

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Cherokee County

Honorable R. Keith Kelly, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRYSON JAMAR SMITH,

APPELLANT

APPELLATE CASE NO. 2020-001499

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE’S EXHIBIT NO. 21 (DISK OF JAIL CALLS)

1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF CHEROKEE

4 State of South Carolina,
5 Plaintiff,

6 vs.

Transcript of Record
2020-GS-11-01147,
2020-GS-11-01148,
2020-GS-11-01149,
2020-GS-11-01150,
2020-GS-11-01151

7
8
9 Bryson Jamar Smith,
10 Defendant.

11
12
13 November 3, 2020
14 Gaffney, South Carolina
Volume I of IV

15 B E F O R E:

16 The HONORABLE R. KEITH KELLY
17

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

19 Kim Leskanic, Representing the State of South Carolina
20 Matt Kendall, Representing the State of South Carolina
Joshua Schultz, Representing the Defendant

21
22
23
24 SHARON G. HARDOON, CSR
25 Official Circuit Court Reporter, III

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1 THE BAILIFF: All rise. Court will come
2 to order.

3 THE COURT: Thank you. Thank you.
4 Please be seated. Thank you.

5 Okay. Ladies and Gentlemen, I thank you.
6 We were working on some other matters that did not
7 require your attention, but thank you for your
8 patience.

9 We are here in the matter of the State of
10 South Carolina vs. Bryson Jamar Smith.

11 Mr. Smith, would you stand, please, and
12 face the jury panel for just a few seconds,
13 please? And would you lower your mask just
14 momentarily, sir? All right. Thank you,
15 Mr. Smith. You may be seated.

16 We are here on the matter of the State of
17 South Carolina vs. Bryson Jamar Smith in
18 indictment 2020-1151. It is alleged that
19 Mr. Smith did in Cherokee County, South Carolina
20 on or about August 12 of 2019 commit the criminal
21 offense known as trafficking in heroin. He has
22 entered a plea of not guilty to the allegation
23 contained in the indictment. And I'll say this
24 more than once this afternoon, he is presumed
25 innocent of the allegations contained in this

1 indictment.

2 We're also here on 2020-1149, the
3 State of South Carolina vs. Bryson Jamar Smith.
4 It is alleged that he did in Cherokee County,
5 South Carolina on or about August 12 of 2019
6 commit the criminal offense known as trafficking
7 in methamphetamine. He has entered a plea of not
8 guilty to this indictment. He is presumed not
9 guilty. He's presumed innocent, actually, of the
10 allegations contained in this indictment.

11 In the indictment of 2020-1148, it is
12 alleged in the State of South Carolina vs. Bryson
13 Jamar Smith that he did in the county of Cherokee,
14 State of South Carolina on or about August 12 of
15 2019 commit the criminal offense known as
16 possession with intent to distribute cocaine. He
17 has entered a plea of not guilty and he is
18 presumed innocent of the allegations contained in
19 this indictment.

20 In the matter of State of South Carolina
21 vs. Bryson Jamar Smith, 2020-1147, it is alleged
22 that Mr. Smith did in Cherokee County, South
23 Carolina on or about August 12 of 2019 commit the
24 criminal offense known as possession with intent
25 to distribute marijuana. He has entered a plea of

1 not guilty to this indictment. He is presumed
2 innocent by the allegations contained in the
3 indictment.

4 In the indictment of 2020-1150, the State
5 of South Carolina vs. Bryson Jamar Smith, it is
6 alleged that he did in Cherokee County,
7 South Carolina on or about August 12 of 2019
8 commit the criminal offense known as possession
9 with intent to distribute Fentanyl, which is a
10 controlled substance, and he did that in this
11 county and state. He has entered a plea of not
12 guilty to this indictment. He is presumed
13 innocent of the allegations contained in the
14 indictment.

15 Ladies and Gentlemen, I'll say this again
16 more than once, he's presumed innocent by his
17 plea. The burden is on the government to prove
18 his guilt beyond a reasonable doubt. The
19 indictments are merely charging instruments. They
20 are not evidence against him. The evidence in
21 this case will come to the jury through the
22 testimony given by witnesses and any exhibits
23 which might be introduced into evidence.

24 Now, Ladies and Gentlemen, you were
25 previously sworn. And there's a series of

1 questions I need to ask at this time, and you were
2 sworn earlier and you remain under oath at this
3 time.

4 Here are some questions I'm required to
5 ask: Is there any member of this panel who is now
6 or ever has been related to Bryson Jamar Smith?
7 You are now related to him or were related to him
8 maybe by marriage or some connection. Have you
9 ever been related to him, or are you related to
10 him, now? If so, please stand.

11 Is there any member of this jury panel
12 who has a friendship or acquaintanceship with
13 Mr. Smith? You know him from school. You know
14 him from recreation, from work. I don't know how,
15 but somehow you know him. If so, stand.

16 Use numbers. So tell me your number,
17 please.

18 JUROR 78: 78.

19 THE COURT: 78. 78, how do you know him?
20 Recreationally?

21 JUROR 78: I've known him since birth.

22 THE COURT: Since he was born. The fact
23 that you've known him all of these years, would
24 that interfere with your ability to be fair and
25 impartial?

1 JUROR 78: Yes, sir.

2 THE COURT: It would. Ma'am, you may not
3 serve on the trial of this case. Have a seat.

4 Yes.

5 JUROR 77: 77.

6 THE COURT: 77. You know him socially
7 some way.

8 JUROR 77: Yeah, he's in the
9 neighborhood.

10 THE COURT: Would that interfere with
11 your ability to be fair in this trial?

12 JUROR 77: No.

13 THE COURT: It would not. You may
14 stay.

15 Yes.

16 JUROR 2: Number 2.

17 THE COURT: 2?

18 JUROR 2: Yes, sir.

19 THE COURT: You know him socially some
20 way?

21 JUROR 2: He's a friend of the family.

22 THE COURT: Would that interfere with
23 your ability to be fair and impartial?

24 JUROR 2: No.

25 THE COURT: Ma'am, you may stay.

1 Yes.

2 JUROR 50: Juror number 50. He used to
3 date my first cousin and they have a six-year-old
4 son.

5 THE COURT: Tell me your number one more
6 time.

7 JUROR 50: 50.

8 THE COURT: 50, 5-0. Would that
9 interfere with your ability to be fair and
10 impartial.

11 JUROR 50: Yes, sir.

12 THE COURT: Okay. You may not serve in
13 this case.

14 The following will be a list of potential
15 witnesses. I say potential because he will never
16 know who will or will not testify. Brandon
17 Dorsette, Billy Anthony, Jacob Mullinax, Jimmy
18 Henson, David Owens, John Fuller, Jerry Smith,
19 Christopher Parnell, Maribeth McCormack,
20 Ashley Lyles, Ronnie Painter, James Matthews,
21 Traci Smith, Alexis Fowler, Stephen Anderson,
22 Brandon Gardner, Vanessa Dawkins, Josh Mata,
23 Roderick Oglesby, Mike Nicholson, someone from the
24 United States Postal Service, Tanika Shipley, and
25 I think I already said Tracy Smith. Is there any

1 member --

2 MR. KENDALL: I'm sorry. Your Honor,
3 it's McCormick.

4 THE COURT: Maribeth McCormick. Thank
5 you, Solicitor.

6 Is there any member of this jury panel
7 related by blood or marriage --

8 Yes, sir.

9 MR. SCHULTZ: Your Honor, someone from
10 the U.S. Postal Service is whom again?

11 MR. KENDALL: Mike Nicholson.

12 MR. SCHULTZ: Mike Nicholson, okay.

13 THE COURT: Oh, I'm sorry. It was listed
14 as a separate person. That is the postal service.

15 MR. KENDALL: Yes, sir.

16 THE COURT: Very good.

17 Is there any member of the jury panel who
18 is now or related by blood or marriage to any of
19 those potential witnesses? If so, please stand.

20 Starting right here. Ma'am, your number?

21 JUROR 66: 66.

22 THE COURT: Would that interfere with
23 your ability to be fair and impartial?

24 JUROR 66: No, sir.

25 THE COURT: You may stay.

1 Your number?

2 JUROR 38: 38.

3 THE COURT: 38.

4 JUROR 38: Samantha Holcombe.

5 THE COURT: Would that interfere with
6 your ability to be fair and impartial?

7 JUROR 38: No, sir.

8 THE COURT: You may stay.

9 Anyone else? Yes.

10 JUROR 8: 8.

11 THE COURT: 8. Would that interfere with
12 your ability to be fair and impartial?

13 JUROR 8: No.

14 THE COURT: You may stay.

15 Yes.

16 JUROR 63: 63.

17 THE COURT: Would that interfere with
18 your ability to be fair and impartial?

19 JUROR 63: (Witness moves head from side
20 to side.)

21 THE COURT: Ma'am, you may stay.

22 I'm going to ask the lawyers to now --
23 well, I asked about marriage. Does anyone have a
24 personal or close relationship with those
25 potential witnesses in that you know them again

1 from recreation, work, church, whatever it might
2 be?

3 JUROR 43:

4 THE COURT: 43.

5 JUROR 43: Socially.

6 THE COURT: Would that interfere with
7 your ability to be fair and impartial?

8 JUROR 43: No.

9 THE COURT: You may stay.

10 Yes, ma'am.

11 JUROR 11: Number 11, he works with my
12 husband.

13 THE COURT: Would it interfere with your
14 ability to be fair and impartial?

15 JUROR 11: I don't know.

16 THE COURT: Ma'am.

17 JUROR 11: I don't know.

18 THE COURT: I'm sorry, I have to press
19 for a definitive answer. If you think so, I'm
20 going to excuse you.

21 JUROR 11: Possibly.

22 THE COURT: Okay. Then, ma'am, you will
23 not serve in the trial of this case. Anyone else?
24 Thank you for your honesty. Anyone else?

25 All right. I'm going to ask the lawyer

1 now to introduce themselves, as always, ladies
2 first.

3 MS. LESKANIC: May it please the Court?

4 THE COURT: Yes, ma'am.

5 MS. LESKANIC: Thank you.

6 Good afternoon, Ladies and Gentlemen. My
7 name is Kim Vesanic, and I'm Deputy Solicitor here
8 for Cherokee County.

9 MR. KENDALL: Good afternoon, Ladies and
10 Gentlemen. My name is Matt Kendall. I'm an
11 assistant solicitor here in Cherokee County.

12 MR. SCHULTZ: My name is
13 Attorney Joshua Schultz and this is my client
14 Bryson Smith.

15 THE COURT: Okay, thank you.

16 Is there any member of this jury panel
17 related by blood or marriage or ever have been
18 related by blood or marriage to any of the lawyers
19 in this case? If so, please stand.

20 Any member of the jury panel have a close
21 personal or social relationship with of the
22 lawyers? Again, you went to school with someone
23 or you know them from a neighborhood, shop at the
24 same grocery? Anyone? Please stand.

25 Any member of this jury panel ever been

1 summoned to testify as a witness for the 7th
2 Circuit Solicitor's Office? If so, please stand.

3 Any member of the jury ever received a
4 summons or a request from the law office of Joshua
5 Schutz to testify in a case? If so, please
6 stand.

7 Any member of the jury panel have a
8 family member or a friend employed in the
9 7th Circuit Solicitor's office? If so, please
10 stand.

11 Any member of the panel have a friend or
12 a family member employed in the law offices of
13 Josh Schultz? If so, please stand.

14 Any member of this jury panel ever sought
15 legal advice from any of these three lawyers,
16 whether that be about a criminal matter, real
17 estate closing, a will, a just question in
18 general, even if you did not hire him or her?
19 Anyone ever consulted with one of those lawyers
20 about a legal matter? Please stand.

21 Any member of the jury panel in your
22 immediate family have a law enforcement officer in
23 your family? Immediate family; son-in-law,
24 daughter-in-law, son, child, cousin, uncle, aunt
25 in any agency.

1 THE COURT: Okay. Yes, ma'am. Right
2 here. Number?

3 JUROR 63: 63.

4 THE COURT: What agency? What agency,
5 like, city, county, state? Do you know?

6 JUROR 63: He's county.

7 THE COURT: County. Would that interfere
8 with your ability to be fair and impartial in this
9 case?

10 JUROR 63: No, sir.

11 THE COURT: Ma'am, you may stay.

12 Yes.

13 JUROR 40: 40, and he's with the
14 county.

15 THE COURT: Cherokee County?

16 JUROR 40: Yes.

17 THE COURT: Would that interfere with
18 your ability to be fair and impartial in this
19 trial?

20 JUROR 40: No.

21 THE COURT: You may stay.

22 Yes, in the yellow.

23 JUROR 78: 78. My husband was prior with
24 the Cherokee County Detention Center.

25 THE COURT: Would that interfere with

1 your ability to be fair and impartial?

2 JUROR 78: Yes.

3 THE COURT: You may be dismissed from the
4 trial in this case.

5 Yes.

6 JUROR 49: 49.

7 THE COURT: What agency?

8 JUROR 49: I'm not exactly sure.

9 THE COURT: Would it interfere with your
10 ability to be fair and impartial?

11 JUROR 49: Yes.

12 THE COURT: You've already been
13 dismissed, ma'am.

14 Yes.

15 JUROR 66: 66.

16 THE COURT: What agency?

17 JUROR 66: Cherokee County Sheriff.

18 THE COURT: Would that interfere with
19 your ability to be fair and impartial?

20 JUROR 66: No.

21 THE COURT: You may stay.

22 Yes, sir.

23 JUROR 28: Spartanburg County.

24 THE COURT: What number?

25 JUROR 28: 28.

1 THE COURT: Would that interfere with
2 your ability to be fair and impartial?

3 JUROR 28: No, sir.

4 THE COURT: You may stay.

5 Over here. Yes, ma'am.

6 JUROR 56: 56.

7 THE COURT: 5-6. Okay, what agency?

8 JUROR 56: County.

9 THE COURT: Would that interfere with
10 your ability to be fair and impartial?

11 JUROR 56: No, sir.

12 THE COURT: You may stay.

13 Yes, sir.

14 JUROR 26: Friend of the family is with
15 the sheriff's office.

16 THE COURT: What number are you, sir?

17 JUROR 26: 26.

18 THE COURT: 26. Would that interfere
19 with your ability to be fair and impartial?

20 JUROR 26: No, sir.

21 THE COURT: You may stay.

22 Is there any member of this jury panel
23 who has ever been a sworn law enforcement officer,
24 whether that be military police, SLED, county,
25 municipal? You yourself. Not a family member.

1 You yourself. Please stand.

2 Is there any member of the family -- and
3 I will not ask particulars, but is there any
4 member of this jury panel who has a family member
5 that was either arrested, charged, or convicted of
6 a crime involving drugs? I will not embarrass you
7 by asking any particulars. Just a family
8 member -- a family member who was arrested,
9 convicted, pled guilty to something involving
10 drugs.

11 Yes, ma'am. Your number?

12 JUROR 40: 40.

13 THE COURT: Would that interfere with
14 your ability to be fair and impartial?

15 JUROR 40: No, sir.

16 THE COURT: You may stay.

17 Yes, sir.

18 JUROR 18: 18.

19 THE COURT: 18.

20 JUROR 18: My son.

21 THE COURT: I'm not going to embarrass
22 anyone, but would that interfere with your ability
23 to be fair and impartial?

24 JUROR 18: No, sir.

25 THE COURT: You may stay.

1 Yes, ma'am.

2 JUROR 29: 29. I had somebody close to
3 me charged.

4 THE COURT: Would it interfere with your
5 ability to be fair and impartial?

6 JUROR 29: No.

7 THE COURT: You may stay.

8 Yes, ma'am.

9 JUROR 24: 24.

10 THE COURT: Would it interfere with your
11 ability to be fair and impartial?

12 JUROR 24: No, sir.

13 THE COURT: You may stay.

14 Yes, ma'am.

15 JUROR 56: 56.

16 THE COURT: Would it interfere with your
17 ability to be fair and impartial?

18 JUROR 56: No, sir.

19 THE COURT: Is there any member of this
20 jury panel who knows anything whatsoever about the
21 trial of this case? I do not. I'm not supposed
22 to. I know what these pieces of paper say. Does
23 anyone know anything about the trial -- about this
24 case? Please stand.

25 Anyone know of any reason why he or she

1 should not serve as a juror on this case? If so,
2 please stand.

3 Anything from the State?

4 MR. KENDALL: If we may approach,
5 Your Honor.

6 (Bench conference off the record.)

7 THE COURT: Anything further from the
8 State?

9 MR. KENDALL: No, Your Honor.

10 THE COURT: Anything from the defense?

11 MR. SCHULTZ: No, Your Honor.

12 THE COURT: Okay.

13 THE CLERK: When I call your name, please
14 stand where you are. I'm going to ask the State if
15 you are to be seated or excused. You will remain
16 standing until I let you know that you've been
17 excused. If I tell you you've been excused, you will
18 take a seat where you. If I say take a seat in the
19 jury box, you will come forward. Bring all your
20 personal belongings and you will take a seat over here
21 in the jury box.

22 Okay. Juror 69, Morgan Robinson. What says
23 the State?

24 MR. KENDALL: Please seat the juror.

25 THE COURT: What says the defense?

1 MR. SCHULTZ: Please seat the juror in
2 this case.

3 THE CLERK: Please take a seat in the
4 jury box.

5 32, Angela Godfrey. What says the State?

6 MR. KENDALL: Please seat the juror.

7 THE COURT: What says the defense?

8 MR. SCHULTZ: Please excuse the juror in
9 this case.

10 THE CLERK: You've been excused.

11 Juror 39, Lauren Holliday. What says the
12 State?

13 MR. KENDALL: Please seat the juror.

14 THE CLERK: What says the defense?

15 MR. SCHULTZ: Please excuse the juror in
16 this case.

17 THE CLERK: You've been excused.

18 Juror 40, Haley Hood. What says the
19 State?

20 MR. KENDALL: Please excuse this juror.

21 THE COURT: You've been excused.

22 Jury 41, A.D. Huskey. What says the State?

23 MR. KENDALL: Please seat the jury.

24 THE CLERK: What says the defense?

25 MR. SCHULTZ: Please seat the juror in

1 this case.

2 THE CLERK: Please come forward and take
3 a seat in the jury box.

4 Number 19, Louis Deruvo. What says the
5 State?

6 MR. KENDALL: Please seat the juror.

7 THE CLERK: What says the defense?

8 MR. SCHULTZ: Please seat the juror in
9 this case.

10 THE CLERK: Please come forward and take
11 a seat in the jury box.

12 Juror 10, Robin Bonner. What says the State?

13 MR. KENDALL: Please seat the jury.

14 THE CLERK: What says the defense?

15 MR. SCHULTZ: Please seat the juror in
16 this case.

17 THE CLERK: Come forward and take a seat
18 in the jury box.

19 31, Daniel Frady. What says the State?

20 MR. KENDALL: Please seat the juror.

21 THE CLERK: What says the defense?

22 MR. SCHULTZ: Please seat the juror in
23 this case.

24 THE CLERK: Please come forward and take
25 a seat in the jury box.

1 53, Roger McKinney. What says the State?

2 MR. KENDALL: Please seat the juror.

3 THE CLERK: What says the defense?

4 MR. SCHULTZ: Please seat the juror in
5 this case.

6 THE CLERK: Please come forward and take
7 a seat in the jury box.

8 46, John Leary. What says the State?

9 MR. KENDALL: Please seat the juror.

10 THE CLERK: What says the defense?

11 MR. SCHULTZ: Please seat the juror in
12 this case.

13 THE CLERK: Please come forward and take
14 a seat in the jury box.

15 Juror 22, Robbie Eaker. What says the State?

16 MR. KENDALL: Could you say the name
17 again.

18 THE CLERK: Robbie Eaker, Number 22.

19 MR. KENDALL: Please excuse the jury.

20 THE CLERK: You have been excused.

21 Juror 66, Tierra Phillips. What says the
22 State?

23 MR. KENDALL: Please seat the juror.

24 THE CLERK: What says the defense?

25 MR. SCHULTZ: Please seat the juror in

1 this case.

2 THE CLERK: Please come forward and take
3 a seat in the jury box.

4 Juror 15, Sharon Chitty.

5 MR. SCHULTZ: Madame Clerk, what number
6 was that?

7 THE CLERK: 15.

8 What says the State?

9 MR. KENDALL: Please seat the juror.

10 THE CLERK: What says the defense?

11 MR. SCHULTZ: Please excuse the jury in
12 this case.

13 THE CLERK: You've been excused.

14 Juror 51, Anita McAbee. What says the State?

15 MR. KENDALL: Please seat the juror.

16 THE CLERK: What says the defense?

17 MR. SCHULTZ: Please seat the juror.

18 THE CLERK: Please come forward and take
19 a seat in the jury box.

20 Juror, Hearl Richmond, Jr. What says the
21 State?

22 MR. KENDALL: Please seat the juror.

23 THE CLERK: What says the defense?

24 MR. SCHULTZ: Please seat the juror in this
25 case.

1 THE CLERK: Please come forward and take
2 a seat in the jury box.

3 Juror 79, Travis Winkler. What says the
4 State?

5 MR. KENDALL: Please seat the juror.

6 THE COURT: What says the defense?

7 MR. SCHULTZ: Please excuse the juror in
8 this case.

9 THE CLERK: You've been excused.

10 MR. SCHULTZ: Madame Clerk, I should be
11 on three.

12 THE CLERK: Four.

13 MR. SCHULTZ: Thank you.

14 THE CLERK: Jury 12, Xavier Burris. What
15 says the State?

16 MR. SCHULTZ: Number, Madame clerk.

17 THE CLERK: 12.

18 MR. SCHULTZ: Thank you.

19 MR. KENDALL: Please seat the juror.

20 THE CLERK: What says the defense?

21 MR. SCHULTZ: Please seat the juror in
22 this case.

23 THE CLERK: Please come forward and take
24 a seat in the jury box.

25 Juror 6, Austin Beck. What says the State?

1 MR. KENDALL: Please excuse the jury.

2 THE CLERK: You've been excused.

3 Juror 3, Teresa Allison. What says the

4 State?

5 MR. KENDALL: Please seat the juror.

6 THE CLERK: What says the defense?

7 MR. SCHULTZ: Please excuse the juror.

8 THE CLERK: You've been excused.

9 Juror 72, David Sils. What says the State?

10 MS. LESKANIC: Please seat the juror.

11 THE CLERK: What says the defense?

12 MR. SCHULTZ: Please seat the juror in

13 this case.

14 THE CLERK: Please come forward and take

15 a seat in the jury box.

16 Our next jury will be for alternate 1.

17 Juror 27, Brook Ferguson. What says the

18 State?

19 MR. KENDALL: Please seat the jury.

20 THE CLERK: What says the defense?

21 MR. SCHULTZ: Please seat the juror in

22 this case.

23 THE CLERK: Please come forward and take

24 a seat in the jury box.

25 Juror 57, Lisa Moore-Blakely. What says the

1 State?

2 MR. KENDALL: Please seat the juror.

3 THE CLERK: What says the defense?

4 MR. SCHULTZ: Please seat the juror in
5 this case.

6 THE CLERK: Please come forward and take
7 a seat in the jury box.

8 THE COURT: Any matters from the State?

9 MR. KENDALL: No, sir, Your Honor.

10 MR. SCHULTZ: No, sir.

11 THE COURT: Ladies and Gentlemen, who
12 were not selected, even though you're wearing a
13 mask, I can tell you're disappointed. But the
14 week is young, okay. The week is young. With
15 that, I'm going to release you here in just a few
16 moments. I'm going to ask you to ensure before
17 you leave that you have that magic number with you
18 and I'm going to ask you to call that number --

19 After 10:00 a.m., Madame Clerk?

20 THE CLERK: Yes, sir.

21 THE COURT: After 10:00 a.m. If you'll
22 call that number after 10:00 a.m., please. After
23 10:00 a.m. It may say to report and it may say
24 you're not needed and call back after 6:00 p.m.
25 tomorrow evening.

1 But nonetheless, if you'll do us a favor, do
2 us a courtesy, call that number after 10:00 a.m.
3 tomorrow morning, there will be a recorded message
4 with instructions for you.

5 THE CLERK: Judge, if I may must add
6 something on that?

7 THE COURT: Yes.

8 THE CLERK: You're going to call in 10:00
9 for further reporting instructions. But if you
10 have to be at work prior to 10:00 a.m. in the
11 morning, you will go to work and call from your
12 place of employment. Remember, you're only going
13 to get an excuse for the days you physically
14 report to the courthouse and I don't want you to
15 get in with your HR department or your job.

16 Typically, if you call in at 10:00, we're
17 going to give you a two-hour window to get here,
18 and it could be two and a half hours. But just
19 remember, you may call in at 10:00 and the
20 directions may be to call back at 6:00 for further
21 reporting instructions.

22 So if you don't go to work and you don't
23 come to the courthouse, you're not going to have
24 an excuse. I don't want anybody getting in
25 trouble with their job. So you'll go to work,

1 call in from your place of employment, and then
2 just doing whatever the message tells you when you
3 call in in the morning. Okay.

4 THE COURT: Thank you, Ms. Brandy.

5 Also, as I release you here, I'm going to
6 invite you to stay with us, if you'd like. We're
7 going to continue to work a little bit. If you
8 want to see some of what goes on in court, we have
9 some other matters. Nothing exciting, I don't
10 think, but we got some nuts and bolts things to
11 do.

12 But this is an open courtroom, and I
13 invite you now, and I'll do that all week, I
14 invite you to come to your courthouse, your
15 courtroom, and observe court at any time you
16 choose. Again, we have open court and you're
17 welcome here always at any time.

