- I could identify as being

1 cocaine or a cocaine base substance.

2 And I also observed a plastic baggy that had a
3 green pattern on it and it's made for jewelry.
4 People use those and you see them at the jockey lot.
5 People put their jewelry in there, but it contained
6 a crystal-like substance which I identified as being
7 meth.

8 Q. Okay. After you saw the substances, what --
9 what did you do with Mr. Gilliam?

10 A. Mr. Gilliam was advised he was under arrest.
11 There was also -- there was also some loose pills
12 inside that same container, a white and yellow pill.

13 Q. Okay. What did you do with Mr. Gilliam at that
14 point in time?

15 A. He was advised he was under arrest for the
16 substances that I found in that container.

17 Q. Okay. Did you search his person?

18 A. I did. I went ahead -- after I advised him he
19 was under arrest, I went ahead and started patting
20 down his body more thoroughly. And at that point in
21 time, I located in his right -- right front
22 pocket -- he had sweatpants on. When I reached in,
23 there was a -- it was loose crack cocaine or crack
24 powdery substance in his front pocket, cocaine base
25 substance.

1 Q. Okay. And what did you do with Mr. Gilliam
2 after you located the second drugs -- amount of
3 drugs on his person?

4 A. At that point in time, there was already -- I
5 believe I already asked for deputy -- for an
6 additional unit, that I was detaining him.

7 So at that point in time, Officer Pickens
8 arrived at that said point in time. I was still
9 standing beside the vehicle with Mr. Gilliam. The
10 female was still sitting in the driver's seat.

11 At that point in time when Mr. Pickens arrived,
12 I asked him to detain the female that was in the
13 driver's seat. And he escorted her to the front
14 side of my vehicle, and I escorted Mr. Gilliam to my
15 vehicle.

16 Q. And what did you do once you got him to your
17 vehicle?

18 A. I secured him in the backseat.

19 Q. Okay. So Lieutenant Pickens -- now Lieutenant
20 Pickens. At that time ---

21 A. Corporal.

22 Q. --- Corporal Pickens arrived on scene and you
23 had him take the female. Did you identify who that
24 female is?

25 A. It was -- I had identification from both

1 subjects. They provided identification cards. It
2 was a Beth Ann Shovlin, I believe is how you say her
3 last name.

4 Q. Okay. And was -- did she speak with you?
5 Without telling me what she said, did she speak with
6 you?

7 A. She did at one point, after being detained,
8 speak with me, yes.

9 Q. Okay. Did you take another step in your
10 investigation as a result of her speaking with you?

11 A. There was indication that there was further
12 drugs in the vehicle.

13 Q. Okay. And so did you do something as a result
14 of that indication?

15 A. Yes, ma'am. A thorough search of the vehicle
16 was conducted to the whole vehicle.

17 Q. Okay. Was Ms. Shovlin searched?

18 A. She was patted down. She wasn't under arrest.

19 Q. Okay. And you searched the vehicle. Did you
20 find anything in the vehicle?

21 A. There was the open container of beer,
22 miscellaneous objects, but also a clear plastic bag
23 behind the driver's seat that contained
24 methamphetamine.

25 Q. And then it was behind the driver's seat?

1 A. It was on the floorboard of the backseat
2 directly behind the driver's seat.

3 Q. You said that the passenger seat was reclined
4 when Mr. -- or did you --

5 MR. LUCAS: I'm going to object to the facts
6 not in evidence. I haven't heard any testimony to
7 that effect, Your Honor.

8 BY MS. PRICE:

9 Q. How was the defendant positioned ---

10 THE COURT: Go ahead. Rephrase your question.

11 MS. PRICE: Yes, sir.

12 THE WITNESS: I'm sorry.

13 BY MS. PRICE:

14 Q. How was the defendant positioned when you first
15 approached the vehicle?

16 A. When I first approached the vehicle, the female
17 half was sitting towards the male half as they
18 were -- appeared to be conversing.

19 The male half was inclined back in the
20 passenger's seat. Pretty much the seat was on the
21 back -- on the backseat.

22 Q. In a reclined position?

23 A. Yes, ma'am.

24 Q. Okay. Did you speak with the defendant after
25 you found these drugs?

1 A. I did. The vehicle's searched. Located the
2 objects. They were photographed by Corporal
3 Pickens. Our normal process if we locate objects in
4 vehicles or any form of evidence, we try not to
5 tamper with the objects so we can photograph them
6 the way we find them. So we photographed them.

7 I then went back and spoke with the male half.
8 I read him Miranda. I spoke with him. I said, "Do
9 you wish to speak to me? Do you wish to possibly
10 work off your charges?"

11 The capacity of my job at that said point in
12 time is trying to develop informants, so I try to
13 give these individuals opportunities to possibly
14 maybe work their charges off or their possible
15 charges. There's no promises made. It's just if
16 they wanted to be willing participants.

17 At that point in time he declined, but he did
18 during the time that we were speaking indicated that
19 the drugs in the vehicle were his. He didn't state
20 anything else pertaining to the drugs. Didn't state
21 anything pertaining to the drugs, but did state they
22 were his, paraphrasing.

23 MS. GURNEY: Objection. Your Honor, that
24 evidence that the defendant's statement is
25 derivative of the illegal search and seizure.

1 THE COURT: All right. Hold -- hold -- hold
2 on. Take our -- Mr. Bailiff, take our jury to the
3 jury room, please, sir.

4 THE BAILIFF: (Complying.)

5 (At 9:58 a.m., jury left the courtroom.)

6 THE COURT: All right. Ms. Gurney, state your
7 objection.

8 MS. GURNEY: We object to testimony of the
9 defendant's statement as derivative of the illegal
10 search and seizure. Also, under the Fourth
11 Amendment to the United States Constitution and
12 Article 1, Section 10, of the South Carolina
13 Constitution, as well as our prior suppression
14 motion we made yesterday.

15 THE COURT: The Court notes for the record the
16 defendant has renewed his objection to both the
17 search and the statement. The Court would reiterate
18 its ruling from the hearing yesterday -- the
19 suppression hearing and the *Jackson v. Denno*
20 hearing, but your objection is noted for the record.

21 MR. LUCAS: Your Honor, could you formerly
22 overrule it for purposes of the record?

23 THE COURT: Your objection is -- it's
24 overruled.

25 MR. GURNEY: Thank you, Judge.

1 THE COURT: You're protected on the record.

2 MS. PRICE: May it please the Court?

3 THE COURT: Yes, ma'am.

4 MS. PRICE: I apologize, but typically when
5 people make that type of objection, they say, "I'd
6 like to renew my motion." And she said "illegal
7 search" in front of the jury, which I think was very
8 intentional. So I'd ask that the jury be given an
9 instruction to disregard anything that Mr. Voisin
10 [sic] said before they left the courtroom. I think
11 that was very misleading to the jury.

12 THE COURT: Well, let's ---

13 MS. GURNEY: I apologize. I was -- it was not
14 intentional.

15 MS. PRICE: It was absolutely prejudicial.

16 THE COURT: We should -- we should not argue
17 the objections in the presence of the jury.

18 And, Ms. Price, I'm not going to give a
19 curative instruction because I just think it calls
20 attention to that.

21 MS. PRICE: Yes, sir. I understand.

22 THE COURT: And whether or not the search of --
23 they're going to argue to the jury, that becomes a
24 factual question for the jury. So I -- I'm not
25 going to give any instruction regarding that, but

1 that's -- when you have an objection that you need
2 to argue on, let's not state any of the argument
3 until I get the jury out of the courtroom.

4 MS. GURNEY: Yes, sir. I apologize.

5 THE COURT: All right. Let's get our jury.

6 MS. PRICE: Thank you, Judge.

7 THE BAILIFF: (Complying.)

8 (At 10:01 a.m., jury entered the courtroom.)

9 MS. PRICE: Detective, I'm just going to pick
10 up right where we left off with the Court's
11 permission?

12 THE COURT: Yes, ma'am.

13 BY MS. PRICE:

14 Q. Detective, after you found drugs in the
15 defendant's vehicle, did you speak with the
16 defendant again?

17 A. Yes, ma'am.

18 Q. Okay. And was he Mirandized?

19 A. Yes, ma'am.

20 Q. Okay. Was he in custody at that point in time?

21 A. He was.

22 Q. Okay. And were you in uniform?

23 A. I was actually wearing plain clothing with my
24 sheriff's office vest with the markings and wearing
25 my badge and my gun.

1 Q. Okay. But your weapon was holstered?

2 A. At that time it was, yes.

3 Q. And he was handcuffed?

4 A. He was.

5 Q. Okay. Did he appear to be comfortable while
6 you were speaking with him?

7 A. As comfortable as a very large man can fit in a
8 Ford Explorer.

9 Q. We talked about the fact that you gave him
10 Miranda. Do you remember how you read that to him?

11 A. I do. We -- I'll go ahead and retrieve it.
12 Our division, we're assigned Miranda cards that are
13 printed off for us to read to every individual that
14 we need to, instead of reading a set of objects and
15 we carry it on us at all times.

16 Q. Is that for consistency?

17 A. Yes, ma'am.

18 Q. Okay. Can you go ahead and read me the rights
19 as you read them to him that day?

20 A. It's notated on the top half. It states
21 "Miranda warning," and then it's got bullet points
22 that says:

23 You have the right to remain silent. And it
24 says, anything you say can and will be used against
25 you in a court of law. You have the right to talk

1 to a lawyer and have him present with you while
2 you're being questioned. If you cannot afford to
3 hire a lawyer, one can be appointed to represent you
4 before any questioning if you wish. You can decide
5 at any time to exercise these rights and not answer
6 any questions and make any statements.

7 Then below that states a full waiver. It says,
8 do you understand each of these rights as I
9 explained to you? Having these rights in mind, do
10 you wish to talk to us now?

11 Q. And did he speak with you?

12 A. Briefly. Briefly, yes, he did.

13 Q. What did he briefly speak with you about?

14 MR. LUCAS: Your honor, I'm going to object to
15 this question. It's been repetition. It's already
16 been asked and answered.

17 THE COURT: Overruled.

18 BY MS. PRICE:

19 Q. Please continue answering my question.

20 A. I'm sorry. Can you repeat the question?

21 Q. What did he speak with you about?

22 A. We spoke about multiple things. Much like I
23 stated on the scene, if you wish to work as an
24 informant to a certain degree or a certain capacity.
25 He refused.

1 We then started speaking about the drugs. He
2 stated that the drugs that were located were his.
3 He didn't indicate what, in all, entitled the drugs,
4 but he just said the drugs were his.

5 And then we began to talk about the vehicle,
6 what we were going to possibly do with the vehicle,
7 because in most cases we tow that said vehicle
8 because he's the owner of that vehicle. We don't
9 tend to leave vehicles with other people, so we were
10 discussing about what exactly we were going to do
11 with it.

12 Q. Did he ask you for anything?

13 A. He asked me if I could leave the vehicle to
14 help him out with the tow bill. Most tow bills are
15 around \$225 for the initial tow, so I try to be
16 reasonable with individuals, and it's about the
17 situations. And I -- I said, "Okay. What do you
18 exactly want me to do? Do you want someone to come
19 pick up the car?" He requested that I leave it with
20 Ms. Shovlin.

21 Q. And did you do that?

22 A. Yes.

23 Q. Okay. Did you threaten him or intimidate him
24 in any way to make the statement that he made to
25 you?

1 A. No, ma'am.

2 Q. Okay. Did he ask for an attorney while he was
3 speaking with you?

4 A. No. That was pretty much the consistency of
5 our conversation.

6 Q. Okay. Did he appear to understand everything
7 you were saying? Was he rationale when he was
8 speaking with you?

9 A. He appeared to me that he understood everything
10 that I was stating to him.

11 Q. Okay. No problems with interpretation? He was
12 an English speaker?

13 A. He was an English speaker. And I'm bilingual,
14 so I know another language.

15 Q. Was the defendant (inaudible)?

16 A. Yes, ma'am.

17 Q. Did he speak with you freely and voluntarily?

18 A. Yes, ma'am.

19 Q. Okay. How did you collect the evidence in this
20 case?

21 A. Well, I already retrieved the first portion of
22 it, I already had it in my possession. So in most
23 cases once we're completed, we sometimes do a field
24 test kit on the said substance.

25 And then which upon our -- our completion of

1 the investigation, we seal it all in a best kit,
2 especially if it's drugs that need to go to the lab
3 to be analyzed.

4 Q. Were field tests conducted in this instance?

5 A. There was.

6 Q. Are those definitive tests?

7 A. No, ma'am. It's -- it's more of a secondary.
8 I base most of my analyzing from my own
9 experience -- sight, smell, touch.

10 In most cases, you know, cocaine based
11 substances I can smell it, and it smells sometimes
12 like diesel fuel. So based off my experience, I
13 know that cocaine in the purest form smells like
14 diesel fuel.

15 Methamphetamines, depending on how it looks, it
16 could look like shards of glass. I have enough
17 knowledge to know by looking at the said substance
18 and feeling it, what -- what exactly it is.

19 Q. And after you made these charges, do you fill
20 out a request for a lab report to be done?

21 A. It does. It gets sealed in a plastic bag that
22 actually has a sticky portion on it. So once I put
23 the said substances inside there in individual
24 packaging, it gets sent off to a lab that gets
25 analyzed by a lab test.

1 Q. To confirm your preliminary identification?

2 A. That's correct.

3 Q. Okay. And what did you do with the evidence
4 after you collected it? Did you take it to another
5 location?

6 A. What we normally do in this type of situation,
7 we take him into custody. I took him to the
8 detention center and placed him under arrest. I
9 placed a hold on him at the jail.

10 In reference to the drugs, what we do is we
11 collect it. We might weigh it additionally, conduct
12 paperwork for that lab request, and then enter it
13 into evidence.

14 Q. What -- what is evidence?

15 A. It's a division. It's a building located on
16 the same sheriff's office property. And what it
17 does is, basically I turn in the said items to them
18 and place them in a locker. It's a locked box that
19 can only be opened from the individuals that work in
20 evidence.

21 Q. And when did you place these items in the
22 lockbox?

23 A. Upon the completion of the investigation and
24 transporting of Mr. Gilliam.

25 Q. That same evening?

1 A. Yes, ma'am.

2 Q. Okay. Have you ever encountered more than one
3 person in a vehicle where you found drugs before?

4 A. Yes, ma'am.

5 Q. Okay. Have you ever charged more than one
6 person in a situation like that?

7 MR. LUCAS: Your Honor, I'm going to object to
8 that question. I think that's not relevant to the
9 facts of this case. She's asking for speculation.

10 THE COURT: I'll allow the question.
11 Overruled.

12 MS. PRICE: Thank you, Judge.

13 BY MS. PRICE:

14 Q. So the question is, if you've encountered more
15 than one person in a vehicle where you found drugs,
16 and in those instances, have you ever arrested both
17 people in the vehicle?

18 A. At times. Yes.

19 Q. Okay. What happened to the pipe in this case?
20 Did you collect that as well?

21 A. No. The -- the glass was broken. It's a sharp
22 object. We don't tend to collect those items, much
23 like needles that people use to inject themselves,
24 because our personnel in our evidence has to deal
25 with these objects and it's kind of a safety hazard,

1 so we normally just photograph them.

2 Q. Okay. I'm going to ask you to step down and go
3 through some photographs with me that were already
4 admitted.

5 A. Yes, ma'am.

6 Q. We're just going to go back through them, but
7 please tell me as I'm showing you these exhibits,
8 and I'll identify the exhibits before I publish it
9 to the jury, what we're looking at and with the
10 narrative that you just described to the jury.
11 Okay?

12 A. Okay.

13 Q. Okay. Showing you State's Exhibit 3.

14 A. This is the defendant's vehicle. That's
15 actually myself over there in the rear passenger
16 side door.

17 Q. Here?

18 A. Yes, ma'am.

19 Q. That's you?

20 A. Yes, ma'am.

21 Q. Okay.

22 A. At this point, we opened all the doors. This
23 is just overall that the other officer that was on
24 scene, Corporal Pickens, was starting his
25 photographs.

1 Q. Do you remember how many officers were called
2 out to the scene?

3 A. I believe that on our CAD from what I
4 recollect, it was myself initially. I called for
5 additional units.

6 Most times whenever I key up on the radio and
7 ask for additional units, multiple people might be
8 en route. It doesn't necessarily mean that they
9 show up, but if they say that they're en route and
10 then if we cancel them or they cancel themselves
11 thinking there's other officers on scene, they do
12 so.

13 But from what I recall who arrived on scene was
14 Corporal Pickens; it was Master Deputy Purdy; I
15 think Cameron Wood also. Deputy Cameron Wood showed
16 up and actually just drove by. He never even got
17 out of his vehicle.

18 And then our sergeant, James Foster, actually
19 responded and said, "Hey, are you guys good?" We
20 said yes, and he got back in his car and left. I
21 think that was all that actually arrived on scene.

22 Q. Okay. And just to -- this is the defendant's
23 vehicle?

24 A. That is.

25 Q. And you confirmed that it was registered to

1 him?

2 A. Yes. He said -- he stated that that was his as
3 well.

4 Q. State's Exhibit 4, what are we looking at?

5 A. That is the defendant.

6 Q. Okay. Did you collect his identification from
7 him that day?

8 A. Yes. We photographed it and we keep it in his
9 property when he was at the detention center.

10 Q. Give it back to him?

11 A. Yes.

12 Q. Okay. State's Exhibit 5?

13 A. That would be the lady -- the young lady in the
14 driver's seat. That's Beth Ann Shovlin. She was in
15 the vehicle. We also photographed her
16 identification card and gave it back to her.

17 Q. Is this the one that you released the vehicle
18 to?

19 A. Yes. That is.

20 Q. Okay. State's Exhibit 6?

21 A. That is the metal container, the top half of
22 the metal container that housed the drugs that were
23 clinched in Mr. Gilliam's hand. That's with the top
24 open.

25 Q. State's Exhibit 7?

1 A. That is the plastic -- it's a blurry photo, but
2 it's a plastic baggy which I was telling you about
3 the jewelry that holds -- normally holds jewelry,
4 but that one actually contained methamphetamine.

5 Q. State's Exhibit 8?

6 A. Another blurry photo, but that is the same
7 container. That would be the baggy that's contained
8 in the cocaine base substance.