18 With that, I'm going to dismiss you. As
19 we have done earlier today, if you would be kind
20 enough to stand, turn around, the bailiffs will
21 release you row by row so we can maintain social
22 distancing, please.

23 (Jury pool released at 3:24 p.m.)

24 THE COURT: Jury Number 66, Miss Tierra
25 Phillips, you are right there. Miss Phillips, it

1 is my custom to alternate between a foreman and a
2 forelady. It's time for a forelady. Would you
3 serve as the forelady on this jury.

4 JUROR 66: Yes, sir.

5 THE COURT: I'm not going to require
6 that. I'll ask someone else.

7 JUROR 66: That's fine.

8 THE COURT: But if you would, I would
9 appreciate it.

10 JUROR 66: That's fine.

11 THE COURT: Tomorrow, when we return, if
12 you would be kind enough to switch seats with the
13 gentleman right here on the end, right there, that
14 is my forelady's seat, the foreperson's seat. You
15 become the spokesperson for the jury. When I look
16 up, I always look to that chair.

17 Sir, if you would be kind enough to
18 switch places with her. I would appreciate that.

19 Ordinarily, I would advise every one of
20 you to switch seats as much you want. But under
21 the COVID directions that we have, I'm going to
22 ask you, unless there's some extenuating
23 circumstance, to always sit in the seat you are in
24 now. That will be your seat every time you come
25 and go and nobody else will there. I assure you

1 the cleaning is done. Every night things are
2 wiped down. But I find it would be best if we all
3 sit the seat as your seat. If you want to
4 switch -- I'll tell you what -- I'll give you the
5 option. If you want to switch seats, do it in the
6 morning and then maintain that seat. Because once
7 you leave here today, there will be a wipe-down of
8 seats and microphones and that sort of thing. If
9 you would, be kind enough to remain in that seat.

10 My alternates you are in the correct
11 seats. Those are the two alternates. And when I
12 look up, I know where my alternates are at all
13 times, along with my foreperson.

14 With that, I'm getting ready to release
15 you. I will turn you over to the bailiffs to be
16 released. I need you back in the morning.

17 You got one thing in the morning.

18 MR. KENDALL: Yes, sir.

19 THE COURT: So 30 minutes, 40 minutes?

20 MR. KENDALL: Yes, sir. About 30
21 minutes.

22 THE COURT: About 30 minutes?

23 MR. KENDALL: Yes, sir.

24 MR. SCHULTZ: I would say it's -- I would
25 say probably about an hour.

1 THE COURT: Well, okay. I don't want to
2 hold them back there waiting. Come in at 10:00?

3 MR. KENDALL: That's fine, Your Honor.

4 THE COURT: Okay. I'm going to be here
5 at eight o'clock, a little after eight o'clock.
6 They're going to be here at 8:30. But we have
7 some pretrial which we're going to work on this
8 afternoon. It's matters about -- you know, some
9 things that are just nuts and bolts. It's has
10 nothing to do with the facts of the case. Matters
11 of law, I have to decide. Matters of fact, you
12 have to decide.

13 Having said that, I need you back in the
14 morning at 10:00. And the bailiff is going to
15 instruct you about where to report to and how to
16 get in. My bailiff will inform you what you need
17 to do and how to access back here and all that
18 good stuff. Okay, he'll take care of that.

19 We're all adults. I'm not going to tell
20 you to be here 30 minutes early or 15 minutes
21 early, but I need you all 14 at 10:00. I will be
22 here. And I need all 14 to be here at 10:00.
23 These guys and ladies make some really good coffee
24 so you better be here to get some. Store your
25 belongings. It may be cool in the morning. You

1 may have a jacket you want to leave back here.
2 Again, no cell phones, please. No tablets, no
3 communication devices on your wrist or anything
4 like that.

5 Okay. Unlike the other group, I cannot
6 invite you to stay this afternoon. In fact, I'm
7 going to ask you not to come back into the
8 courtroom because we're going to talk about
9 pretrial stuff. And I may have to make a comment
10 about on a fact, and the South Carolina law
11 prevents me, forbids me from making a comment in
12 front of the jury about a fact in the case. That
13 is entirely up to you 12. So we're going to talk
14 nuts and bolts. I cannot ask you to stay. I'm
15 asking, please, don't come back to this courtroom
16 until 10:00 tomorrow morning.

17 Bailiff, if you will take the jury.

18 (Jury is excused at 3:30 p.m.)

19 THE COURT: Okay. We have some stuff
20 that we need to talk about, pretrial-wise? Have
21 you all talked?

22 MR. KENDALL: One thing we need to do,
23 Your Honor, is an arraignment --

24 THE COURT: Yes, we need an arraignment
25 on indictment 1151.

1 MR. SCHULTZ: Judge, you want Mr. Smith
2 up here?

3 THE COURT: That would be good.

4 MR. SCHULTZ: Okay, thank you.

5 THE COURT: Does he wish to be arraigned,
6 Mr. Schultz?

7 MR. SCHULTZ: He does, Your Honor.

8 THE COURT: Okay. Sir, you are Bryson
9 Jamar Smith?

10 MR. SMITH: Yes, sir.

11 THE COURT: It is alleged in the
12 indictment 2020-GS-11-01151 that you did in the
13 County of Cherokee, state of South Carolina on or
14 about August 12th of last year knowingly sell,
15 manufacture, deliver, purchase, or bring in this
16 state, or provide financial assistance, or did
17 otherwise aid, abet, attempt, or conspire to sell,
18 manufacture, deliver, purchase, or bring into the
19 State, or did knowingly, actually or
20 constructively possess, or did knowingly attempt
21 to actually or constructively possess four grams
22 or more but less than 14 grams of heroin, which is
23 a schedule one substance, in violation of state
24 law.

25 That was sent to the grand jury and the

1 grand jury returned a true bill indictment.

2 Do you enter a plea of not guilty, sir?

3 MR. SMITH: Yes, sir.

4 THE COURT: The Court will enter a plea
5 of not guilty.

6 Do you wish to be tried by a jury?

7 MR. SMITH: Yes, sir. By my country and
8 my God.

9 THE COURT: By your country and your God.
10 So be it.

11 That's the order of the Court.

12 MR. SCHULTZ: Thank you, Judge.

13 MR. KENDALL: The State has also filed a
14 third-party guilt.

15 THE COURT: Have you talked about that,
16 Mr. Schultz? Any objection?

17 MR. SCHULTZ: No objection.

18 THE COURT: Okay. So a third-party guilt
19 motion is granted. There will be no arguments
20 about third party.

21 Okay. Next, Solicitor.

22 MR. KENDALL: I believe that -- I guess
23 we could put the offers on the record.

24 Most recently, Your Honor, so Mr. Smith
25 has --

1 THE COURT: Wait just a second. I don't
2 know that I really want to know what the offer is,
3 to tell you the truth.

4 Why don't we do this: If you just tell
5 me that there is an offer -- give me some
6 information that there is an offer and if he
7 rejected the offer.

8 MR. KENDALL: There are actually -- this
9 will make better sense, Your Honor.

10 THE COURT: Okay.

11 MR. KENDALL: There were actually two
12 different sets of offers. There's a separate set
13 of charges Mr. Smith is also charged with that we
14 are not dealing with today. So we made an omnibus
15 offer. He indicated he did not wish to resolve
16 those together. And we've also made an offer
17 specific to these charges.

18 THE COURT: Okay.

19 MR. KENDALL: I don't know -- I assume
20 he's not interested in that. If you talked to
21 him?

22 THE COURT: I'm going to ask his lawyer,
23 and then I'm going to swear him.

24 Yes, sir, Mr. Schultz.

25 MR. SCHULTZ: Thank you. There have been

1 some offers in this case. There have been
2 negotiations, there's been counter-proposals,
3 there's been proposals. At this time, Bryson has
4 rejected all those.

5 THE COURT: Okay.

6 Sir, if you would stand and be sworn, please.

7 THE CLERK: Please raise your right hand.
8 Do you solemnly swear the information you give to
9 this Court to be the truth, the whole truth, and
10 nothing but the truth?

11 MR. SMITH: Yes, ma'am.

12 THE COURT: Sir, you're Bryson Jamar
13 Smith. You've been in the courtroom during these
14 procedures. Have you heard what the solicitor and
15 your lawyer has told with regard to offers,
16 counter-offers, global offers?

17 MR. SMITH: Yes, sir.

18 THE COURT: Did you understand all that?

19 THE WITNESS: Yes, sir.

20 THE COURT: Okay. Is it true that you
21 rejected all offers?

22 MR. SMITH: The ones that I heard, I
23 rejected. Yes, sir.

24 THE COURT: Okay. Do you need to talk to
25 Mr. Schultz? If you do, I want you to step back

1 about two feet here. You want to talk to
2 Mr. Schultz?

3 MR. SMITH: We talked right now. No,
4 sir.

5 THE COURT: All right. Apparently, there
6 was an offer that you rejected and then there's
7 another set of charges. So there was an offer on
8 these charges, and there was an offer, as I
9 understand, from the solicitor that would cover
10 all the charges. So my question is: Are you
11 rejecting both the offer on these charges and the
12 offer on all the charges?

13 MR. SMITH: Yes, sir.

14 THE COURT: Okay. No one forced you,
15 threaten you, made you do that?

16 MR. SMITH: No, sir.

17 THE COURT: That's your decision?

18 MR. SMITH: Yes, sir.

19 THE COURT: You had sufficient time to
20 talk to your lawyer about the offers?

21 MR. SMITH: Yes, sir.

22 THE COURT: And you understood the
23 conversations with your lawyer?

24 MR. SMITH: Yes, sir.

25 THE COURT: And, still, understanding

1 that and knowing that, you reject all offers?

2 MR. SMITH: Yes, sir.

3 THE COURT: And you want to go to trial?

4 MR. SMITH: Yes, sir.

5 THE COURT: Very good, sir.

6 MR. SCHULTZ: Thank you, Judge.

7 THE COURT: He's covered. All offers
8 rejected.

9 Yes, sir, Solicitor.

10 MR. KENDALL: I believe that's all the
11 motions that we have, Your Honor.

12 THE COURT: Okay.

13 MR. KENDALL: I don't know if defense has
14 got some. I got a couple minutes to round up more
15 people out there.

16 THE COURT: You got one in the morning.

17 MR. KENDALL: My guess is, it's probably
18 going to be defense's motion in the morning --

19 THE COURT: Okay.

20 MR. KENDALL: -- ideally, with the
21 admissibility of Facebook records. The person we
22 have to authenticate those records is available
23 tomorrow morning.

24 MR. SCHULTZ: That's correct.

25 Mr. Kendall is correct. He is attempting to

1 introduce some Facebook records. I'm obviously
2 going to object to that. We can argue about that
3 in the morning.

4 THE COURT: Okay. Well, how about this:
5 We could argue about it in the morning but give me
6 some specifics.

7 Mr. Schultz?

8 MR. SCHULTZ: Yes.

9 THE COURT: Let's hear a few specifics so
10 I can go read.

11 MR. SCHULTZ: This is what I'm assuming
12 at this point, the State hasn't formally
13 introduced this, but in discovery, Mr. Kendall has
14 provided me with voluminous Facebook records and
15 correspondences or instant messages on Facebook.
16 For the most part, they are -- I think there's
17 about 800 pages' worth of this stuff.

18 But Mr. Kendall has told me today, that
19 they are going to put three, for lack of a better
20 word, pages of these threads in their case in
21 chief. I'm going to object to this, because the
22 authors of these messages does not say Bryson
23 Smith or anywhere close to it. The people in
24 these messages refer to themselves, or at least
25 name themselves, Buddy Dawkins, Q. Longway Horton,

1 Alexis Byars, Adonis Willis, and Thomas Payne, and
2 there's also a Joshua Lindsey in one threat as
3 well.

4 I think the State is going to attempt to
5 present, or at least try to authenticate these
6 Facebook messages as belonging, or at least
7 originating from my client, and they want to show
8 that to prove, I guess, some kind of common scheme
9 or plan to distribute narcotics, which is
10 obviously under their indictment.

11 So I would object to the Facebook records
12 coming in, and I know Matt is going to try to
13 authenticate it, but that would be my position.

14 THE COURT: Solicitor.

15 MR. KENDALL: Your Honor, I believe the
16 controlling precedent in this case is State vs.
17 Green.

18 What we're discussing here, the defendant
19 used a pseudonym in handling his Facebook
20 messages. He actually acknowledges that on jail
21 phone calls. And the State would argue, on those
22 jail phone calls, he actually acknowledges this is
23 his Facebook account.

24 The messages we're seeking to introduce
25 show within days of this taking place his

1 possession of what are called percs. Percs is a
2 common slang for opiates. It's short for
3 Percocet. It's frequently used for opiates that
4 are sort of the knock-off version of that, I would
5 say. Things people make. They're opiate based.
6 They're not, like, made by the company Percocet,
7 but have the same opiate effects. In this case,
8 Fentanyl and heroin.

9 In addition, Your Honor, we're going to
10 produce a witness who is going to testify -- we
11 believe he's going to testify that he utilized
12 this Facebook account with this defendant.
13 They've had conversations with this. And based on
14 those conversations, action were taken that
15 necessarily -- that the only way that would happen
16 is if it was through the Facebook conversation.

17 Based on that, I believe the
18 State vs. Green case that, under that, it's
19 appropriate. I believe it's the standard that has
20 been laid forth in that case, and we would offer
21 those. Again, we would also, hopefully do the
22 hearing tomorrow, the jail call into evidence
23 which he seems to acknowledge. He certainly
24 acknowledges that he, in fact, was using a
25 pseudonym on his jail phone call. But also that

1 he -- it sounds to me like he's saying it's his.

2 THE COURT: How about that Green case,
3 Mr. Schultz?

4 MR. SCHULTZ: Your Honor, I'm going to
5 review that. My understanding, as far as the
6 admissibility and -- or at least the admissibility
7 and authentication of Facebook or any kind of
8 social media transmission into court is that the
9 State or, you know, the moving party has to get
10 some kind of IP address, internet protocol address
11 where this actually came from. Just somebody on
12 Facebook saying, oh, I think it's him, I don't
13 think that rises to the level of admissibility.
14 And I think that's what the State is presenting
15 here. I don't think we have anybody coming in
16 from Facebook to say, well, it was from an IP
17 address that was registered to Bryson Smith, or an
18 and IP address that was registered to a home that
19 he was staying in or living in or received mail
20 in.

21 All we have, apparently, and maybe
22 Mr. Kendall can correct me if I'm wrong here, is
23 somebody that thinks he was talking to
24 Bryson Smith, that he was an alias. I guess that
25 would be the basis of the State's motion. I don't

1 think it's authentic. I just don't think it comes
2 in.

3 THE COURT: I don't get to decide it
4 today. I just wanted to hear where we were headed
5 to.

6 What else in the morning? Anything?

7 MR. SCHULTZ: Not involving -- well, that
8 would be the basis of my motion there. I'm going
9 to review State v. Green tonight, but that would
10 be the basis of my objection in the morning.

11 THE COURT: Yeah, that's all I wanted,
12 was to get an idea where we were headed.

13 Are there other motions?

14 MR. SCHULTZ: Right now?

15 THE COURT: Yes.

16 MR. SCHULTZ: Yes, sir. I wanted to
17 challenge the search that was conducted on
18 August 12, 2019 by, I believe, Lieutenant Parnell.

19 THE COURT: Solicitor.

20 MR. KENDALL: Before we get to
21 Detective Parnell here to offer a search warrant,
22 I believe the defendant has to show standing.
23 That is, he can certainly acknowledge standing in
24 this case, but is actually going to an issue. I
25 bring that up, Your Honor, because I think the

1 likely defense on this is that he doesn't live
2 here. I just want to caution the defense that if
3 he takes the position for purposes of a
4 suppression hearing that he does, in fact, live
5 there, I don't know he's free to argue that
6 subsequently that he does not.

7 THE COURT: I don't know what the motion
8 is. You say you're going to challenge it, so what
9 is the motion?

10 MR. SCHULTZ: Well, the basis of my
11 challenge is that Mr. Smith is being charged with
12 trafficking in this room that he wasn't staying in
13 at the time. So I understand the basis of the
14 standing, but the trafficking is still there.
15 He's being charged for whatever is in the room.
16 So I believe I do have standing without abdicating
17 my defense.

18 THE COURT: So I guess the solicitor is
19 saying -- is he saying he lived there?

20 MR. SCHULTZ: No, sir.

21 MR. KENDALL: In order to establish claim
22 for standing, he must -- to challenge a search
23 warrant, he must have a reasonable expectation of
24 privacy on the premises that are being searched.

25 The State would actually allege that he

1 was, in fact, living there. It's his stuff, or at
2 least coming and going from there. That is his
3 stuff.

4 I believe the case law would suggest the
5 defense has the burden, they must first establish
6 that has standing. I mean, if the defendant is
7 going to say, this is my room, this search warrant
8 is bad. I would be in agreement with that.

9 The State problem is, I don't believe
10 they can take both sides of that coin. They must
11 either -- it's either his room and he has a
12 reasonable expectation of privacy to search there.
13 Or it's not his room and has no reasonable
14 expectation of the privacy of that room. That
15 would be the State's position, Your Honor.

16 THE COURT: Which way is it?

17 MR. SCHULTZ: Well, at this point, if --
18 my understanding of the case law is that there
19 is -- there's some kind of expectation or privacy.
20 But, yes, at the same time, I don't understand how
21 the State can then produce that in their case in
22 chief if I raise this issue in a pretrial hearing.
23 That's what I'm trying to understand.

24 THE COURT: Okay. See, I don't know
25 anything about the case. But if he's just

1 visiting there, if that's his position -- I'm not
2 asking you to say one way or other, but I'm
3 getting close to it. If he's just visiting there,
4 that's different than he's got a room there.
5 Where his clothes are, maybe a cell phone charger,
6 maybe some mail. I don't know which way it is, so
7 which -- what's his argument?

8 You're saying that you think you can
9 argue standing without him admitting that that's
10 his room.

11 MR. SCHULTZ: Yes, sir.

12 THE COURT: Well, I -- Anybody got a case
13 on that?

14 MS. LESKANIC: I believe there's a
15 Supreme Court case, a United States Supreme Court
16 case. It's not directly on point, but I believe
17 that in -- I printed it off with the headnote. I
18 haven't gone through it all the way through, but
19 my understanding the defendant must establish.
20 They have the burden of establishing standing to
21 challenge a search warrant. The search warrant is
22 presumptively valid absent, you know, kind of the
23 standards things. It's deficient on its face,
24 non-detached -- not attached to a magistrate, et
25 cetera. To do that -- to get that, they must

1 first establish standing. Once they establish
2 standing, then they can go and challenge the
3 search warrant.

4 The State's position is that this is a
5 room he's staying. I'll just -- without playing
6 hours of video, the officers talk about that quite
7 a bit. They actually go in the house, get
8 permission into the house. They stop -- they go
9 in there to look for him to see the drugs -- they
10 actually go get the search warrant for this
11 because they don't feel like they can get consent
12 for the whole thing. We think that this is his
13 room.

14 But I think before we get to that
15 analysis of whether or not he has standing to
16 challenge, I think he has to assert that he
17 standing to do that. I don't think that
18 there's -- that burden rests -- not burden, but
19 that initial showing rests with the defense of the
20 search warrant and he must establish that before
21 we go to part two of whether or not the search is
22 appropriate.

23 I don't think they can play two sides of
24 the same fiddle. It's either got to be something
25 that he has expectation of privacy or he

1 doesn't.

2 THE COURT: I mean, I'm just shooting
3 from the hip, but if I come to visit you at your
4 house and I'm standing in the kitchen and drugs
5 are found in the kitchen, you're saying that I
6 have standing to challenge the search warrant?

7 MR. SCHULTZ: Quite possibly.

8 THE COURT: I don't know that to be the
9 law, but -- so what's his assertion?

10 MR. SCHULTZ: Well, Judge, if I speak to
11 my client real quick.

12 THE COURT: Sure.

13 MR. SCHULTZ: Thank you.

14 Your Honor, after conversation with my
15 client, I'm going to withdraw the motion to contest
16 the validity of the search warrant.

17 THE COURT: Okay.

18 MR. SCHULTZ: Thank you.

19 THE COURT: Withdrawn.

20 Is there any other motions, Mr. Schultz?

21 MR. SCHULTZ: No, sir.

22 THE COURT: Okay. So the only one we'll
23 deal with in the morning is -- I'm going to call
24 it electronic media.

25 MR. SCHULTZ: Yes, sir.

1 THE COURT: Okay. Nothing further this
2 afternoon on this. Okay. Parties want to keep
3 talking, that's fine too.

4 Anything further from the State?

5 MR. KENDALL: I don't believe so,
6 Your Honor.

7 THE COURT: All right. It's almost 4:00.
8 The Chief Justice has talked about letting people
9 go around 4:00 if we can anyway because it's
10 election day. So I think we'll stand down. I'll
11 be here at 8:10, something like that, in the
12 morning. All of you all probably have my cell
13 phone number. If something changes, you call me.
14 Don't ex parte me, but get everybody into the
15 call. I'll see you here in the morning.

16 I would recommend you all get here about
17 8:30, Mr. Schultz.

18 MR. SCHULTZ: Yes, sir.

19 THE COURT: See if we can hammer out some
20 things and talk about some things then. If
21 anything, if we need to get set up over here. I
22 don't know the new system.

23 MR. KENDALL: We will be using audio.
24 And it might be easier -- I don't think we -- the
25 projector, we will have a bunch of pictures,

1 Your Honor, so we would probably -- instead of
2 passing these around -- oh, there is an issue that
3 we do need to discuss on the Fentanyl.

4 Fentanyl, when you get -- Fentanyl --
5 basically, this is because of the quantity of
6 drugs. They're packaged in a sealed box as
7 opposed to, like, your small quantity investment.
8 When they reseal this, they put a label on it
9 basically saying, because this is Fentanyl, this
10 needs to be handled the -- I guess the punch line
11 to it is, we want SLED to open it. We don't want
12 to open it. We need to make sure it's opened away
13 from the jurors, because is very lethal in small
14 doses.

15 So we may be going out of order with some
16 of our analysts and things like that for the
17 purposes of getting in here, opening the thing up,
18 and making sure that we, kind of, go that route,
19 as opposed to --

20 THE COURT: We don't want to open it.
21 Let SLED open it.

22 Okay. Anything further? You all talk
23 with Madame Court Reporter about exhibits and how
24 you want to do that?

25 MR. KENDALL: No.

1 THE COURT: When we get off the record
2 here, you might spend a few minutes talking to
3 Madame Court Report to see how we want to handle
4 that. It's different.

5 MR. KENDALL: Yes.

6 THE COURT: It's different.

7 MR. KENDALL: Yes, sir.

8 THE COURT: I'm going get off the bench.
9 Oh, you want that case.

10 LAW CLERK: Can I get the cite for
11 State v. Green.

12 MR. KENDALL: It is 427 S.C. 223.

13 MR. SCHULTZ: 223.

14 MR. KENDALL: It was decided -- there was
15 actually one sooner than that.

16 THE COURT: Off.

17 (The trial was adjourned for the day at 3:56 p.m.)

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CERTIFICATE OF REPORTER

I, SHARON G. HARDOON, Official Circuit Court Reporter, III for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in General Sessions for Cherokee County, Gaffney, South Carolina.

I do further certify that I am neither kin, counsel, nor interest to any party hereto.

May 2, 2021



Sharon G. Hardoon, CSR
Official Circuit Court Reporter, III

VS.

Transcript of Record
2020-GS-11-01147,
2020-GS-11-01148,
2020-GS-11-01149,
2020-GS-11-01150,
2020-GS-11-01151

Bryson Jamar Smith,

Defendant.

November 4, 2020
Gaffney, South Carolina
Volume II of IV

B E F O R E:

The HONORABLE R. KEITH KELLY

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

Kim Leskanic, Representing the State of South Carolina
Matt Kendall, Representing the State of South Carolina
Joshua Schultz, Representing the Defendant

SHARON G. HARDOON, CSR
Official Circuit Court Reporter, III

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1 MS. LESKANIC: May it please the Court,
2 Your Honor?

3 THE COURT: Yes, ma'am.

4 MS. LESKANIC: Your Honor, we have one
5 issue to address first thing this morning. We
6 have the box containing the narcotics that
7 Captain Anthony has with the sheriff's department.
8 Our concern yesterday afternoon was the Fentanyl.

9 It's our understanding that inside the
10 box, once that is opened, I think the Fentanyl is
11 just in a Ziploc bag. We wanted to secure that
12 better for court, so we wanted to ask the defense
13 and the Court's permission for Captain Anthony to
14 take the box back to the sheriff's department to
15 open the seal on the box. He will photograph what
16 is inside the box and then place the Fentanyl
17 tablets into a tamper evident or Ziploc --
18 heat-sealed bag. And then when everyone handles
19 that evidence in court, I would recommend that
20 gloves be worn. I spoke with the analyst,
21 Maribeth McCormack, she stated that some residue
22 could have gotten on the outside of the bag that
23 she used just from handling it, although she wears
24 gloves. Just in an abundance of caution, we're
25 asking that he be allowed to do that to secure

1 that evidence better before it's brought into the
2 courtroom for the attorneys to handle as well as
3 for the jury to see.

4 THE COURT: Any objection?

5 MR. SCHULTZ: I don't have any objection. I
6 think it's necessary for the protection of the
7 officers of the court, the jury. And as long as
8 there's nobody else involved in the chain of custody
9 when he takes it over to the sheriff's office and does
10 what he has to do with it. That would be my main
11 objection. But Miss Leskanic says that's not going to
12 happen, so I have no problem with it.