9 Q. I think if you look here, it'll be more
10 clearer. And, thankfully, the jury will get to look
11 at these ---

12 A. I'm sorry.

13 Q. --- later. That's okay. State's Exhibit 9?

14 A. And that's the baggy containing the cocaine
15 base substance that was -- as you can see, it's a
16 corner of a plastic baggy that was tied up that
17 contained some substance.

18 Q. That came out of the metal pill container?

19 A. That did.

20 Q. State's Exhibit 10?

21 A. And that's just the remnants of the pills that
22 were in the bottom. They were not legible pills.
23 The imprints on them were -- had pretty much
24 diminished. So they were collected and they were
25 just turned over to evidence to be destroyed. There

1 was no charges based of those substances.

2 Q. Because you couldn't identify them?

3 A. I mean, we could send it off to a lab to get
4 analyzed, but there was no point in that. I felt
5 like there was enough substantial charges on
6 Mr. Gilliam to go forward.

7 Q. Okay. State's Exhibit 11?

8 A. That's from the passenger's side vehicle -- of
9 the vehicle. There's an open container of beer,
10 much like I was describing earlier. And there's a
11 walking cane that I believe Mr. Gilliam used to walk
12 with occasionally. I assume he must've had some
13 walking issues, but that's where he was sitting at
14 right there.

15 Q. Okay. State's Exhibit 12?

16 A. That's the open container.

17 Q. Just a close up picture?

18 A. Yes, ma'am.

19 Q. Okay. State's Exhibit 13?

20 A. That's a photograph of the passenger's side
21 where Mr. Gilliam was sitting. Also, on the floor,
22 as you can see near the door, is the remnants of the
23 pipe that he was -- he had in his possession.

24 Q. Can you point that out to the jury?

25 A. The pipe can be located right there. That's

1 the portion that's still intact.

2 Q. Okay. And State's Exhibit 14?

3 A. That's just a close up photo of that said pipe
4 that I was just describing. As you can see, there's
5 broken pieces of glass.

6 Q. Can you point that out to the jury as well?

7 A. There's remnants of glass right through here,
8 right there, and right there.

9 Q. Okay. State's Exhibit 15?

10 A. This is a photograph of the backseat of the
11 vehicle.

12 Q. Okay. State's Exhibit 16?

13 A. This is from the driver's side, rearview of it.

14 Q. And is there an individual you can see in this
15 photograph?

16 A. Yeah, Ms. Shovlin is -- Beth Shovlin is
17 actually sitting at the front bumper of my vehicle
18 in handcuffs.

19 Q. Okay. State's Exhibit 17?

20 A. This is the backseat and right here would be a
21 baggy containing what we identified later as being
22 methamphetamine that was in it.

23 Q. Okay. State's Exhibit 18?

24 A. That's just a close up photo of the same object
25 behind the driver's seat.

1 Q. Okay. And the object being methamphetamine?

2 A. Methamphetamine being right here. This is just
3 a baggy.

4 Q. Okay.

5 A. A sandwich bag.

6 Q. State's Exhibit 19?

7 A. I believe that's just a blurry photo of the
8 same substance that was located in the backseat.

9 Q. That one is blurry. I'm going to give you
10 that. State's Exhibit 20?

11 A. This is a field test kit photograph of the --
12 the cocaine base substance that was found in the
13 canister. This blue portion right here would just
14 indicate that -- that it was a positive
15 confirmation. You don't put a lot of drugs inside
16 these containers. You just put a portion -- a small
17 portion. And when you actually activate the acids
18 that are inside that container by -- by popping the
19 ampoules, you -- you get a particular color for the
20 particular type of drug that you're trying to
21 find -- to identify.

22 Q. Okay. Please take the stand again.

23 A. Thank you.

24 Q. Thank you. I'm showing you what's been marked
25 as State's Exhibits 1 and 2. Take a look inside

1 both those envelopes, but don't take the materials
2 out of the envelopes.

3 A. (Complying.)

4 Q. Do you recognize what is in State's Exhibits 1
5 and 2?

6 A. Yes, ma'am. That's the evidence I collected on
7 the scene.

8 Q. Okay. Specifically what?

9 A. In the larger envelope, it contains all the
10 drugs that were collected and that were entered into
11 a best kit.

12 Q. And what is the exhibit number on that?

13 A. Number 2.

14 Q. Okay. And looking at State's Exhibit 1, what
15 was that?

16 A. This is the metal pill container.

17 MS. PRICE: Okay. And, Your Honor, at this
18 time the State ---

19 BY MS. PRICE:

20 Q. --- and that's the pill container that you
21 collected off of this defendant?

22 A. Yes, ma'am. It's in another envelope inside it
23 that's sealed, but I can feel it being meth --
24 methamphetamine.

25 MS. PRICE: Okay. Your Honor, at this time the

1 State would seek to admit State's Exhibit 1 into
2 evidence and open that for the jury.

3 THE COURT: Mr. Lucas?

4 MR. LUCAS: That's without objection, Your
5 Honor.

6 THE COURT: State's Exhibit Nos. 1 and 2 would
7 be admitted without objection. Yes, ma'am.

8 (State's Exhibit Nos. 1 and 2 were received
9 into evidence.)

10 MS. PRICE: Thank you.

11 MR. LUCAS: Your Honor, just to confirm, was it
12 being introduced as just ---

13 MS. PRICE: One, yeah.

14 MR. LUCAS: --- just one.

15 THE COURT: Just one.

16 MR. LUCAS: We don't have any objection to the
17 pill container.

18 THE COURT: Just Exhibit 1 would be admitted
19 without objection.

20 MS. PRICE: I'll move in two.

21 THE COURT: Okay.

22 THE WITNESS: You want me to open this?

23 MS. PRICE: Yes, please.

24 THE WITNESS: (Complying.)

25 BY MS. PRICE:

1 Q. Could you bring that over and show it to the
2 jury?

3 A. (Complying.) This is the same bag that I
4 signed. It has my initials on it and the date which
5 I sealed it.

6 Q. Okay. So until just now when you unsealed it,
7 it's been sealed?

8 A. Since I placed it in.

9 Q. You placed it in there?

10 A. Yes, ma'am.

11 Q. And does it look the same that it did the day
12 you collected it?

13 A. Yes, ma'am. It still has residue on it.

14 Q. Sorry. You can go ahead and close it.

15 A. (Complying.)

16 Q. And that is what was found in the defendant's
17 hand?

18 A. Yes, ma'am.

19 Q. As you were ---

20 A. He had it grasped it like this with his closed
21 fist.

22 Q. Thank you. You can put that back in the
23 envelope.

24 A. Yes, ma'am.

25 Q. So you marked two pills for destruction; is

1 that correct?

2 A. Correct. They were marked as D-5. They were
3 two pills.

4 Q. Okay. Did you fill out paperwork with regard
5 to the other substances?

6 A. Yes. When we complete a best kit, there's
7 three forms in which we have to complete. And we
8 actually have to categorize each item that we place
9 into that best kit by "D" numbers is what we use in
10 our division. And "D" basically indicates "drug."
11 So it would be D-1 being drug no. 1; D-2 being drug
12 no. 2; so on and so forth.

13 Q. And in this case, how many items do you have?

14 A. There was four items of drug -- drug numbers.

15 Q. Four separate drug items?

16 A. Yes, ma'am.

17 Q. Okay. Do you have any in-car video or body cam
18 of your interactions with this defendant?

19 A. No, ma'am. We weren't equipped with cameras.

20 Q. You weren't equipped with video or body cams at
21 that time?

22 A. No, ma'am.

23 Q. Is that something the sheriff's office is
24 working to get now?

25 A. They are just now implementing body cams.

1 Q. Just now?

2 A. Yes, ma'am.

3 Q. Okay. But that was not standardized equipment
4 at the time?

5 A. Not in our department, no, ma'am.

6 Q. Okay. After placing the defendant under
7 arrest, you said you took him to the jail?

8 A. I did. There was a hold placed on him for the
9 said charges to be presented before a magistrate to
10 get signed.

11 Q. Did you serve him with the warrants?

12 A. I did not.

13 Q. Do you know who did?

14 A. I believe it was an individual who works in the
15 warrants division. It was Michael Campbell.

16 Q. Okay. Did you have any other interactions with
17 the defendant in this case after you placed him at
18 the detention center?

19 A. No, ma'am.

20 Q. Have you ever encountered this defendant before
21 this incident?

22 A. Not that I recall. I think that's our first
23 encounter.

24 Q. And, again, for the record, who did you
25 identify this individual as?

1 A. Jamey Gilliam. Christopher Gilliam.

2 MS. PRICE: Thank you very much. Please answer
3 any questions that Mr. Lucas or Ms. Voisin has for
4 you.

5 MR. LUCAS: Your Honor, could we have a brief
6 like five-minute recess just for a bathroom break,
7 please?

8 THE COURT: Okay. Mr. Bailiff, if you would
9 take the jury to our jury room.

10 Officer, you're under oath so you can't discuss
11 your testimony with anyone while we're taking a
12 break.

13 THE WITNESS: Yes, sir.

14 THE COURT: Take our jury, please.

15 THE BAILIFF: (Complying.)

16 (From 10:22 to 10:30 a.m., brief recess.)

17 THE COURT: Okay. Mr. Lucas, your witness.

18 MR. LUCAS: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. LUCAS:

21 Q. Officer Velez, you just testified that
22 Mr. Gilliam made a statement to you, correct?

23 A. Upon being Mirandized after he was in custody,
24 yes, sir.

25 Q. And you testified that you didn't record that

1 statement?

2 A. No, sir.

3 Q. And it was not witnessed by anyone else?

4 A. It was in the presence of Corporal Pickens when
5 he was in the same vicinity as me.

6 MR. LUCAS: Permission to approach the witness,
7 Your Honor?

8 THE COURT: Yes, sir.

9 MR. LUCAS: Thank you.

10 BY MR. LUCAS:

11 Q. Are you familiar with those documents, sir?

12 A. Yes. This is the front brief case summary in
13 the front, first page, and then the rest of it is
14 the actual written report.

15 Q. And is there a written incident report by
16 Deputy Pickens in there?

17 MS. PRICE: Objection, Your Honor. He can't
18 testify to what's in or not in Corporal Pickens'
19 report if that's what ---

20 MR. LUCAS: Your Honor, he's the lead
21 investigator.

22 THE COURT: Well, I'm going to -- I'm going to
23 allow him to ask that question. Overruled.

24 MS. PRICE: Thank you, Your Honor.

25 THE WITNESS: I'm looking for it.

1 BY MR. LUCAS:

2 Q. Okay. Thank you. It should be the fifth or
3 sixth page.

4 A. Okay.

5 Q. So there is an incident report written by
6 Deputy Jeramy Pickens?

7 A. It's a supplement report. It's the -- the
8 incident report is actually conducted by me. He
9 just does a supplemental ---

10 Q. Sure.

11 A. --- narrative.

12 Q. Sure. And did he put anything in that incident
13 report about witnessing a statement?

14 A. It doesn't look like he put a whole lot in
15 there other than photographs.

16 Q. Did he put anything in there about witnessing a
17 statement?

18 A. No, sir. Only about the photographs and
19 placing them on a disk.

20 Q. Okay. Thank you. And then one further
21 question regarding the incident report that you
22 wrote.

23 A. Okay.

24 Q. Is there anything in that report mentioning
25 Deputy Pickens being there with you when this

1 alleged statement was made?

2 A. One moment. (Reading.) No, sir. I placed it
3 in my narrative. I stated that Mr. Gilliam was read
4 Miranda warning during the course of the interview.
5 He claimed ownership of the drugs that were located.

6 Q. But nothing about Deputy Pickens being there?

7 A. No, sir.

8 Q. And you testified that you didn't record that
9 statement; is that correct?

10 A. We were not provided any recording devices that
11 are sufficient for our kind of investigation.

12 Q. So at that time you weren't equipped with body
13 cameras?

14 A. No, sir. The department wasn't equipped with
15 body cameras.

16 Q. Do you have one now?

17 A. No, sir.

18 Q. And was your car equipped with what's commonly
19 referred to as a dashboard or in-car camera?

20 A. No, sir.

21 Q. And you're familiar with many other
22 jurisdictions that run body cameras, correct?

23 A. Yes, sir.

24 Q. The City of Anderson?

25 A. That's above my pay grade. I don't know who

1 and all actually has camera systems or not, but I
2 know our department didn't have them at the time.

3 Q. And it's common for many other municipalities
4 in Anderson County to wear body cameras, is it not?

5 A. I'm not sure what agency does or not. I think
6 Anderson City does, but I'm not sure at that time if
7 they did or didn't.

8 Q. But the Anderson County Sheriff's Office did
9 not at that time?

10 A. We had no cameras. I was not equipped with
11 anything of that nature.

12 Q. And you testified you didn't have any means to
13 record the statement?

14 A. Any means that I don't want -- I don't want to
15 put my cell phone into evidence and have it sealed
16 and not have a cell phone, so we don't normally use
17 our cell phones to record things.

18 Q. But you did have a county-issued smartphone at
19 that time?

20 A. Correct. I don't use that for recording
21 purposes for that very issue of it becoming
22 evidence.

23 Q. And it has the ability to record audio and
24 video footage?

25 A. I'm not sure to what capacity, but we do not

1 use them.

2 Q. And had you recorded that, certainly it would
3 not have been a hard thing to do to get that
4 recording, take it off, and put it onto a zip drive
5 or a hard drive, would it?

6 A. My concern would be -- and I'm not -- I'm going
7 to answer your question.

8 Q. Sure.

9 A. My concern would be personally by using my
10 county-issued cell phone; (A) it could be admissible
11 and have to subpoena my phone into evidence and have
12 to sit there for an extended period of time; second,
13 it could be stated that I tampered with said video
14 or anything of that nature on my cell phone because
15 it's my property and it's in my possession, so the
16 accountability issue with that would be kind of
17 problematic.

18 Q. So you're saying that if you recorded it with a
19 camera, the camera would be put into evidence?

20 A. Some cases, yes, sir, it can.

21 Q. But we didn't do that today, did we? There are
22 photos put in evidence?

23 A. That's not my camera. It was another officer's
24 camera.

25 Q. Well, we didn't put Deputy Pickens' camera into

1 evidence, did we?

2 A. I understand. No, sir.

3 Q. Digital photographs put on a stick were printed
4 off and then published to the jury, correct?

5 A. They were downloaded to a server and then they
6 were downloaded to a disk.

7 Q. Okay. And then printed off and put on an
8 overhead and admitted into evidence?

9 A. Yes, sir.

10 Q. I don't see Deputy Pickens' camera in here.
11 Now, you testified that you didn't have any means to
12 record a statement, but that's not quite true. You
13 could've recorded it and you chose not to?

14 A. I wasn't provided any equipment specifically
15 for record -- recording purposes. Like I said, I
16 don't want to use my county-issued cell phone for
17 the issue of it being asked -- being entered into
18 evidence at one point or another.

19 Q. And let's -- let's move on to Beth Shovlin. So
20 there were two people in the car is what you
21 testified to, correct?

22 A. Yes -- yes, sir.

23 Q. Beth Shovlin was in the driver's seat?

24 A. That's correct.

25 Q. And then my client, Jamey Gilliam, in the

1 passenger's seat?

2 A. Yes, sir.

3 Q. And so Ms. Shovlin's in the driver's seat,
4 correct?

5 A. That's correct.

6 Q. And then you testified that there's a baggy of
7 drugs found right behind the driver's seat, correct?

8 A. Behind her, yes.

9 Q. And isn't it true that Ms. Shovlin was living
10 in the woods at this time?

11 A. That's correct.

12 Q. And you're aware that she has a long criminal
13 record?

14 A. I can't recall. I don't remember what her rap
15 sheet looked like.

16 Q. As the lead investigator in this case, did you
17 run a rap sheet?

18 A. No. Because she wasn't placed under arrest.

19 Q. Now, you testified today that you observed this
20 jeep after traveling down Pearman Dairy Road and
21 taking a right onto Michelin Boulevard, correct?

22 A. I observed the vehicle once I was on Michelin
23 Boulevard. I saw it to my left-hand side.

24 Q. And this property that we're talking about is
25 directly across from Westside High School, right?

1 A. It's across the street. Yes, sir.

2 Q. And it's the location of an old demolished
3 Ingle's Produce Department?

4 A. Yes, sir.

5 Q. Store was there. It's since been knocked down.
6 It's an abandoned lot and parking lot. It goes back
7 to a wood line?

8 A. Yes, sir.

9 Q. And you've just said that this area, there was
10 a lot of heavy vegetation?

11 A. At that point, yes, sir.

12 Q. And it's early May, so everything was budded
13 out and in full bloom?

14 A. I don't know if it was in bloom or not. It was
15 just vegetation.

16 Q. Okay. And -- but there would be more
17 vegetation in May than there would be, for instance,
18 here on February 23rd or whatever it is?

19 A. It was dense enough that I could not see her
20 campsite -- Ms. Shovlin's campsite that she had on
21 that same property.

22 Q. And you have said earlier that you estimated
23 that the car was 75 yards off the road?

24 A. Off the Pearman Dairy side, yes, sir. I would
25 say probably 25 yards on the Michelin side. That's

1 just a guesstimation.

2 Q. Now, you testified today you pulled up and you
3 heard yelling coming from the car?

4 A. I pulled up and approached a vehicle that was
5 parked. And as I was walking to the vehicle, I
6 heard some yelling, yes, sir.

7 Q. And you said that was arguing?

8 A. I did know exactly what it was. It was loud
9 noises coming from a vehicle that was occupied by
10 two people, so I assumed maybe they were arguing.

11 Q. And at -- at a previous motion hearing, you
12 testified that it was a domestic dispute, correct?

13 A. I assumed that it was possibly a domestic
14 dispute given that there was a male and female in
15 the vehicle.

16 Q. And you also mentioned a suspicion of
17 trespassing; is that correct?

18 A. The property -- it's been advised to me by
19 personnel from Ingles that nobody should be on their
20 said property, so I had that prior knowledge first.
21 Second, there was a wooden sign there at one point.
22 Third, there was barricades made out of cement that
23 blocked the entranceway to Pearman Dairy Road and
24 Michelin Boulevard preventing vehicles from going
25 onto said lot.

1 I don't recall if all four corners of the
2 property had no trespassing signs, but there was, I
3 felt, adequate enough barriers and things in place
4 that should let people know that Ingles doesn't want
5 anybody on their property.

6 Q. And do you still have a copy of the incident
7 report that we were looking at earlier?

8 A. Yes, sir.

9 Q. Now, looking down to the second line, it says
10 that you observed a male subject in the jeep begin
11 to scream and act erratic as you pulled up, correct?

12 A. Yes, sir. He was screaming and acted erratic
13 as I pulled up.

14 Q. And your report doesn't say anything about
15 suspecting a domestic disturbance, does it?

16 A. That was my assumption. Most people, when
17 they're arguing over something of that nature, like
18 I said, if it's a male and female, I'm assuming that
19 they're having some domestic issue. I don't even
20 think they were a couple based off my knowledge
21 after everything's completed. I think they just
22 knew each other. They were acquaintances.

23 Q. It doesn't say anything about an argument
24 either, does it?

25 A. I didn't know. I asked them once I approached

1 them what was going on. Neither one of them would
2 advise me, so that's why I asked Mr. Gilliam to get
3 out of the car because of the unknown factor that
4 was going on at that point in time.

5 Q. And your report doesn't say anything about
6 trespassing either, does it?

7 A. No, sir. And to be honest with you, most cases
8 like this whenever we get out on people who are
9 trespassing, probably didn't think it was relevant.
10 20/20 is always hindsight, but the fact of the
11 matter is we normally run people off the property
12 and just go about our way. I don't write an
13 incident report every time I catch somebody
14 trespassing on somebody's private property.

15 Q. Sure. Sure. And trespassing is actually
16 required to trespass after notice, right?

17 A. There's -- there's multiple aspects of
18 trespassing, but in most cases whenever law
19 enforcement makes contact on their own with
20 individuals, teenagers. You're right there near a
21 high school, you can catch kids smoking marijuana.
22 You can catch kids having sex.

23 Most cases we're not going to call their
24 parents and then fill out paperwork. We just run
25 them off, send them about their way. Much like in

1 this situation, I was probably going to do the same
2 thing initially until then I saw that there was a
3 crime involved.

4 Q. And you testified today that there was a "no
5 trespassing" sign in one spot that was falling
6 apart?

7 A. Yeah, there -- there was a wooden "no
8 trespassing" sign that belonged to Ingles. It's no
9 longer standing there. Most of the property has
10 been cleared up since this point when the incident
11 occurred. That lot has been completely bulldozed
12 and all the brush has been cut down. So there's
13 nothing -- I don't believe any remnants of the sign
14 there currently.

15 Q. And you testified at a previous motion hearing
16 you didn't go around the property ---

17 A. I didn't. I didn't look for no trespassing
18 signs. Like I stated before, most cases I'm not
19 sitting there trying to make a charge of
20 trespassing. I'm just trying to get the people off
21 the property and go about my way. I was at the end
22 of shift and wanted to go home.

23 Q. Now, moving forward to your contact with
24 Mr. Gilliam. In your report it says that you
25 approached him when he was in the car, correct?

1 A. That's correct.

2 Q. And you testified that you saw a glass smoking
3 pipe come out of the car?

4 A. Yes, sir.

5 Q. And that you then detained and handcuffed
6 Mr. Gilliam?

7 A. That's correct.

8 Q. And you testified that you kind of went up --
9 today and you went up and talked to them to see what
10 was going on, right?

11 A. A series of events were I approached the
12 vehicle, observed some arguing or alleged arguing.
13 I made contact. Asked what exactly was going on.
14 Didn't receive an answer, so I asked Mr. Gilliam to
15 step out.

16 As he stepped out of the vehicle, the glass
17 pipe fell off of his person. One way either falling
18 from his hand or falling off his person. It fell
19 off his person. Shattered on the ground.

20 At that point in time, I felt that there was
21 some crime afoot. Given that I suspected him to
22 probably have drugs on him, I detained him. Given
23 that he was a rather large man and that I was the
24 only officer there and there's two subjects there, I
25 detained him and placed him in handcuffs. Yes, sir.

1 Q. And you testified at a previous motion hearing
2 that before -- before handcuffing him and before
3 searching him, you didn't actually go look at the
4 glass pipe closely?

5 A. It was right there near my right foot, so I
6 could see it pretty clearly what it was.

7 Q. Well, you didn't field test it or anything to
8 see what was inside of it?

9 A. Due to my knowledge, I knew exactly what it was
10 based off my experience. I knew what it was when it
11 hit the ground. When it -- when I was watching it
12 fall and when I saw it shatter, I knew what it was.

13 Q. Well, you testified earlier that it has
14 multiple uses, that's it's a flowerpot?

15 A. It's sold. The uses and what it's sold for,
16 many gas stations sell things that are -- the
17 purpose that's labelled on them is totally different
18 than what people actually buy them for. I observed
19 what it was. I knew it was something that's
20 indicative of using drugs; therefore, I made that
21 assumption.

22 MR. LUCAS: Permission to approach the witness,
23 Your Honor?

24 THE COURT: Yes, sir.

25 THE WITNESS: Thank you.

1 MR. LUCAS: Yes, sir.

2 BY MR. LUCAS:

3 Q. Are you familiar with that document, sir?

4 A. This is a CAD report that dispatch -- their
5 interpretation of the call as they're coming out
6 over the radio, they -- they log things as they come
7 over.

8 Q. And they're logging things that you tell them,
9 correct?

10 A. Correct. What they hear on the radio, most
11 cases they'll try to log it.

12 Q. And there is a comment that's notated as being
13 made at 18 hours, 21 minutes, and 11 seconds,
14 correct?

15 A. That's correct.

16 Q. And it says -- it says reference to suspicious
17 vehicle, correct?

18 A. That's correct.

19 Q. And that comment would've come from you?

20 A. Yes. I would say it over the radio, which at
21 that time we worked on channel two. We would've
22 advised our dispatcher working that channel, "Hey,
23 I'm stepping out with a suspicious vehicle."

24 Q. Sure. And then a little bit higher on your
25 report it says that the on-scene date and time is

1 18 hours, 21 minutes, and 11 seconds, correct?

2 A. It says incoming time over the radio that it
3 was at that point in time. Yes, sir.

4 Q. Well, I think it says on-scene date and time?

5 A. Okay. I was looking at the one above that
6 where it says incoming 9-1-1. On-scene date and
7 time, yes, it's the same number.

8 Q. Okay. So 6:21 p.m. and 11 seconds after that.
9 And then a little further down in the report, it
10 says that an officer notated as "Officer N-41" made
11 a remark, correct?

12 A. N-41 is my unit number. Yes, sir.

13 Q. Okay. And the remark is "one detained"?

14 A. That's correct.

15 Q. And presumably that refers to Mr. Gilliam,
16 right?

17 A. That would be correct.

18 Q. And that comment is made at 18 hours, 21
19 seconds -- or 21 minutes and 52 seconds, correct.

20 A. Yes, sir.

21 Q. So 41 seconds after the initial contact with
22 the dispatcher?

23 A. Yes, sir.

24 Q. So you got Mr. Gilliam out and detained him 41
25 seconds after you went up to the car?

1 A. Yes, sir.

2 Q. Now, you've been a police officer for how many
3 years?

4 A. It's going to be 13 years this fall.

5 Q. Okay.

6 A. Yes, sir.

7 Q. And as part of that, you are trained how to
8 write incident reports, correct?

9 A. Trained? Yes. We're taught how to write a
10 report, yes, sir ---

11 Q. Okay.

12 A. --- or try to anyway.

13 Q. And you're trained to write detailed reports?

14 A. Yes.

15 Q. Thorough reports?

16 A. We attempt to, yes, sir.

17 Q. That include all relevant information?

18 A. Yes, sir.

19 Q. And the reason you do that is because you may
20 have to rely upon it to testify in court?

21 A. In most cases, we -- we do, yes, sir. There's
22 still that level of human error ---

23 Q. Sure.

24 A. --- but most of the time.

25 Q. Sure. And you do that because you may be

1 testifying in a case where events took place a year
2 and a half, two, three years before, right?

3 A. Yes, sir.

4 Q. Now, you testified that Mr. Gilliam had
5 reclined his seat back in the car, correct?

6 A. There's a photo that you can actually see from
7 the -- I believe it's from one of the pictures in
8 the backseat. You can see that the chair is
9 reclined back -- further back that's leaning against
10 the passenger's seat being in the rear portion of
11 the vehicle. When I was approaching, I could see
12 him pretty much slumped over into the back on that
13 chair.

14 Q. Okay. But didn't put anything in your report
15 about that?

16 A. No, sir. That's just my observation.

17 Q. And you also said today on the stand that you
18 searched the car after speaking with Ms. Shovlin?

19 A. There was a search conducted of the vehicle.
20 Yes, sir.

21 Q. Would you take another look at your report,
22 please?

23 A. On the written report?

24 Q. Yes, sir.

25 A. Okay. Yes, sir. Which page?

1 Q. Well, bear with me and I'll count it back.

2 A. Okay.

3 Q. Page four.

4 A. Okay.

5 Q. Now, your report says, and without saying what
6 Ms. Shovlin said, it says that you spoke with her,
7 correct?

8 A. Yes, sir.

9 Q. And then as a result of that, that you
10 retrieved a crystal-like substance from the car?

11 A. Yes, sir.

12 Q. And you did that right after speaking with her?

13 A. The search of the vehicle was going to be
14 conducted even if I didn't speak with her at that
15 point in time. To be -- to be frank and to answer
16 your question, yes, but -- yes, the vehicle was
17 searched after speaking with her and after the
18 photographs are being -- overall are being taken of
19 the vehicle.

20 Q. But in the report, it says you spoke with her,
21 right?

22 A. I did speak with her, yes.

23 Q. And then in the very next sentence, it says
24 that you retrieved this crystal-like substance in a
25 Ziploc bag, correct?

1 A. That she was advising of, yes, sir.

2 Q. Okay. And at our previous motion hearing, you
3 didn't testify to searching the car. You just said
4 you retrieved the drugs, right?

5 A. I think the terminology, I think there's
6 confusion about the word "retrieve." I think
7 this -- I don't they were believing -- when I say
8 "retrieved," I observed it. I don't touch it
9 because the fact of the matter is the photographs
10 have to be taken of that said object. Much like
11 when -- (coughing) -- in there, that's where they
12 stayed until the photographs were completed. I
13 don't like to touch my evidence as much as possible
14 until the photographs are taken of it.

15 Those items were all photographed. The vehicle
16 is photographed. The driver's license is
17 photographed. The items that I had in my hand that
18 I retrieved from Mr. Gilliam were photographed.
19 Then everything is collected upon the completion of
20 that.

21 Q. Okay.

22 A. I hope that answered your question. I'm sorry.

23 Q. No. That's -- that's fine. Thank you for
24 clarifying, but you said "retrieved," not
25 "searched," right ---

1 A. Correct.

2 Q. --- in your report?

3 A. I believe it to be in my custody when I -- when
4 I observe it and I see it to be contraband, I
5 believe it to be mine, especially if I'm over the
6 scene itself.

7 Q. And you just said you collected everything?

8 A. Collected everything that was contraband, yes,
9 sir.

10 Q. Okay. You didn't collect the glass smoking
11 pipe?

12 A. No. It's an evidence hazard. And to be honest
13 with you, frankly, I had enough charges with the
14 items that I retrieved that were on him.

15 Q. Okay. So that was not put into evidence and it
16 was destroyed?

17 A. Evidence will not accept needles or sharp
18 objects like that. In most cases just because of
19 the safety concerns, the items will be -- the items
20 will be thrown away.

21 Q. And you're the lead investigator in this case,
22 correct?

23 A. I am.

24 Q. This was your case. Was any forensics or was
25 forensics ever called to the scene to look for

1 fingerprints on any of the bags?

2 A. No, sir.

3 Q. So you couldn't say whether Mr. Gilliam's
4 fingerprints were on the bag?

5 A. On the bag?

6 Q. On any of the bags?

7 A. No, sir.

8 Q. And how about Ms. Shovlin? Can you say whether
9 her fingerprints are on any of the bags?

10 A. No, sir.

11 Q. And then at the end of all this, you release
12 the car to Ms. Shovlin?

13 A. Per request of Mr. Gilliam, yes, sir.

14 Q. And she was not arrested, but drove away?

15 A. She did not drive away. She had a suspended
16 driver's license. She then made proper
17 accommodations for Mr. Gilliam for someone to come
18 retrieve the vehicle.

19 Q. Okay. But she wasn't arrested?

20 A. She was not arrested.

21 MR. LUCAS: Beg the Court's indulgence for just
22 a moment, Your Honor.

23 (Counsel conferring briefly.)

24 MR. LUCAS: Nothing further, Your Honor. Thank
25 you, Officer Velez.

1 M-c-G-u-i-r-e.

2 EVIDENCE TECHNICIAN BRAD MCGUIRE,
3 having been produced and first duly sworn as a
4 witness on behalf of the State, testified as
5 follows:

6 DIRECT EXAMINATION

7 BY MS. PRICE:

8 Q. Thank you, Mr. McGuire. And who do you work
9 for?

10 A. Anderson County Sheriff's Office.

11 Q. In what capacity do you work at the sheriff's
12 office?

13 A. I'm an evidence technician.

14 Q. Okay. What is an evidence technician?

15 A. We take evidence that comes in from the
16 deputies and investigators. We house it. We store
17 it. We put it in numerical sequence and everything
18 to be able to keep up with it. And then we store it
19 until court time.

20 Q. How long have you worked for the sheriff's
21 office?

22 A. Twenty-seven years.

23 Q. And what is property and evidence?

24 A. Property and evidence is where when an officer
25 makes a case, he takes the evidence and he'll need

1 to go to court with the particular case. He'll need
2 to put it into a holding area, a secure area that
3 will be able to keep the evidence preserved as an
4 original form and everything until court.

5 Q. So is property and evidence a secure location?

6 A. Yes, ma'am.

7 Q. Okay. Who has access to property and evidence?

8 A. Only evidence technicians.

9 Q. Okay. Can you briefly explain, briefly, to the
10 jury how you maintain and store property there?

11 A. Yes, ma'am. When evidence is taken from the
12 officer, we have a holding room or an intake room
13 that the officers go in to fill out their paperwork.
14 There is a one-way locked secure box there that once
15 they put their property and evidence sheet together,
16 what they're putting in the locked box, they'll
17 place it in the lock -- in the lock box and close
18 it.

19 Once they close it, no one can get to it. It's
20 a one-way lock system, other than the evidence
21 technician from the inside, of the locked box.

22 Q. And are drugs kept in a specific location?

23 A. Yes, ma'am. They're kept in the evidence
24 vault.

25 Q. Okay. And where do deputies drop things off

1 after hours?

2 A. In the holding room, there is a locked box that
3 is specifically for the officer for particular
4 cases. Every one of the boxes are specifically, you
5 know, they're -- you put one case in one box and
6 then you -- when you close the door, it's secure
7 until we open it and get the evidence out and then
8 we'll put it into the permanent holding facility.

9 Q. So once an officer puts evidence into that
10 locker, can he take it back out?

11 A. No, ma'am.

12 Q. It's a one-sided locker?

13 A. Yes, ma'am.

14 Q. How is evidence maintained and recognized for
15 each case?

16 A. It's recognized by the case number and a
17 barcode association.

18 Q. Okay. And do you have sheets that you also
19 create reports that go along with the property and
20 evidence?

21 A. Yes, ma'am. The officer will fill out a
22 property and evidence report. It'll go in with the
23 evidence when he turns it in. We'll take that and
24 then we'll put that evidence and key it into the
25 computer, which generates specific times and dates

1 it's put in, what to put in. And then it'll
2 actually have a barcode with a number that goes in
3 each specific piece of evidence to identify it.

4 Q. I'm showing you what's been marked as State's
5 Exhibit 21. Take a look at those sheets, please,
6 sir.

7 A. Ma'am?

8 Q. Can you take a look at those sheets? I'm
9 sorry. I was walking away from you.

10 A. (Complying.)

11 Q. Have you taken a look?

12 A. Yes, ma'am.

13 Q. Okay. Are you familiar with what those sheets
14 are?

15 A. Yes, ma'am.

16 Q. Okay. What are they?

17 A. This is when evidence comes in, it comes into
18 an evidence -- property and evidence sheet that
19 looks like this right here. This is what the
20 officer will actually fill out. He'll put
21 specifically each item that he puts in there, and
22 he'll identify each item that he puts in there.
23 He'll sign it, date it, fill out some information at
24 the top, and then he'll go into that locked box I
25 was talking about.

1 Once it goes in there, then the evidence
2 technician will take this and the actual evidence
3 and he'll go in and put it in the computer which
4 generates a time stamp, which is some of these pages
5 here that tells you about what time it comes in,
6 which exhibit to the specific second that it was
7 entered into the time.

8 Once it gets in there, it stays in there until
9 if it has to have any further testing. If it
10 goes -- if it goes -- I'm sorry. If it goes out of
11 evidence for any reason, there's a time stamp where
12 it goes to and it tracks it to keep everything very
13 well numbered where the tracking system is to the
14 second.

15 Q. And is that a record that you keep in the
16 course of regularly conducted business at property
17 and evidence?

18 A. Yes, ma'am.

19 MS. PRICE: Okay. Your Honor, at this time the
20 State would seek to admit State's 21 into evidence?

21 THE COURT: Any objection?

22 MR. LUCAS: None, Your Honor.

23 THE COURT: State's Exhibit No. 21 would be
24 admitted without objection.

25 (State's Exhibit No. 21 was received into

1 evidence.)

2 BY MS. PRICE:

3 Q. Looking at State's Exhibit 21, did you check in
4 any evidence from lockers for this case?

5 A. Yes, ma'am. On that particular day on May the
6 2nd, 2018, I began at 9:26 a.m. entering into a best
7 evidence kit which contains several samples of some
8 perspective drugs.

9 I also entered in a metal pill container into
10 the evidence, which was housed in the proper place
11 for holding it.

12 There was an item also during this time that
13 known as item two. There was some pills that were
14 taken that were not needed. They were put in a
15 special place where we have the drugs for
16 destruction. This also -- it still carries the same
17 tracking number, the time, the stamp. Everything is
18 still tracked when that drug is actually moved from
19 there to the destruction when it's incinerated.
20 Then there's a time stamp there and it also follows
21 through that every -- from the step (A) to (B) to
22 (C).