13 THE COURT: I don't think Mr. Anthony
14 would do that anyway, so, yeah, that's granted.

15 MS. LESKANIC: Okay. Thank you,
16 Your Honor. We're going to ask that he be excused
17 at this time to go ahead and prepare that so it
18 will be ready when we get to the first
19 witnesses.

20 MR. SCHULTZ: No objection.

21 THE COURT: Okay. I believe you have a
22 motion this morning.

23 MR. SCHULTZ: I do, Your Honor.

24 THE COURT: All right.

25 MR. SCHULTZ: Your Honor, as we spoke

1 about yesterday, I believe the State is going to
2 at least to attempt to present some Facebook, I
3 guess for the lack of a better word, threads of
4 correspondence between what is purported to be my
5 client and other individuals pertaining to drug
6 activity in or around Cherokee County.

7 I am opposing this based upon what I've
8 read with State v. Green. I had a chance to
9 review this over the night. So I think, at this
10 time, the State at this time is going to put up
11 possibly one of their witnesses or other people
12 that are going to be presenting or at least
13 attempting to authenticate the Facebook Messenger
14 threads. And I would object -- well, I'm
15 objecting to this now, but I'm also going to
16 object to it if the State does intend to prove
17 this in their case in chief as well. So that
18 would be the nature of my motion.

19 THE COURT: Solicitor.

20 MR. KENDALL: Your Honor, at this time,
21 the State will call Randy Gardner.

22 THE CLERK: Please raise your right hand.
23 Do you solemnly swear or affirm the testimony you
24 give this Court will be the truth, the whole
25 truth, and nothing but the truth so help you God?

Testimony of Randy Gardner

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1 THE WITNESS: Yes, ma'am.

2 THE COURT: Sir, tell us who you are and
3 spell your last for our court reporter.

4 THE WITNESS: Randy Gardner,
5 G-a-r-d-n-e-r.

6 THE COURT: Solicitor.

7 WHEREUPON:

8 RANDY GARDNER,
9 after having been sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. KENDALL:

12 Q Officer Gardner, where are you currently employed?

13 A For South Carolina Department of Natural
14 Resources.

15 Q And how long have you been employed there?

16 A Since January of the given year.

17 Q And prior to that, where were you employed? Where
18 were you employed prior to that?

19 A I was employed at the Cherokee County
20 Sheriff's Office since 2009.

21 Q And during the course of your time at the
22 Cherokee County Sheriff's Office, what were your
23 responsibilities, particularly in August of 2019?

24 A August 2019, I was a criminal investigator.
25 I worked in the criminal investigation division.

Testimony of Randy Gardner

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1 Q And did you investigate a case involving Bryson
2 Smith in August of 2019?

3 A I did. Yes, sir.

4 Q And what -- over the course of that, did you seek
5 and receive Facebook records from an account of
6 Mr. Smith?

7 A I did. Yes, sir.

8 Q And what was that account listed as? What name
9 did he list as his account name?

10 A Buddy Hawkins.

11 Q Okay. And did you receive Facebook records from
12 Facebook?

13 A I did. Yes, sir.

14 Q I'm going to show you --

15 MR. KENDALL: If we could go ahead and
16 mark these.

17 (STATE EXH. 1, Facebook messages, was
18 marked for identification.)

19 (STATE EXH. 2, Facebook messages, was
20 marked for identification.)

21 BY MR. KENDALL:

22 Q I'm going to show you what are marked State's
23 Exhibit 1 and 2. And if you'll take a look at these.

24 A Yes, sir.

25 Q Are those fair and accurate representations of the

Testimony of Randy Gardner

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1 Facebook messages you received back from Facebook?

2 A There was a larger one, but, yes, that does
3 seem accurate.

4 MR. KENDALL: Your Honor, we would offer
5 for purposes of this motion State's Exhibit 1 and
6 2.

7 MR. SCHULTZ: For purposes of this
8 motion, no objection.

9 THE COURT: For purposes of this
10 motion.

11 MR. KENDALL: Please answer any questions
12 Mr. Schultz may have.

13 CROSS-EXAMINATION

14 BY MR. SCHULTZ:

15 Q Officer, how long have you worked in law
16 enforcement?

17 A Since 2009.

18 Q 2009?

19 A Yes, sir.

20 Q All right. So about 11 years now?

21 A That's correct.

22 Q Have you conducted investigations using
23 Facebook?

24 A I'm sorry?

25 Q Have you conducted investigations where you

Testimony of Randy Gardner

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1 utilize Facebook as evidence?

2 A I have. Yes, sir.

3 Q All right. And when you receive Facebook threads
4 or correspondences, how do you usually get these?

5 A From Facebook.

6 Q From Facebook?

7 A Yes, sir.

8 Q All right. How do you get into Facebook if it is
9 not your account?

10 A A search warrant.

11 Q A search warrant?

12 A Yes, sir.

13 Q Okay. Was there a search warrant in this case?

14 A I believe there was. Yes, sir.

15 Q All right. Do you have that in front of you right
16 now? I see you have the case file. Do you have that
17 search warrant in front of you?

18 A I do. Yes, sir.

19 Q All right.

20 MR. SCHULTZ: Your Honor, may I approach
21 the witness?

22 THE COURT: Sure.

23 MR. SCHULTZ: Thank you.

24 THE COURT: Don't get too close.

25 MR. SCHULTZ: I won't.

Testimony of Randy Gardner

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1 BY MR. SCHULTZ:

2 Q All right. And is that your signature as the
3 affiant on the warrant?

4 A It is. Yes, sir.

5 Q All right. And could you read to the Court the
6 reason why you requested the warrant in the first
7 place to search Facebook?

8 A Sure. An investigation began on August 12th,
9 2019 when Cherokee County deputies responded to a
10 shooting with injuries on General Drive in
11 Gaffney, South Carolina.

12 When deputies arrived on the scene, they
13 located Ron McGill and Carlton Leach laying on the
14 ground near [REDACTED] General Drive. Both subjects had
15 sustained a gunshot wound and were transported to
16 Spartanburg Regional. Information was also gathered
17 while deputies were on the scene, and a third subject
18 was brought to Gaffney hospital after a little bit
19 with a gunshot wound.

20 The affiant began -- the affiant, which
21 is myself, began questioning possible witnesses on
22 scene, gathered information from witnesses, the
23 suspect dressed in all black and was short.

24 The affiant did obtain information that
25 Carlton Leach he had been in an argument over the last

Testimony of Randy Gardner

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1 few days with Bryson Smith, who was the shorter black
2 male on the scene.

3 This affiant also provided a statement from
4 the suspect that he got into a burgundy Hyundai,
5 possibly being driven by John Snyder after the
6 shooting.

7 The affiant also spoke with the mother of
8 Carlton Leach. Miss Leach explained that her son
9 recently updated about some posts that were made on
10 social media by him. She provided screen shots of
11 these posts which are attached to this update. These
12 posts were posted by an account with the name
13 Buddy Dawkins, which appears to be Bryson Smith's
14 Facebook page.

15 August 12, 2019, Josh Mata was interviewed by
16 this affiant and provided a statement that consisted
17 of him and me providing a ride to a guy who he knew as
18 Buddy who identified in a digital lineup as being
19 Bryson Smith. Mr. Mata explained he heard gunshots.
20 And shortly after Bryson came to his car asking for a
21 ride and telling him to go, go, go, Mr. Mata explained
22 that Bryson was dressed in dark clothing and was
23 carrying a bag.

24 It is this affiant's belief that a search of
25 the requested Facebook entries will aid in the

Testimony of Randy Gardner

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1 investigation of the shooting of the three subjects
2 that occurred on August 11, 2019.

3 Q All right. So you executed that search warrant,
4 correct?

5 A Yes, sir.

6 Q And how did you execute that search warrant?

7 A Kind of the process, you go in there and you
8 preserve the data on that Facebook profile. And
9 then once you get a search warrant, you send it to
10 Facebook. It's a link. They get your credentials
11 that you're law enforcement.

12 Once you send it, the link to them, you know,
13 depending on how large the date range is or how many
14 profiles you want, they send it back to that link once
15 it's completed.

16 Q So that is how you received these threads of
17 correspondences?

18 A That's correct, through a Facebook link.

19 Q Okay. The only evidence that you have -- I just
20 want to be clear with this -- that Buddy Dawkins was
21 Bryson Smith was through Monica, correct, or no?

22 A No, sir. I'm familiar with Bryson. I worked
23 in the narcotics unit since 2011. I know his
24 nickname to be Buddy. Cash Buddy, Buddy,
25 Little Buddy, you know, that was, kind of, the

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1 names that I was familiar with.

2 The mother of Carlton Leach showed me a
3 Facebook page that's attached of Buddy Dawkins. So I
4 guess, along with the mother of Carlton Leach and
5 Monica, that would be correct.

6 Q Now, you mentioned a couple -- you stated you
7 worked in narcotics since 2011, correct?

8 A Yes, sir.

9 Q Okay. Now, you're no longer in narcotics, right?

10 A Yes, sir.

11 Q You work for DNR, right?

12 A I do. Yes, sir.

13 Q You mentioned you went, kind of, fast through
14 that, and I apologize, I didn't write down all the
15 names that you know Bryson Smith from. What were
16 those names?

17 A Buddy, Little Buddy, or Cash Buddy, all
18 referring to Buddy.

19 Q Buddy, Little Buddy, and Cash Buddy, correct?

20 A That's right.

21 Q All right. Up until your time that you left did
22 Bryson Smith ever go by the name of Buddy Dawkins on
23 the street?

24 A I said he did, yes, sir.

25 Q So Buddy --

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1 A I apologize. I said Buddy Dawkins.

2 Q Buddy, Little Buddy, and Cash Buddy.

3 A Yes, sir.

4 Q Now, there's other people that you had probably
5 arrested and interrogated that went by the name Buddy.

6 A He's the only Buddy that I'm familiar with in
7 Cherokee County.

8 Q The only Buddy that you're familiar with ever.

9 A The only Buddy that I ever investigated or
10 dealt with is Mr. Bryson.

11 Q So it is the truth then that you investigated
12 nobody else named -- nicknamed Buddy or had the suffix
13 Buddy, right?

14 A That's correct.

15 Q Okay. Could there be a possibility that this
16 Buddy Dawkins in the Facebook correspondence thread
17 could be somebody else posing as Buddy Dawkins?

18 A I guess it's possible. With the messages
19 going back and forth, I think it's highly
20 unlikely.

21 Q But it could be possible?

22 A I mean, sure. Yes, sir.

23 Q All right. Could it also be possible that other
24 people in Cherokee County knew of the name of
25 Buddy Dawkins, or at least knew that Bryson Smith went

Testimony of Randy Gardner

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1 by the name Buddy Dawkins that could be posing as him
2 on Facebook?

3 A I guess. Yes, sir.

4 Q Because you don't know, right?

5 A I think the messages that with the messages
6 that were sent back and forth, the pictures that
7 are on that account that I would say it's highly
8 unlikely that somebody was posing to be him. I
9 think that it would be Mr. Bryson.

10 Q That's your opinion that it's highly unlikely.
11 But it is possible?

12 A Yes.

13 Q I just want to be clear with this. That was a
14 yes?

15 A Yes, it would be possible. Yes, sir.

16 Q All right. In your investigation through the
17 search warrant, did you ever establish via Facebook or
18 by your own investigation an Internet protocol address
19 where those messages were from?

20 A No, sir.

21 Q Do you know what an Internet protocol address is?

22 A The IP address, I suppose, is what you're
23 referring to?

24 Q Yes.

25 A No, sir. I did not.

Testimony of Randy Gardner

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1 Q Okay. Detail to the Court what the Internet
2 protocol address is?

3 A It establishes what device was used to post,
4 to post on social media. What Internet access was
5 available to post on social media.

6 Q An Internet protocol address can go back to
7 possibly an individual who has that Internet protocol
8 account, correct?

9 A Possibly. Yes, sir.

10 Q Well, you've looked at other IP addresses. Would
11 that be a fair and accurate statement?

12 A It would be kind of tough with Facebook to
13 get an IP address sometimes, because, you know,
14 they may use a cell phone. They may use different
15 tablets, different computers, TVs. There's all
16 different types of IP addresses.

17 Q But you never once, in this case, did that in
18 this, in this case?

19 A No, sir. Right.

20 Q You never had an IP address for Buddy Dawkins in
21 the Facebook corresponding -- the correspondences that
22 you had?

23 A I can't say without certainty. They may have
24 sent one in their results, but I did not look into
25 the IP address. Does that make sense?

Testimony of Randy Gardner

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1 Q It does.

2 A Okay.

3 Q You just never looked into it.

4 A That's correct. I won't say that they didn't
5 send me one. I would think that it's possible
6 they did try to look at some of the -- to provide
7 me with the IP address.

8 Q Did any other investigators look into an IP
9 address?

10 A Not that I'm aware of. No, sir. And I would
11 say no.

12 Q So other than a third party and your personal
13 knowledge, you have no other evidence that
14 Buddy Dawkins is linked with Bryson Smith, correct?

15 A No, sir. I was investigating a shooting that
16 occurred.

17 Q Okay.

18 A So I guess I have Carlton Leach. His mother
19 said this is a Facebook post of Bryson I warned
20 him about.

21 When I interviewed Josh Mata, my knowledge of
22 Bryson, I'd seen the pictures that are on that page.
23 Further investigating the shooting, there was four
24 females.

25 Q All right.

Testimony of Randy Gardner

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1 A So, I guess, third parties, maybe five third
2 parties that said they were talking to Bryson.

3 Q Now, I just want to establish because we got to
4 define our terms here. When you talk about "post", do
5 you mean that Buddy Dawkins, whoever that is, posted
6 on Facebook or was that a private message?

7 A The post the mother was concerned with was a
8 post made public. She showed me. I attached that
9 to the affidavit. The private message was
10 received from Facebook between him and Josh Mata,
11 him and the four females.

12 Q Okay. Do you have that post? I'll give you a
13 minute.

14 A Yes, sir.

15 Q All right.

16 MR. SCHULTZ: Can I approach the witness,
17 Judge.

18 THE COURT: Yes, sir.

19 MR. SCHULTZ: Thank you.

20 BY MR. SCHULTZ:

21 Q Was there any other identifications made of the
22 man in that picture?

23 A The profile picture that was here was Bryson.

24 Q The profile picture?

25 A Yes, sir.

Testimony of Randy Gardner

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1 Q All right. And IP address, again, I just want to
2 confirm this, officer.

3 A Yes, sir.

4 Q You never looked into an IP address linked with
5 Buddy Dawkins, correct?

6 A I do not.

7 MR. SCHULTZ: Nothing further, Judge.

8 THE COURT: Anything?

9 MR. KENDALL: Yes, sir, Your Honor.

10 MR. KENDALL: My understanding was we
11 weren't going to go into the attempted murder
12 today. If we need to, I guess that's what, sort
13 of, what we're doing.

14 MR. SCHULTZ: Judge, I just want to
15 clarify that.

16 I'm sorry, man.

17 This is a pretrial hearing, so I don't
18 want to get into attempted murder. I'm not going
19 to get into that in the case in the chief. But
20 for purposes of the pretrial hearing, I think I
21 had to.

22 MR. KENDALL: All right. Let me just --
23 our position was -- I didn't understand -- I
24 thought this was an authentication issue as
25 opposed to search warrant issue, but certainly, if

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1 we need to clarify what's taking place on that.

2 REDIRECT EXAMINATION

3 BY MR. KENDALL:

4 Q Do you recall the investigation into Bryson Smith
5 for the shooting of Carlton Leach amongst other?

6 A Yes, sir.

7 Q And could you please describe what happened just
8 so the Court has some context?

9 A There was a call. I think it was on Gateway
10 Drive, say a trailer park in Cherokee County. I
11 just want to make sure I tell you the right -- it
12 was in Province Creek area, the trailer park,
13 multiple people were injured.

14 I responded to find two individuals who were
15 shot and taken to Spartanburg Regional. I had an
16 investigator I contacted to go there to try to
17 interview them. One individual I was able to
18 interview later that evening who had been shot and
19 released from the hospital talk to several witnesses
20 on scene, found out where the owner of the trailer was
21 actually staying at. I talked to her to kind of give
22 me a brief description of what happened.

23 I was able to talk to an individual who said
24 that he saw a red burgundy Hyundai car similar to the
25 one Josh Mata drives. He thought it was Josh. And

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1 that they -- Bryson Smith was arguing with Carlton
2 Leach. He thought it might be Bryson by his stature,
3 a short black male. I was able to go talk to
4 Carlton's mother who said they -- Bryson had been
5 arguing back and forth with Carlton about an incident
6 that occurred a while back. She provided me the
7 Facebook post and the Facebook profile picture of
8 Mr. Bryson Smith.

9 I was able to contact Mata. I interviewed
10 Mata who stated he did pick up Bryson. He was riding
11 through the trailer park looking for a bootlegger.

12 Q Okay.

13 A I believe is what he told me.

14 Heard gunshots and heard somebody saying,
15 Mata, Mata, Mata. It was Bryson Smith getting in the
16 car with him. Or he would call Buddy, he identified
17 as Bryson. Told him, you know, anything happens, I'll
18 write a statement.

19 And then we were able to obtain search
20 warrant records after sending the search warrant for
21 Facebook and found, you know, the post. It provided
22 also a conversation between Bryson and four females of
23 him, kind of, discussing for them to let him know when
24 they saw Carlton and that he was going to shoot that
25 individual.

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1 Q Okay. And this occurred prior to the issuance of
2 any kind of warrants, right? These conversations were
3 dated prior to when he was arrested, correct?

4 A Yes, sir.

5 Q This wasn't an account that was created subsequent
6 to that?

7 A It was before any warrants.

8 Q And could you, sort of -- I guess briefly, sort
9 of, summarize what was in those messages back and
10 forth to the girls? What was --

11 A It was all discussing back and forth about
12 when they see him and to let him know in some
13 way -- these wasn't the exact words, but he was
14 planning on shooting him. For him to find out
15 where he's at.

16 Q Okay. And that was something -- and then he was
17 subsequently, after the conversation before we get the
18 Facebook records back, identified by another party as
19 being on scene running frantically back to the car
20 saying go, go, go.

21 A Yes, sir.

22 Q Okay. And, kind of, going back further: Were you
23 able to look at the pictures on this Facebook page?
24 Did you recognize Mr. Smith?

25 A When Mr. Leach's mother showed him to me, I

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1 did. And then once we got the results back, I
2 recognized him.

3 Q Okay. And so, were -- the messages that you found
4 within the attempted murder case, were they consistent
5 with somebody planning attempted murder?

6 A Yes.

7 Q Okay. The IP address -- what are the difficulties
8 in obtaining an IP address?

9 A I don't know the exact difficulties. I don't
10 know exactly what all goes into an IP address. I
11 just know that when it deals with Facebook,
12 there's so many different IP addresses that can be
13 used to access that one account, whether it be
14 someone's cell phone, tablet, a computer, and
15 Facebook is able to obtain them. I've never
16 searched -- I've never received an IP address from
17 Facebook and tried to find out exactly, you know,
18 what device was used to post them.

19 Q Okay. And so it varies with the device. So if
20 somebody has multiple phones, per se, you would have
21 multiple devices.

22 A Yeah, it's not always off of that Internet.

23 Q Okay.

24 A That was used to make a post there.

25 Q Okay.

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1 MR. KENDALL: Just a moment, Your
2 Honor.

3 THE COURT: Yes, sir.

4 BY MR. KENDALL:

5 Q Do you recall what email address was assigned to
6 this Facebook account?

7 A I do not. No, sir. It's not the email
8 address. There is a link that is attached to
9 it.

10 Q What is that link?

11 A [HTTPS://www.facebook.com/bryson.smith.587](https://www.facebook.com/bryson.smith.587).

12 Q All right. So bryson.smith.587. What is the
13 assigned name for the Facebook account?

14 A The user name was Buddy Dawkins. The
15 Facebook contact information is the link that is
16 associated with that username.

17 Q Okay. And would Facebook just make that up?

18 A No, sir. I think it was created by someone.
19 Facebook doesn't assign the name people use.

20 Q And would there be a registered email with this as
21 well?

22 A There would be, but I can't -- I don't --

23 Q Would looking at a copy of the return from that
24 Facebook business records assist in that?

25 A Yes, sir. It would.

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1 Q Okay. Let me show you.

2 A The registered email address associated with
3 that account is registered to
4 brysonsmith.87@yahoo.com and
5 bryson.smith.587@facebook.com.

6 Q Okay.

7 MR. KENDALL: I'm going to go ahead and
8 mark these just as an exhibit.

9 (STATE EXH. 3, Emails for Facebook, were
10 marked for identification.)

11 BY MR. KENDALL:

12 Q When did the attempted murder take place, do you
13 recall?

14 A I'm sorry. When or where?

15 Q When.

16 A August 11, 2019.

17 Q August 11, 2019?

18 A That's right.

19 Q All right. So the drug case occurred
20 approximately a day later?

21 A I believe that's correct. Yes, sir.

22 Q Okay. Do you recall what time the shooting took
23 place on the 11th?

24 A 2018, August.

25 Q And, just to be clear, the Facebook times are in

1 UTC time, is that correct? Located next to the -- on
2 the messaging post?

3 A Yes, sir.

4 Q Okay. And that's not the same thing as Eastern
5 Standard Time, correct?

6 A No, sir. It would be five or four hours
7 difference, depending on daylight savings.

8 Q That's ahead. So, for example, 2:37 p.m.; is that
9 correct?

10 A Sure.

11 Q All right.

12 A Yes, sir.

13 Q So these are actually dated -- so the time on this
14 would actually be ahead of what we deal with, Eastern
15 Standard Time, correct?

16 A Yes, sir.

17 Q I'm going to show you State's Exhibit 3. Can you
18 take a look at that?

19 A Yes.

20 Q And what is the content of that if you can just do
21 the highlighted portions?

22 A Conversation between Buddy Dawkins and
23 Sharda Watkins on August 12th, 6:39 universal
24 time.

25 Q And what does that indicate?

Testimony of Randy Gardner

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1 A It says, "Call me right now. Get out."

2 Sharda was sending that to Buddy. It says, "Call
3 me right now," and for him to get out of there.

4 MR. KENDALL: Your Honor, this is
5 State's 4 and 5. Let me get this marked as well.

6 THE COURT: Any objection to State's 4
7 and 5?

8 MR. SCHULTZ: Not for the purposes of
9 this hearing.

10 (STATE EXH. 4, Facebook messages, was marked
11 for identification.)

12 (STATE EXH. 5, Facebook messages, was marked
13 for identification.)

14 MR. KENDALL: Just to clarify the record.
15 We're obviously not going to introduce this
16 shooting -- try the shooting case at the same time
17 we're trying the drug case. That's our intention,
18 Your Honor.

19 Obviously, it wasn't really my intention
20 to go into this, but it has been gone into. And
21 instead of just having people testifying as to
22 broadly what happened. I'd like to be able to put
23 this on here. The Court can take a look at it.

24 Your Honor, he doesn't have to read
25 through the whole -- it's five or six pages.

Testimony of Randy Gardner

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1 Maybe we can give them to Your Honor and you can
2 look through them as well.

3 There were some questions asked about how
4 the basis of this came about. I thought we were
5 just doing authentication. If not, I want to make
6 sure this gets on the record. It could affect the
7 subsequent case.

8 THE COURT: Okay.

9 BY MR. KENDALL:

10 Q If you take a look at 4. Is that, again, a fair
11 and accurate --

12 A Yes, sir.

13 Q And what is the basic -- what is the timeline
14 to -- you don't have to read the entire thing. We'll
15 submit that with the judge. What is the general, kind
16 of -- just the highlight portion?

17 A Sharda was just saying, I'm asking what
18 trailer he's got weed and which door, he's
19 referring to Carlton. Where you at, bro? Just
20 now. See if you'll bring you some more clothes.
21 Oh, he got to be shot.

22 It's a conversation between four females
23 and Bryson, talking back and forth about where
24 Carlton is at. He wants to know where he's at.

25 Q State's Exhibit 5?

Testimony of Randy Gardner

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1 A Referring to Carlton, his name is Mook.
2 They're talking about an incident that occurred.
3 They asked Bryson, damn, Buddy, I heard Mook got
4 you. Yeah. What did he do, or what did he get,
5 bro? And I think he was referring to money. I
6 think they had an altercation.

7 Q And State's Exhibit 6?

8 A Buddy asked him is he out there. Tierra
9 telling him, I'll ride by there and let you know.

10 Q And that was a good bit before; is that correct?

11 A Yes. It was sent at August 4, 2019.

12 (STATE EXH. 7, Facebook message, was
13 marked for identification.)

14 (STATE EXH. 8, Facebook message, was entered
15 into evidence.)

16 BY MR. KENDALL:

17 Q All right. And State's Exhibit 7?

18 A Buddy just telling him, I just want to ride
19 around in broad day. I have a witness. I'm not
20 going out like Grock. I'm going have a real
21 charge.

22 Q Who is Grock?

23 A Franklin Dover.

24 Q And what happened to Franklin Dover?

25 A Around that time, he was charged for a

Testimony of Randy Gardner

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1 shooting incident. I think the trial was about to
2 go on or just concluded.

3 Q And he was found guilty of murder?

4 A That's right.

5 Q That was when? What was the date on that one?

6 A August 11th at 2030 universal time.

7 Q State's Exhibit 8.

8 A That continued conversation. Bryson telling
9 him that he stole five wraps, which is \$5,000.
10 Carrie says, oh, how they get it. He ain't got
11 shot yet. It's a long story, but not yet. If you
12 see him, call me. I know you didn't let him rob
13 you. "F" no. Carrie, I'm going to call you
14 because hell, no, didn't go to jail. Don't go to
15 jail. You got to be smooth about it. Don't ask
16 when this happened. You all know when that girl
17 stay up there. WTF, Mook, hell on our head. It's
18 at a trailer somewhere, I don't know, but I'm
19 about to find out.