23 Q. Where did you put the best kit that you
24 mentioned contained the drug items?

25 A. It goes into the Anderson/Oconee Forensic

1 Regional box, AOFL for short, and it goes into the
2 evidence vault.

3 Q. And do those drugs eventually make their way to
4 the lab for testing?

5 A. Yes, ma'am. They'll be checked out of the
6 vault by a specific investigator -- technician
7 that'll take the kits and they will transport it to
8 the forensics lab.

9 Q. Okay. Mr. McGuire, I'm going to show you
10 what's been previously marked as State's Exhibits 1
11 and 2. I don't need you to look inside, but can you
12 look at those barcodes and tell me are those the
13 best kit and the metal pill container that you
14 previously testified you had checked into property
15 and evidence on May 2, 2018?

16 A. (Complying.) Yes, ma'am, they are.

17 Q. Okay. Aside from checking in that evidence and
18 coming in court to testify today, have you had any
19 additional role in this case?

20 A. No, ma'am.

21 MS. PRICE: Okay. Well, thank you so much and
22 I'd ask that you answer any questions that Mr. Lucas
23 has for you or Ms. Voisin has for you too.

24 MS. GURNEY: We have no question for this
25 witness.

1 MEREDITH LANFORD,
2 having been produced and first duly sworn as a
3 witness on behalf of the State, testified as
4 follows:

5 DIRECT EXAMINATION

6 BY MS. PRICE:

7 Q. Ms. Lanford, by whom are you employed?

8 A. I'm employed with the Anderson/Oconee Regional
9 Forensic Laboratory.

10 Q. And how long have you worked there?

11 A. Fourteen years.

12 Q. And what do you do for the laboratory?

13 A. I am a forensic chemist.

14 Q. And what sort of training and education have
15 you received for that position?

16 A. I graduated from Clemson University with a
17 bachelors of science degree in chemistry.

18 I then went on to complete the forensic science
19 certificate program at Greenville Technical College.
20 I was trained and certified as a forensic chemist
21 with my current laboratory at Anderson/Oconee
22 Forensic Lab.

23 I also received training in the area of drug
24 chemistry from the Drug Enforcement Association. I
25 am a member of the American Chemical Society, as

1 well as the Clandestine Laboratory Investigating
2 Chemists. And each year I am required to pass a
3 proficiency test and maintain training hours in the
4 area of forensics.

5 Q. And what tasks do you perform as a forensic
6 chemist?

7 A. My main job function is to take in evidence and
8 to analyze it for a suspected controlled substance.

9 Q. And what are controlled substances?

10 A. They are normally drugs, contraband.

11 Q. And in how many cases have you been asked to
12 test for chemical substances since you've been
13 working for the Anderson/Oconeel Lab?

14 A. Thirty-eight times.

15 Q. How many have you tested?

16 A. I'm sorry. Over 8,000.

17 Q. How many times have you testified in court?

18 A. Thirty-eights times.

19 Q. And have you ever been qualified by a Court as
20 an expert witness?

21 A. Yes, I have.

22 Q. Okay. What Court?

23 A. I testified in both State and Federal court.

24 Q. Okay. And how many times?

25 A. About 36 times in State and 2 in Federal.

1 MS. PRICE: Your Honor, at this time the State
2 moves to have Ms. Lanford qualified as an expert
3 witness in the chemical analysis of drugs.

4 THE COURT: Any objection?

5 MR. LUCAS: None, Your Honor.

6 THE COURT: So this witness will be qualified
7 as an expert in the chemical analysis of drugs
8 without objection.

9 MS. PRICE: Thank you, Judge.

10 BY MS. PRICE:

11 Q. Ms. Lanford, were you asked to analyze any
12 chemical substances in this case?

13 A. Yes, I was.

14 Q. Okay. How do substances make their way to you
15 for testing?

16 A. What happens is an evidence technician from
17 whatever submitting agency comes to our laboratory
18 and I physically take the evidence in, log it into
19 our system.

20 And then once it's logged in, I put it in my
21 evidence locker until I'm ready to analyze it.

22 Q. And is your evidence locker a safe and secure
23 location?

24 A. Yes, it is.

25 Q. Who has keys to that locker?

1 A. I'm the only one with a key to my evidence
2 locker.

3 Q. And do you test these drugs in a particular
4 order?

5 A. Normally, I do oldest to newest.

6 Q. Oldest case to newest case?

7 A. Right.

8 Q. Okay. And is this a process by which you
9 received and tested the drugs for this case?

10 A. Yes.

11 Q. When were substances received for testing by
12 the lab?

13 A. I received this case on May 3, 2018.

14 Q. Okay. And when were the drugs analyzed?

15 A. I analyzed it on August 21, 2018.

16 Q. Okay. And when did you return them to property
17 and evidence?

18 A. On August 23, 2018.

19 Q. Okay. I'm going to show you what's already
20 been marked as State's Exhibit 3. Can you look
21 inside there for me, please?

22 A. (Complying.)

23 Q. Are you familiar with what you're looking at
24 there?

25 A. Yes, I am.

1 Q. Okay. Is that what you received from Anderson
2 Forensics on May 3rd?

3 A. Yes. I received this inside bag, which is what
4 we ask all submitting agencies to place drug
5 evidence into. It's called a best kit.

6 Q. And how do you know that?

7 A. It has my initials on it where I -- and the
8 date that I took it in, and then the lab number that
9 I assigned to it, as well as the control number on
10 the back.

11 MS. PRICE: Your Honor, at this time the State
12 would seek to admit State's Exhibit 2 into evidence.

13 MR. LUCAS: Your Honor, we have several
14 objections to those. We'd like to make those
15 outside the presence of the jury.

16 THE COURT: Take our jury to the jury room
17 please, sir.

18 THE BAILIFF: (Complying.)

19 (At 11:13 a.m., jury left the courtroom.)

20 THE COURT: Yes, sir. State your objection.

21 MR. LUCAS: Your Honor, we have two matters
22 that our objection is based on.

23 First off, we're objecting to the admission of
24 the evidence on the grounds that its admission
25 violates the Fourth Amendment and Article 1, Section

1 10, of the South Carolina Constitution on the
2 grounds that it is the product and the fruits of an
3 unlawful warrantless search in violation of our
4 client's rights under those sections; that, in
5 addition, that this search explicitly and clearly
6 violates the additional right to privacy protections
7 in Article 1 and Section 10.

8 And, in addition, the State -- the search
9 was -- and the approach to our client was made
10 without adequate reasonable suspicion, so we move
11 that it be suppressed on all of those grounds, Your
12 Honor.

13 THE COURT: This is a renewal?

14 MR. LUCAS: It is. And I would incorporate all
15 previous arguments, but that's the short argument,
16 Your Honor.

17 THE COURT: I would overrule the objection, but
18 your objection is noted and you're protected on the
19 record.

20 MR. LUCAS: Thank you, Your Honor.

21 And then the second objection that the State
22 has not sufficiently established a chain-of-custody
23 for the drugs. To go into this, we need a brief
24 proffer of Ms. Lanford before the drugs are
25 admitted, which Ms. Gurney would like to take care

1 showed those to me.

2 MR. LUCAS: Your Honor, permission to approach?

3 THE COURT: Yes, sir.

4 MR. LUCAS: We just had two requested charges,
5 one regarding reasonable doubt and the other on mere
6 presence.

7 The reasonable doubt charge is reflecting the
8 language concerning a reasonable doubt being the
9 kind of doubt that would cause a person to hesitate
10 to act.

11 THE COURT: Okay. I'll -- I'll look at these.

12 MS. PRICE: Your Honor, I just ask the Court
13 use the standard charges.

14 THE COURT: I'll look at them.

15 MR. LUCAS: I think that is the standard
16 charge, Your Honor. They are typically given.

17 THE COURT: All right. Let's get our jury.

18 MS. PRICE: Yes, sir.

19 THE BAILIFF: (Complying.)

20 (At 11:34 a.m., jury entered the courtroom.)

21 THE COURT: Ms. Price, proceed.

22 MS. PRICE: Thank you, Your Honor. At this
23 time, again the State would move to have State's
24 Exhibit 2 admitted into evidence.

25 MR. LUCAS: Your Honor, we're just making the

1 same objection that we made on the record earlier.
2 Would ask that the Court overrule it for the record.

3 THE COURT: That objection is overruled.
4 State's Exhibit No. 2 would be admitted.

5 MS. PRICE: Thank you.

6 (State's Exhibit No. 2 was received into
7 evidence.)

8 BY MS. PRICE:

9 Q. Let's backtrack a little bit and gear back into
10 the question. So you analyzed these substances on
11 what date?

12 A. I analyzed them on August 21, 2018.

13 Q. Okay. And how did you analyze the substances?

14 A. The first thing I do is remove the substance
15 from any packaging that it's in, and I get a net wet
16 of just the substance.

17 I then perform two screening tests in order to
18 narrow down what controlled substance may or may not
19 be present.

20 And then I run two confirmatory tests on the
21 instruments in our lab in order to identify what
22 actual controlled substance, if any, is present.

23 Q. How much material do you need to perform those
24 tests?

25 A. Usually a milligram or less.

1 Q. Okay. How was this material packaged when it
2 came to you?

3 A. It came in our best kit, and then inside the
4 best kit it had four separate evidence bags.

5 Q. Can you describe what a best kit is for the
6 jury?

7 A. Yes. A best kit is this outside bag. It is an
8 evidence bag that we require for all submitting
9 agencies to place their controlled substances in.
10 And it's sealed and signed, and then that is what's
11 delivered to us.

12 Q. And you said there are four separate packages
13 within ---

14 A. --- that kit, yes.

15 Q. --- that kit? Okay. And did you test each of
16 those four packages or items to test each of those
17 four items individually?

18 A. Yes, I did.

19 Q. Okay. What did your analysis reveal those
20 items to be?

21 A. Okay. So I found in item one, it contained
22 cocaine at 0.35 grams. Item two contained
23 methamphetamine at 0.22 grams. Item three contained
24 both methamphetamine and cocaine at 0.03 grams. And
25 then item four contained methamphetamine at

1 0.28 grams.

2 Q. And what is the composition of methamphetamine?

3 A. The methamphetamine that we usually see is a
4 crystal substance; however, we can see it as a
5 powder, rock substance. It just really depends on
6 how they make it.

7 Q. And does it occur naturally?

8 A. No, it does not.

9 Q. What about cocaine?

10 A. Cocaine is usually a white powder substance.

11 Q. Okay. Are both cocaine and methamphetamine
12 controlled substances?

13 A. Yes, they are.

14 Q. After you analyzed this material, did you
15 document the examination you conducted in your
16 results?

17 A. I did.

18 Q. What did you do to document that?

19 A. We produced a lab report analysis.

20 Q. Is that kept in the ordinary course of business
21 at the Anderson/Oconee Forensic Lab?

22 A. Yes, it is.

23 Q. Okay. And is it your regular practice to
24 document the findings in your report?

25 A. Yes.

1 Q. Before documenting the reports, do your results
2 go through any review processes?

3 A. Yes. Actually, we are required to have all of
4 our cases reviewed by -- peer reviewed by another
5 chemist. And then once they review it, it is sent
6 back to me, and I review again before I release the
7 results.

8 Q. I'm showing you what's been marked as State's
9 Exhibit 22. What is that?

10 A. This is the lab report with the findings.

11 Q. The lab report you created?

12 A. Yes, it is.

13 Q. Okay. How can you been certain?

14 A. It has my digital signature on it with the
15 date, as well as the suspect's name and case number
16 and lab number.

17 Q. Does it indicate the name of the defendant in
18 this case on your report somewhere?

19 A. It does.

20 Q. Okay. And who is that?

21 A. Jamey Christopher Gilliam.

22 MS. PRICE: Okay. Your Honor, at this time the
23 State would seek to admit Exhibit 21 into evidence.

24 MR. LUCAS: Without objection, Your Honor.

25 THE COURT: State's -- is this 21 or 22? Is

1 this 21 ---

2 MS. PRICE: Oh, I'm sorry, 22. I apologize,
3 Your Honor.

4 THE COURT: State's Exhibit No. 22 is admitted
5 without objection.

6 (State's Exhibit No. 22 was received into
7 evidence.)

8 BY MS. PRICE:

9 Q. Looking at State's Exhibit 22, what is the
10 total weight of the methamphetamine for all of those
11 items combined?

12 A. The total weight of methamphetamine was 0.53
13 grams.

14 Q. 0.53?

15 A. Uh-huh.

16 Q. Okay. And how about for the cocaine? What was
17 the total weight of all the items analyzed?

18 A. The total amount of cocaine found was
19 0.38 grams.

20 Q. And did one of the items you tested have a
21 combination of substances in it?

22 A. Yes.

23 Q. Which item was that?

24 A. That was item number three. It had cocaine and
25 methamphetamine.

1 Q. Okay. And after you analyzed the material,
2 what did you do with it?

3 A. After I analyze it, it then goes in what we
4 call the K-pack. So as all the evidence inside and
5 then I initial, date that I analyzed it and sealed
6 it. And then this goes in my other evidence locker
7 with completed cases and it sits there until the
8 property and evidence people come to pick it up.

9 Q. And is the evidence marked in State's Exhibit
10 22 the same evidence you returned to the evidence
11 locker for pick up?

12 A. Yes.

13 Q. Okay. How are you sure?

14 A. It still has my sealed initial and this
15 laboratory number, as well as the control number
16 matches with this case.

17 Q. And is State's Exhibit 22 in substantially the
18 same condition as when you returned it to property
19 and evidence?

20 A. Yes.

21 Q. Okay. I'd like you to take a look at what you
22 already have up there and is marked State's
23 Exhibit 23. I think it's -- what is that?

24 A. This is my internal chain-of-custody.

25 Q. Okay. And what is your internal

1 chain-of-custody?

2 A. It basically documents when evidence is brought
3 to me, who gave it to me, and then the date and time
4 that I took it in at the lab.

5 MS. PRICE: Your Honor, at the time the State
6 would seek to admit Exhibit 23 into evidence.

7 MR. LUCAS: Your Honor, I need to take a look
8 at it real quick.

9 (Counsel reviewing exhibit.)

10 MR. LUCAS: Your Honor, I think it is
11 appropriate to admit the internal chain-of-custody
12 report prepared by Ms. Lanford. I don't think it's
13 appropriate to admit the documents attached to it
14 because it ---

15 THE COURT: Let me see the documents.

16 (Sidebar discussion.)

17 MS. PRICE: Your Honor, once again, the State
18 would seek to admit Exhibit 23 into evidence.

19 MR. LUCAS: And, Your Honor, we're objecting to
20 pages 2, 3, and 4 of that being admitted into
21 evidence on the basis that those are documents not
22 created by Ms. Lanford.

23 THE COURT: Yes, sir.

24 MR. LUCAS: They're created by other people and
25 therefore she is not able to authenticate them to

1 show how they were created.

2 And in addition, Your Honor, I think those
3 documents contain hearsay. And she can't testify
4 that they're created in the ordinary course of, you
5 know, the public concerns of business because she
6 didn't create them. So, Your Honor, respectfully,
7 we think they're inadmissible.

8 THE COURT: Overrule the objection.

9 MR. LUCAS: Thank you.

10 THE COURT: Exhibit 23 is admitted.

11 (State's Exhibit No. 23 was received into
12 evidence.)

13 BY MS. PRICE:

14 Q. Ms. Lanford, that's all part of your case file?

15 A. Yes.

16 Q. AND that's a criminal lab report that you keep?

17 A. Correct.

18 MS. PRICE: Thank you very much. Please answer
19 any questions Mr. Lucas has for you at this time or
20 Ms. Gurney.

21 CROSS-EXAMINATION

22 BY MS. GURNEY:

23 Q. Ms. Lanford, I just have one question for you.
24 You don't where these drugs originally came from, do
25 you?

1 A. No, I do not.

2 Q. And I'm sorry, one more. You weren't
3 present -- present when Officer Velez found them?

4 A. No, I was not.

5 MS. GURNEY: Thank you. No further questions.

6 THE COURT: Anything further from this witness?

7 MS. PRICE: No, sir. May this witness be
8 excused?

9 THE COURT: Any objection?

10 MR. LUCAS: None, Your Honor.

11 THE COURT: Thank you. You're excused.

12 (Witness excused.)

13 MS. PRICE: Your Honor, at this time the State
14 rests.

15 THE COURT: All right. Mr. Bailiff, take our
16 jury to the jury room, please, sir.

17 THE BAILIFF: (Complying.)

18 (At 11:44 a.m., jury left the courtroom.)

19 THE COURT: The State's rested. Any motions?

20 MR. LUCAS: Yes, Your Honor. We move for a
21 directed verdict at this time. Your Honor, the
22 directed verdict motion is made upon several
23 grounds.

24 First, it's made upon the grounds that the
25 drugs in this case -- specifically, the drugs out of

1 the pill bottle and all the derivative drugs
2 evidence, the drugs in Mr. Gilliam's pocket, and the
3 drugs in the car -- derive from an illegal
4 warrantless search that violates Mr. Gilliam's
5 Fourth Amendment rights. The search does not
6 qualify as a search incident to arrest or any
7 other -- meet any other warrant requirement.

8 Our position, Your Honor, is that violates the
9 Fourth Amendment of the U.S. Constitution and then
10 Article 1, Section 10, of the South Carolina
11 Constitution which contains the same language as the
12 Fourth Amendment with an additional right to privacy
13 protection.

14 Our position, Your Honor, is that the opening
15 of the pill bottle is a bottle in which Mr. Gilliam
16 has a reasonable expectation of privacy, that the
17 State open it -- opening it without probable cause
18 or warrant exception violates that expectation to
19 privacy. And our Courts have recognized, for
20 example, in the *State v. Forester*, that a violation
21 of that right to privacy provision in the state
22 constitution can be remedied by suppression.

23 So we move to exclude all drugs, fruits,
24 statements as a result of that. We also move to
25 exclude it on the grounds that this initial contact

1 was made without reasonable suspicion.

2 Your Honor, lastly, we move -- well, second to
3 last. We move to suppress the drugs on the grounds
4 that the State has not established a sufficient
5 chain-of-custody.

6 And then, lastly, Your Honor, is a new argument
7 and a weighty one concerning the insufficiency of
8 the evidence. So the State to prove Mr. Gilliam
9 guilty beyond a reasonable doubt has to prove that
10 he was in possession of these drugs and the drugs
11 that he possess were the same ones that were taken
12 to the lab, tested, and tested positive for either
13 cocaine or methamphetamine. Well, Your Honor, we
14 have a problem with regards to that over and beyond
15 the chain-of-custody.

16 So the lab results indicate that four baggies
17 labelled "D-1, D-2, D-3, and D-4," each contained in
18 a baggy. They were tested and tested, you know,
19 positive respectively for -- I think it was cocaine,
20 meth -- cocaine and meth and cocaine.

21 Well, the problem, Your Honor, is that during
22 the course of the State's case, Officer Velez
23 testified that he collected drugs. He didn't
24 testify which drugs he collected and how he bagged
25 them. So what you would expect to be able to prove

1 this case beyond a reasonable doubt, if he could
2 say, "I took 'X' bag and put it into a best kit
3 labelled D-1. I took 'X' bag, put it labelled D-2,"
4 and so on and so forth.

5 So the prob -- the problem, Your Honor, is that
6 they can't say, "We tested these drugs that we got
7 from here. We have the chain. We took it to the
8 lab, and that the evidence collected from here was
9 put into a bag labelled D-1 and then tested."

10 They're asking for speculation, and it's too
11 late to fix that, Your Honor. The State has rested.
12 So they're asking you to speculate -- well, asking
13 you now and the jury later to speculate that the
14 drugs bagged in a specific way are what they say
15 they are.

16 By definition, Your Honor, speculation isn't
17 proof beyond a reasonable doubt. That's a fatal
18 error to their case. And one reason that it is,
19 Your Honor, is because we have Officer Velez
20 testifying that Beth Shovlin showed him exactly
21 where some drugs were in the car, and then he went
22 and grabbed them.

23 So the question is, how could a jury say that,
24 for instance, those drugs belonged to Jamey Gilliam
25 as opposed to Beth Shovlin? That's a fatal mistake,

1 Your Honor, so we move for directed verdict on those
2 grounds.

3 THE COURT: Ms. Price, any response?

4 MS. PRICE: Sure, yes, Your Honor. Good news,
5 I moved that into evidence. That is part of the
6 record and I'll have to find it.

7 MR. LUCAS: Actually, it is part of the record,
8 Your Honor, but the problem and the reason I was
9 objecting to it ---

10 THE COURT: Let -- let her finish.

11 MR. LUCAS: Sure, Judge.

12 THE COURT: Let her finish.

13 MS. PRICE: Thank you. Judge, that is part of
14 State's Exhibit 23, specifically with extreme
15 specificity which I moved in.

16 Additionally, Your Honor, it's mentioned in
17 State's 21, with specificity as well. The item
18 numbers are there. It says where they were taken
19 from on more than one occasion. So I've got two
20 separate exhibits that detail that.

21 Your Honor, I believe the standard for a
22 directed verdict is the -- is there -- is there any
23 evidence to submit to a jury, not the weight of the
24 evidence. That's for the jury to decide. I believe
25 that we've more than met that standard at this

1 juncture.

2 THE COURT: Well, in ruling on a directed
3 verdict motion, again the only -- the only issue is,
4 has the State produced evidence to support the
5 charges?

6 MS. PRICE: Thank you, Judge.

7 THE COURT: And, Mr. -- Mr. Lucas, your initial
8 argument goes toward the admissibility of the
9 evidence, which the Court's already dealt with.

10 MR. LUCAS: Yes, Your Honor.

11 THE COURT: And these items are in evidence.
12 And the arguments you're making regarding baggies
13 and what was tested, those go toward the weight of
14 the evidence. And those are jury questions and
15 not -- not a question for the Court, so I'm going to
16 deny your motion for directed verdict.

17 MR. LUCAS: And thank you, Your Honor. Just
18 for -- for the record so that we can be clear when
19 this goes up. The records that Ms. Price is
20 referring to or the main one was admitted subject to
21 a hearsay objection and it is attached to -- I
22 believe it's Exhibit 23. It was admitted as part of
23 Ms. Lanford's testimony.

24 THE COURT: All right. Okay. Now, let's see.
25 I've looked at the proposed jury charges. The

1 motions previously made.

2 MR. LUCAS: Okay.

3 THE COURT: That'll protect your record.

4 MR. LUCAS: I'll be happy to do that, Your
5 Honor. And we would just ask that after Ms. Price
6 closes that there be a ten-minute recess just so we
7 can have the jury when they're fresh.

8 THE COURT: Well, they're getting a break now.
9 We're going to feed them here, so we're going to
10 proceed straight through.

11 MR. LUCAS: Well, my concern, Your Honor, is
12 that if they've listened to a, you know, 10-, 15-,
13 20-minute argument, they're not going to be
14 awake ---

15 THE COURT: I'm aware of that, Mr. Lucas.
16 We're going to proceed.

17 MR. LUCAS: Thank you, Your Honor.

18 THE COURT: Okay. All right. Let's get our
19 jury.

20 MS. PRICE: Thank you, Judge.

21 THE BAILIFF: (Complying.)

22 (At 11:56 a.m., jury entered the courtroom.)

23 THE COURT: Ladies and gentlemen, the State has
24 rested. Anything from the defense?

25 MR. LUCAS: The defense rests.

1 THE COURT: Okay. Ladies and gentlemen, each
2 side has rested. That means that that ends the
3 evidentiary stage of the trial. The next stage of
4 the trial will be closing arguments by the
5 attorneys. Ms. Price.

6 MR. LUCAS: Your Honor, at this time the
7 defense would renew its motion for directed verdict
8 based upon the exact same grounds as stated two
9 minutes ago.

10 THE COURT: And those -- that would be denied.

11 MR. LUCAS: Thank you, Your Honor.

12 THE COURT: Yes, ma'am.

13 MS. PRICE: Thank you, Your Honor. May it
14 please the Court?

15 Hi, ladies and gentlemen of the jury. It's
16 been a minute since I was directly in front of you,
17 but not all that long. Thank you again for your
18 time and your attention during the presentation of
19 this case.

20 I want to take a few minutes briefly before you
21 go back into your jury room to deliberate to go over
22 the evidence before you and to show you how it does
23 indeed show beyond a reasonable doubt that this
24 defendant is guilty.

25 Now, after I'm done arguing and after Mr. Lucas

1 is done arguing, the judge is going to tell you what
2 the law is that you're supposed to use to decide
3 this case. So if anything I say or anything that
4 Mr. Lucas says differs from what the judge says, you
5 have to go with what the judge tells you.

6 You've heard a number of times and you're going
7 to hear again from the judge, that the defendant --
8 and I'm sure you're going to hear this from the
9 defense as well -- the defendant comes in this
10 courtroom innocent. You've heard that he can't be
11 convicted unless we prove this case to you beyond a
12 reasonable doubt.

13 And that's correct. As the State, I embrace
14 that burden. It's a fundamental concept of American
15 law, and we stand by that. It's been the rule of
16 law for centuries, but remember this: Every
17 criminal defendant who has ever been convicted, be
18 it from the smallest case, a minor traffic offense,
19 all the way up to what we consider the most heinous
20 crime of murder, has been convicted using that
21 standard. If that was an impossible standard or an
22 impossible burden, then we would never have any
23 criminal convictions in this country.

24 And proof beyond all doubt is not what the law
25 calls for, and I would ask you to listen to what the

1 judge tells you. Proof beyond a reasonable doubt
2 means beyond a doubt that would cause a reasonably
3 prudent person to hesitate to act. That's a
4 mouthful, but what that means and what the judge
5 will tell you is that you're firmly convinced of
6 this evidence and of the defendant's guilt. There
7 are very few things in life that we know with utmost
8 certain -- certainty, and the law doesn't expect you
9 to know this with utmost certainty. It expects you
10 to be firmly convinced.

11 Now, in order to convict the defendant, there
12 has to be evidence of each of the crimes with which
13 he's been charged, and we have to prove the elements
14 of those crimes. And you've heard this defendant is
15 charged with possession of methamphetamine and
16 possession of cocaine. Okay. The State has to
17 prove each element of those two crimes. Possession
18 of what? Of methamphetamine and cocaine.

19 So to prove possession, the State has to prove
20 beyond a reasonable doubt that the defendant had
21 both the power and the intent to control the
22 disposition or use of the methamphetamine and
23 cocaine.

24 Possession can be by actual possession or by
25 constructive possession. The judge is going to tell

1 you that mere presence at the scene where the drugs
2 were found is not enough to prove possession.
3 Actual knowledge of the presence of the drug is
4 strong evidence of the defendant's intent to control
5 its distribution or use -- disposition or use. The
6 defendant's knowledge and possession may be inferred
7 when a substance is found on a property that's under
8 the defendant's control.

9 Now, looking at possession, there are two types
10 of possession I just said. There's actual
11 possession, which means the drugs were found on the
12 defendant's person. And the second type of
13 possession is called "constructive possession,"
14 meaning that the defendant had dominion and control
15 or the right to exercise dominion and control over
16 the drugs.

17 In this case, we have both kinds of possession
18 at play. We have actual possession. The drugs were
19 found first in the defendant's hand in the pill
20 container. Okay. Second, they were found in the
21 pocket of the defendant. Okay. So those are both
22 indicia of -- or instances of actual physical
23 possession.

24 Second, we have constructive possession. Drugs
25 were in the vehicle. This vehicle belonged to the

1 defendant. The defendant said the drugs were mine.
2 Okay. So it's his vehicle. He has the right to
3 exert control over his vehicle, over his property.
4 There's no doubt that he had power and intent to
5 control the drugs that were on his person.

6 If you have your car keys in your pocket while
7 we're here in court today, you intend to exert power
8 and control over those keys, right? And if you've
9 got something out in your car right now and you got
10 the keys in your pocket, you intend to exert power
11 and control over what's in the car, right? Nobody
12 can just walk in and take what's in your car out of
13 there. I sure would hope not.

14 Drugs are a commodity. Okay. Drugs are not
15 things that -- you know, it's not a pen. Not going
16 to leave my drugs. Drugs are bought and sold and
17 they're a commodity. People don't just leave them
18 laying around.

19 That's why the defendant had the drugs in a
20 container and why he had them close to his person in
21 his pock -- in his pocket where he could use them.
22 You heard he had a pipe as soon as he stepped out of
23 the car. You saw pictures of the pipe. You can
24 look at all of the photographs that are in evidence
25 when you go back to your jury room to deliberate,

1 and I encourage you to do that, but the reason he
2 had them on his person is to use them. I submit
3 that to you. And he left the remainder in his
4 vehicle, his vehicle that belonged to him. And he
5 claimed them verbally to this detective.

6 Okay. If you have something in your car like
7 we talked about right now, would the law tell you
8 that you have the right to exert power and control
9 over it? The answer's no. So the law says that
10 that possession can be inferred when something is
11 found in property that you have control and power
12 over.

13 Okay. So, folks, please listen to the
14 defendant's own words. That's evidence that is not
15 in front of you by -- by way of testimony, but the
16 defendant said, "Yes. Those are my drugs." This
17 officer told you -- this detective told you that he
18 let Beth go. He only charged one person. He also
19 told you that in other instances he's charged more
20 than one person when the drugs are in the vehicle.
21 There's a reason for that.

22 Okay. So he had possession of what?
23 Possession of cocaine and methamphetamine. So first
24 we have a positive field test. You see the field
25 test kit Casey Purdy brought those out so that they

1 could use them to test the drugs. There's no
2 question that the drugs were taken from the scene
3 and were taken by this detective to property and
4 evidence.

5 You heard Brad McGuire this morning. Brad
6 McGuire said he checked them from the locker.
7 There's only one way to get them in.

8 You heard from Meredith Lanford who was our
9 forensic chemist. She tested the drugs. She told
10 you about her background.

11 You have the evidence, the drugs themselves,
12 and you have in evidence the lab reports that
13 indicate what was found.

14 You also have in evidence complete copies of
15 the chain-of-custody that shows you at what point in
16 time each of the drugs were taken and from where
17 they were taken. Okay. So this is something you
18 can look at in the jury room and I encourage you to
19 do that if you have any questions.

20 Ladies and gentlemen, you brought the best tool
21 with you that you can use in this case when you came
22 in the courtroom and it's your common sense. I'm
23 asking you to use your common sense.

24 If you're inside the courtroom with me today
25 and you walk outside after we're all done, whatever

1 the verdict is, walk outside today and your car is
2 wet. There are people walking around with wet
3 umbrellas. Would you think that it rained or would
4 you think that a super sprinkler came out from the
5 sky, turned on, covered everything, and that's what
6 happened? No. Your common sense tells you that the
7 logical explanation, based on all the surrounding
8 circumstances, everything you can see and
9 understand, based on your experience in life, the
10 reasonable explanation is the explanation.

11 So I'm asking you to use the same logic when
12 you're assessing this case today. The idea -- and
13 again, I don't know what the defense is about to
14 say. Okay. But in his opening statement, he
15 mentioned verifying things. So let me just say that
16 the idea that a 13-year veteran with the Anderson
17 County Sheriff's Office would risk his entire career
18 to frame a defendant for simple possession charges
19 doesn't make since.

20 What does he have to gain at all? Not much.
21 This is a low-level possession case. On the other
22 hand, what does he have to lose? Everything -- his
23 career; his dignity; his integrity. For what?

24 How much do you have to hate someone to frame
25 them for a crime? Really? And I asked -- I asked

1 him while he was on the stand, "Have you ever come
2 into contact with this guy before? He said no.

3 He didn't even intentionally find this
4 defendant by his own admission. And he was on his
5 way home. And he saw a car. He didn't know what --
6 what was going on, and here he is at the end of his
7 work day, now he's got a case.

8 Ask yourself what makes sense. The physical
9 evidence in this case, the testimony as you heard
10 it, all of the documentation supports everything
11 that you heard from this detective, and the entire
12 narrative that you've been presented by the State in
13 this case.

14 So like I said, the defense is going to get up
15 here in a minute and try to distract you from what
16 you know. I don't know what he's going to say, but
17 I know whatever it is it's a distraction from what's
18 in front of you and what's been presented to you by
19 the State. So I'm asking that you just keep your
20 eye on what's before you and you review it
21 thoroughly, you talk about it, but keep your eye on
22 it before -- on what's before you and use your
23 common sense.

24 We've gone through the elements. They're very
25 simple, and we've told you what they are and how

1 we've proved them. You have the evidence in front
2 of you and you heard the testimony that proves the
3 elements of the crime. Again, reasonable doubt
4 doesn't mean beyond all doubt. There are very few
5 things in life that we know for certain. Reasonable
6 doubt means that you are firmly convinced.

7 Now, you have to take the facts that are in
8 evidence today and I told you the lengthy
9 explanation of reasonable doubt is a doubt that
10 would cause a reasonably prudent person to hesitate
11 to act. I'm asking you not to hesitate. I'm asking
12 you to act. I'm asking you to apply your common
13 sense to the evidence and the testimony, and I'm
14 asking you to bring back a verdict of guilty. Thank
15 you very much again for your time and attention
16 yesterday and today.

17 THE COURT: Mr. Lucas.

18 MR. LUCAS: Thank you, Your Honor. May it
19 please the Court?

20 THE COURT: Yes, sir.

21 MR. LUCAS: All right. Well, I'm sorry about
22 that. Anyway, I'm not trying to distract anybody in
23 this case. So the -- there's a saying that the
24 Solicitor's kind of referenced obliquely, which is
25 "trust but -- but verify." And I think that that

1 stems back to Ronald Reagan. I'm not a huge fan of
2 Mr. Reagan, but I think that there is some wisdom in
3 that. You trust what somebody says, but then you
4 verify it.

5 So he said that in the context of nuclear
6 weapons at an Arms Reduction Treaty, so we're going
7 to trust the Soviets that they're doing what they
8 say they're doing, but then we go back and verify it
9 because just because someone says something does not
10 make it true, so trust but -- but verify.

11 Now, what we know here, we know that Officer
12 Velez has told you that my client, Jamey Gilliam,
13 had drugs on him. He says that he had them in a
14 pill bottle container in his pocket. And then there
15 was some drugs that were found in the backseat of a
16 car is what he says. Specifically, he said they
17 were found behind the back driver's side seat. And
18 he said that Beth Shovlin was sitting in the
19 driver's seat, not Jamey Gilliam.

20 Now, the only evidence that you have for that
21 is what Officer Velez is telling you. I wasn't
22 there. Ms. Price wasn't there. Y'all weren't
23 there. So you're having to base this whole case on
24 Deputy Velez's word. Now, it didn't have to be that
25 way. There are ways that you can -- can verify

1 that.

2 Now, he told you today that he didn't wear a
3 body camera, and he said he wasn't equipped with
4 that. He told you that nobody else witnessed this
5 initial encounter between he and Mr. Gilliam. You
6 had other police officers who normally got -- got
7 there later on.

8 And then he told you that Mr. Gilliam made a
9 statement to him claiming all the drugs, and he said
10 that he no ability to record that. And it's true,
11 he didn't have a body camera. He wasn't equipped
12 with that common equipment. He did have a dash
13 camera. He wasn't equipped with that. Well, that's
14 common equipment too.

15 And he said that he didn't have any means of
16 recording that. Well, that's not quite true. He
17 did have a county-issued Smartphone, and it's very
18 easy to record a statement on a Smartphone. It's
19 three clicks. You unlock it, you get it out, and
20 you click record. No reason he couldn't have done
21 that, so that is unverifiable.

22 And he gave you an explanation that he couldn't
23 do that because his phone would be taken into
24 evidence. That's not true. That -- that -- that's
25 a dodge. We have plenty of pictures here that were

1 taken on a digital camera. Well, the camera's not
2 in evidence. It's very easy to get an audio file
3 off the phone, put it on a zip drive, or what have
4 you. And he didn't do it because -- well, I don't
5 know why he didn't do it, but he -- he certainly did
6 not. And it is a best practice if somebody's giving
7 a statement. This is 2020. This happened in 2018.
8 You record it so you could verify that it actually
9 took place. And that's a reason to doubt the
10 State's case.

11 Now, another reason to doubt is that while
12 we've said this is unverifiable, there is a person
13 who could verify it, Beth Shovlin who was at the
14 scene. And the State has many resources to get
15 people here to trial. They have subpoena power.
16 They have officers like Officer Velez. They have
17 all the resources of the sheriff's department. They
18 have four inhouse investigators, and plus subpoena
19 power, meaning that if you want somebody to show up
20 in court, you subpoena them. If they don't show up,
21 they go to jail.