20 Q And Mook as Carlton Leach; is that correct?

21 A That's his name.

22 Q I believe we just offered these as exhibits just
23 for the Court to review.

24 Is there -- did you interview any of the
25 females?

Testimony of Randy Gardner

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1 A Yes, sir.

2 Q And did they identify Mr. Smith as who they were
3 communicating with?

4 A They did.

5 Q Okay.

6 MR. KENDALL: Nothing further,
7 Your Honor.

8 THE COURT: Yes, sir.

9 MR. SCHULTZ: Couple of follow-up
10 questions.

11 CROSS-EXAMINATION

12 BY MR. SCHULTZ:

13 Q Did you track any metadata or anything from
14 Facebook?

15 A I did not.

16 Q What about a hash value or anything like that?

17 A I didn't.

18 Q All right. And --

19 MR. SCHULTZ: That's all I have. Thank
20 you, Judge.

21 THE COURT: Sir, you may step down.
22 Please be careful.

23 MR. KENDALL: The State at this time
24 would call Josh Mata.

25 THE CLERK: Please raise your right hand.

Testimony of Joshua Mata; Proffer

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1 Do you solemnly swear or affirm that the
2 information you're about to give this Court will
3 be the truth, the whole truth, and nothing but the
4 truth so help you God?

5 THE WITNESS: I do.

6 THE COURT: Sir, tell us who you are,
7 please, and spell your last name for my court
8 reporter.

9 THE WITNESS: Joshua Mata, M-a-t-a.

10 THE COURT: M-a-t-a?

11 THE WITNESS: Yes, sir.

12 THE COURT: I'm going to ask you to speak
13 a little louder, sir.

14 THE WITNESS: Joshua Mata, M-a-t-a.

15 THE COURT: Okay. Solicitor.

16 WHEREUPON:

17 JOSHUA MATA,
18 after having been sworn, testified as follows:

19 EXAMINATION DIRECT

20 BY MR. KENDALL:

21 Q Mr. Mata, do you know Mr. Bryson Smith?

22 A Yes.

23 Q How long would you say you've known him for?

24 A Three or four years.

25 Q Back in 2009, was he a -- you guys were friendly,

Testimony of Joshua Mata; Proffer

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1 is that fair to say?

2 A 2009?

3 Q Yes, sir.

4 A I wasn't friends with him then.

5 Q In August of 2009 when this took place?

6 2012, I'm sorry.

7 MS. LESKANIC: 2019.

8 BY MR. KENDALL:

9 Q 2019. I'm sorry.

10 A Oh. Oh, yes. Yes, we was friends.

11 Q I apologize. And what sort of stuff did you all
12 do?

13 A Well, we was just friends. We hung out on
14 the 1000 block and we'd drink.

15 Q And how would you get in contact with him?

16 A Usually through Facebook.

17 Q Okay. And what sort of things on Facebook would
18 you use? Would you use the messenger, post on the
19 page, would you use the call stuff?

20 A Messenger and call.

21 Q Okay. And did his phone number during this time
22 period stay consistent? Like, did he have the same
23 phone number the whole time?

24 A I think I had his phone number at one time,
25 but other than that --

1 Q Okay. So you all basically communicated through
2 Facebook; is that correct?

3 A Yeah.

4 Q Okay. I'm going to show you what is marked
5 State's Exhibit 1. It's two-sided. If you would,
6 just take a look at this. And are those the messages
7 that you sent to the account of --

8 MR. KENDALL: Your Honor, we'd offer
9 State's Exhibit 1 for purposes of hearing.

10 THE COURT: It's in.

11 MR. SCHULTZ: For purposes of hearing, no
12 objection.

13 BY MR. SCHULTZ:

14 Q And these message, where were they sent? What
15 Facebook name are they sent to?

16 A I just remember the picture. I really can't,
17 because he had a couple.

18 Q Whose name is on there? Like, what name does it
19 say? Where it says Josh Mata is talking to somebody.

20 A Oh, it says Buddy Dawkins.

21 Q Okay. And who is Buddy Dawkins?

22 A Bryson.

23 Q That was Bryson.

24 All right. Now, there are some parts within
25 this conversation here that required -- or first off,

Testimony of Joshua Mata; Proffer

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1 I just want to talk any -- over the course of these
2 here, about midway down, there's some video chats.

3 Did you engage in those video chats?

4 A Yeah, there were just texts or video chats.

5 Q Who was the person -- and you'd video chat through
6 Facebook; is that correct?

7 A Yeah.

8 Q All right. And who was the person on the other
9 end of that video chat?

10 A Bryson.

11 Q So you would video chat with the account of --
12 with this person on the other side, Bryson Smith. You
13 were you able to see him?

14 A Yeah.

15 Q Okay. And there are some sections in here where
16 it would say things like OMW. What was that?

17 A On my way.

18 Q Okay. So you were going to meet him?

19 A Well, he drives my car a lot of times.

20 Q Okay.

21 A Because mine was always insured. We didn't
22 know too many women.

23 Q Okay. And so, for example, on this -- in this
24 conversation here, he -- on August 10, 2019, what does
25 he say there?

Testimony of Joshua Mata; Proffer

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1 THE COURT: I can't hear. If you'll
2 speak a little louder.

3 THE WITNESS: I said, I'll give you --
4 let you use the car.

5 BY MR. KENDALL:

6 Q Did you let him use the car?

7 A Yes.

8 Q And the person that used the car was Bryson Smith.
9 Is that fair to say?

10 A Yeah.

11 Q And likewise here, this conversation from 8/12,
12 what does that say?

13 A Yes.

14 Q If you could, just keep reading from Bryson to
15 yourself?

16 A I said, Grandma's house. Come out, I'm
17 coming to get you. I'm on my way.

18 Q All right. And when you went there, was the
19 person on the other end Bryson Smith?

20 A Yeah.

21 Q Could you go ahead and identify Mr. Smith? Is
22 that Mr. Smith sitting over at defense table?

23 A Yes.

24 MR. KENDALL: I have nothing further,
25 Your Honor.

Testimony of Joshua Mata; Proffer
1 THE COURT: Mr. Schultz.

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2 MR. SCHULTZ: Yes, sir.

3 CROSS-EXAMINATION

4 BY MR. SCHULTZ:

5 Q Your name is Mr. Mata, you said?

6 A Yes, sir.

7 Q Have you been in trouble before?

8 A Yes.

9 Q All right. In other states as well? In another
10 state?

11 A Yes.

12 Q In North Carolina?

13 A Yes, sir.

14 Q All right. You said you knew Bryson Smith in
15 2019?

16 A Yeah.

17 Q All right.

18 A I knew him before too.

19 Q Did you know him previously?

20 A No, I really don't know him before like
21 that.

22 Q All right. And what did you call him?

23 A Bryson. I've always called him Bryson.

24 Q You always called him Bryson, okay.

25 All right. Did you ever drive his car?

1 A His?

2 Q Yeah.

3 A We switched a couple times.

4 Q Okay. What kind of car was that?

5 A His car? He had a Mustang.

6 Q What was your car?

7 A Hyundai Sonata.

8 Q Okay. So your testimony here today is he drove
9 your car and you drove his car?

10 A Not that day. We always switched. But that
11 time, he had got my car and I was at the
12 bootlegger's house.

13 Q The what?

14 A The bootlegger.

15 Q The bootlegger.

16 A Yeah.

17 Q Okay. Where was the bootlegger's house?

18 A Right by -- it was on Watson. At that time,
19 it was over there by the trailer park.

20 Q All right. Did you ever go to Bryson Smith's
21 mom's house?

22 A (Witness moves head from side to side.)

23 Q No?

24 A No.

25 Q Okay. Did you ever see Bryson Smith over at his

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1 mom's house?

2 A I didn't know -- I thought that was his
3 Grandma's house. I knew about where. I never
4 been in, but I came to pick him up before.

5 Q Okay.

6 MR. SCHULTZ: All right. That's all I
7 have, Judge. Thank you.

8 REDIRECT EXAMINATION

9 BY MR. KENDALL:

10 Q Was his Grandma's house on Maplewood Drive?

11 A I don't know the name. I just know -- they
12 call it Filter Plant.

13 Q Grandma's house was on Filter Plant.

14 MR. SCHULTZ: Judge, I couldn't hear
15 that. Filter Plant?

16 THE WITNESS: The area was. I don't
17 know -- I just know they call it -- it was over by
18 Filter Plant.

19 BY MR. KENDALL:

20 Q Somewhere by -- you don't know the name, just
21 somewhere in the area?

22 A I just know the main road over there. I
23 don't know.

24 Q Okay.

25 MR. KENDALL: Nothing further,

1 Your Honor.

2 MR. SCHULTZ: I apologize, Judge. I just
3 couldn't hear. It could be the face mask.

4 RECROSS EXAMINATION

5 BY MR. SCHULTZ:

6 Q But you said what, Filter Plant? I couldn't
7 understand you.

8 A This is an area over there. I didn't know --
9 I just know where his grandma stays. In Gaffney
10 we call that area Filter Plant.

11 Q Could you spell that?

12 A Filter.

13 Q Okay.

14 A Plant.

15 Q So F-i-l-t-e-r?

16 A Yes.

17 Q P-l-a-n-t?

18 A Yeah.

19 Q Thank you.

20 MR. SCHULTZ: Thank you, Judge.

21 THE COURT: Than you.

22 MR. KENDALL: I have no further questions
23 for this witness, Your Honor.

24 THE COURT: You may step down, sir.

25 MR. KENDALL: Next, we call

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Captain Anderson.

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And, Your Honor, I don't know if we'll be able to play this in the courtroom. They want to take it back and listen to it. Either way, it's fine.

THE COURT: How long is it?

MR. KENDALL: It's about a 15-minute jail call.

THE CLERK: Do you solemnly swear or affirm the information you give this court will be the truth, the whole truth, and nothing but the truth so help you God?

THE WITNESS: I do.

THE COURT: Sir, tell us who you are and spell your last name, please.

THE WITNESS: Major Stephen Anderson,
A-n-d-e-r-s-o-n.

WHEREUPON:

STEPHEN ANDERSON,
after having been sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KENDALL:

Q Major Anderson, where are you employed?

A Cherokee County Detention Center.

Q What are your responsibilities over at the

1 detention center?

2 A I'm over the entire operation of the jail. I
3 just make sure everything gets done that's
4 supposed to get done.

5 Q Are you the custodian of -- how do phone calls
6 work at the jail between inmates and people on the
7 outside?

8 A I am custodian of all the records, medical
9 and phone calls. How phone calls work is, if
10 anyone wants to contact a family member, they use
11 a secured system. They call. The phone call says
12 this is from the Cherokee County Detention Center
13 and it is being recorded.

14 Q I've already got this loaded up. We'll see if
15 this is going to be a problem. Did you listen this
16 morning to a phone call between Bryson Smith?

17 A Yes, sir. I know Bryson Smith was on one
18 side of the phone call. I don't know the other
19 person. I was never really given the name.

20 Q Is that a fair and accurate representation of the
21 phone call that was retained and you guys keep in your
22 records?

23 A Yes.

24 MR. KENDALL: Josh, you might want to
25 look at the disk. It's loaded up there right now.

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1 It's the same one that we spoke about.

2 We would offer -- the disk has three
3 tracks on it, Your Honor -- four tracks. For the
4 purposes of this hearing we would offer track 3.

5 THE COURT: Any objection?

6 MR. SCHULTZ: Not for the purposes of
7 this hearing.

8 THE COURT: All right. Track 3.

9 MR. KENDALL: I'm sorry, Your Honor.
10 This morning it was working. We will have to shut
11 everything down and restart it. I think I played
12 it through the system here.

13 (Track 3 played at 10:00 a.m.)

14 MR. KENDALL: Do you think it's up now?

15 MS. LESKANIC: I can try.

16 MR. KENDALL: Can you pause that just a
17 minute?

18 THE COURT: I'm going to go get my
19 headset. He's going to get my head buds so I can
20 hear better.

21 MR. KENDALL: Okay.

22 THE COURT: We've been going for about an
23 hour and 40 minutes. We are going to take about a
24 15-minute break so you can sort that out for us.

25 MR. KENDALL: Thank you, Judge.

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1 (A break was taken from 10:17 a.m. to 10:33 a.m.)

2 THE BAILIFF: Come to order.

3 THE COURT: Please be seated.

4 MR. KENDALL: For purposes of time, I
5 jumped ahead a bit so we can, kind of, speed
6 things along. If the defense wants to, I'm not
7 playing it.

8 THE COURT: You think you got it going
9 now.

10 (Track 3 played at 10:34 a.m.)

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

13 THE COURT: Okay.

14 CROSS-EXAMINATION

15 BY MR. SCHULTZ:

16 Q Captain Anderson, you don't have any personal
17 involvement in this case, correct?

18 A No, sir.

19 Q All right. Do you even know Bryson Smith?

20 A Just that he's an inmate.

21 Q All right. Thank you.

22 MR. SCHULTZ: Nothing further, Judge.

23 THE COURT: You may step down.

24 MR. KENDALL: Nothing further from the
25 State, Your Honor.

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1 MR. SCHULTZ: Your Honor, nothing
2 further, other than the arguments. I'm not going
3 to present any witnesses.

4 THE COURT: All right. You will be
5 heard.

6 MR. KENDALL: Yes, sir, Your Honor. I
7 believe this information is properly authenticated
8 pursuant to Rule 901 in the Green case.

9 In this, the Court has heard one
10 acknowledgement by the defendant conceding that
11 this was, in fact, his Facebook page
12 acknowledgement that he used a false name on that
13 Facebook page.

14 Records received from Facebook from --
15 indicated that, one, the email address was
16 associated with Bryson Smith. You've also heard
17 testimony elicited on cross-examination about how
18 this relates and is contact with other people.

19 You've also heard from Josh Mata. This
20 is particularly important, Your Honor, for a
21 couple of reasons. Most importantly, with regard
22 to Mr. Mata, the messages sent by Facebook were,
23 one, some of those were videos. He was actually
24 able to physically see the human being on the
25 other side of that and that person was

1 Bryson Smith.

2 Two, that also elicited action similar to
3 the Green case. When he's saying, "on my way,"
4 he's on his way to pick him up. When they're
5 talking about borrowing cars, the first person he
6 borrowed a car was Bryson Smith. He's talking
7 about "that night," that's where he went, was to
8 meet up with Bryson Smith.

9 I think based on that, we've established
10 the fact this was, in fact, Mr. Smith's Facebook
11 page. We would subsequently at trial seek to
12 offer State's Exhibit 2 for this which he
13 discusses having Percs, or, basically, Percocets,
14 which is -- what he ended up being caught with was
15 large quantities of heroin and Fentanyl, which
16 would be, sort of, the similar opiate family to
17 that. These were pressed into pills that the
18 State would assert is an acknowledgement that he
19 did have these narcotics.

20 Based on that, Your Honor, the State
21 feels we met the standard. I point out the Rule
22 901 does not require an absolute authentication.
23 It's not required that the Court specifically
24 addresses that in Green. We're not required to
25 get the IP address. We're not required to

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1 eliminate all other potential sources. It's
2 whether -- it's ultimately a jury issue. But for
3 the Court decide is a gatekeeping function. Is
4 there sufficient evidence, really, for the jury to
5 determine whether it's authentic.

6 In this case, I believe that's the case
7 based on the testimonies of Officer Gardner, the
8 jail phone calls presented by Major Anderson, and
9 the testimony of Mr. Mata, Your Honor.

10 MR. SCHULTZ: Thank you, Judge. May it
11 please the Court? Can I take off my face mask for
12 a little bit?

13 THE COURT: Yes.

14 MR. SCHULTZ: Thank you. Your Honor, my
15 objection to hearsay authentication, I do not
16 believe the State has met their burden here to
17 authenticate these documents here, or, at least,
18 what's purported to be documentation or Facebook
19 correspondences from my client.

20 I'm quoting Green here, State v. Green,
21 the second to the last page. We recognize some
22 cases may require more technical methods to
23 authenticate social media. Some courts have held,
24 for example, that tracking a defendant's Facebook
25 page, an account to his email address by Internet

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1 protocol, IP evidence can satisfy authentication.

2 In the testimony that I elicited from the first
3 witness there, there was no information obtained
4 of any kind of Internet protocol address. In
5 fact, the officer said that he's never done
6 anything, I think that was the correct testimony,
7 as far as any protocol goes.

8 I know that's a high standard and
9 everything, but, at the same time, Your Honor, in
10 an important case like this -- well, all these
11 cases are important -- in an important case like
12 this, where you have a lot of narcotics, or at
13 least what the State is accusing, is a lot of
14 narcotics, I think the proof must be very valid
15 and the standard must be high.

16 So I'm asking that under hearsay
17 authentication objections, and, presumably,
18 because there was no IP address linked to any
19 account, Buddy Dawkins used -- whoever
20 Buddy Dawkins is, I'm asking that that be excluded
21 in the State's case in chief. Thank you.

22 THE COURT: While you're there,
23 Mr. Schultz, I have that case before me as well.

24 MR. SCHULTZ: Yes, sir.

25 THE COURT: I want you to read the very

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1 last sentence in that paragraph. It's on page 103
2 6.

3 MR. SCHULTZ: Yes, sir. May it please
4 the Court? "We understand that social media could
5 also be authenticated by evidence related to hash
6 values and metadata. We express no opinion on
7 these methods of proof."

8 Is that what the Court is referring to?

9 THE COURT: Yes, sir. We express no
10 opinions on these matters.

11 MR. SCHULTZ: Yes, sir, Your Honor. And
12 the only response that I would have to that is
13 that -- I think in a case such as this I think --
14 even though the Court has not expressed any
15 opinion as to that, I guess the Court would argue
16 that -- that State would argue that that would be
17 dicta, to use an old law school phrase.

18 My objection is based upon the fact that
19 the standard must be high. We have -- there's a
20 lot of fraud on the Internet.

21 You know, State v. Green actually brought
22 up a very good point. I mean, fraud in writings
23 are as old as the written word. Facebook, social
24 media accounts, they are rife with fraud. They
25 are rife with people posing as other people to try

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1 and get other people in trouble. I have several
2 cases where a client comes to me, oh, that wasn't
3 me. That was someone else. Turns out, it wasn't
4 the person.

5 I know what the State is arguing, but I
6 think the standard must be high, especially when
7 it comes to this day and age. And especially in a
8 case like this, where there was no -- and I
9 understand the Court's position and everything,
10 but there wasn't Internet protocol investigation
11 done. A Facebook officer, or at least a Facebook
12 records custodian was never presented to the Court
13 as far as the State's case here.

14 So that would be the nature of my
15 objections. Thank you.

16 MR. KENDALL: Just very brief in reply,
17 Your Honor. The IP address argument, the hashtag
18 argument seems to be exactly contemplated by the
19 court.

20 In this case, and I believe in Green,
21 they did not have any of that information and they
22 upheld that as authenticated.

23 The standard is not for the State to
24 eliminate any possibility of any fraud. There has
25 not been any presented today, if that's even an

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1 issue. It's ultimately, is this sufficiently
2 reliable to present to the jury?

3 Mr. Schultz could argue this wasn't his.
4 And he has no objection to, but he certainly can
5 argue this wasn't his, or Mr. Bryson Smith could
6 testify it wasn't his, any number of things could
7 happen to try to cause that before the jury for
8 him to have doubts on that. He certainly has the
9 right to challenge anything, any other piece of
10 evidence just like any piece of evidence.

11 But the crux of the Green ruling was, the
12 rules really haven't changed with respect to 901.
13 There's no additional Internet rule, there's no
14 additional anything. We use the standard 901
15 practice -- or 901 jurisprudence and apply that
16 judicially to the facts of this case.

17 I think based on that, the Court found,
18 and really looked at the technical analysis that
19 Mr. Schultz has presented, that, quite frankly,
20 it's not required. If you look at the entirety of
21 the thing, in Green, that the situation is
22 extraordinarily similar to the one here. Things
23 were said, people were acting on what people said,
24 and, subsequently -- I think it was a jail letter
25 in that case where he all but admits it.

1 I think in this case, it's certainly
2 similar. We would ask to be allowed to present
3 that evidence, Your Honor.

4 THE COURT: I haven't seen the messages.

5 MR. KENDALL: Yes, sir.

6 (Hands document.)

7 THE COURT: Thank you.

8 Okay. Mr. Schultz, I understand your
9 argument, but I disagree that the standard has to be
10 higher. In fact, in the Green case, and I quote, "The
11 authentication standard is not high." That's
12 Deep Keel, LLC vs. Atlantic Private Equity Group, LLC
13 at 413 S.C. 58. That's Court of Appeals 2015 case.

14 "As we all know, all evidence must be
15 authenticated when the trial court acts as the
16 gatekeeper. The defendant raises the question
17 about possibly someone else, not this defendant,
18 our court has said a party need not rule out any
19 possibility. The evidence is not authentic. The
20 rule of authentication, the law, like science, is
21 content with the probabilities. The State need
22 only make a prima facie showing that the true
23 author is who the State claimed it to be. And
24 once a prima facie showing is met, the evidence is
25 admitted, and the jury decides whether or not to

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1 accept it and what weight it carries. Our Court
2 has recognized a social meeting as a writing under
3 901 of our rules of evidence and commonly
4 authenticated under 901(b)," as in Bravo, the
5 numeral 4, "using circumstantial evidence."

6 The Facebook user here has been
7 identified as being this defendant, also under
8 bryson.com, bryson87 from the pictures and other
9 distinct characteristics. Emails about where he
10 was, arguing the dispute, reference to a
11 Franklin Dover and a shooting and a trial.

12 Which I will note for Mr. Schultz and
13 maybe his client, Mr. Dover was tried in this
14 courtroom and I presided.

15 The reference about the five routes, the
16 money, and also under 901, Rule 901(b), as in
17 Bravo, the numeral 1, personal knowledge sent and
18 received by Josh Mata, M-a-t-a, along with the
19 video chat where he actually was able to see this
20 individual.

21 So, at this point, the Court denies the
22 defense's motion and will allow the induction the
23 these documents.

24 MR. SCHULTZ: Thank you, Your Honor.

25 THE COURT: Anything further?

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1 MR. KENDALL: I don't believe so,
2 Your Honor. Just, kind of, housekeeping stuff.

3 THE COURT: Do we need that on the
4 record?

5 MR. KENDALL: I don't believe so.

6 THE COURT: Madame Court Reporter, we
7 will be off the record.

8 (Off the record.)

9 (A recess was taken from 11:45 a.m. to 1:02 p.m.)

10 MR. KENDALL: Your Honor, reviewing some
11 of the camera footage, as Your Honor knows, this
12 case represents an interesting logistical issue.
13 If it wraps up a couple things and we want to make
14 sure that we're not, best possible, separating the
15 two distinct cases.

16 Because of that, we watched the videos
17 and we found -- in the audio, we found one that
18 could actually get in. We've agreed on that. I
19 wrote it up. On the first video, it's going to be
20 -- it's just the beginning. There's no issue with
21 the clocks or anything like that. I do want to
22 double-check with that. If it works the same as
23 the one we used back there at some point, that
24 should be three or four weeks from now. It's
25 really just out of an abundance of caution.

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1 But basically what it entails is Officer
2 Fuller's body camera. We're going to play from
3 the beginning to 11 minutes, 9 seconds, and
4 9 minutes, 19 seconds, and then that can have
5 audio.

6 Officer Dorsette's camera, we are going
7 to run and put the entire thing in, but with no
8 audio. It's impossible to separate out things
9 that can't be on there. I will not play the
10 entire two-hour video. My intention is actually
11 just to play just what they actually find.
12 They're standing there for an hour and a half.

13 We've also gone through jail calls.
14 There are four listed on the disk mark that's been
15 marked as exhibits. I'm going to play portions of
16 two of them and the time frames that are, sort of,
17 set out.

18 In one, the defendant basically
19 acknowledges it's his house. In one, he discusses
20 selling drugs. Basically, how he sells drugs. He
21 does it around kids.

22 And then, as Your Honor heard, the
23 Facebook, we're going to play about a minute just
24 to give the jury an introduction of what's going
25 on, and then I'll skip to the two portions of that

1 Testimony of Joshua Mata;Proffer 110
2 that actually dealt with his Facebook, Your Honor.

3 There's a fourth video on there, I
4 originally intended to play that. Me and
5 Mr. Schultz listened to that after lunch. I think
6 it's probably best not to involve, so that's
7 not --

8 THE COURT: Okay. That's the agreement,
9 Mr. Schultz?

10 MR. SCHULTZ: It is, Your Honor. I'd
11 just like to put a couple more things on the
12 record.

13 Mr. Kendall is, indeed, correct. The
14 attempted murder case and the trafficking
15 drug-related cases are, as I said before a couple
16 hours ago, they are intrinsically linked. I've
17 gone over this with Mr. Kendall. And I want to
18 make sure that -- I know there was technical
19 difficulties with the jail phone calls today. I
20 want to make sure when he stops -- when Matt stops
21 it that it doesn't keep going on. So I don't want
22 the jury to hear anything like that.

23 But I agree with everything that he said
24 as far as the Officer Dorsette, no audio. I agree
25 with that. The body camera, we're beginning that
 at 11:09.

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1 MR. KENDALL: Ending at 11:09.