22 So, respectfully, we could've had Ms. Shovlin
23 here, and I would've liked the chance to
24 cross-examine her about did those drugs belong to
25 her? The State didn't want her here. She didn't

1 testify. And that's a reason to doubt.

2 Now, the most -- perhaps the most interesting
3 thing to me is that the State has tried to buttress
4 its case beyond what it was originally by adding new
5 facts. So what typically happens in this, is that
6 an officer, after something occurs, he writes an
7 incident report. And he's trained to put all the
8 relevant details in that. And -- and the reason for
9 that is because he may have to come testify a year
10 and a half, two, two-and-a-half years later.

11 Well, he's added new things to his testimony
12 that were not in there originally. And I would
13 submit to you that the reason for that is that he
14 thinks because the case is unverifiable that he
15 needs additional evidence to buttress that.

16 So what are some of the -- the -- the new facts
17 that he added? Well, he added the reclined seat for
18 Mr. Gilliam, so he's saying that the seat is
19 reclined. I think what he is suggesting there is
20 that because the seat's reclined, it would be easier
21 to toss the drugs behind the driver's seat.

22 Well, take a look at the picture. I've looked
23 at it. I think it's reclined very much. In
24 addition, I find it odd that you would add that to
25 kind of buttress that. Now, the reasonable

1 explanation is that Ms. Shovlin was there and she
2 dropped them.

3 Also, we have he completely changed the
4 explanation about why he approached the car. His
5 incident report says that he heard yelling and said
6 that Mr. Gilliam was acting erratically. He didn't
7 offer any testimony at all about that today. And he
8 says that instead he approached it because there was
9 a domestic dispute. Well, he didn't mention that in
10 the report, so we have a totally different
11 explanation for it.

12 And I'll tell you what really happened is that
13 this is a shakedown. And you heard him talk about
14 it from his CAD report, that between the time he saw
15 the car and between the time he hauled Mr. Gilliam
16 out and arrested him, there was a gap of 41 seconds.
17 Well, I would say that it defies explanation that
18 what he testified on direct that he went up and just
19 talked and see what was going on, that ain't what
20 really happened here. What happened is he went up
21 to the car, grabbed Mr. Gilliam out, pulled him out,
22 and searched him all real quick. It's a drug
23 shakedown is what it is.

24 And the most important addition to the case is
25 the fact that he tried to testify that somebody else

1 witnessed the statement given by Mr. Gilliam. On
2 the stand, he testified that Jeramy Pickens was
3 there and heard it as well. Well, I encourage you
4 to go back and listen to Jeramy Pickens' testimony.
5 You can do that. It can be played back. He doesn't
6 say anything about witnessing a statement, about
7 hearing what Mr. Gilliam allegedly said. And we
8 went over this incident report, both with
9 Mr. Pickens on the stand and then I asked Officer
10 Velez about it.

11 Now, Officer Pickens said he didn't put
12 anything about that in his report. He didn't
13 testify to it, and I'd submit to you that Officer
14 Pickens is telling you the truth that he didn't see
15 it, so why are they asking to buttress this
16 statement? Because it's unverifiable and they're
17 worried about it, and that's a reason to doubt the
18 State's case.

19 Now, what we also have is, we have they
20 collected some evidence, these Ziploc baggies that
21 have the drugs in them. Didn't do anything to
22 confirm whether Mr. Gilliam had touched those bags
23 or Ms. Shovlin had touched them. That can be easily
24 fingerprinted. Deputy Velez told you he didn't do
25 that. Same thing with the metal pill container,

1 easily fingerprinted. Didn't do it. The same thing
2 with this glass smoking pipe. You can easily check
3 to see whether a fingerprint was on it,
4 Ms. Shovlin's for instance. Didn't do that. Now,
5 that's a reason to doubt.

6 So this is Ms. Voisin's water bottle. Now,
7 let's say -- it just has water in it. Let's say it
8 has something else, something illegal, drugs maybe.
9 Something else. It doesn't matter. Just because I
10 have it doesn't mean that it's mine. So without
11 Ms. Shovlin here, how do you know that they're not
12 playing drug hot potato, passing it back and forth?
13 Well, the answer is you don't. Ms. Shovlin is not
14 here. They could've got -- got her here, and they
15 didn't. That's a reason to doubt the case.

16 So the Judge is going to instruct you about
17 what a reasonable doubt is. And one way that he's
18 going to define it is that a reasonable doubt is the
19 kind of doubt that would cause a person to hesitate
20 to act. Well, what on earth does that mean? And
21 I -- I can tell you a way to think about it that
22 kind of is relatable and something that is in our
23 common experience.

24 So say you're getting ready to drive to the
25 beach for a week vacation. It's a Saturday morning.

1 You've got all your stuff packed up in your car.
2 You turn the oven on to make some toast, and you
3 turn the coffee maker on. And then you think
4 everything's turned off. You get in your car. Get
5 your kids in there. You drive off. And you get
6 two, three, four minutes down the road. And you say
7 to yourself, did I turn the stove off or did I turn
8 the coffee maker off? And you know that you did and
9 you're just about certain that you did, but you're
10 not positive of it. And in that situation, I've
11 done it. I expect many of you have done it, that
12 despite the delay, you turn around, you go back, and
13 you check to see if the oven is off or the stove is
14 off, even though you're just about certain that it
15 is. That's the kind of doubt that would cause a
16 person to act.

17 So the State has to prove that Mr. Gilliam is
18 guilty beyond a reasonable doubt. They have to
19 prove it beyond that. So if you think he's, you
20 know, probably guilty, maybe guilty, likely guilty,
21 that means you have to acquit. So that's a real
22 high burden to prove.

23 And I would submit to you that the evidence you
24 heard yesterday and today that I saw somebody do
25 this, he told me he did this, but without any

1 verification whatsoever, is not the type of evidence
2 that we convict people on in the U.S. We require
3 some verification that what they're saying happened
4 actually did happen. And we may have convicted
5 people on this kind of evidence in the past, maybe
6 the 1950s, or the 1960s, the 1970s, but we don't do
7 it anymore. We ask for proof. We ask for
8 verification.

9 And I would say to you, take a look at the
10 drugs that are part of the case. Look how small it
11 is. Open it up. It's less than a gram total.
12 That's the same weight as a raisin or a paperclip.
13 It's a real small amount. And take into account the
14 things that the State didn't do, the things that
15 they didn't do to verify their case. So recorded
16 statements; wearing a body camera; having somebody
17 else witness you talking to a suspect. Take that
18 into account and send them a message. Tell them
19 Officer Velez, do a better job next time. Do a
20 better job and next time maybe I'll convict.

21 And, lastly, I want you to take a look at what
22 else you didn't hear that about which bag he
23 labelled D-1 or D-2 or D-3 or D-4. Go back and
24 listen to his testimony. He didn't say what he put
25 where. So how on earth can you say what bag went

1 where and what might've been Mr. Gilliam's and what
2 might've been Ms. Shovlin's. Take it into account,
3 verify, don't just trust, and find Mr. Gilliam not
4 guilty. Thank you.

5 THE COURT: Ladies and gentlemen, we've come to
6 the point of the trial where I instruct you on the
7 law. My instructions will be in three parts.
8 First, instructions on the ---

9 MS. PRICE: Your Honor, I'm so sorry. Can I
10 ask Mr. Lucas to remove this ---

11 MR. LUCAS: Oh, I'm sorry.

12 MS. PRICE: --- during the charge.

13 THE COURT: First, will be instructions on the
14 general rules that define and control the jury's
15 duty. Second, instructions that state the rules of
16 law that you must apply. And, third, some rules for
17 your deliberations.

18 The general rules begin with your duties as
19 jurors. It is your duty to find the facts from all
20 the evidence in the case. To those facts, you must
21 apply the law as I give it to you. You shall not be
22 concerned with what the law should be, but what it
23 is. And you must not be influenced by any personal
24 likes or dislikes, opinions, prejudices, or undue
25 sympathy. That means that you must decide the case

1 solely on the evidence before you in accordance with
2 the law, the very thing that you took an oath
3 promising to do at the beginning of the trial.

4 It is your responsibility and yours alone to
5 determine the facts of this case. I will,
6 therefore, charge you that if during the course of
7 this trial or during this charge you have been given
8 or left with the impression or feeling that I have a
9 personal feeling about the facts of this case or
10 that I favor one side or the other, I would
11 specifically instruct you to disregard that
12 impression. Under our Constitution, I am not
13 allowed to have an opinion as to the facts of this
14 case.

15 You should not be influenced by any objections
16 or the Court's ruling on them. You and you alone
17 are the judges of the facts. You determine the
18 facts by evaluating or weighing the evidence that
19 you have heard during the trial.

20 What is evidence? Evidence is the sworn
21 testimony from the witnesses and any exhibits that
22 have been entered into evidence. The statements by
23 the attorneys are not evidence. What they have said
24 in opening statements, closing arguments, and at
25 other times is intended to help you interpret the

evidence, but it is not evidence.

There are two types of evidence which are generally presented during a trial, direct evidence and circumstantial evidence. Direct evidence directly proves the existence of a fact and does not require deduction. Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact. Crimes may be proven by circumstantial evidence.

The law makes no distinction between the weight or value to be given to either direct or circumstantial evidence. However, to the extent the State relies on circumstantial evidence, all the circumstances must be consistent with each other and when taken together point conclusively to the guilt of the accused beyond a reasonable doubt.

If the circumstances merely portray the defendant's behavior as suspicious, the proof has failed. The State has the burden of proving the defendant guilty beyond a reasonable doubt. The burden rests with the State regardless of whether the State relies on direct evidence, circumstantial evidence, or some combination of the two.

As the judges of the facts, you are the sole judges of the credibility, that is the believability

1 of the witnesses who have testified in this case.
2 In determining their credibility, you may take into
3 consideration many things such as the appearance and
4 manner of the witness on the stand, sometimes
5 referred to as the demeanor of the witness. Was the
6 witness able to see, hear, or know the things about
7 which the witness testified? How well was the
8 witness able to recall and describe those things?
9 Did the witness have a cause or reason to be biased
10 and prejudiced in favor of the testimony he or she
11 gave? How reasonable was the witness's testimony
12 considered in the light of all the evidence in the
13 case? Was the witness's testimony contradict --
14 contradicted by what the witness had said or done at
15 another time or by the testimony of other witnesses
16 or by other evidence?

17 These are some of the factors you may consider
18 in deciding whether or not to believe testimony. As
19 jurors, you have the right to believe all of the
20 testimony of a witness or none of the testimony of a
21 witness. You have the right to believe a portion of
22 the testimony of a witness and discard the rest.
23 You may believe the testimony of one witness over
24 the many or the many over the one. Most certainly,
25 you do not determine the amount of credibility by

1 simply counting up the number of witnesses who may
2 have testified on behalf of the parties in this
3 case.

4 What is a reasonable doubt in the law? A
5 reasonable doubt is the kind of doubt that would
6 cause a reasonable person to hesitate to act. Some
7 of you may have served as jurors in civil cases
8 where you were told that it is only necessary to
9 prove that a fact is more likely true than not true,
10 such as by the greater weight or preponderance of
11 the evidence.

12 In criminal cases, the State's proof must be
13 more powerful than that. It must be beyond a
14 reasonable doubt. Proof beyond a reasonable doubt
15 is proof that leaves you firmly convinced of the
16 defendant's guilt. There are very few things in
17 this world that we know with absolute certainty.
18 And in criminal cases, the law does not require
19 proof that overcomes every possible doubt.

20 If based on your consideration of the evidence,
21 you are firmly convinced that the defendant is
22 guilty of the crime charged, you must find the
23 defendant guilty. If on the other hand you think
24 there is a real possibility that the defendant is
25 not guilty, you must give the defendant the benefit

1 of the doubt and find him not guilty.

2 A reasonable doubt may arise from the evidence
3 or from a lack of evidence. The defendant is
4 entitled to every reasonable doubt that may arise in
5 the case. If upon any issue of fact essential to a
6 conviction and a verdict of guilty of an offense, if
7 you had any reasonable doubt as to how that issue
8 should be resolved, it is your duty to resolve that
9 doubt in favor of the defendant. Suspicion, however
10 strong, is not enough to sustain a conviction.
11 Evidence presented by the State must be substantial
12 evidence that tends to prove the guilt of the
13 defendant beyond a reasonable doubt.

14 The defendant has pled not guilty to these
15 indictments, and that plea puts the burden on the
16 State to prove the defendant guilty. A person
17 charged with committing a criminal offense is never
18 required to prove himself innocent. I charge you
19 that it is an important rule of the law that a
20 defendant in a criminal trial, no matter what the
21 seriousness of the charge may be, will always be
22 presumed innocent of the crime for which the
23 indictment was issued, unless guilt has been proven
24 by evidence satisfying you of that guilt beyond a
25 reasonable doubt.

1 The presumption of innocence does not end when
2 you begin your deliberations, but it accompanies the
3 defendant throughout the trial until you reach a
4 verdict of guilt based on evidence satisfying you of
5 that guilt beyond a reasonable doubt. The
6 presumption of innocence is like a robe of
7 righteousness placed about the shoulders of the
8 defendant which remain with the defendant until it
9 has been stripped from the defendant by evidence
10 satisfying you of the guilt of the defendant beyond
11 a reasonable doubt.

12 The presumption of innocence is not a mere
13 legal theory. It is not just a legal phrase. It is
14 a substantial right to which every defendant is
15 entitled unless you the jury are satisfied from the
16 evidence of the defendant's guilt beyond a
17 reasonable doubt.

18 In order to establish criminal liability,
19 criminal intent is required. For example, the
20 mental state required to be proven by the State for
21 a particular crime might be purpose, intent,
22 knowledge, recklessness, or criminal negligence.
23 Criminal intent must be proven by the State beyond a
24 reasonable doubt.

25 Criminal intent is always a matter that must be

1 determined by the jury from the circumstances
2 surrounding the situation. There is no way to prove
3 intent to a mathematical certainty. There's no way
4 medical science can dissect a person's brain and
5 determine what that person had in mind. So the law
6 says that criminal intent may be inferred from the
7 circumstances shown to have existed. This is how
8 you make a determination of whether or not the
9 element requiring intent is present.

10 It is not necessary to establish intent by
11 direct and positive evidence, but intent may be
12 established by inference in the same way as any
13 other fact, taking into consideration the acts of
14 the parties and all the facts and circumstances of
15 the case. Criminal intent is a mental state, a
16 conscious wrongdoing. It is up to you to determine
17 what the defendant intended to do based on the
18 circumstances shown to have existed.

19 The indictments charge the defendant with
20 possession of methamphetamine and possession of
21 cocaine. I remind you that the fact that the
22 defendant was arrested, charged, and indicted in
23 this case is not evidence in this case and cannot be
24 considered by you as evidence of guilt in this case,
25 nor does it create any presumption or inference of

1 guilt. These documents are simply the formal
2 written instruments which contain the charges made
3 against the defendant. They are the formal
4 documents by which this case is brought into court.

5 Ladies and gentlemen, normally a person cannot
6 give opinion testimony. Normally, a witness must
7 testify to what they either saw, heard, or sensed by
8 smell or something of that nature; however, there is
9 an exception when a person's qualified as an expert
10 because of education or experience. They are
11 permitted to give their opinion in certain areas if
12 the Court qualifies them as an expert in that area.
13 You heard testimony from a witness qualified as an
14 expert. This does not mean that you are required to
15 accept that opinion. Like any other witness, you
16 may place whatever weight on this person's testimony
17 that you as the judge of the facts deem appropriate.

18 Now, I'm going to go down the two specific
19 charges. To prove possession of cocaine, the State
20 must prove beyond a reasonable doubt that the
21 defendant had both the power and intent to control
22 the disposition or use of the cocaine. Possession
23 may be either -- be either actual or constructive.
24 Actual possession means that the cocaine was in the
25 actual physical custody of the defendant.

1 Constructive possession means that the
2 defendant had dominion and control or the right to
3 exercise dominion or control over either the cocaine
4 itself or the property on which the cocaine was
5 found. Mere presence at the scene where the drugs
6 are found is not enough to prove possession.

7 Actual knowledge of the presence of the cocaine
8 is strong evidence of the defendant's intent to
9 control its disposition or use. The defendant's
10 knowledge and possession may be inferred when a
11 substance is found on the property under the
12 defendant's control. However, this inference is
13 simply an evidentiary fact to be taken into
14 consideration by you with the other evidence in the
15 case and to be given the weight you decide it should
16 have. Two or more persons may have joint possession
17 of a drug.

18 To prove possession of methamphetamine, the
19 State must prove beyond a reasonable doubt that the
20 defendant had both the power and intent to control
21 the disposition or use of the methamphetamine.
22 Possession may be either actual or constructive.

23 Actual possession means that the
24 methamphetamine was in the actual physical custody
25 of the defendant. Constructive possession means

1 that the defendant had dominion or control or the
2 right to exercise dominion or control over either
3 the methamphetamine itself or the property on which
4 the methamphetamine was found.

5 Mere presence at the scene where the drugs are
6 found is not enough to prove possession. Actual
7 knowledge of the presence of methamphetamine is
8 strong evidence of the defendant's intent to control
9 its disposition or use. The defendant's knowledge
10 and possession may be inferred when a substance is
11 found on the property under the defendant's control.
12 However, this inference is simply an evidentiary
13 fact to be taken into consideration by you with
14 other evidence of the case and be given the weight
15 you decide it should have.

16 A statement alleged to have been made by the
17 defendant has been admitted into evidence in this
18 case. While the Court has determined that the
19 statement is admissible, I instruct you that you
20 make the ultimate decision of whether or not the
21 defendant made the statement. If the defendant did
22 make the statement, you must determine whether the
23 statement was made by the defendant voluntarily and
24 of his own free will. This means that the statement
25 was not caused by pressure, force, fear, threats,

1 coercion, or intimidation or by a hope or a promise
2 of leniency or a reward of any kind.

3 In determining whether the statement was
4 voluntary, you should consider both the
5 characteristics of the defendant and the details of
6 the question. Some of the factors that you must
7 consider are the age of the defendant, the
8 defendant's education or lack of education, the
9 defendant's mental ability or capacity, the
10 defendant's IQ or intelligence, the defendant's
11 background or environment, the place and length of
12 detention, the nature of the questioning, the advice
13 or lack thereof to the defendant of his
14 Constitutional rights, including but not limited to,
15 the right to remain silent, that any statement could
16 be used against him in a court of law, the right to
17 have a lawyer present, that if he could not afford a
18 lawyer, a lawyer would be appointed to represent him
19 without any cost, that he could stop making the
20 statement at any time.

21 You must carefully consider all the surrounding
22 circumstances before you give any weight to an
23 alleged statement. The State has the burden of
24 proving beyond a reasonable doubt that the alleged
25 statement was voluntary. If you determine it was,

1 you may give the statement any further consideration
2 that you deem proper. You must decide what weight,
3 if any, should be given to the alleged statement.
4 If you determine the alleged statement was not the
5 free and voluntary statement of the defendant, you
6 should not consider the statement at all.

7 I instruct you and emphasize the fact that the
8 defendant did not appear and testify is not a factor
9 to be considered by you in any way in your
10 deliberation and in your consideration on the
11 questions of the guilt or innocence of the
12 defendant. It must not be considered by you in any
13 manner whatsoever. A defendant has the
14 Constitutional right to remain silent and the
15 assertion of this right must not be considered by
16 you in your deliberations. I repeat, under your
17 oath you are to draw no conclusion whatsoever from
18 the fact that the defendant in this case did not
19 testify. The fact that the defendant did not
20 testify should not even be discussed in the jury
21 room. The burden of proof as I have stated to you
22 is on the State. The defendant is not required to
23 prove his innocence. The burden of proof remains on
24 the State to prove guilt beyond a reasonable doubt.

25 Ladies and gentlemen, we're almost to the point

1 where I send you to the jury room to begin your
2 deliberations. This has been a long instruction on
3 the law, but I want to leave you with some final
4 thoughts. You were chosen as jurors in this case
5 because both sides believed that you could be fair
6 and impartial in deciding this case. I instruct you
7 to make use of your life experiences, your good
8 common sense, and your sense of logic and reason in
9 evaluating the evidence in this case.

10 You are not partisans or advocates for either
11 side. You have no friends to reward nor any enemies
12 to punish. You are the judges of the facts. Your
13 sole interest is to determine whether the State has
14 proven beyond a reasonable doubt that the defendant
15 is guilty of the offenses charged. Be courteous
16 with one another. Listen to the views of your
17 fellow jurors and take the amount of time necessary
18 to thoroughly evaluate the evidence. This case is
19 important to both sides as this is their day in
20 court.

21 Now, Mr. Foreman, I'm going to go over the
22 verdict form with you. It's a two-page verdict
23 form. The first page is Indictment 2018-GS-04-2863,
24 and it says, "We the jury unanimously find on
25 Indictment No. 2018-GS-04-2863, that the defendant

1 Jamey Gilliam is," and it gives you two options, not
2 guilty or guilty.

3 The second page deals with the possession of
4 cocaine indictment. "We the jury unanimously find
5 on Indictment No. 2018-GS-04-2864, that the
6 defendant Jamey Gilliam is," and it gives you the
7 same options, not guilty or guilty.

8 Your verdict must be unanimous on each charge.
9 When you have reached a unanimous verdict, you will
10 check the appropriate box of what decision the jury
11 has reached. And on the second page there is a line
12 with your name for you to sign above that line and
13 you date it. You'll knock on the door when you have
14 reached a verdict.

15 I'm going to send you to the jury room right
16 now. Do not begin your deliberations until I send
17 the verdict form and the exhibits back with the
18 bailiff.

19 So, Mr. Bailiff, would you take our jury to the
20 jury room?

21 THE BAILIFF: (Complying.)

22 (At 12:41 p.m., jury left the courtroom.)

23 THE COURT: Are there any exceptions from the
24 State?

25 MS. PRICE: Nothing from the State, Your Honor.

1 Make this a Court's exhibit for us.

2 (From 1:17 to 1:33 p.m., jury continued
3 deliberating.)

4 THE COURT: All right. I've been informed that
5 we have a verdict.

6 (At 1:33 p.m., jury entered the courtroom.)

7 THE COURT: All right. Mr. Foreman, I have
8 been informed that the jury's reached a verdict; is
9 that correct?

10 THE FOREMAN: Yes, sir.

11 THE COURT: Would you hand that to the bailiff
12 please, sir?

13 THE FOREMAN: (Complying.)

14 THE COURT: Madam clerk, would you publish the
15 verdict?

16 THE CLERK: Yes, sir. The State of South
17 Carolina, County of Anderson, this is the *State of*
18 *South Carolina v. Jamey Gilliam*, in the court of
19 General Sessions, Indictment No. 2018-GS-04-2863 and
20 2018-GS-04-2864, this is the verdict form.

21 Indictment No. 2018-GS-04-2863, possession of
22 methamphetamine: We the jury unanimously find on
23 Indictment No. 2018-GS-04-2863, the defendant Jamey
24 Gilliam is guilty of possession of methamphetamine.

25 Indictment No. 2018-GS-04-2864, possession of

1 cocaine: We the jury unanimously find on Indictment
2 No. 2018-GS-04-2864, that the defendant Jamey
3 Gilliam is guilty of possession of cocaine. That is
4 signed in Anderson, South Carolina, February 25,
5 2020, by our foreman, Mr. Addison.

6 Ladies and gentlemen of our jury, if that was
7 your verdict in the jury room and it's your verdict
8 now, would you please raise your right hand?

9 THE JURORS: (Complying.)

10 THE CLERK: Let the record reflect that all 12
11 jurors have their hand raised. Thank you.

12 THE COURT: Anything from the State before I
13 dismiss the jury?

14 MS. PRICE: No, sir. Nothing from the State.

15 THE COURT: Anything from the defense before I
16 dismiss the jury?

17 MR. LUCAS: Your Honor, for the purpose of the
18 record, we move to set aside the verdict and move
19 for a new trial. The basis would be all previous
20 objections, our motion -- suppression motion, and
21 our contention regarding the insufficiency of the
22 evidence.

23 THE COURT: Yes, sir. That motion is noted for
24 the record and it is denied.

25 MR. LUCAS: Thank you, Your Honor.

1 THE COURT: Thank you, ladies and gentlemen,
2 for your service in this case. We have the entire
3 pool reconvening at two o'clock, so you got about
4 half an hour to stretch your legs. And if you need
5 to go outside, I don't know if it's raining or not,
6 but we'll be back in here at two o'clock.

7 Mr. Foreman, I need see you.

8 (At 1:36 p.m., jury left the courtroom.)

9 THE COURT: Do you have the sentencing sheet?

10 MS. PRICE: Yes, sir.

11 THE COURT: What I'm going to do is, I'm going
12 to -- I want to hear from each side before I render
13 a sentence, and then I will seal the sentence.

14 MS. PRICE: Yes, sir.

15 THE COURT: This -- is the original?

16 MS. PRICE: Your Honor, we marked the convicted
17 checkbox that has been noted on both of those, and
18 then Mr. Lucas and I have signed them. Otherwise,
19 they're clean. And I'm sorry, I handed up the
20 practice sheets too, but I can give those to the
21 clerk.

22 THE COURT: All right. Before I issue a
23 sentence, does the defendant have any prior record?

24 MS. PRICE: Yes, Your Honor. He has a lengthy
25 prior record.

1 THE COURT: Tell me the prior record.

2 MS. PRICE: Your Honor, from South Carolina, he
3 has a 1991 DUS and reckless driving.

4 1992, minor possession.

5 1993, trespassing. 1994 -- I'm sorry. That
6 was -- that was malicious injury to property I meant
7 to indicate.

8 1994, grand larceny; burglary, second degree,
9 nonviolent; attempted burglary times two; a DUS
10 second; and four petit larcenies.

11 1995, simple possession of marijuana.

12 1996, conspiracy; three counts of forgery.

13 1999, he has 7 counts of fraud check and 25
14 counts of forgery.

15 2001, he has a false information and DUS,
16 third.

17 2004, he has missing tag; operating uninsured;
18 unlawful operation; and DUS.

19 2005, HTO.

20 2006, shoplifting.

21 2008, obtaining signature under false
22 pretenses.

23 2010, no seatbelt; unregistered vehicle; and
24 five counts of fraud check.

25 2012, shoplifting and contributing to the

1 delinquency of a minor.

2 From Florida in 1996, he has a fake driver's
3 statement from Georgia. And that's it, Your Honor.

4 Your Honor, he also has additional charges that
5 are currently pending in the Solicitor's office, an
6 ABHAN, another possession charge, and grand larceny.

7 THE COURT: Any -- anything further?

8 MS. PRICE: No, sir.

9 THE COURT: All right. Mr. Lucas, anything for
10 the record?

11 MR. LUCAS: Yes, Your Honor. Mr. Gilliam is
12 48 years old. Certainly, we don't dispute the fact
13 that he has a fairly lengthy record. I'm not aware
14 of him being convicted of anything violent in nature
15 in the past, so he seems to be someone who has a
16 drug problem over an extensive period of years.

17 Your Honor, we would ask that the Court take
18 into consideration that he has not, before this,
19 been convicted of any crime since 2012. So he's not
20 been convicted of anything for eight years.

21 In addition, Your Honor, while he is not here
22 today, I've represented him since June or possibly
23 July of this past year, and I've come to know a
24 little bit about him. I'd ask you take into
25 consideration that he helps take care of his mother

1 who I believe is in her late 70s and lives here in
2 Anderson and also helps to take care of his sister,
3 who I've had some contact with in my office and I
4 think is unstable -- mentally unstable.

5 In addition, Your Honor, we would ask that the
6 Court take into account that he suffers from heart
7 issues that might be worsened by incarceration.

8 So in light of all that, Your Honor, we
9 certainly ask that you consider granting him a
10 probationary sentence. We propose three years
11 suspended to five years of probation or four years
12 probation in light of him not really having gotten
13 in any trouble since 2012.

14 I would certainly acknowledge that what the
15 Solicitor has stated about him having an ABHAN
16 charge is correct. I don't think it's quite as bad
17 as it sounds, Your Honor. What the situation there
18 is he and a girlfriend were at a restaurant. The
19 girlfriend was accused of shoplift -- or not
20 shoplifting, stealing a purse. She was never
21 charged in relation to that at all, nor was my
22 client. The girlfriend and he got up to leave, got
23 into their car to drive away and get away from a
24 confrontation. And he tells me that a guy grabbed
25 onto his car while he was driving away to grab and

1 put his arm inside the window.

2 So I don't think that's really an ABHAN. An
3 ABHAN would be more like trying to run somebody
4 over. So we'd ask that you not take that into
5 consideration, given that it's a charged conduct and
6 he's not been convicted of it.

7 So in short, Your Honor, we request a
8 probationary sentence. If the Court is not inclined
9 to go along with that, certainly the shortest term
10 of incarceration possible and in addition for
11 concurrent sentences. Thank you, Your Honor.

12 THE COURT: Thank you, Mr. Lucas. How many
13 days time served does your client have?

14 MR. LUCAS: Offhand, I'm not sure, Judge. I
15 can find out and get back to you shortly. And, Your
16 Honor, I'm looking, but I would ask my assistant to
17 calculate the time served, and we should have an
18 answer.

19 THE COURT: There's a box on here that can be
20 calculated by the Department of Corrections.

21 MR. LUCAS: Your Honor, it's six days time
22 served.

23 THE COURT: Six days?

24 MR. LUCAS: Yes, sir.

25 THE COURT: Thank you.

State of South Carolina
County of Anderson

Court of General Sessions

State of South Carolina	)	
	)	
	)	Transcript of Record
v.	)	2018-GS-04-02863
	)	2018-GS-04-02864
Jamey Christopher Gilliam	)	
	)	
<u>Defendant.</u>	)	

May 28, 2020
Anderson, South Carolina

B E F O R E:

The Honorable R. Lawton McIntosh, Judge.

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

Lauren Price, Assistant Solicitor
Attorney for the State

Hadden Lucas, Assistant Public Defender
Attorney for the Defendant

Victoria Gurney, Assistant Public Defender
Attorney for the Defendant

Lisa Scott
Circuit Court Reporter

P R O C E E D I N G S

* * * * *

THE COURT: All right. Sir, you're Jamey Christopher Gilliam?

THE DEFENDANT: Yes, sir.

THE COURT: Mr. Gilliam, I'm Lawton McIntosh. I know that you were previously tried in your absence by Judge Sprouse. The jury found you guilty, so I'm going to just announce the sentence. You have nothing to do but listen to it and abide by what the sentence is.

Under the indictment for 2018-02864, possession of methamphetamine, first offense: The sentence will be three years, suspended on one year active with five years probation; credit for 37 days; you will undergo substance abuse counseling and random drug testing and alcohol testing.

Possession of cocaine, first: It's the same sentence, which is three years, suspended on one year active with five years probation; thirty-seven days credit; same conditions.

Mr. Lucas will talk to you later, but I'll tell you now, you have ten days to appeal that conviction, not counting today. All right, sir?

THE DEFENDANT: Yes, sir.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOR THE TENTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON	)	
	)	
State of South Carolina	)	Indictment No. 2018-GS-04-2863;
	)	2018-GS-04-2864
v.	)	
	)	
Jamey Christopher Gilliam,	)	Defendant's Memorandum in Support of
	)	Motion to Suppress
Defendant.	)	
_____	)	

Defendant Jamey Gilliam moves, through his undersigned counsel, to suppress all evidence discovered that is the product of an unlawful warrantless search of a pill bottle. Defendant's motion is based upon the Fourth Amendment of the U.S. Constitution, Article 1, § 10 of the South Carolina Constitution and applicable case law set forth in this brief.

ISSUE:

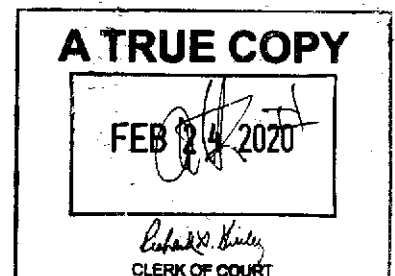
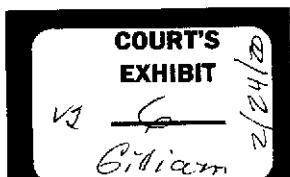
Is the warrantless search of a metal pill bottle held by Mr. Gilliam justified by any exception to the Fourth Amendment's warrant requirement?

FACTS

On May 1, 2018, Deputy Velez came into contact with Jamey Gilliam behind the former location of the Ingles (since demolished) at the intersection of Pearman Dairy Road and Michelin Boulevard in Anderson, South Carolina.¹ Mr. Gilliam and a passenger, Beth Ann Shovlin, were inside Mr. Gilliam's Jeep Cherokee.² According to Deputy Velez, he approached the vehicle and observed Mr. Gilliam "begin to scream and

¹ Incident Report of Deputy J. Velez dated May 1, 2018.

² Id.



act erratic” as Deputy Velez pulled up.³ Deputy Velez then asked Mr. Gilliam to exit the vehicle.⁴ Deputy Velez “observed [Mr. Gilliam] to throw a glass smoking pipe on the ground” as he exited the Jeep.⁵

Mr. Gilliam’s account of their initial encounter is different. According to Mr. Gilliam, he did not yell at Officer Velez when he approached the car, nor did he throw a pipe to the ground. According to Mr. Gilliam, the pipe fell from his lap when he was asked to exit the Jeep.

Besides the initial encounter, the facts stated in Deputy Velez’s incident report are largely undisputed. In his report, Deputy Velez stated that he “detained” Mr. Gilliam after observing him throw the glass smoking pipe.⁶ While handcuffing Mr. Gilliam, Deputy Velez “observed a metal medication container in Gilliam’s left hand.”⁷ Deputy Velez took possession of the metal container and asked what it contained.⁸ Mr. Gilliam did not respond.⁹ Deputy Velez opened the metal container – which was closed – locating two plastic baggies containing drugs.¹⁰ In his report, Officer Velez explained that he opened the metal container “due to Velez observing Gilliam throwing the glass smoking pipe.”

Deputy Velez then arrested Mr. Gilliam and searched his person.¹¹ During this search, he found a powdery substance weighing .1 grams in the front right pocket of Mr.

³ Id.

⁴ Id.

⁵ Id.

⁶ Id.

⁷ Id.

⁸ Id.

⁹ Id.

¹⁰ Id.

¹¹ Id.

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Gilliam's sweatpants.¹² Officer Velez placed Mr. Gilliam inside a police car.¹³ Officer Velez next spoke with Ms. Shovlin, who stated that Mr. Gilliam "tossed a small baggie of drug under the driver's seat."¹⁴ Officer Velez retrieved a Ziploc bag containing drugs weighing .5 grams from the car.¹⁵ After this, Officer Velez released Mr. Gilliam's Jeep to Beth Shovlin and transported Mr. Gilliam to the county jail for booking.¹⁶

ARGUMENT

The officer's search of the metal medication container (hereinafter, "pill bottle") is a plain violation of Mr. Gilliam's rights, under the Fourth Amendment and Article I, § 10 of the South Carolina Constitution, to be free from unreasonable searches and seizures of his person and property. The search of the pill bottle was unlawful because the police searched without a warrant and the circumstances do not meet any exception to the warrant requirement. Consequently, the direct product of this search – the drugs found in the pill bottle – must be suppressed as the result of an unlawful search, along with any derivative evidence from the search.

i. Police opening the pill bottle is a search.

The State must concede that Officer Velez opening the pill bottle is a warrantless search. The metal pill bottle has a "screw on" top. Before Officer Velez opened the pill bottle, its top was closed and its contents were not visible. Mr. Gilliam did not expose the pill bottle's contents to the public or to Officer Velez. Moreover, by closing the top, he showed an expectation of privacy in the pill bottle's contents. As such, Officer Velez's affirmative, physical act of opening the pill bottle clearly constitutes a "search" subject to

¹² Id.

¹³ Id.

¹⁴ Id.

¹⁵ Id.

the protections of the Fourth Amendment. See U.S. v. Jacobson, 466 U.S. 109, 113 (1984) (“a search occurs when an expectation of privacy that society is prepared to consider reasonable is infringed.”); see also California v. Ciraolo, 476 U.S. 207, 213 (1986) conversely, “what a person knowingly exposes to the public, even in his home or office, is not subject to Fourth Amendment protection.”).

ii. The search is not justified by any exception to the warrant requirement.