2 MR. SCHULTZ: What?

3 MR. KENDALL: Ending at 11:09.

4 MR. SCHULTZ: Ending at 11:09. I'm
5 sorry. It does say beginning here, Matt.

6 MS. LESKANIC: Beginning to. Beginning
7 to 11:09.

8 MR. SCHULTZ: I see. My apologies, Your
9 Honor.

10 Beginning at the start of the tape
11 continuing on to 11:09. I have no problem with
12 that, and -- that's all I have. Thank you.

13 THE COURT: Okay. Are we ready for the
14 jury?

15 MR. SCHULTZ: We are.

16 MR. KENDALL: Let me just put this in as
17 a Court's exhibit.

18 THE COURT: Joint exhibit, Court's
19 Exhibit. Whatever you want.

20 (Jury enters the courtroom at 1:08 p.m.)

21 THE COURT: Okay. Thank you for your
22 patience. Thank you for being here this morning.

23 We had some matters -- pretrial matters
24 that just took longer than we thought that they
25 would. Again, thank you for your patience.

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Madame Clerk, swear in this jury to try

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this case.

THE CLERK: Ladies and Gentlemen, please stand and raise your right hand. Do you solemnly swear to truly try the issues in this case and a true verdict render according to the law and evidence so help you God?

JURY PANEL: Yes.

THE CLERK: You may be seated.

THE COURT: Ladies and Gentlemen, you are now the jury in this case, and I will take a few moments to tell you a few things about your duty as jurors and to provide instruction.

At the close of this trial, I will give more detailed instructions, and those instructions will control your deliberations.

We are here today in the matter of the State of South Carolina vs. Bryson Jamar Smith. It is alleged in the indictment 20-GS-11-01151 that he did in Cherokee County, South Carolina on or about August 12 of 2019 commit the criminal offense known as trafficking in heroin. I tell you, and I will say this more than once, that he entered a plea of not guilty to the indictment and he is presumed innocent of the allegations

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contained in this indictment.

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In the indictment 2020-GS-11-01149 it is
alleged that he did in Cherokee County,
South Carolina on or about August 12 of 2019
commit the criminal offense known as trafficking
in methamphetamine. He has entered a plea of not
guilty to this indictment. He is presumed
innocent of the allegations contained in that
indictment.

Indictment 2020-GS-01148 alleges that he
did in the county of Cherokee, state of
South Carolina on or about August 12 of 2019
commit the criminal offense known as possession
with intent to distribute cocaine. He has entered
a plea of not guilty. He is presumed innocent of
the allegations contained in the indictment.

In indictment 2020-GS-11-01147, it is
alleged that he did in Cherokee County,
South Carolina on or about August 12 of 2019
commit the criminal offense known as possession
with intent to distribute marijuana. He has
entered a plea of not guilty. He is presumed
innocent of the allegations contained in the
indictment.

And lastly, in indictment

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1 2020-GS-11-01150, it is alleged that he did in
2 Cherokee County, South Carolina on or about
3 August 12 of 2019 commit the criminal offense
4 known as possession with intent to distribute
5 Fentanyl in violation of state law. He has
6 entered a plea of not guilty. He is presumed
7 innocent of the allegations contained in the
8 indictment.

9 Ladies and Gentlemen, the indictment is a
10 charging instrument. It is not evidence against
11 this defendant, nor any defendant. It is merely a
12 document, an instrument that brings him before the
13 Court for trial.

14 Now, under South Carolina law, you 12 on
15 the jury become the finders of facts. You 12 are
16 alone are the finders of facts and it is your duty
17 to decide from the evidence what the facts are.
18 You will hear the evidence, decide what the facts
19 are, and apply those facts to the law that I give
20 to you at the close of this case, and that is how
21 you reach a verdict in this case.

22 In doing so, you must follow the law as I
23 give it to you whether you agree with it or not.

24 The evidence will consist of testimony of
25 witnesses, and documents, and other items received

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1 into evidence as exhibits, and any facts on which
2 the lawyers agree or stipulate.

3 The same state law that makes you 12 the
4 finders of facts makes me the judge of the law.
5 Our rules of evidence control what can be received
6 into evidence. And when a lawyer asks a question
7 or offers an exhibit into evidence and the lawyer
8 on the other side thinks that it is not permitted
9 by the rule of evidence, that lawyer may object.

10 This simply means, Ladies and Gentlemen,
11 that the lawyer is requesting that I make a
12 decision on a particular rule of evidence. When
13 we're talking about evidence, we're talking about
14 one of our evidence rules contained in this
15 books.

16 Now, this means that the lawyer is
17 requesting to make a decision under South Carolina
18 law. South Carolina law forbids a trial judge
19 from making a comment to a jury about a fact in a
20 case. Therefore, because it may be necessary for
21 me to make a comment on a fact in applying our
22 rules of evidence, it may be necessary for me to
23 speak with the lawyers outside of your hearing by
24 having what I call a bench conference. If I have
25 bench conference, you will see me wave the lawyers

1 up. I usually do so with my fingers. They will
2 come up here. I will move the microphone down so
3 that we can talk about whether or not a particular
4 rule applies in that particular objection.

5 Now, sometimes I can do this in the
6 courtroom and sometimes I must remove you from the
7 courtroom because the conversation might be
8 lengthier than one or two -- or just a few
9 seconds. The purpose of the conferences is to
10 decide how certain evidence is to be treated under
11 the rules and to avoid confusion and error.

12 Now, certain things are not evidence.
13 Statements, arguments, questions, and comments by
14 lawyers in a case are not evidence. Objections by
15 a lawyer is not evidence. Lawyers have a duty to
16 object when they believe something is improper or
17 not permitted under the rules. If I sustain an
18 objection, you must ignore the question or exhibit
19 and try not to guess what the answer might have
20 been. But if I overrule the objection, the
21 evidence will be admitted, but you are not to give
22 any special attention because it drew an
23 objection. Testimony that is stricken from the
24 record is not evidence. And anything that you
25 hear or see about this case outside of this

1 Testimony of Joshua Mata;Proffer
2 courtroom is not evidence.

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3 Furthermore, a particular item of
4 evidence is sometimes received for a limited
5 purpose; and that is, it can be only be used for
6 limited purpose. If that were to the happen, I
7 tell you when that occurs and instruct on the
8 purpose from which that item can and cannot be
9 used.

10 Now, some of you may have heard the term
11 direct evidence and circumstantial evidence.
12 Ladies and Gentlemen, direct evidence is testimony
13 by a witness about what that witness personally
14 saw or heard or did. Circumstantial evidence is
15 indirect evidence. It is proof of a fact which
16 one can infer another fact. You may consider both
17 direct and circumstantial evidence because our law
18 permits you to give equal weight to both, but it
19 is up to you to decide how much weight to give any
20 evidence.

21 Ladies and Gentlemen, you should not take
22 anything that I say or do during this trial to
23 indicate that I have -- that I believe one witness
24 over another or no witnesses or have any
25 significance about with your verdict should be.
26 Again, state law does not allow a trial judge to

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1 have an opinion about the fact in a case.

2 In deciding what facts are, you have to
3 decide what testimony you believe and what
4 testimony you disbelieve. You may believe
5 everything a witness says or only a part of the
6 witness's testimony or you may disbelieve all of
7 that witness's testimony. Whatever your common
8 sense tells you is credible is the evidence you
9 should receive and disbelieve the rest.

10 Now, to ensure fairness, you, as jurors,
11 must not talk among yourselves about this case or
12 anyone involved with the case until the case has
13 ended and you have retired to the jury room to
14 deliberate.

15 Please do not speak with anyone about
16 this case or about anyone in this case until it
17 has ended. Anyone includes members of your family
18 and friends. You may advise them that you are a
19 juror, but you cannot talk about this case until
20 it has ended. So do not let anyone talk to you
21 about a case, or, if someone tries to do so,
22 please report that to me immediately.

23 During the trial, do not speak or talk
24 with the parties, the lawyers, or the witnesses.
25 You should not even pass the time of day with

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1 them. As I told you yesterday, an innocent
2 conversation can be misunderstood.

3 It is only -- it is important -- not only
4 that you do justice, but you also give the
5 appearance of doing so.

6 Now, the lawyers and the witnesses and
7 the participants have been instructed by me not to
8 speak to you. So if they see you in a parking
9 lot, or they walk down the hall and they do not
10 speak to you, maybe just their head, they are
11 following my instructions.

12 Do not do any research on the Internet or
13 any social media to try to learn something about
14 this case. Do not consult a blog, or a
15 dictionary, or any reference materials. Please do
16 not do any independent investigation on your own.
17 You must make up your mind. You must determine
18 from the evidence in this courtroom what the
19 verdict will be.

20 Ladies and gentlemen, I'm often asked
21 about note-taking. You are not to take notes
22 during the trial of this case. The reason is, we
23 very much want you to pay close attention to each
24 witness as he or she testifies and not be fixated
25 on taking notes.

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1 Now, the first step of the trial will be
2 opening statements. The State in its opening
3 statement will tell you about the evidence it
4 intends to put before you so that you will have an
5 idea of what the case is about. Just as the
6 indictment is not evidence, neither is an opening
7 statement by a lawyer. Its purpose is only to
8 help you understand what the evidence will be and
9 what the State will try to prove.

10 After the State's opening statement, the
11 defense attorney may, if he chooses, make an
12 opening statement.

13 At this point in the trial, no evidence
14 has been offered by either side.

15 The next step will be the State offering
16 evidence it says will support the charges against
17 this defendant. The defendant in this case will
18 consist of testimony of witnesses and it may
19 include documents or other exhibits such as
20 diagrams or pictures. I remind you that this
21 defendant is presumed innocent and the State must
22 prove his guilt beyond a reasonable doubt. The
23 defendant does not have to prove his innocence.

24 After you have heard all of the evidence
25 on both sides, the State and the defense will be

Testimony of Joshua Mata; Proffer 121
1 given time for a final statement or a final
2 argument sometimes known as a closing argument.

3 As I just told you about the opening
4 statement is not evidence, neither is a closing
5 argument. But in their closing arguments, the
6 lawyer for each side will attempt to summarize so
7 they can help you understand what evidence was
8 presented.

9 And, of course, the final part of the
10 trial occurs when I instruct about the rules of
11 law that you are to use in reaching your verdict.
12 And after hearing my instructions, you will then
13 leave the courtroom and retire to your jury room
14 for your consideration of the warrant -- of the
15 indictments.

16 At this time, Juror Number 66, Miss Phillips,
17 you are hereby officially appointed the forelady of
18 this jury, and I thank you for serving in that
19 capacity.

20 Anything from the State?

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

22 THE COURT: Anything from the defense?

23 MR. SCHULTZ: No, sir.

24 THE COURT: Are you ready?

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

Opening Statement; Kendall
1 THE COURT: All right. Please pay
2 attention to the State.

3 OPENING STATEMENT

4 MR. KENDALL: Good afternoon, Ladies and
5 Gentlemen. Thank you for coming here today. We
6 are all here because on August 12, 2019, the
7 defendant, Bryson Smith, was charged with one
8 count of possession with intent to distribute
9 Fentanyl, trafficking in methamphetamine,
10 possession with intent to distribute cocaine,
11 trafficking heroin, and possession with intent to
12 distribute marijuana.

13 This occurred on August 12th, Ladies and
14 Gentlemen, at [REDACTED] Maplewood Drive here in Cherokee
15 County.

16 Law enforcement came to this address to
17 serve warrants on Mr. Smith. They were given
18 permission to enter the home by his mother and
19 went back to his bedroom. There, when they got
20 there, they saw narcotics sitting on the bed in
21 plain view. From that point, Your Honor -- or
22 Ladies and Gentlemen, they stopped, they pulled
23 back, and secured a search warrant. They executed
24 a search warrant on that room and found 2.55 grams
25 of cocaine, over a hundred Fentanyl tablets, 7.78

Opening Statement; Kendall

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1 grams of heroin, 11.15 grams of methamphetamine,
2 149 grams of marijuana. Some of this was found in
3 a backpack sitting next to the bed, some in
4 storage boxes, and some in a box addressed to
5 B. Smith.

6 In addition, Ladies and Gentlemen, they
7 found paraphernalia, drug paraphernalia in the
8 room, including packaging materials for these
9 narcotics, as well as scales. They also found in
10 this room mail addressed to Mr. Smith, as well as
11 his personal paperwork in a box addressed to B.
12 Smith that contained some of these narcotics.

13 Ladies and Gentlemen, arrest warrants
14 were signed at that point. At the end of this
15 case, we would ask you to return a verdict of
16 guilty. But now, I ask of you three things:
17 First, listen carefully to the instructions given
18 to you by the Judge. This will ensure a fair
19 trial for all involved. Second, please listen
20 carefully to all the evidence presented in the
21 courtroom today. And, finally, Ladies and
22 Gentlemen, in this case, use common sense. It
23 will go a long way.

24 Thank you.

25 MR. SCHULTZ: Thank you, Judge. May it

1 Opening Statement; Schultz
2 please the Court? Counsel.

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3 OPENING STATEMENT

4 MR. SCHULTZ: Ladies and Gentlemen, my
5 name is Attorney Joshua Schultz. I represent
6 Bryson Smith. This is an interesting year, to say
7 the least. We're all wearing face masks and
8 practicing social distancing. But, yet, at the
9 same time, what we're doing here today is a very,
10 very important part of our judicial process, or
11 legal process, and our democratic process.

12 Some of you, perhaps yesterday, perhaps
13 before, voted in not only our presidential
14 election, also our gubernatorial election, and
15 also or local elections as well.

16 Voting is a very important part of what
17 we do here as citizens of this great country, and
18 what you're doing right now, serving on a jury, I
19 believe is either about the same or even more
20 important than your right to vote as a citizen of
21 the United States. It's guaranteed by the
22 institution.

23 What Mr. Kendall, the prosecutor in this
24 case, said is correct. On August 12, 2019, the
25 police charged my client with several offenses.
 And the judge, a couple minutes ago, said that

Opening Statement; Schultz

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1 when you're looking at the indictments, and,
2 perhaps, tomorrow, maybe even Friday, those
3 charging paperworks -- paperwork where it says
4 Bryson Smith did this or Bryson Smith did that,
5 they are not evidence. They are only charging
6 documents. They are not an admission of guilt.
7 They are not an admission of anything approaching
8 that.

9 So, what is your job here today,
10 tomorrow, perhaps Friday, we don't know, what is
11 your job? Well, your job is to render a fair and
12 impartial verdict in the case, or verdicts in the
13 day.

14 How do we do that? The most important
15 thing that Mr. Kendall said is to be fair-minded.
16 Listen very closely to what's going on.

17 What is my job? I don't have to prove
18 anything in this case. I don't have to present
19 evidence. I may, but I do not have to present any
20 evidence in the case. It is the State's
21 responsibility to present the case. If they do --
22 obviously, if they do not present any evidence in
23 the case, you probably will return a verdict of
24 not guilty. They obviously plan on presenting
25 witnesses. They plan on presenting photographs,

Opening Statement; Schultz

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1 they plan on presenting audio evidence. They plan
2 on presenting video evidence.

3 My job is to cast reasonable doubt upon
4 what the State is attempting to do with this case.
5 You've heard -- well, I assume, most of you have
6 heard the words reasonable doubt before. Well,
7 what does that mean? Reasonable doubt is doubt
8 that causes a reasonable person some hesitation --
9 hesitation to act.

10 At the end of this trial, and Judge Kelly
11 is going to instruct you on this, you must be
12 firmly convinced of the defendant's guilt.

13 Right now, you cannot be firmly convinced
14 of anything. You haven't seen anything. You
15 haven't seen the evidence. You haven't seen what
16 the State is intending to prove. In a couple
17 hours, you will see at least the very beginning of
18 the State's case, but it is my thinking and it is
19 Bryson's thinking, my client, that after you hear
20 from the State, and perhaps me, that you will not
21 be firmly convinced of the defendant's guilt. And
22 it is my opinion that, perhaps tomorrow, perhaps
23 Friday morning, we don't know, that you will
24 return a verdict of not guilty on all counts. And
25 whenever it is, perhaps tomorrow afternoon, I will

Opening Statement; Schultz

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1 be speaking to you again. Mr. Kendall and I will
2 be speaking to you again. And speaking at this
3 podium here, I am going to be asking you all for a
4 verdict of not guilty.

5 It is my strong opinion, and I hope that
6 each and every one of you will share that opinion
7 that the State will not have met their burden of
8 proof. Okay, we've heard that before.

9 Burden of proof, what does that mean?
10 Well, the State has a burden of proof in order to
11 carry the weight of the evidence. They have to
12 prove their case.

13 Let me circle around here. Reasonable
14 doubt. Or what reasonable doubt is. Reasonable
15 doubt is something -- some doubt that causes a
16 reasonable person some hesitation to act. I am
17 convinced that at the end of the State's
18 presentation in this case that you will not be
19 firmly convinced, and that you will have
20 reasonable doubts in this case. And if you have
21 one -- one reasonable doubt in this case, then you
22 cannot come back with a verdict of guilty. You
23 have to find Bryson Smith not guilty if you have
24 one reasonable doubt. That's what the State has
25 to do; they have to prove their cases guilty

Opening Statement; Schultz
1 beyond a reasonable doubt. I present to you
2 today, as we stand here that they cannot.

3 Thank you very much for your attention. I
4 look forward to this case.

5 THE COURT: Ready, Solicitor?

6 MR. KENDALL: Yes, sir, Your Honor. At
7 this time, the State will call Officer Fuller to
8 the stand, please.

9 THE CLERK: Please raise your right hand.
10 Do you solemnly swear or affirm the testimony you
11 shall give the Court will be the truth, the whole
12 truth, and nothing but the truth so help you God?

13 THE WITNESS: I do.

14 THE COURT: Officer, please give us your
15 full name and speak a little louder than usual.
16 Please give us your full name and spell your last
17 name for Madame Court Reporter, please.

18 THE WITNESS: John Fuller, F-u-l-l-e-r.

19 THE COURT: Thank you.

20 Solicitor.

21 MR. KENDALL: Thank you very much,
22 Your Honor.

23 WHEREUPON:

24 JOHN FULLER,
25 after having been sworn, testified as follows:

Testimony of John Fuller
DIRECT EXAMINATION

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BY MR. KENDALL:

Q Mr. Fuller, where are you currently employed?

A Cherokee County Sheriff's Office.

Q And what is your rank at the sheriff's office?

A Narcotics sergeant.

Q All right. And what are your responsibilities in that job?

A Investigate any crimes related to drugs, narcotics.

Q Do you also perform other functions?

A Yes.

Q What are some other functions?

A Serve the arrest warrants, search warrants, just investigating.

Q Okay. And on August 12, 2019, did you attempt to serve arrest warrants on Mr. Bryson Smith?

A Yes, sir.

Q And where did you attempt to serve those warrants?

A It was on Maplewood Drive.

Q All right.

A I don't remember the exact address.

Q Do you know what county and state that's located in?

Testimony of John Fuller

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1 A Cherokee County, South Carolina.

2 Q Cherokee County, South Carolina?

3 A Yes, sir.

4 Q And what did you see upon entering that address?
5 Or what happened when you got to that address?

6 A I got to the address and went up and knocked
7 on the door. A gentlemen had come to the door. I
8 asked if Bryson Smith was home. He said he
9 wasn't. I asked him if he would mind if we come
10 in and check to see if he was there.

11 At that time, the mother come to the door and
12 stated that we could come in. I went in the residence
13 hallway to the right as soon as you go in the door.
14 Checked the first bedroom, like the storage room.
15 Went to the second door, which is another bedroom,
16 immediately smelled the odor of marijuana.

17 Q Okay.

18 A And went in. Told Lieutenant Smith I smelled
19 marijuana. On the floor was a set of scales. I
20 looked at Smith and seen marijuana laying on the
21 bed.

22 Q All right.

23 (STATE EXH. 17, Photo, was marked for
24 identification.)

25 (STATE EXH. 18, Photo, was marked for

Testimony of John Fuller

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1 identification.)

2 (STATE EXH. 19, Photo, was marked for
3 identification.)

4 BY MR. KENDALL:

5 Q And I'm going to show you State's Exhibit 17, 18,
6 and 19. Do you recognize these?

7 A Yes. Those are the items that was laying on
8 the bed in the bedroom.

9 Q Is that a fair and accurate representation of what
10 you saw when you came in there and saw in the
11 bedroom?

12 A It is.

13 MR. KENDALL: We would offer 17, 18, 19
14 into evidence.

15 MR. SCHULTZ: No objection.

16 THE COURT: Without objection, they are
17 admitted.

18 (STATE EXH. 17, Photo, was marked for
19 identification.)

20 (STATE EXH. 18, Photo, was marked for
21 identification.)

22 (STATE EXH. 19, Photo, was marked for
23 identification.)

24 BY MR. KENDALL:

25 Q And could you please explain to the jury what's in

1 those?

2 A Yes. In the photos, the picture, contains
3 guts of a cigar, a baggie of marijuana, and what
4 was later, I believe, identified to be crack
5 cocaine.

6 Q Okay.

7 A And the one here on the floor, is a set of
8 digital scales.

9 Q Okay.

10 A On the side.

11 Q Could you point those out to the jury?

12 A The scales are here on the floor.

13 Q Okay.

14 A The marijuana was here, the guts from the
15 cigar, and what was later found out to be crack
16 cocaine there.

17 Q Okay. And is it the same in that other picture as
18 well?

19 A Sir?

20 Q Same in that other picture as well?

21 A Yes.

22 Q All right. And those were -- did you have to look
23 for those? Did you have to open any drawers or go
24 through anything at that point?

25 A No, they was laying right there on the bed.

Testimony of John Fuller

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1 Q All right. And during the course of this
2 investigation, did you have a body camera?

3 A I did.

4 Q And did you have that activated?

5 A I did.

6 (STATE EXH. 9, Video, was marked for
7 identification.)

8 BY MR. KENDALL:

9 Q I'm going to show what is marked State's Exhibit
10 9. Now, have you had the opportunity to watch this
11 body camera?

12 A Yes, sir.

13 Q Is that a fair and accurate representation of what
14 you saw and experienced that day?

15 A Yes, sir.

16 MR. KENDALL: Your Honor, we would offer
17 State's Exhibit 9 into evidence.

18 MR. SCHULTZ: No objection.

19 THE COURT: Without objection State's 9
20 is admitted.

21 (STATE EXH. 9, Video, was marked for
22 identification.)

23 MR. KENDALL: And subject to our previous
24 agreement, request to play for the jury.

25 THE COURT: Yes, sir.

Testimony of John Fuller

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1 MR. SCHULTZ: Yes, Your Honor. I just
2 want to confirm. Subject to the previous
3 agreement.

4 (Video played from at 1:35 p.m.)

5 BY MR. KENDALL:

6 Q What are you doing at this point?

7 A At that point, I was just looking for Bryson.
8 I was having to use my taser for a flashlight. I
9 left my flashlight in the car.

10 (Video continued.)

11 BY MR. KENDALL:

12 Q Just to be clear, what did you all do after you
13 discovered that?

14 A After we discovered that, that's when I
15 called for Captain Painter to come back there. He
16 made a phone call, I believe, to
17 Detective Dougherty at the time.

18 Q All right. And what did you do? Did you all stay
19 out of scene? Did you leave? What happened next?

20 A We stayed on the scene. I believe the family
21 stayed outside.

22 Q Okay. So law enforcement officers secured the
23 scene, is it fair to say?

24 A Yes, sir.

25 Q At any point in time after this, did you handle

Testimony of John Fuller

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1 those narcotics personally?

2 A No.

3 Q Okay. So you didn't run any testing or anything
4 like that --

5 A No.

6 Q -- to see what that substance was sitting on the
7 bed, correct?

8 A Did not.

9 Q But you have worked in narcotics for quite a
10 while.

11 A Yes, sir.

12 Q Is that fair to say?

13 A Yes, sir.

14 Q Are you able to identify marijuana?

15 A Yes, sir.

16 Q It's something that, it's fair to say, you
17 commonly see and smell?

18 A It is.

19 Q Okay. But as to the other substance, you were
20 just looking at that from afar?

21 A Yes, I was.

22 Q So, at that point in time, no testing had been
23 done?

24 A No, sir.

25 Q All right.

Testimony of John Fuller

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1 MR. KENDALL: Please answer any questions

2 Mr. Schultz may have.

3 CROSS-EXAMINATION

4 BY MR. SCHULTZ:

5 Q Officer, how long have you been in
6 Cherokee County?

7 MR. SCHULTZ: You just want him to stay
8 there, Judge? Okay.

9 BY MR. SCHULTZ:

10 Q Officer, how long have you been in
11 Cherokee County?

12 A How long have I been in Cherokee County?

13 Q Yes, sir. As an officer. I'm sorry.

14 A As an officer, I started with Gaffney City in
15 '05.

16 Q Gaffney City in '05. Around 15 years, you've been
17 in law enforcement; is that correct?

18 A Yes, sir.

19 Q And do you remember the address of that house that
20 you came to that day?

21 A No, sir, not right off the top of my head. I
22 don't.

23 Q Not off the top your head?

24 A No, sir.

25 Q But you recognize it on that video that we just

Testimony of John Fuller

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1 watched, right?

2 A Yeah.

3 Q Okay. This is not the only house that you've
4 searched in your approximately 15-year career, right?
5 You searched plenty of houses, right?

6 A That's correct.

7 Q After you left the house that day, was this the
8 only involvement in this case?

9 A That's my only involvement, yes.

10 Q Okay, your only involvement in this case.

11 Okay. And you usually have a body cam on?

12 A Yes.

13 Q And your question there that you asked, "Is Bryson
14 here," right?

15 A Uh-huh.

16 Q Now, you go into the room that is on the body cam.
17 Do you remember that?

18 A I went into the room.

19 Q You went into the room, okay.

20 And did you go in any other rooms that day or
21 just that one?

22 A I went into the first room as you're going
23 down the hall on the right, which appeared to be a
24 storage room or a junk room. And then I went into
25 the room that was said to be Bryson's, and then I

Testimony of John Fuller

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1 also stepped into the mother's room to see if
2 anyone was hiding in there.

3 Q Now, it was said to be Bryson's, correct?

4 A Yes.

5 Q All right. So it will be fair to say --

6 MR. SCHULTZ: Judge, could I remove my
7 face mask?

8 THE COURT: Yeah, I'm okay with that.
9 Are you okay with that, Miss McBee?

10 THE CLERK: Oh, yes, sir.

11 MR. SCHULTZ: Thank you, Judge. It's
12 just my glasses are fogging up. I apologize.

13 BY MR. SCHULTZ:

14 Q You were the first person in the room that day,
15 right?

16 A Correct.

17 Q You go in there. You said, according to your
18 testimony, you would notice some scales and some weed
19 laying on the floor, correct?

20 A I noticed the scales laying on the floor, and
21 I could smell the marijuana.

22 Q You could smell the marijuana.

23 A I can smell the odor of marijuana.

24 Q I'm sorry, sir?

25 A The odor of marijuana.

Testimony of John Fuller

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1 Q The odor of marijuana.

2 A Yes, sir.

3 Q Okay. Did you see in plain view any marijuana?

4 A Not right first. I looked in at Smith, seen
5 it laying on the bed, and I went and visually
6 observed it. It appeared to be marijuana.

7 Q Okay. So you did personally observe it?

8 A Yes.

9 Q All right. Now, you didn't field test anything,
10 right?

11 A No, I did not.

12 Q Explain to the jury what field testing is.

13 A Field testing is a basically a presumptive
14 test for the type of narcotics that they're
15 testing for.

16 Q Explain what "presumptive" is for the jury.

17 A I don't know that I have an exact definition
18 of it.

19 Q Okay. Well, let me ask you this: Would
20 presumptive be you presume the --

21 A He presumed it to be marijuana, yes.

22 Q Okay. You presumed it to be marijuana based upon
23 your experience, right?

24 A Yes.

25 Q All right. But your testimony here today is you

Testimony of John Fuller

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1 never did any presumptive test, right?

2 A No, sir. I did not.

3 Q Okay.

4 MR. SCHULTZ: Your Honor, can I move
5 around to the State's exhibits there.

6 THE COURT: Yes, sir. Get the exhibit,
7 just come back. We want you to stay in one spot.

8 MR. SCHULTZ: Yes, sir. Thank you.

9 BY MR. SCHULTZ:

10 Q Officer, I'm referring to the State's Exhibit 17.
11 You took this picture, sir?

12 A No, sir. I did not.

13 Q But this was a fair and accurate representation
14 of --

15 A Yes.

16 Q -- what it was that day, right?

17 A That is correct.

18 Q Okay. And in -- I see in what appears to be some
19 kind of Apple Watch there?

20 A I can't see that far.

21 Q (Hands document).

22 A It appears to be some type of watch.

23 Q Did you submit that into evidence?

24 A I did not collect the evidence.

25 Q Okay. Do you know if it was submitted into

Testimony of John Fuller

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1 evidence?

2 A No, sir.

3 Q All right. Could I see that back, sir?

4 A (Hands document).

5 Q Thank you.

6 Officer, I'm referring to State's Exhibit 18.

7 What is that black rectangular object on the floor
8 there?

9 A The black rectangular object here with the
10 shiny face.

11 Q Yes, sir.

12 A That is set of digital scales.

13 Q I know you don't collect evidence, but did you
14 suggest to anybody that that evidence be collected?

15 A No. Once we go in on a search warrant and we
16 see possible evidence, we do not touch it. And
17 whoever is collecting the evidence handled that.
18 We let them know it's there, but --

19 Q Okay. And would it be safe to say that you
20 weren't in charge of possibly lifting fingerprints off
21 that at all?

22 A No, I was not.

23 Q That was another officer's responsibility, right?

24 A I didn't mess with it.

25 Q You didn't mess with it.

1 A I left it for evidence.

2 Q Okay. Let me circle back around. After you left
3 the house that day, did that conclude your
4 involvement?

5 A That concluded my involvement, yes.

6 Q Okay. Did that conclude your involvement with
7 this case?

8 A It did, yes.

9 Q It did.

10 MR. SCHULTZ: Thank you, Your Honor. No
11 further questions.

12 THE COURT: Anything at all?

13 MR. KENDALL: Nothing further, Your
14 Honor.

15 THE COURT: Okay, thank you. Sir, you
16 may step down. Please be careful.

17 MR. KENDALL: Your Honor, at this time
18 the State would call Josh Mata.

19 THE COURT: Okay.

20 THE CLERK: Please raise your right hand
21 and place your left hand on the Bible. Do you
22 solemnly swear or affirm the testimony you give to
23 this Court will be the truth, the whole truth, and
24 nothing but the truth so help you God?

25 THE WITNESS: Yes.

Testimony of Joshua Mata

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1 THE CLERK: Okay. Watch your step.

2 THE COURT: Sir, I'm going to ask you to
3 speak louder than usual because of the mask. You
4 can remove it, if you'd like. But speak louder
5 than usual and tell us who you are and spell your
6 last name for my court reporter, please.

7 THE WITNESS: Joshua Mata, M-a-t-a.

8 THE COURT: Solicitor.

9 (STATE EXH. 20, Facebook posts, was marked
10 for identification.)

11 MR. KENDALL: Thank you, Your Honor.

12 WHEREUPON:

13 JOSHUA MATA,
14 after having been sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. KENDALL:

17 Q Mr. Mata, are you currently employed?

18 A Yes, sir.

19 Q And where do you work?

20 A Brown's Packing.

21 Q How long have you worked at Brown's?

22 A About a year and three months.

23 Q Okay. And you've been in Cherokee County for a
24 while?

25 A Yes, sir.

Testimony of Joshua Mata

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1 Q About how long have you been in Cherokee?

2 A I've been here all my whole life.

3 Q All right. And before we get into testimony, I
4 just want to let the jury know you do have a couple
5 criminal convictions on your record. Is that fair to
6 say?

7 A Yes.

8 Q It looks like receiving stolen goods; is that
9 correct?

10 A That's correct.

11 Q And do you know the defendant Bryson Smith?

12 A Yes.

13 Q Do you see him in the courtroom?

14 A Yes.

15 Q And would you please point him out?

16 A (Complies.)

17 MR. KENDALL: Your Honor, I'd like to let
18 the record reflect he pointed to the defendant.

19 THE COURT: So ordered.

20 BY MR. KENDALL:

21 Q And how long have you known Mr. Smith?

22 A About three years.

23 Q What is the nature of you-all's relationship prior
24 to recent times?

25 A Friends.

Testimony of Joshua Mata

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1 Q Okay. And how would you all, as friends,
2 communicate with one another?

3 A Through Facebook.

4 Q Through Facebook? Now, did you have his phone
5 number?

6 A I had it at one time, and I think he just
7 disconnected it. We always did Facebook.

8 Q Okay. When you say always do Facebook, what means
9 of communication did you all use?

10 A Texting and video chat.

11 Q Texting and video chat.

12 (STATE EXH. 11, Facebook posts, was marked
13 for identification.)

14 BY MR. KENDALL:

15 Q All right. I'm going to show you what is marked
16 State's Exhibit 11. If you could, take a look at
17 that. And what is that?

18 A This is messages between us.

19 Q Between you?

20 A Yes.

21 Q When you say "us," who are you referring to?

22 A Bryson to me.

23 Q Okay. Now, is his Facebook name in these
24 conversations, Bryson Smith?

25 A No.

Testimony of Joshua Mata

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1 Q Now, what he going by on the Facebook at that
2 point?

3 A Buddy.

4 Q Buddy?

5 A (Witness nods head up and down.)

6 Q Did he use a last name?

7 A Smith.

8 Q Do you want to take a look at it?

9 A I do. He had several. Buddy Dawkins on this
10 one.

11 Q Okay. And is this a fair and accurate
12 representation of conversations you all had on
13 Facebook?

14 A Yes.

15 MR. KENDALL: Your Honor, we would offer
16 State's Exhibit 11 into evidence.

17 MR. SCHULTZ: Objection as previously
18 noted under authentication and hearsay.

19 THE COURT: The objection is overruled.
20 It's admitted.

21 MR. SCHULTZ: Thank you, Your Honor.

22 MR. KENDALL: Thank you, Your Honor.

23 (STATE EXH. 11, Facebook posts, was entered
24 into evidence.)

25 BY MR. KENDALL:

Testimony of Joshua Mata

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1 Q Now, looking at these messages, are there
2 references in here -- and don't, please, comment on
3 anything that's not here -- are there references in
4 there to the use of an automobile?

5 A Yes.

6 Q All right. And were you all friendly enough to
7 share automobiles?

8 A Yes.

9 Q Okay. And in that, could you just please read to
10 the jury, with regards to the automobile, what it
11 says? It should be on that first page.

12 A He said, "Where you at." I say, "Home." He
13 said, "I'll give a gram to use your car."

14 Q Okay. And in that situation, did you let him use
15 the car?

16 A Yes.

17 Q All right. Now, throughout these messages as
18 well, there are references to video chats. Or, excuse
19 me. Before I do that, let me just say this. There
20 are references to video chats; is that correct?

21 A Yes.

22 Q Did you video-chat with the defendant?

23 A Yes.

24 Q And when you were doing these video chats with the
25 person listed as Buddy Dawkins, who was the person on

1 the other end of that video chat?

2 A Bryson.

3 Q So you were able to physically see him as the
4 person who was doing that; is that correct?

5 A Yeah.

6 Q Okay. Likewise, I'm going to show you this last
7 page. And, if you could just, sort of, read through
8 this.

9 A "Where you at?" I said, "My grandma's
10 house." He said, "Come out. I got you, okay?" I
11 said, "On my way."

12 Q All right. In that conversation, what did you do?
13 Did you go see him?

14 A Yes.

15 Q Was the person you went and saw Bryson Smith?

16 A Yes.

17 (STATE EXH. 12, Photo, was marked for
18 identification.)

19 BY MR. KENDALL:

20 Q Okay. I'm going to show you what is marked
21 State's 12. Could you take a look at this, please?
22 And what is that?

23 A This is at the house.

24 Q Okay. Have you ever been there outside of there
25 before?

Testimony of Joshua Mata

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1 A One time.

2 Q Okay. And what were you there for?

3 A Getting in my car. We was going somewhere.

4 Q When you say we are going somewhere, who are you
5 referring to?

6 A Bryson.

7 Q Okay. So is that a house Bryson stayed at
8 sometimes?

9 A He stayed there. Yes, sir.

10 MR. SCHULTZ: Your Honor, I couldn't hear
11 what the witness said there.

12 THE WITNESS: Yeah, he stayed there.

13 MR. KENDALL: I believe, if I've not
14 already, we offer State's Exhibit 12 into
15 evidence.

16 THE COURT: Any objection?

17 MR. SCHULTZ: No objection.

18 THE COURT: Without objection, 12 is
19 admitted.

20 (STATE EXH. 12, Photo, was entered into
21 evidence.)

22 MR. KENDALL: Please answer any questions
23 Mr. Schultz may have.

24 THE COURT: Mr. Schultz.

25 MR. SCHULTZ: Thank you, Judge.

Testimony of Joshua Mata
CROSS-EXAMINATION

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BY MR. SCHULTZ:

Q Mr. Mata, you've been convicted of more than a couple of crimes, haven't you?

A Two.

Q Two? That's it?

A (Witness nods head up and down.)

Q What about petty larceny eight years ago?

A Yes, eight years ago.

Q Okay. What about -- obtaining signature under false pretense, right?

A That was part of it.

Q Oh, that was part of it. Okay. You just forgot?

A No.

Q What about a felony and larceny?

A Yeah, that was eight years ago.

Q What state did it happen in?

A North Carolina.

Q Okay. So now I've counted three. Is that it?

A Yeah.

Q Okay. See you've been -- twice you've been convicted of property crimes; is that correct, Mr. Mata?

A Yeah.

Testimony of Joshua Mata

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1 Q All right. Three times.

2 Now, you said something interesting there a
3 couple minutes ago about my client there. You
4 indicated that my client when you're talking to him
5 over social media he goes by different names; is that
6 correct?

7 A He has a couple accounts. But, at that time
8 I was talking to him, it was Buddy Dawkins.

9 Q Okay. Now, when you were allegedly talking to
10 Buddy Dawkins, you mentioned that you were
11 videoconferencing with him; is that correct?

12 A Yeah.

13 Q Okay. When you were chatting with him without
14 videoconferencing or chatting with a Buddy Dawkins,
15 texting, I guess, would be the better word, were you
16 positive that it was Bryson Smith?

17 A It was his page and he be -- we might be
18 doing video-chatting, and I would text him. Yeah.

19 Q But it could have been somebody else, right?

20 A I don't -- yeah.

21 Q Was that a yes?

22 A I doubt it -- that it was.

23 Q Now, you said that you -- I believe in your direct
24 testimony there you swapped out cars; is that
25 correct?

1 A Yeah, we had before. We swap out cars or he
2 used mine.

3 Q All right. What about the house referring to
4 State's Exhibit 12 here. Do you recognize this car in
5 this picture?

6 A Yeah, I recognize him. That wasn't his
7 car.

8 Q That wasn't his car?

9 A No.

10 Q Right. Okay. Have you been to this house
11 before?

12 A One time.

13 Q One time. That's all you've been to that house
14 before?

15 A (Witness nods head up and down.)

16 Q Okay. So you go to the house. Who did you see
17 there at the house?

18 A I picked him up.

19 Q Picked him up.

20 A (Witness nods head up and down.)

21 Q Okay. But that was just one time, right?

22 A Yeah, one time.

23 Q Okay. What about if -- did you ever pick Bryson
24 up in another house?

25 A Yes.

Testimony of Joshua Mata

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1 Q Right. What other houses did you pick him up?

2 A North Grenard Street.

3 Q North Grenard or Bernard?

4 A Grenard.

5 Q Grenard, okay. What other houses?

6 A These really about it. The main area.

7 Q All right. Did he ever pick you up at your
8 house?

9 A No.

10 Q No. Okay.

11 You said with a phone call, too, or at least
12 a phone, you said that Bryson disconnected his phone
13 number.

14 A He gave me his phone number one time or -- we
15 never used it but one time. I think I lost it. I
16 don't save names in my contacts.

17 Q All right.

18 MR. SCHULTZ: That's all I have. Thank
19 you.

20 THE COURT: Anything at all?

21 MR. KENDALL: Just very quickly,
22 Your Honor.

23 REDIRECT EXAMINATION

24 BY MR. KENDALL:

25 Q At any point in time when you were having these

Testimony of Joshua Mata

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1 shared rides with Mr. Smith, did anybody else show up?

2 In other words, when you said, give me a ride, did
3 somebody else show up there when you were trying to
4 give him a ride?

5 A No.

6 Q At any time on these video chats, was there
7 anybody else that showed up on the screen?

8 A No.

9 Q When you all were talking, was there anything that
10 led you to believe that some other person was involved
11 other than Bryson Smith?

12 A No.

13 MR. KENDALL: Nothing further, Your
14 Honor.

15 THE COURT: Anything at all?

16 MR. SCHULTZ: No, sir.

17 THE COURT: Okay. Sir, you may step
18 down. Please be careful.

19 MR. KENDALL: Your Honor, the Court calls
20 Brandon Gardner at this time.

21 THE COURT: All right.

22 THE CLERK: Please raise your right hand.
23 Do you solemnly swear or affirm the testimony you
24 give to this Court is the truth, the whole truth,
25 and nothing but the truth so help you God?

Testimony of Brandon Gardner

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1 THE WITNESS: Yes, ma'am.

2 THE COURT: Sir, tell us who you are and
3 spell your last name for the court reporter,
4 please.

5 THE WITNESS: Brandon Gardner,
6 G-a-r-d-n-e-r.

7 THE COURT: Thank you.
8 Solicitor.

9 WHEREUPON:

10 BRANDON GARDNER,
11 after having been sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. KENDALL:

14 Q Officer Gardner, where are you currently
15 employed?

16 A I'm currently employed for the South Carolina
17 Department of Natural Resources.

18 Q All right. Back in August of 2019, where were you
19 employed then?

20 A I was an investigator with the
21 Cherokee County Sheriff's Office.

22 Q And how long did you work for the sheriff's
23 office?

24 A I started with the sheriff's office at the
25 beginning of 2009.

Testimony of Brandon Gardner

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1 Q See about -- how long did you work there?

2 A Up until the beginning of this year, so
3 almost 11 years.

4 Q Why did you go to DNR?

5 A Telling a long story, generic, me and my wife
6 lost a child to a stillbirth two years ago. And
7 she owns her own business. And, kind of, just
8 releasing some stress, I enjoyed the outdoors.
9 The opportunity come up with the South Carolina
10 Department of Natural Resources and it was just a
11 better fit for me and my family.

12 Q And you're a very active hunter and fisherman as
13 well, is that fair to say?

14 A Yes, sir.

15 Q Back in August of 2019, what were your
16 responsibilities then?

17 A I was assigned to the criminal investigation
18 division, so investigating any crimes outside of
19 what the narcotics unit investigated. So any
20 crimes from theft, larceny, shootings, any crime
21 requiring an investigation.

22 Q And before that, did you work any other kind of
23 crimes as well?

24 A I was in the narcotics unit, special
25 investigation division, from 2011 up until

Testimony of Brandon Gardner

157

1 beginning of 2018.

2 Q All right. In conjunction with a case dealing
3 with Mr. Smith and just dealing with narcotics, did
4 you execute a search warrant on his Facebook
5 records?

6 A I did.

7 Q All right. Did you receive records back from
8 Facebook?

9 A I did.

10 Q How would you describe those records, like one
11 page?

12 A It's several pages.

13 Q Hundreds, is that fair to say?

14 A Yes, sir. Yes, sir.

15 Q We're not going to go through all of those, but I
16 do want to show you State's 20.

17 (STATE EXH. 20, Facebook posts, was
18 marked for identification.)

19 BY MR. KENDALL:

20 Q If you could, please take a look at that.

21 A Yes, sir.

22 Q And what is that?

23 A It's page 1 of the Facebook business records.
24 Just one of the documents that was provided to us
25 through Facebook.

1 Q All right. On that page, does it have -- what
2 Facebook name is that in reference to?

3 A The user name is Buddy Dawkins.

4 Q All right. What is the email address associated
5 with that account?

6 A The two registered emails addresses provided
7 as one was bryson.smith87@yahoo.com, and the other
8 one is bryson.smith.587@facebook.com.

9 Q So for both of those, the name was Buddy Dawkins.
10 The actual email associated with it was Bryson
11 Smith?

12 A That's correct.

13 Q All right. Is that a fair and accurate
14 representation of what you received from Facebook?

15 A Yes, sir.

16 MR. KENDALL: Your Honor, we offer
17 State's Exhibit 20 into evidence.

18 MR. SCHULTZ: Objection as previously
19 noted on authentication and hearsay.

20 THE COURT: Objection is overruled. It's
21 admitted.

22 MR. SCHULTZ: Thank you, Judge.

23 (STATE EXH. 20, Facebook posts, was entered
24 into evidence.)

25 (STATE EXH. 10, Facebook posts, was marked

Testimony of Brandon Gardner

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1 for identification.)

2 BY MR. KENDALL:

3 Q Now, I'm also going to show you State's Exhibit
4 10. Could you take a look at that, please?

5 A Yes, sir.

6 Q And what is that?

7 A It is part of the chat log between Buddy
8 Dawkins and the other individuals.

9 Q All right. And that's a fair and accurate
10 representation of what you received?

11 A Yes, sir.

12 MR. KENDALL: Your Honor, we offer
13 State's Exhibit 10 into evidence.

14 MR. SCHULTZ: Objection previously noted
15 under authentication and hearsay.

16 THE COURT: Objection is overruled. It's
17 admitted. State's Exhibit 10 is admitted.

18 (STATE EXH. 10, Facebook posts, was entered
19 into evidence.)

20 BY MR. KENDALL:

21 Q All right. On this conversation, could you please
22 take a look at -- starting here and going down as to
23 what this conversation entails.

24 A August 9th, 2019, Adonis Willis sent, "Cous,
25 you got some beans?" Buddy Dawkins responded, "I

Testimony of Brandon Gardner

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1 can get them." Adonis sent, "Hell, I did want
2 that many. You don't have to go out of your way,
3 Buzz." Buddy Dawkins responds, "I can get Percs,
4 too." Adonis, "I don't do them." Buddy said,
5 "Hit me for five bails," to Q. Longway Horton. He
6 responded, "Shid," s-h-i-d. Buddy Dawkins, "Hell,
7 ya." Longway Horton said, "Cant trust these...,"
8 N word, "Fam, they be hating on the law."

9 Q Okay. I'm sorry. Sorry, if you could continue on
10 reading that. I apologize.

11 A Yes, sir. Buddy Dawkins said, "FR fam." Q.
12 Longway Horton said, "I got these when I see you
13 though on my GMA." Q. Longway Horton said,
14 "What's up...," F word, "...give me three run.
15 Go meet on my Grandma Gloria. I ain't never shit
16 you." Buddy replied, "What you trying to get,
17 Fam?" Q. Longway Horton says, "Weed."
18 Buddy Dawkins said, "I only got Percs right now."
19 Q. Longway responded, "Word, word."

20 Q Okay. What was the date -- I'm sorry. What was
21 the date on that last conversation?

22 A The last sent messages on that was
23 August 11th, 2019.

24 Q Okay.

25 A Universal time was 0038.

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1 Q So on that one, Mr. Smith has Percs. Is that fair
2 to say?

3 A He sent a message saying, "I've only got
4 Percs," August 10th, 2019 at 3:23 universal
5 time.

6 Q All right. So a day or so ahead of this, is that
7 fair to say?

8 A Yes, sir.

9 Q All right. And going back to his previous
10 conversation, when did he say he could get Percs?

11 A He sent a message to Adonis P. Willis on
12 August 9, 2019. He says, "I can get Percs, too."

13 Q Okay. So, initially, on August 9th, he did not
14 have any. By the 10th or the 11th he does, is that
15 fair to say?

16 A By this information, yes, sir.

17 Q Okay. And what does using "Percs" typically refer
18 to?

19 A Percocets would be -- Percs or Percocets, it
20 means, would be my opinion, some type of pill.

21 Q Okay. And what are Percocets? Do you recall that
22 from your narcotics days, generally speaking?

23 A It's a pain medication.

24 Q Okay.

25 MR. KENDALL: Please answer any questions

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1 Mr. Schultz has.

2 THE WITNESS: Yes, sir.

3 CROSS-EXAMINATION

4 BY MR. SCHULTZ:

5 Q Officer Gardner, you are no longer with the
6 Cherokee County Sheriff's Office, correct?

7 A I'm not. I'm a game warden for the
8 Department of Natural Resources.

9 Q Game warden, okay.

10 I'm referring to State's Exhibit 10 now.
11 You testified at least you thought that Buddy
12 Dawkins was Bryson Smith, my client.

13 A That's correct.

14 Q All right. And you're positive of that?

15 A I'm certain that that is Buddy Dawkins.

16 Q You're certain of it.

17 Okay. Did you -- when you -- and I want to
18 really know, kind of, how you went about requesting
19 these Facebook business records. When you request
20 Facebook business records, what do you do as far as --
21 you went through it briefly with Mr. Kendall, but
22 could you detail to the jury what you do again when
23 you request Facebook records?

24 A Sure. So Facebook, there's a police or law
25 enforcement rights. What it is is that you have

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1 to write credentials to prove to them that you're
2 law enforcement. Once that's approved, you can
3 preserve, just, kind of, hold that. So if there's
4 an active investigation, then, you know, you
5 believe that there may be information on Facebook.
6 You can preserve it, which means that that user
7 couldn't delete anything. I'm not exactly how
8 long they'll preserve it. They preserve it for an
9 amount of time, and then you have to send them a
10 search warrant. So we had to obtain a search
11 warrant, send it to them, their legal team reviews
12 the search warrant to make it's authenticated, and
13 they provide the results which was requested
14 through the search warrant. And they send it
15 back -- it's similar to an email. It comes back
16 through the Facebook portal.

17 Q Do you know what an Internet protocol address is?

18 A An IP address.

19 Q Yes, sir. What is it?

20 A To my knowledge, I'm not a computer expert,
21 the IP address would associate what device
22 activated it, or the Internet home, I guess.

23 Q All right. So would this be a fair statement to
24 say, I go on a -- I go on Facebook and I use a
25 different name, right, but I'm at my house using my

1 whatever Internet provider I use, right?

2 A Correct.

3 Q You got me so far?

4 A Yes, sir.

5 Q Okay. So, if you wanted to investigate me, for
6 instance, you could trace me back to whatever ISP or
7 Internet service provider, or IP, Internet protocol
8 address, I use on Facebook; is that correct, officer?

9 A A lot of times in other investigations, I
10 wish it was that easy. There's a lot of device
11 software out there that you can clean out IP
12 addresses. Sometimes IP addresses is associated
13 with different accounts.

14 But, yes, it is possible that if you serve an
15 IP address, you can come back to the Internet server
16 and be able to associate a home residence associated
17 with that.

18 Q So I guess it is possible. Under those
19 complications regarding it and everything. But it is
20 possible in the example that I used for you to trace
21 me back to the Internet protocol address that I use
22 when I log into Facebook, correct?