Moreover, it is readily apparent that the search of the pill bottle does not meet any exception to the warrant requirement. It is well established that warrantless searches are per se unreasonable and, therefore, invalid unless a warrant exception applies. State v. Moore, 659 S.E.2d 256, 261 (Ct. App. 2008). In State v. Bultron, 457 S.E.2d 616 (Ct. App. 1995), the Court of Appeals explained this general rule:

“Generally a warrantless search is per se unreasonable and thus violative of the Fourth Amendment’s prohibition against unreasonable searches and seizures. However, a warrantless search will withstand constitutional scrutiny where the search falls within one of a few specifically established and well delineated exceptions to the Fourth Amendment exclusionary rule. These exceptions include: (1) search incident to a lawful arrest; (2) “hot pursuit”; (3) stop and frisk; (4) the automobile exception; (5) “plain view” doctrine; (6) consent; and (7) abandonment.” Id. (citing State v. Bailey, 274 S.E.2d 913 (1981); State v. Brown, 347 S.E.2d 882 (1986); and State v. Dupree, 462 S.E.2d 279 (1995)).

Under South Carolina law, the burden is upon the State to justify a warrantless search or seizure. State v. Bultron, 457 S.E.2d 616 (Ct. App. 1995). As such, the State has “**the burden of establishing probable cause as well as the existence of circumstances constituting an exception to the general prohibition against warrantless searches and seizures**...” (emphasis added). State v. Bultron, 457 S.E.2d 616 (Ct. App. 1995); see also State v. Brown, 347 S.E.2d 882, (1986) (same). Thus, a warrantless search

¹⁶ Id.

violates the Fourth Amendment unless the State can show circumstances that fit an exception to the warrant requirement.

Here, the circumstances surrounding the police's search of the pill bottle immediately rules out four of the seven warrant exceptions – that is, hot pursuit, abandonment, plain view, and consent. This is evident from the incident report, which contains no mention of any chase or pursuit by the police.¹⁷ Mr. Gilliam did not abandon the pill bottle; instead, the officer took it from his hand.¹⁸ The plain view exception does not apply because the pill bottle was closed and the officer opened it to look inside.¹⁹ The consent exception does not apply either, since Mr. Gilliam did not consent to the search.²⁰ Unfortunately for the State, the remaining three exceptions (search incident to arrest, stop and frisk, and the automobile exception) do not justify the warrantless search either.

a. The search cannot be justified as a search incident to arrest.

The search incident to arrest exception to the warrant requirement does not justify the search in this case. South Carolina and federal case **law require that a person actually be placed under arrest before a police officer can search incident to a lawful arrest.** Because Mr. Gilliam had not been arrested when police searched the pill bottle, it follows that this search cannot be justified as incident to a lawful arrest.

For example, in Smith v. Ohio, 494 U.S. 541 (1990), the U.S. Supreme Court explained that the sole prerequisite for a search incident to arrest is that there be a prior arrest supported by probable cause, because a search incident to arrest cannot precede the

¹⁷ Incident Report of Deputy J. Velez dated May 1, 2018.

¹⁸ Id.

¹⁹ Id.

²⁰ Id.

arrest or serve as justification for the arrest.²¹ The facts of Smith resemble the facts of Mr. Gilliam's case. In Smith, two plainclothes police officers approached the suspect when they saw him carrying a brown paper grocery bag through a YMCA parking lot in a manner that the officers later described as "gingerly."²² Neither officer knew the suspect.²³ One of the two officers got out of the police car and asked the suspect to "come here for a minute."²⁴ The suspect did not respond.²⁵ When the officer identified himself as a police officer, the suspect threw the paper bag he was carrying on to the hood of his car and turned to face the officer.²⁶ The officer asked what the bag contained, but the suspect did not respond.²⁷ The officer then rebuffed the suspect's attempt to protect the bag, pushed his hand away, opened the bag and found drug paraphernalia.²⁸ The drug paraphernalia discovered inside the bag provided probable cause for the arrest and evidence sufficient to convict for drug abuse.²⁹

While the facts are similar, the issue presented in Smith is identical to a main issue in Mr. Gilliam's case – that is: whether a warrantless search that provides probable cause for an arrest can be justified as a search incident of that arrest.³⁰ The Smith Court observed that "[i]t is axiomatic that an incident search may not precede an arrest and serve as part of its justification."³¹ The Court also explained that "[t]he exception for searches incident to arrest permits the police to search a lawfully arrested person and

²¹ Smith v. Ohio, 494 U.S. 541 (1990).

²² Smith v. Ohio, 494 U.S. 541, 541-42 (1990).

²³ Id. at 542.

²⁴ Id. at 542.

²⁵ Id.

²⁶ Id.

²⁷ Id.

²⁸ Id.

²⁹ Id.

³⁰ Id. at 541.

³¹ Id. at 543 (quoting Sibron v. New York, 392 U.S. 40, 63 (1968)).

QZ #6

areas within his immediate control,” but that it **“does not permit the police to search any citizen without a warrant or probable cause so long as an arrest immediately follows.”** (emphasis added).³² Consequently, the Smith Court held that the warrantless search of the defendant’s bag could not be justified as a search incident to a lawful arrest and reversed the defendant’s convictions.³³

Here, the search incident to arrest exception cannot apply because Mr. Gilliam **had not been arrested** when Officer Velez opened the pill bottle. That Mr. Gilliam was not under arrest is clear from the sequence of Officer Velez’s incident report, which describes how Officer Velez: (1) detained Mr. Gilliam by handcuffing him, (2) opened and searched the metal pill container, and (3) then placed him under arrest. By handcuffing Mr. Gilliam, Officer Velez “seized” Mr. Gilliam. However, arrest and seizure are different Fourth Amendment concepts and an individual can be seized without being arrested.³⁴

In contrast, an arrest is only consummated when (1) the officer’s intent is to arrest the suspect; and (2) the suspect’s intent is to submit to the arrest under belief that submission is necessary.³⁵ Here, the act of handcuffing Mr. Gilliam plainly does not rise to the level of a full arrest because Officer Velez did not inform Mr. Gilliam that he was under arrest and because no grounds existed to arrest him at that time.³⁶ Perhaps more importantly, even Officer Velez did not characterize the physical act of handcuffing Mr. Gilliam as an

³² Id.

³³ Id. Notably, South Carolina case law imposes the same requirement that a lawful arrest take place before a search incident to arrest. See, e.g. State v. Ferrell, 274 S.C. 401, 405 (1980) (“The sole prerequisite” for a search incident to arrest “is that there be a prior arrest supported by probable cause.”).

³⁴ State v. Brannon, 388 S.C. 498 (2010).

³⁵ Id.

³⁶ Possession of drug paraphernalia is not a criminal offense in South Carolina. Even taking the facts in the light most favorable to the State, at the time of the search, police only had reason to believe that Mr. Gilliam possessed a drug pipe.

arrest. In his report, he stated that Mr. Gilliam was arrested only after the search.³⁷ For these reasons, it is abundantly clear that Mr. Gilliam was not under arrest at the time of the search, which, therefore, cannot be justified as incident to a lawful arrest.

b. The search is not justified by the stop-and-frisk exception.

The search of the pill bottle is also not justified by the “stop and frisk” (commonly referred to as a “Terry Stop”) exception to the warrant requirement. Terry allows “an officer to pat down the outer clothing of a suspect to determine if the suspect is armed and dangerous” if the officer has reasonable suspicion of criminal activity and reasonably believes that the suspect is armed.³⁸ A Terry stop is limited to a frisk of the person’s outer clothing because the search of a person – even a limited search of the outer clothing – is a matter in respect to which the law provides “significantly heightened protection.”³⁹ Terry also permits a police officer to “stop and briefly detain and question a person for investigative purposes” when the officer has reasonable suspicion, supported by articulable facts, that the person is engaged in criminal activity.⁴⁰

As such, assuming *arguendo* that Officer Velez had reasonable suspicion of criminal activity, it was lawful for him to detain Mr. Gilliam. It would also have been lawful for him to pat down Mr. Gilliam’s outer clothing for weapons, assuming that he had a reasonable, articulable belief that Mr. Gilliam was armed. (His report does not indicate whether he conducted a Terry frisk of Mr. Gilliam.) However, the stop and frisk exception to the warrant requirement is limited to just that – a frisk of the subject’s outer

³⁷ See Incident Report of Deputy J. Velez dated May 1, 2018.

³⁸ Terry v. Ohio, 392 U.S. 1 (1968).

³⁹ See Wyoming v. Houghton, 526 U.S. 295, 303 (1999).

⁴⁰ State v. Corley, 392 S.C. 125 (2011).

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clothing for weapons.⁴¹ It does not permit police to conduct a more extensive search of a suspect's person.⁴² And it certainly does not permit a police officer to open a closed container. Furthermore, the purpose of a Terry frisk is to uncover weapons that could pose a threat to officer safety. Here, the officer had no reason to believe that the pill bottle contained any weapon. For these reasons, the search of the pill bottle cannot be justified by the stop and frisk exception.

c. The search is not justified by automobile exception.

South Carolina and federal case law both recognize an "automobile exception" to the warrant requirement. Under this exception, police are permitted to conduct a warrantless search of a vehicle, as well as containers found within the vehicle, if probable cause exists that would justify the issuance of a search warrant, even though a warrant has not actually been obtained.⁴³ However, this broad authority to search automobiles and their contents is not unlimited and is subject to certain restrictions, including: (1) that a search is limited by the size and nature of the items for which there is probable cause to search, and (2) that the authority to search extends only to the automobile and its contents.⁴⁴ Put differently, the automobile exception allows police to search every part of an automobile and its contents, but it does not extend to searching the person of car occupants.

For example, in Wyoming v. Houghton, 526 U.S. 295, 303 (1999), the U.S. Supreme Court held that police officers with probable cause to search a car may inspect the passengers' belongings found in the car that are capable of concealing the object of

⁴¹ Terry v. Ohio, 392 U.S. 1 (1968).

⁴² See Melanie Yenovkian, The Fourth Amendment: A Step-by-Step Guide to Search and Seizure Jurisprudence in South Carolina, 2nd ed., pp. 104-119.

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the search.⁴⁵ In his concurrence, Justice Breyer further expounded upon “the scope of this bright-line rule” by noting that: “Obviously, the rule applies only to automobile searches. Equally obviously, the rule applies only to containers found within automobiles. And it does not extend to the search of a person found in that automobile.”⁴⁶

South Carolina case law makes clear that the scope of the automobile exception is no broader in state court than has been permitted by federal cases. For example, in State v. Bultron, 318 S.C. 323 (Ct. App. 1995), the Court of Appeals explained that “if probable cause exists to justify the warrantless search of a lawfully stopped vehicle, it justifies the search of every part of the vehicle and its content that may conceal the object of the search.” This same rule was recited in State v. Morris, 395 S.C. 600, 610 (Ct. App 2011), aff’d 411 S.C. 571 (2015), wherein the Court of Appeals observed that “if probable cause justifies the [warrantless] search of a lawfully stopped vehicle, it justifies the search of every part of the vehicle and its contents that may conceal the object of the search.”⁴⁷

Therefore, it is clear that the automobile exception does not justify the warrantless search of the pill bottle in this case. When the officer first noticed the pill bottle, Mr. Gilliam was outside of the car and held the pill bottle in his hand.⁴⁸ To open the pill bottle, the officer first had to remove it from Mr. Gilliam’s hand, meaning that the pill

⁴³ Maryland v. Dyson, 527 U.S. 565 (1999); U.S. v. Ross, 456 U.S. 798 (1982); and California v. Acevedo, 500 U.S. 565 (1991).

⁴⁴ U.S. v. Ross, 456 U.S. 798 (1982).

⁴⁵ Wyoming v. Houghton, 526 U.S. 295, 303 (1999).

⁴⁶ Wyoming v. Houghton, 526 U.S. 295, 307-308 (1999) (Breyer, J. concurring).

⁴⁷ State v. Morris, 395 S.C. 600, 610 (Ct. App 2011), aff’d 411 S.C. 571 (2015) (quoting U.S. v. Ross, 456 U.S. 798, 825 (1982)).

⁴⁸ Incident Report of Deputy J. Velez dated May 1, 2018.

bottle was clearly on Mr. Gilliam's person, not inside the car.⁴⁹ As the automobile exception justifies only a warrantless search of every part of the vehicle and its contents, not a warrantless search of the vehicle's occupants, it is abundantly clear that this exception cannot justify the officer's search of the pill bottle in this case. As such, to be lawful, the search would have to be justified by another exception to the warrant requirement or the police would have to obtain a warrant.

THE APPROPRIATE REMEDY: SUPPRESSION

Because the warrantless search of the pill bottle is not justified by any warrant exception, there can be no question that this search violated the Fourth Amendment. The only remedy for a willful violation of the Fourth Amendment is to exclude all evidence (i.e. drugs seized from the pill container) seized as a proximate result of the police misconduct. Mapp v. Ohio, 367 U.S. 643 (1961). Likewise, when evidence is obtained as a result of illegal police conduct, not only must that evidence be suppressed, but also all evidence that is the fruit of the illegal conduct. Wong Sun v. U.S., 371 U.S. 471 (1963). Here, certain evidence (i.e. drugs inside car, alleged statement by defendant) derives directly from the initial illegal search and, therefore, must also be suppressed.

This evidence should also be excluded as a violation of Article 1, Section 10 of the South Carolina Constitution, which, in addition to language mirroring the Fourth Amendment, contains an explicit constitutional protection of the right to privacy:

*"The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures **and unreasonable invasions of privacy shall not be violated, ...**" (emphasis added).*

⁴⁹ Id.

The South Carolina Supreme Court has observed that “right to privacy provision imbedded in the search and seizure provision” of the state constitution “creates a distinct privacy right that applies both within and without the search and seizure context.” State v. Forrester, 343 S.C. 637 (2001). In Forrester, the court explained that “many of the states that have adopted explicit state constitutional right to privacy provisions have read their constitutions as applying protection above and beyond the protection provided by the federal Constitution.” Id. at 644-45 (citing State v. Church, 538 So.2d 993 (La. 1989) (disallowing police roadblock under state constitution’s right to privacy even though it did not violate the Fourth Amendment)). The Forrester court observed that “[t]he South Carolina Constitution, with an express right to privacy provision included in the article prohibiting unreasonable searches and seizures, favors an interpretation offering a higher level of privacy protection than the Fourth Amendment.” Id. at 645. Finally, Forrester makes clear that the remedy for a violation of the state constitution’s explicit privacy protections is the exclusion of evidence. Id. at 648-49. Here, the warrantless search of Mr. Gilliam’s pill bottle violated not only the protections of the Fourth Amendment, but also the “right to privacy” protections of the state constitution. As such, all evidence discovered in this search should also be suppressed as a violation of the state constitution.

For all of the reasons set forth above, Mr. Gilliam requests that this Court suppress all evidence derived from police’s unlawful warrantless search of the pill bottle. The suppression of this evidence is the only remedy for this intentional police misconduct and, further, is the only remedy that will deter the Anderson County Sheriff’s Office from continuing to engage in “search first, ask questions later” practices that flout the requirements of the Fourth Amendment.



Respectfully submitted,

A handwritten signature in black ink, appearing to read 'A. Hadden Lucas', written over a horizontal line.

A. Hadden Lucas
10th Circuit Public Defender's Office
500 S. McDuffie Street
Anderson, SC 29624
(864) 260-4048

Attorney for Defendant

Dated: February 23, 2020

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

INDICTMENT

At a Court of General Sessions, convened on OCT 23 2018, the Grand
Jurors of Anderson County present upon their oath:

POSSESSION OF COCAINE

The defendant, Jamey Christopher Gilliam, did on or about May 1, 2018, in
Anderson County, South Carolina, knowingly or intentionally possess Cocaine, a schedule
II controlled substance narcotic. All in violation of 44-53-370 of the South Carolina Code
of Laws (1976) as amended.

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



LAUREN D. PRICE
SR. ASSISTANT SOLICITOR

WITNESSES

Anderson Co. Sheriff's Office
Jonathan M. Velez

ARREST WARRANT NUMBER

2018A0410100781

ACTION OF GRAND JURY

TRUE BILL
Foreperson of Grand Jury
Date: **OCT 23 2018**
William Garrido
Foreperson

VERDICT

Foreperson of Grand Jury
Date:

DOCKET NO. 2018-GS-04- 02863

The State of South Carolina
County of Anderson

COURT OF GENERAL SESSIONS
OCT 23 2018

, TERM

THE STATE
VS.
JAMEY CHRISTOPHER GILLIAM

INDICTMENT FOR
POSSESSION OF COCAINE

SC Code: § 44-53-370
CDR Code: 3011

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

INDICTMENT

RECEIVED

JUN 08 2020

SC Court of Appeals
OCT 23 2018

At a Court of General Sessions, convened on _____, the Grand
Jurors of Anderson County present upon their oath:

POSSESSION OF METHAMPHETAMINE

The defendant, Jamey Christopher Gilliam, did on or about May 1, 2018, in Anderson County, South Carolina, knowingly or intentionally possess Methamphetamine, a Schedule II controlled substance as defined in Section 44-53-110. All in violation of 44-53-375(A) of the South Carolina Code of Laws (1976) as amended.

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



LAUREN D. PRICE
SR. ASSISTANT SOLICITOR

WITNESSES

Anderson Co. Sheriff's Office
Jonathan M. Velez

ARREST WARRANT NUMBER

2018A0410100782

ACTION OF GRAND JURY

TDIC D111	
Foreperson of Grand Jury	Date: OCT 23 2018
<i>William Garrick</i>	
Foreperson	

VERDICT

Foreperson of Grand Jury
Date:

DOCKET NO. 2018-GS-04-02864

The State of South Carolina
County of Anderson

COURT OF GENERAL SESSIONS
OCT 23 2018

, TERM

THE STATE

VS.

JAMEY CHRISTOPHER GILLIAM

INDICTMENT FOR

POSSESSION OF METHAMPHETAMINE

SC Code: § 44-53-375(A)
CDR Code: 3009

Aug 30 2021

SC Court of Appeals

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Adam Sinclair Ruffin
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 30th day of August, 2021.