23 A It would be possible.

24 Q All right, thank you.

25 Was anything like that, that Internet

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1 protocol search, done in this case? Yes or no?

2 A It was not.

3 Q So the answer is no?

4 A That's correct.

5 Q Okay, thank you.

6 The correspondences that you read here to
7 Mr. Kendall a couple of minutes ago, do any of these
8 correspondences -- do they reference any marijuana
9 deals?

10 A Yes, sir.

11 Q Do they reference any Percocet deals?

12 A Yes, sir.

13 Q Do they reference any methamphetamine?

14 A Those that I read, I don't believe do. No,
15 sir.

16 Q Do they reference any heroin?

17 A No, sir.

18 Q All right. Do they reference any other drug
19 besides Percocet and marijuana?

20 A The reference of "beans," and I don't know --
21 in my experience in narcotics people call drugs
22 beans. I'm not sure what beans was referring to.
23 If I had to guess, it would be pills.

24 Q What kind of pills?

25 A Like I say, you know, kind of dealing with

1 different areas and investigating narcotics,
2 different people call different drugs different
3 things. It's just my opinion, it's only my
4 opinion, it's some type of pill. I wouldn't know
5 whether it would be -- I would assume it would be
6 illegal. You know, we'd call it Tylenol, but
7 anything from Tylenol to Fentanyl to some type
8 opiate. I'm not sure.

9 Q But the correct answer is, really, you don't know,
10 right? It could be Tylenol. It could be anything,
11 right?

12 A I would assume that if they were dealing with
13 legal drugs, they would call it by their name
14 instead of beans.

15 Q All right. What about Xanax? Any references to
16 Xanax or anything like that in their correspondences?

17 A To my knowledge, I never heard of people
18 calling Xanax beans. There's typical other names,
19 but it could have been a name for Xanax, but I'm
20 not sure.

21 Q Are you familiar with a nickname of beans for
22 Xanax?

23 A I said I'm not.

24 Q Okay, thank you.

25 So, where is the -- I'm curious. What about

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1 Ectasy, anything with that in here?

2 A There's no Ectasy mentioned in there.

3 Q Did you want to see it again just to make sure?

4 A I'm pretty certain.

5 Q All right.

6 MR. SCHULTZ: I beg the Court's
7 indulgence, Your Honor.

8 THE COURT: Sure.

9 MR. SCHULTZ: Thank you. That's all I
10 have, Judge. Thank you.

11 THE COURT: Anything at all, Mr. Kendall?

12 MR. KENDALL: Very quickly, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. KENDALL:

15 Q Just a couple things. When we talk about pills
16 and Percocets and things like that, are we always
17 talking about, like, pharmaceutical grade things that
18 were, like, created in a lab and sent out to a
19 pharmacy?

20 A Sometimes people can make their own.

21 Q And things like Fentanyl, heroin, hydrocodone, and
22 things like that, what kind of general family would
23 that be in?

24 MR. SCHULTZ: Objection, Your Honor. I
25 think Mr. Kendall is purporting to almost

1 establish this officer as a drug expert.

2 MR. KENDALL: We'll just get the expert
3 to do it. That's okay. We'll just get the expert
4 to do it. That's no problem.

5 THE COURT: Okay.

6 BY MR. KENDALL:

7 Q You testified a moment ago when Mr. Schultz asked
8 you why you were certain it was Bryson Smith. How did
9 you know that?

10 A Typically, I understand that there can be
11 fraud, so to speak, on Facebook, and all social
12 media. But having investigated other cases where
13 the possibility of having been fraud, in this
14 particular case, all the photos were of Bryson,
15 and I understand that they can be obtained if you
16 make your profile public, or whatnot.

17 But the messages back and forth, like I said,
18 there was hundreds of results from very intimate
19 details, and then through other investigations, people
20 that we spoke to admitted that they were talking to
21 Bryson.

22 Q Did you know Bryson apart from this?

23 A I did.

24 Q So you were able to identify him as well.

25 A Yes, sir.

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1 Q Is that fair to say?

2 A That's fair to say, yes, sir.

3 THE COURT: No further questions,

4 Your Honor.

5 MR. SCHULTZ: Just a couple more on that
6 into.

7 THE COURT: Okay.

8 MR. SCHULTZ: Yes, sir.

9 RECROSS-EXAMINATION

10 BY MR. SCHULTZ:

11 Q You said you were certain it was Bryson --
12 Bryson Smith was Buddy, right?

13 A Right.

14 Q So you mentioned that -- just in redirect there,
15 that, yes, there is fraud, right?

16 A In other cases, yes, sir.

17 Q In other cases, okay. But you never saw -- okay,
18 I just want to be clear on this, okay, you never saw
19 Bryson Smith behind the computer or behind a phone
20 actually texting whom you allege Mr. Smith to be
21 texting, right? You never saw that actually happen in
22 your personal knowledge, right?

23 A I was never with Bryson while he was on
24 Facebook. We're not that type of friends.

25 Q Or Buddy Dawkins, whoever that is?

1 A Correct.

2 Q Okay. So how could you be certain?

3 A Once again, typically, when they fake a
4 profile, you might have pictures, conversations
5 with people that are very close to that person,
6 they're going to know he's a fake person. You
7 know, if I'm talking to a buddy of mine about
8 something we did yesterday, I'm not going to have
9 that information unless it's really me.

10 Q But it could be, indeed -- you just admitted, it
11 could be a fake person?

12 A It's highly unlikely.

13 Q But it could be, correct?

14 A My answer is, it's highly unlikely in this
15 case.

16 Q But it could be.

17 THE COURT: Let's not get argumentative
18 with the witness.

19 MR. SCHULTZ: Yes, sir.

20 THE COURT: Move on.

21 MR. SCHULTZ: Thank you.

22 THE COURT: Thank you.

23 Sir, you may step down. Please be
24 careful.

25 MS. LESKANIC: The State calls Alexis

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1 Fowler.

2 THE COURT: Let's do this. We've been
3 running an hour and a half. Let's take a
4 15-minute break.

5 THE COURT: Madame Forelady, Ladies and
6 Gentlemen, I have to tell you we've been going
7 about 90 minutes, about an hour and a half, and
8 we're there. We're right on that top of that, so
9 let's take about a 15-minute break. Let me ask
10 you real quick, is there a smoker? I hope not,
11 but is there a smoker on the jury? Okay, very
12 good. If there were, you would have to be
13 escorted outside the building.

14 All right. With that, we'll take a quick
15 15-minute break. Just, kind of, refresh
16 yourselves. Get some water. They're going to
17 split you between two rooms so that you have some
18 more social distance area. I think they're going
19 to be the two rooms right back here.

20 Is that what you're going to do, Ms. Brandy?

21 THE CLERK: Yes.

22 THE COURT: Very good. Madame Forelady,
23 take the jury out. Don't talk about the case.

24 (Jury exits the courtroom at 2:24 p.m.)

25 THE COURT: Okay. For planning purposes,

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1 we've got somebody that came here from Tennessee
2 to do a plea at, like, 4:45 that Brandy had set
3 up.

4 MS. LESKANIC: I'm on that, Your Honor.

5 THE COURT: But they're here.

6 MS. LESKANIC: Okay.

7 THE COURT: Supposed to be. Brandy is
8 telling me, so we need to do that before we end
9 the day.

10 MS. LESKANIC: Yes, sir.

11 THE COURT: We have to stop at 5:00
12 today. I have a meeting in Spartanburg at 5:30.

13 MS. LESKANIC: Yes, sir.

14 THE COURT: So just for planning
15 purposes, I know you got folks you got to get up
16 today.

17 We will take a quick break here.

18 (A break was taken 2:26 p.m. to 2:45 p.m.)

19 THE BAILIFF: Remain seated. Come to
20 order.

21 MR. KENDALL: We have one issue, if we could
22 discuss it with Your Honor?

23 THE COURT: Yeah.

24 (Bench conference off the record 2:45 to 2:53 p.m.)

25 THE WITNESS: Remain seated. Come to

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1 order.

2 THE COURT: Remain seated. Thank you.

3 Thank you.

4 Are we ready for the jury?

5 MR. KENDALL: Yes, sir.

6 MR. SCHULTZ: Yes, sir.

7 THE COURT: We'll have the jury.

8 (Jury enters the courtroom at 2:53 p.m.)

9 THE COURT: All right. Everybody good,
10 Madame Forelady?

11 FOREPERSON: Yes, sir.

12 THE COURT: There you go.

13 Solicitor.

14 MS. LESKANIC: May it please the Court?
15 The State calls Alexis Fowler.

16 THE CLERK: If you'll step up here, and
17 raise your right hand, place your left on the
18 Bible. Do you solemnly swear or affirm the
19 testimony you give to this Court will be the
20 truth, the whole truth, and nothing but the truth
21 so help you God?

22 THE WITNESS: I do.

23 THE COURT: Agent, if you would tell
24 us -- in a little louder voice if you will tell us
25 who you are, and spell your last name for my court

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1 reporter.

2 THE WITNESS: My name is Alexis Fowler,
3 and my name is spelled F-o-w-l-e-r.

4 THE COURT: Thank you.

5 Solicitor.

6 MS. LESKANIC: Thank you, very much.

7 WHEREUPON:

8 ALEXIS FOWLER,
9 after having been sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. LESKANIC:

12 Q Miss Fowler, will you please tell the ladies and
13 gentlemen of the jury where you were employed?

14 A I am employed with the South Carolina Law
15 Enforcement division, commonly known as SLED.

16 Q Where is SLED located?

17 A It's located in Columbia, South Carolina.

18 Q All right. And what are your duties currently at
19 SLED?

20 A As a forensic technician, I retrieve evidence
21 from evidence control, maintain the chain of
22 custody, perform preliminary screening for
23 cannabis analysis, as well as give aliquot to the
24 analysis for the processing.

25 Q Okay. What type of education or training have you

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1 received in order to become a forensic technician?

2 A I received my bachelor's of science degree
3 from Francis Marion University in biology, and I
4 received in-house training from SLED in cannabis
5 analysis from the drug analysis department.

6 Q So do you work specifically with cannabis
7 analysis?

8 A Yes.

9 Q All right. And, approximately, how many times
10 have you tested a substance to determine whether
11 there's a presence of cannabis?

12 A Well over 500 times.

13 Q And for the rest of us, what is cannabis? What do
14 we call cannabis on a day-to-day basis?

15 A Cannabis is -- could also have a street term
16 name as marijuana.

17 Q Okay, very good. So you analyze substances to
18 determine whether cannabis is present to make a
19 determination or part of the determination of whether
20 it will be marijuana?

21 A I perform a screening for cannabis
22 analysis.

23 Q Okay, very good. And you've done that well over
24 500 times?

25 A Yes.

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1 MS. LESKANIC: Your Honor, at this time,
2 I would offer Alexis Fowler as an expert in the
3 field of cannabis identification.

4 THE COURT: Any questions?

5 MR. SCHULTZ: No, not at this time, Your
6 Honor, as far as officer her qualifications go.
7 But I do not object to her qualifications as a
8 witness.

9 THE COURT: Ladies and Gentlemen -- it's
10 without objection, right?

11 MR. SCHULTZ: Yes, sir. As far as the
12 cannabis identification goes.

13 THE COURT: Ladies and Gentlemen, this
14 witness is now being offered as an expert in
15 cannabis identification. That does not mean --
16 and she's offered as an expert due to her skill,
17 training, and education, she is now qualified as
18 an expert. You give what weight you deem
19 appropriate to her testimony.

20 Thank you.

21 MS. LESKANIC: Thank you, Your Honor.
22 May I approach the witness?

23 THE COURT: Yes, ma'am.

24 MS. LESKANIC: Thank you.

25 BY MS. LESKANIC:

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(STATE EXH. 1, Cannabis evidence, was marked

1 for identification.)

2 BY MS. LESKANIC:

3 Q I'm going to show what you what's been marked
4 State's Exhibit 1. If you would take a look at that
5 for a moment, and tell me if you recognize that?

6 A I do.

7 Q Okay. And what is that, and how can you identify
8 it?

9 A This is a SLED evidence bag, and it is heat
10 sealed. And I can identify it with my initials as
11 well as the date, which is sealed.

12 Q And can you please explain to the jury how that
13 particular item of evidence came into your
14 possession?

15 A Yes. May I refer to my notes?

16 Q Ma'am?

17 A May I refer to my notes?

18 Q Yes, please.

19 A I received this item on -- sorry. I received
20 this item on August the 14th from the secured
21 upstairs drug analysis vault.

22 Q Is that located at SLED?

23 A It is.

24 Q Okay. And then what do you do once you retrieve
25

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1 the item of evidence from the secured vault?

2 A After retrieving this item, I make sure that
3 it was sealed when I received it. In this
4 instance, it was sealed. I then open the
5 heat-sealed pouch. After I open the pouch, I
6 remove all items. After removing the items, I
7 then itemize each item, take a wick and perform an
8 indicative screening.

9 After that, I take an aliquot, which is
10 just a representative sample of the item, and then
11 put the aliquot in a test tube cap -- a
12 water-sealed cap, label it with my initials as
13 well as the lab number and item number, and I
14 directly transfer the aliquot to the analyst for
15 further processing.

16 Q Okay. I want to back up a little bit because
17 we've taken you a little bit out of order today as far
18 as witnesses.

19 Now, you stated when you received this
20 item of evidence, State's Exhibit 1, it was in a
21 heat-sealed pouch. Is that a tamper evident
22 package where if someone had tried to open it or
23 do anything with it that would have been obvious
24 to you?

25 A Yes. It would be obvious to me. Again,

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1 because when I received it, it had the previous
2 analyst who sealed it, initials and date, and it
3 was heat sealed. So if it was tampered with in
4 any way, I would be able to tell.

5 Q Okay. And, in this case, had anything been
6 tampered with?

7 A No.

8 Q And so, at that point, you went forward with your
9 indicative testing?

10 A Correct.

11 Q Now, do you weigh the substance first or do you do
12 your indicative testing first?

13 A After removing all items from the heat-sealed
14 pouch in this case, I itemize it, which is just
15 writing down what I see. I then take a net weight
16 of the sample and then perform my indicative
17 tests.

18 Q And, in this case, what was the net weight of
19 State's Exhibit 1?

20 A The net weight for this item was -- excuse
21 me. The net weight of this item was 149 grams.

22 Q After weighing the substance, what is the next
23 process that you do? I know you briefly gone over it
24 but just again.

25 A I perform an indicative screening for

1 cannabis.

2 Q And what does that entail? How do you do that?

3 A For this item, I perform a microscopic test,
4 and this test looks for three hairs that are
5 consistent with the cannabis plant.

6 Q And did you find those three hairs? Was it a
7 positive indicative test in this case for cannabis?

8 A Yes.

9 Q And so then what did you do with the sample from
10 State's Exhibit 1?

11 A I took an aliquot sample from the evidence --
12 again, that's just a representative sample -- and
13 I placed it in a test tube that's capped and is
14 watertight. I labeled it with my lab number, item
15 number, and initials, and directly transferred it
16 person-to-person to the analyst for further
17 processing.

18 Q And who was that other analyst that you did the
19 hand-to-hand transfer with?

20 A Ashley Lyles.

21 Q Okay. So, just in simple terms, you took a sample
22 from State's Exhibit 1 and placed that sample into a
23 test tube that is capped, and you handed just a small
24 portion, a sample, of State's Exhibit 1 to the next
25 analyst.

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1 A Yes.

2 Q Okay. And then what do you do with
3 State's Exhibit 1 once you have taken the sample and
4 delivered that to the other analyst?

5 A Once my analysis is completed I then initial
6 and date the heat-sealed pouch. Well, I initial
7 and date it, and then I heat sealed the pouch and
8 placed it into our secured drug analysis vault
9 upstairs until it's needed to be taken downstairs.

10 Q Okay. And is this State's Exhibit 1 in the same
11 condition that it was when you sealed it back?

12 A Yes.

13 Q Okay. Those are all the questions I have for you.
14 Please answer any questions that Mr. Schultz may have.

15 CROSS-EXAMINATION

16 BY MR. SCHULTZ:

17 Q You only tested marijuana, correct, in this case,
18 or no?

19 A I performed a preliminary screening for
20 cannabis analysis.

21 Q Okay. So cannabis analysis, right?

22 A Correct.

23 Q That's the only thing you did in this case, right?
24 That was the only test you performed, right?

25 A Indicative screening for cannabis analysis,

1 right?

2 Q All right. Cannabis analysis.

3 Now, there's two types of cannabis, correct?

4 A I know of just cannabis.

5 Q Okay. What about cannabis sativa?

6 A It is a cannabis plant.

7 Q Okay. What about cannabis indica?

8 A It's a cannabis plant.

9 Q Okay. Are both illegal?

10 A So I don't deal with legality. I do a
11 screening for cannabis analysis.

12 Q All right. What did this -- that bag that you
13 have in front of you there, okay, State's Exhibit 1,
14 is that cannabis indica or cannabis sativa?

15 A Our screening does not require that. I just
16 simply identify if it is, indeed, cannabis.

17 Q So it's part of the cannabis family?

18 A My results were positive for cannabis.

19 Q All right. Is cannabis the same as marijuana?

20 A For my scope, all I do is identify if the
21 item is cannabis.

22 Q So you can't say right now if it's marijuana, can
23 you?

24 A I cannot.

25 Q Thank you.

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1 MR. SCHULTZ: That's all I have, Judge.

2 THE COURT: All right. Anything.

3 MS. LESKANIC: Briefly, Your Honor.

4 REDIRECT EXAMINATION

5 BY MS. LESKANIC:

6 Q Just to clarify: How many analysts at SLED are
7 involved in the identification of whether or not a
8 plant is marijuana?

9 A We have a few analysts that actually deals
10 with the reporting of marijuana.

11 Q Okay. And is your role to look at a green
12 plant-like substance and do the microscopic indicative
13 test to look for the three hairs to say yes or no,
14 this is cannabis?

15 A Yes.

16 Q Okay. And if it's not cannabis, does it go to
17 another analyst, or is it done?

18 A Yes. If it is not cannabis, I would then
19 transfer to the appropriate analyst.

20 Q Okay. But, in this case, the indicative test was
21 that it is cannabis.

22 A Yes.

23 Q And because of that, you were then going to -- you
24 did the hand-to-hand transfer with the next analyst to
25 actually make a determination of whether or not --

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1 what the level of THC or whether or not it is
2 marijuana. You were simply doing the indicative test
3 to determine where it needs to go next?

4 A Yes.

5 Q Okay. Thank you very much.

6 MR. SCHULTZ: Nothing further.

7 THE COURT: Okay. Agent, you may step
8 down. Please be careful.

9 MS. LESKANIC: The State calls
10 Ashley Lyles.

11 THE CLERK: Please raise your right hand
12 and place left on the Bible. Do you solemnly
13 swear or affirm the testimony you give to this
14 Court will be the truth, the whole truth, and
15 nothing but the truth so help you God?

16 THE WITNESS: Yes, I do.

17 THE CLERK: Okay.

18 THE COURT: Agent, I'm going to ask you
19 to speak a little louder than usual. You have a
20 soft voice. But if you'll speak a little louder,
21 please, due to the mask, and tell us who you are
22 and spell your last name for my court reporter.

23 THE WITNESS: My name Ashley Lyles,
24 L-y-l-e-s.

25 THE COURT: Thank you.

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Solicitor.

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MS. LESKANIC: Thank you, Your Honor.

WHEREUPON:

ASHLEY LYLES,
after having been sworn, testified as follows:

DIRECT EXAMINATION

BY MS. LESKANIC:

Q Will you please introduce yourself to the jury,
tell them where you work, and how long you have been
employed there?

A Yes. My name is Ashley Lyles. I work at the
South Carolina Law Enforcement Division. We are
commonly referred to as SLED. And I've been there
for approximately five and a half years.

Q What are your current duties at SLED?

A My current duties include cannabis analysis
and analyzing evidence items for the presence or
absence of controlled substances.

Subsequently, I document the results of my
findings, I generate a report based on my findings,
and I testify to those reports.

THE COURT: Let me ask this: Can the
jury hear?

JURY PANEL: No.

JUROR: Not through the mask.

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1 THE COURT: Do you mind moving your mask
2 down.

3 THE WITNESS: Is this better?

4 MS. LESKANIC: Thank you, Your Honor.

5 BY MS. LESKANIC:

6 Q Would you please tell the jury about your
7 education and training to do the job that you do at
8 SLED?

9 A Yes, ma'am. I have a bachelor of science
10 degree in biochemistry from Washington and Lee
11 University. I have undergone training at SLED in
12 cannabis analysis and forensic drug chemistry. I
13 have also successfully completed on-line
14 coursework with West Virginia University in
15 forensic drug chemistry and mass spectrometry.

16 Q So you are a forensic scientist at SLED and you
17 work in the drug analysis department?

18 A That is correct.

19 Q And, in your, I think, over five years at SLED,
20 have you always worked in the drug analysis
21 department?

22 A I have been employed with SLED for a total of
23 eight years. However, I've spent the past five
24 and a half years in drug analysis.

25 Q Have you always worked just with cannabis

Testimony of Alexis Fowler

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1 analysis?

2 A I have. Currently, in a slightly different
3 way, though.

4 Q In this case, were you asked to analyze
5 State's Exhibit 1?

6 A Yes, I was.

7 Q Okay. Let me get back --

8 MS. LESKANIC: Your Honor, before I
9 continue, at this time, I would like to offer
10 Miss Lyles as an expert in the field of cannabis
11 identification and analysis.

12 THE COURT: Any questions as to her
13 qualifications?

14 MR. SCHULTZ: No, sir.

15 THE COURT: Ladies and Gentlemen, once
16 again, most people cannot give opinion in
17 testimony. They must testify to something they
18 see or know of their own personal knowledge.

19 However, the law does allow for someone
20 to be qualified as an expert due to their
21 training, skill, and education.

22 This person is now qualified as an expert
23 in cannabis identification and analysis. That
24 does not mean you must accept her opinion. You
25 give it whatever weight you deem advisable.

Testimony of Alexis Fowler
Solicitor.

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MS. LESKANIC: Thank you.

BY MS. LESKANIC:

Q I believe you were just in here for Miss Fowler's testimony who testified that she had done an indicative test on plant-like material from State's Exhibit 1, that she found the presence of cannabis, and that she placed those items into a test tube that was capped so it was airtight and watertight. She testified that she hand-delivered that test tube to you; is that correct?

A Yes, that is correct.

Q Okay. Can you please explain to the jury why you have that process and then what you do with the test tube with a portion of State's Exhibit 1?

A That process, or the process is done in that manner because of the way that SLED sub-itemizes evidence items that are brought in.

In this particular case, because of the transfer taking place, there's already been some itemization and we cannot create more, so the transfer is person to person.

That test tube, again, is capped. It's airtight and it's safe from water. It comes with the lab number and the item number on the test

Testimony of Alexis Fowler

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1 tube so I always know that that sample belongs to
2 this case.

3 In terms of what I do, once I receive
4 that test tube, I will go through an extraction
5 process which involves chemicals and solvents.
6 And I place an extract in the extraction process.
7 And I take an extraction from my test tube and
8 place it into a small vial that goes on to our
9 vile that goes onto our gas chromatograph, mass
10 spectrometer, which is our instrument that we use
11 for confirmatory testing.

12 That vial undergoes confirmatory testing on
13 the GCMS instrumentation, and I am able to identify
14 plant material that has a THC concentration that's
15 greater than the lower limit through that confirmatory
16 testing.

17 Q And were you able to do the confirmatory testing
18 in this case with the sample that was provided?

19 A Yes, I was.

20 Q And what were your results of that confirmatory
21 testing?

22 A Marijuana C-1 found in the sample testing,
23 one tested. Net weight 149 plus or minus one
24 gram, 5.25 plus or minus 0.04 ounces.

25 Q Okay. And when you say marijuana C-1, for the

Testimony of Alexis Fowler

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1 benefit of the jury, what does that C-1 stand for?

2 A That is the controlled status of marijuana.

3 All controlled substances are placed into a
4 controlled status or a schedule starting with
5 number one and going down to number five.

6 Q So marijuana is a schedule I drug in the state of
7 South Carolina?

8 A That is correct.

9 Q Okay. And that is what your confirmatory test
10 showed was that the sample that was provided to you by
11 Miss Fowler that was taken from State's Exhibit 1 was,
12 in fact, marijuana?

13 A That is correct.

14 Q Okay. And how were you able, again, to link the
15 test tube with the larger sample that Miss Fowler had
16 in her possession?

17 A Miss Fowler would have labeled that test tube
18 with the item number and the lab number that was
19 present on the evidence in that exhibit. And that
20 lab number and item number and item number is on
21 the test tube linking back to that packaging?

22 Q Very good. And then you have a computer system, I
23 assume, at SLED that links these cases together and a
24 chain of custody showing that?

25 A That's correct.

Testimony of Alexis Fowler

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1 Q And then what happens to the sample that was
2 provided to you in the test tube after you finish your
3 testing?

4 A Since it is a representative sample and it
5 has been saturated with chemicals and solvates and
6 it's such a tiny amount, it is actually discarded
7 in a specific waste and glass container.

8 Q Okay. So it is not returned back to the sample
9 that Miss Fowler had and resealed?

10 A That is correct. It's what has been through
11 a long process, so it does not return to that
12 packaging.

13 Q During your testing, were you able to determine a
14 threshold amount of THC present in this sample?

15 A I was able to -- can you word your question
16 another way for me, please?

17 Q How do you make the determination whether or not
18 this is marijuana in the confirmatory testing? What
19 do you look for?

20 A Okay. We are using a screening method
21 through our GCMS instrumentation and we have a
22 reporting limit that is set. And that reporting
23 limit is three times the legal limit of what is
24 allowed to be present in cannabis.

25 Q And so was the amount that you found in this case

1 over the legal limit allowed?

2 A Yes, it was.

3 MS. LESKANIC: Thank you very much.

4 Please answer any questions Mr. Schultz has.

5 MR. SCHULTZ: Thank you, Judge. May it
6 please the Court?

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION

9 BY MR. SCHULTZ:

10 Q What does THC stand for?

11 A I want to make sure I'm saying this
12 correctly. THC stands for
13 Delta-9-tetrahydrocannabinol. It's a very long
14 word.

15 Q So tetrahydrocannabinol, right?

16 A Yes.

17 Q Okay, very good. There was 149 grams of this
18 substance that you tested, right? You did the test
19 for that, right?

20 A Yes, sir.

21 Q Okay. And this was not an indicative or
22 presumptive test. This was an actual test, right?

23 A I did a confirmatory test on the sample given
24 to me, yes.

25 Q All right. And you've done, probably, at this

Testimony of Alexis Fowler

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1 point, probably thousands of tests, right?

2 A Hundreds, perhaps thousands, yes.

3 Q And the question I have for a previous witness
4 there, was this cannabis indica or cannabis sativa?

5 A That is not a part of our reporting
6 procedure. This confirmatory test looked at the
7 concentration of THC present in the plant
8 material.

9 Q Thank you.

10 MR. SCHULTZ: That's all I have, Judge.
11 Thank you.

12 THE COURT: Thank you. Anything else?

13 MS. LESKANIC: No, Your Honor.

14 THE COURT: Agent, you may step down.
15 Please be careful.

16 MS. LESKANIC: The State calls
17 Maribeth McCormack.

18 THE CLERK: Please raise your right hand.
19 Do you solemnly swear or affirm the testimony you
20 give to this Court will be the truth, the whole
21 truth, and nothing but the truth so help you God?

22 THE WITNESS: Yes.

23 THE COURT: Agent, if you will tell us
24 who you are and spell your last name for my court
25 reporter, please.

Testimony of Maribeth McCormack

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1 THE WITNESS: Yes. My name is Maribeth
2 McCormack, M-c-C-o-r-m-a-c-k.

3 THE COURT: Solicitor.

4 MS. LESKANIC: Thank you, Your Honor.
5 May it please the Court?

6 WHEREUPON:

7 MARIBETH MCCORMACK,
8 after having been sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. LESKANIC:

11 Q Would you please tell the ladies and gentlemen of
12 the jury where you are employed?

13 A Yes. I'm employed at the South Carolina Law
14 Enforcement Division, commonly known as SLED.

15 Q And how long have you been employed there?

16 A For 12 and a half years.

17 Q Okay. Would you please tell the jury what your
18 duties are currently at SLED?

19 A Yes. I'm a forensic scientist in the drug
20 analysis department, and I analyze evidence for
21 the presence of controlled substance.

22 Q How long have you held that position?

23 A For 12 and a half years.

24 Q Would you please tell the jury about your
25 education and training in order to hold that position

Testimony of Maribeth McCormack

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1 at SLED?

2 A I have a bachelor of science degree in
3 chemistry and also a master of teaching chemistry
4 and physics both from the University of
5 South Carolina. I completed training at the drug
6 analysis department. I've also attended the Drug
7 Enforcement Administration forensic chemist
8 training.

9 Q Okay. And do you have occasions as a drug analyst
10 at SLED to look at substances to determine whether
11 they are a narcotic or they're some sort of narcotic
12 present in that substance?

13 A Yes.

14 Q And, approximately, how many times have you
15 analyzed substances at SLED to determine if they are,
16 in fact, a drug?

17 A Approximately 10,000 times.

18 MS. LESKANIC: Your Honor, at this time,
19 I would like to offer Maribeth McCormack as an
20 expert in the field of chemistry and the analysis
21 of narcotics.

22 THE COURT: Anything about the
23 qualifications?

24 MR. SCHULTZ: No, sir.

25 THE COURT: Ladies and Gentlemen, once

Testimony of Maribeth McCormack

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1 again, this person is now being qualified as an
2 expert in chemistry and identification of --
3 narcotics?

4 MS. LESKANIC: Yes, sir, Your Honor.

5 THE COURT: Okay. Narcotics. That does
6 not mean you must accept her testimony. You give
7 whatever weight to the testimony as you deem
8 appropriate.

9 Solicitor.

10 MS. LESKANIC: Thank you, Your Honor.

11 BY MS. LESKANIC:

12 Q Miss McCormack, did you receive items of evidence
13 related to this case that you were asked to analyze?

14 A Yes.

15 Q Okay. I'm going to start: Did you prepare a
16 report of each item that you analyzed in your
17 findings?

18 A Yes.

19 Q Okay. Could you access -- do you have that report
20 with you?

21 A Yes.

22 Q Do you know how many separate items of evidence
23 you received?

24 A There are nine items.

25 Q Did you receive -- well, let me just back up.

Testimony of Maribeth McCormack

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1 How did you first receive the evidence in
2 this case?

3 A I received the evidence in a sealed box from
4 our evidence log-in department.

5 Q Okay. And did you then break the seal on that box
6 to see what was inside?

7 A Yes.

8 Q And what was inside that box?

9 A There were a variety of items inside. Would
10 you like me to go through them?

11 Q Yes. We have State's Exhibit 1, and then I have
12 several exhibits with you. Was everything contained
13 in one box?

14 A Yes.

15 Q Okay. So what has been determined to be marijuana
16 was in the box, and then items of evidence that you
17 were asked to analyze; is that correct?

18 A Yes.

19 (STATE EXH. 2, White powder, was marked for
20 identification.)

21 BY MS. LESKANIC:

22 Q Okay. I would like to go through your report. I
23 want to first show you what's been marked
24 State's Exhibit 2, and tell me if you can identify
25 this?

1 A Yes. I have the corresponding lab number,
2 item number, and my initials on the back.

3 Q Okay. And can you tell the jury what you did --
4 what item number is that for SLED? I know it's
5 State's Exhibit 2. What was your item number?

6 A It says item 1.1.

7 Q Okay. And what type of testing do you do with
8 that substance?

9 A Well, the first thing I did was take a weight
10 and I perform a preliminary test, which is a
11 chemical spot test. And then I performed a
12 confirmatory test which was gas chromatography,
13 mass spectrometry.

14 Q Okay. Did you document a weight on
15 State's Exhibit 2?

16 A Yes.

17 Q And what was the weight?

18 A May I refer to my notes?

19 Q Please.

20 A The weight was 28.19 grams.

21 Q And the chemical test and confirmatory test
22 results?

23 A My final results were no controlled
24 substances found.

25 Q So in that sample, you didn't find anything

Testimony of Maribeth McCormack

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1 illegal in that white powder substance; is that
2 correct?

3 A Yes.

4 (STATE EXH. 3, Cocaine sample, was marked
5 for identification.)

6 BY MS. LESKANIC:

7 Q Now, I would like to show you what has been marked
8 State's Exhibit 3. If you would take a look at that
9 and see if you can identify that and how you can
10 identify that?

11 A Yes, I see the lab number, the item number,
12 and my initials.

13 Q And what did you do with that sample?

14 A I weighed the sample. I performed a
15 preliminary test and a confirmatory test.

16 Q Okay. And what weight did you receive on that
17 sample?

18 A 2.55 grams.

19 Q Okay. And the results of your preliminary and
20 confirmatory testing?

21 A The final result was cocaine found.

22 Q Okay. And is that a controlled substance?

23 A Yes.

24 Q And what schedule?

25 A II.

1 Q So State's Exhibit 3 contains 2.55 grams of
2 cocaine; is that correct?

3 A Yes.

4 (STATE EXH. 4, Fentanyl pills, was marked
5 for identification.)

6 Q Now, I'd like to show you State's Exhibit 4. Take
7 a look at that and see if you recognize that.

8 A Yes, I do.

9 Q How do you recognize it?

10 A It has the lab number, item number, and my
11 initials.

12 Q Okay. And did you do weight and preliminary and
13 confirmatory testing on State's Exhibit 4?

14 A I did not weigh these tablets. I did a
15 preliminary test and a confirmatory test.

16 Q Okay. Did you count the tablets?

17 A Yes.

18 Q And how many tablets are there?

19 A Eighty-four, and there were also partial
20 tablets and crushed powder.

21 Q And how do you perform your test on tablets?

22 A I check the tablets for markings. In this
23 case, they did have markings on both sides. The
24 first side is RP, the second side 10/325. And I
25 took a sample for the preliminary test, spot test,

Testimony of Maribeth McCormack

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1 and the confirmatory test.

2 Q Okay.

3 A And I also compared the markings with
4 published literature for pharmaceutical
5 preparations.

6 Q Okay. And what did your investigation show?

7 A The confirmatory test confirmed Fentanyl.

8 Q Okay. Which is a controlled substance?

9 A Yes.

10 Q A Schedule II?

11 A Yes.

12 Q And what about your looking at the markings on
13 these pills, what did those markings indicate to you
14 and was that different than from the results that you
15 found?

16 A Yes. The markings are consistent with
17 pharmaceutical grade tablets that are oxycodone
18 and acetaminophen.

19 Q But that's not what the tests showed that these
20 are?

21 A Correct.

22 Q Are these counterfeit tablets or created by
23 someone of a pharmacy?

24 A Yes.

25 Q And how do you do the testing on those tablets?

1 What is the process?

2 A I would break off a portion of the tablet and
3 go through the same extraction process
4 confirmatory tests as the powder substance. Treat
5 it the same.

6 Q And looking at these pills, you may think that
7 they were prescription or pharmaceutical grade
8 oxycodone, acetaminophen, but the testing showed that
9 they were, in fact, Fentanyl pills?

10 A Yes.

11 (STATE EXH. 5, Pills, heroin and Fentanyl,
12 was marked for identification.)

13 BY MS. LESKANIC:

14 Q I'm going to show you State's Exhibit 5. If you
15 would look at that and see if you can identify that,
16 please?

17 A Yes. I see the corresponding lab number and
18 item and my initials.

19 Q Okay. What did you do with State's Exhibit 5?

20 A I -- well, inside is Ziploc bag are two
21 separate plastic bags, so I separated those two.
22 And the first plastic bag, I counted the tablets.
23 There were 69 blue tablets and partial tablets. I
24 made note of the markings. These had markings of
25 A/215, which is consistent with the pharmaceutical

Testimony of Maribeth McCormack

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1 preparation of oxycodone, and I performed the
2 preliminary spot test as well as the confirmatory
3 test.

4 Q Okay. And what did those tests show?

5 A Heroin and Fentanyl were found.

6 Q So, again, they are counterfeit. They appear to
7 be a pharmaceutical oxycodone pill, when, in fact,
8 they are heroin and Fentanyl pills; is that correct?

9 A Yes.

10 Q Are you familiar with Percocet?

11 A Yes.

12 Q What are the ingredients found in a Percocet?

13 A The ingredients in Percocet would be
14 oxycodone and acetaminophen.

15 Q So the same ingredients that are the markings that
16 were on State's Exhibit 4 --

17 A Yes.

18 Q -- the 84 tablets had a marking of a Percocet?

19 A Yes.

20 Q But they were not pharmaceutical grade pills?

21 A Correct.

22 Q Okay. And in this case, going back to
23 State's Exhibit 5, they had markings of oxycodone but
24 were, in fact, heroin and Fentanyl and there were 69
25 of those blue tablets?

1 A Yes.

2 (STATE EXH. 6, Blue tablets, was marked for
3 identification.)

4 BY MS. LESKANIC:

5 Q Now, I'm going to show you State's Exhibit 6.
6 Take a look at that and see if you recognize it?

7 A May I back up a second?

8 Q Please.

9 A The previous item, I only spoke about the
10 first Ziploc.

11 Q Yes, ma'am. Please go back. I'm sorry. That was
12 State's Exhibit 5.

13 A Yes. As I stated, there were two Ziploc
14 bags. One containing the 69 blue tablets. The
15 other bag contained blue powder substance. It
16 appeared to be either not made into a pill yet or
17 either a crushed tablet.

18 So on those, I only performed the preliminary
19 spot test. The results were consistent with the
20 previous item, so I did not do a confirmatory test on
21 those.

22 I did take a weight, and that weight added
23 with the previous item would not push it to the next
24 statutory weight threshold. That's why I did not do
25 confirmatory testing on that.

Testimony of Maribeth McCormack

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1 Q On the second bag with the powder.

2 A Yes.

3 Q But the presumptive test showed the same thing as
4 the earlier confirmatory test of heroin and
5 Fentanyl?

6 A Correct.

7 Q Okay, thank you very much. And thank you for
8 going back to that.

9 State's Exhibit 6 now.

10 A I recognize the lab number and the item
11 number and my initials.

12 Q Okay. And please tell the jury what you did and
13 what you found in that bag.

14 A There were 50 blue tablets and partial
15 tablets, so I made a note of the markings, which
16 were A-215 which is consistent with an oxycodone
17 tablet. I weighed it. I did a preliminary spot
18 test and a confirmatory test, and my result was
19 Fentanyl found.

20 Q Okay. And there were 50 blue tablets you said?

21 A Yes, with partial tablets.

22 Q Okay. Was that everything contained within that
23 bag?

24 A Yes.

25 (STATE EXH. 7, Empty baggie, was marked for

1 identification.)

2 BY MS. LESKANIC:

3 Q I'm going to show you State's Exhibit 7, an empty
4 baggie just so I can give you everything and you can
5 explain everything we have and why?

6 A Yes. This is an empty Ziploc that did
7 contain other items.

8 Q Okay. What other items did that bag originally
9 contain?

10 A That contained a plastic bag containing 73
11 multi-colored tablets and partial tablets. They
12 were in the shape of the State of Georgia.

13 (STATE EXH. 8, Pills; Georgia shaped, was
14 marked for identification.)

15 BY MS. LESKANIC:

16 Q If I may approach, I'm going to show you State's
17 Exhibit 8 and see if you recognize that.

18 A Yes. I see the lab number, item number, and
19 my initials.

20 Q Okay. And is that the bag containing the 73
21 multi-colored tablets and partial tablets?

22 A Yes.

23 Q And they are in the shape of what, I'm sorry?

24 A The state of Georgia.

25 Q And what did you do for testing with these pills?

Testimony of Maribeth McCormack

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1 A I weighed the tablets. I did a preliminary
2 spot test and a confirmatory test.

3 Q Okay. And what was the weight?

4 A The weight was 11.15 grams.

5 Q Okay. And the preliminary and confirmatory
6 testing showed the substance in those pills was?

7 A Methamphetamine.

8 (STATE EXH. 9, Baggie; not tested, was
9 marked for identification.)

10 BY MS. LESKANIC:

11 Q And then you have what is your item 1.6.2,
12 State's Exhibit 9. Will you please tell the jury what
13 you did with that item?

14 A Yes. I weighed this item and performed a
15 preliminary test. As I stated with one of the
16 other items, the white added with the other
17 previously tested item, would not move it to the
18 next weight threshold. Therefore, since the
19 results were consistent with the previous items,
20 the other multi-colored tablets, I did not do a
21 confirmatory test.

22 Q Okay. Now, I would like to go back through your
23 report to make sure that I have asked you everything.

24 On State's Exhibit 3, item 1.2, that was
25 cocaine with a net weight of 2.55 grams; is that

1 correct?

2 A Yes.

3 Q And State's Exhibit 4, which is your item 1.3, was
4 84 Fentanyl tablets and no weight obtained.

5 A Yes.

6 Q State's Exhibit 5, 69 blue tablets and partial
7 tablets containing heroin and Fentanyl with a net
8 weight of 7.78 grams.

9 A Yes.

10 Q And State's Exhibit 6, 50 blue tablets and partial
11 tablets containing Fentanyl.

12 A Yes.

13 Q No weight contained, correct?

14 A Yes.

15 Q And then item 1.6.1, or State's Exhibit 8, was the
16 73 multi-colored tablets containing methamphetamine
17 with a net weight of 11.15 grams?

18 A Yes.

19 Q Okay. And when you received these items, where do
20 you initially pick up the package and what do you do
21 when you first get the box that contained all of this
22 evidence?

23 A I picked this up in our evidence log in
24 department.

25 Q Okay. And then what do you do with it?

Testimony of Maribeth McCormack

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1 A If I'm going to analyze it right away, I
2 would take it to my area and get started.

3 May I check the chain of custody to see the
4 time?

5 Q Please.

6 A Okay. It looks like I got started on this
7 right away, so it would have gone from the
8 evidence log in department to my work area, and
9 there I would check the seal on the box to make
10 sure it had not been tampered with. In this case,
11 it wasn't. Otherwise, it would have been
12 photographed and documented on my report.

13 Q So everything was sealed properly when you
14 received it?

15 A Yes.

16 Q Okay. And then what do you do with that?

17 A At that point, I would open the box and
18 itemize and begin my testing.

19 Q Okay. Now, do the packages of State's Exhibit 3
20 through 9 that are in front of you, are they in the
21 same bags that they were when you returned them to the
22 Cherokee County Sheriff's Department?

23 A No.

24 Q Okay. Can you explain why, to the jury, they are
25 packaged differently today?

1 A Yes. They are each in a heat-sealed bag.

2 The purpose of this was so you can see the
3 evidence, otherwise it would be in the box and not
4 visible. So, the sheriff's office opened the box
5 on November 4th and separated the items into these
6 heat-sealed bags.

7 Q Okay. Is there a danger with any of the drugs
8 contained in these packages that they are not sealed
9 properly?

10 A Yes.

11 Q Can you explain that, please?

12 A Anytime you're dealing with controlled
13 substances there could be danger. Especially
14 Fentanyl could be harmful. So just for extra
15 precaution and so you can see the evidence, they
16 repackaged my packaging.

17 (STATE EXH. 14, Photo, was marked for
18 identification.)

19 (STATE EXH. 15, Photo, was marked for
20 identification.)

21 (STATE EXH. 16, Photo, was marked for
22 identification.)

23 BY MS. LESKANIC:

24 Q Okay. And if I may show you State's Exhibit 14,
25 15, and 16. Could you take a look at those?

Testimony of Maribeth McCormack

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1 A Yes.

2 Q And do those photographs show how you had the
3 individual substances packaged when they were sent
4 back to the Cherokee County Sheriff's Department?

5 A Yes.

6 MS. LESKANIC: Your Honor, at this time,
7 I would offer State's Exhibit 14, 15 and 16.

8 BY MS. LESKANIC:

9 Q And by the time they were sent back to us, all of
10 your testing had been done? All of the results were
11 done your substances, correct?

12 A Yes.

13 (STATE EXH. 13, Photo, was entered into
14 evidence.)

15 BY MS. LESKANIC:

16 Q All right. I'd like to show you also
17 State's Exhibit 13. If you can take a look at that
18 and tell me if you recognize that?

19 A Yes.

20 Q And what is that?

21 A It is the box containing the evidence.

22 Q Okay. That was sent back that was sealed by you
23 and sent back to the sheriff's department after all
24 the testing was done?

25 A Yes.

1 Q Thank you.

2 MS. LESKANIC: Your Honor, we would offer
3 State's Exhibit 13 for admission.

4 MR. SCHULTZ: No objection.

5 THE COURT: No objection to 13, 14, 15,
6 and 16.

7 MR. SCHULTZ: 13, 14, 15, 16, those are
8 all pictures, correct?

9 MS. LESKANIC: That's correct.

10 THE COURT: 13, 14, 15, 16.

11 MR. SCHULTZ: Yes, sir.

12 THE COURT: They are admitted without
13 objection.

14 (STATE EXH. 13, Photo, was entered into
15 evidence.)

16 (STATE EXH. 14, Photo, was entered into
17 evidence.)

18 (STATE EXH. 15, Photo, was entered into
19 evidence.)

20 (STATE EXH. 16, Photo, was entered into
21 evidence.)

22 BY MS. LESKANIC:

23 Q And when you finished your testing, I know we've
24 briefly gone over it, but what do you do with each of
25 the substances after you finish your testing?

Testimony of Maribeth McCormack

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1 A I make sure it's secure, whether it be in the
2 bag it originally came in, or I repackage the bag.
3 And then I placed all the evidence back into the
4 original box and taped it with packaging tape and
5 evidence seal tape.

6 Q Okay. And that's what is shown in
7 State's Exhibit 13, how everything was sealed back by
8 you when it was returned?

9 A Yes.

10 Q Now, when you first opened the box of evidence,
11 was State's Exhibit 1 in that box?

12 A Yes.

13 Q And what did you do? Did you do any testing on
14 the marijuana?

15 A No.

16 Q And what did you do with this?

17 A I repackaged it in that evidence bag, and I
18 placed it in the drug evidence vault in our
19 department.

20 Q Okay. And does that go to a different department
21 or a different group to do the marijuana testing?

22 A It's the drug analysis department. However,
23 Miss Fowler would have taken it over there for the
24 cannabis analysis.

25 Q And then would all of those items been sent back

1 at the same time, the marijuana, as well as your
2 substances, repackaged and sent back to our agency?

3 A Not necessarily since we were on different --
4 I had my analysis and that had a different
5 analyst. So they wouldn't necessarily been sent
6 back at the same time. I can check the chain of
7 custody.

8 Q Thank you.

9 A It looks like it was different days.

10 Q Okay.

11 MS. LESKANIC: Thank you very much.
12 Please answer any questions that Mr. Schultz
13 has.

14 MR. SCHULTZ: May it please the Court?

15 CROSS-EXAMINATION

16 BY MR. SCHULTZ:

17 Q What is your correct title? Should I call you
18 officer or doctor?

19 A Just -- you mean what you refer to me as?

20 Q Yes. Miss McCormack?

21 A That's fine.

22 Q Miss McCormack, you've done 10,000 tests up until
23 now; is that correct?

24 A Approximately.

25 Q And you've been working at SLED for approximately

Testimony of Maribeth McCormack

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1 more than a decade, right?

2 A Yes.

3 Q Okay. And, in that time, you've tested a lot of
4 substances, right?

5 A Yes.

6 Q Okay. Now, I'm specifically referring -- well,
7 first of all, I want to establish a fact. You never
8 tested the cannabis, right?

9 A Correct.

10 Q You never did anything involving that, right?
11 That was another chemist, or that was another
12 scientist working for SLED?

13 A Yes.

14 Q Okay. And not you, right?

15 A Correct.

16 Q I'm referring to State's Exhibit 2. That was 1.1
17 under your paperwork?

18 A Yes.

19 Q And the weight on that was, to my recollection,
20 and you correct me if I'm wrong here, was 20.19,
21 right?

22 A 28.19 grams.

23 Q What did that -- do you remember what that package
24 looked like?

25 A Yes. A Ziploc bag containing a plastic bag

1 contained a powder substance.

2 Q Okay.

3 MR. SCHULTZ: Beg the Court's patience,
4 Your Honor.

5 THE COURT: Yes, sir.

6 MR. SCHULTZ: Sorry about that.

7 BY MR. SCHULTZ:

8 Q This is --

9 MR. SCHULTZ: I'm sorry, Your Honor. May
10 I approach the witness?

11 THE COURT: Yes, go ahead.

12 MR. SCHULTZ: I'm going to be careful.
13 Thank you.

14 BY MR. SCHULTZ:

15 Q This had no narcotics in it, right?

16 A Correct.

17 Q Okay. Did you often get pieces of evidence there
18 that the police think or know they have narcotics in
19 them but it turns out they don't?

20 A Yes. It's common.

21 Q It's common, okay.

22 And was that -- did SLED do a presumptive
23 test on State's Exhibit 2?

24 A Yes.

25 Q Okay. And what of the presumptive test on that?

Testimony of Maribeth McCormack

217

1 A I'm sorry. I have lot of papers.

2 Q That's okay. Take your time.

3 A I performed two presumptive tests and the
4 first one I had a light blue -- light blue color.
5 The second no color change.

6 Q What does that mean?

7 A With presumptive chemical tests, each free
8 agent will give or may not give a certain color
9 reaction, and that just indicates what the
10 substance might be.

11 Q And so what did the presumptive test -- you
12 correct me if I'm wrong here. What did the
13 presumptive test indicate? Nothing, right?

14 A Correct.

15 Q So, being that the presumptive test didn't
16 indicate any, you didn't do a confirmatory test,
17 right?

18 A I did.

19 Q You did?

20 A Yes.

21 Q Okay. And the confirmatory test indicated what?

22 A No controlled substance.

23 Q Okay, thank you.

24 And then you did another test on 1.2 that's
25 State's Exhibit 3, right?

1 A Yes.

2 Q And that was about two and a half grams of powder
3 cocaine, right?

4 A Yes.

5 Q All right. Did you ever test anything for crack
6 cocaine or anything like that?

7 A No.

8 Q All right. So no crack cocaine was found in your
9 analysis at all?

10 A No.

11 Q Okay. State's Exhibit 4, and I'm particularly
12 interested in this. You said that you found Fentanyl
13 in that, right?

14 A Yes.

15 Q Okay. And it was a bunch of pills, right, in
16 it?

17 A Yes.

18 MR. SCHULTZ: Judge, could I approach the
19 witness again?

20 THE COURT: Yes, sir. Put your mask on.

21 MR. SCHULTZ: Yes.

22 BY MR. SCHULTZ:

23 Q State's Exhibit 4 right here. Now, as you see
24 this -- I don't know if the jury can see this, but
25 there's a bunch of pills in here, right?

Testimony of Maribeth McCormack

219

1 A Uh-huh.

2 Q Question for you: Did you take samples of every
3 pill in that baggie?

4 A No, I didn't.

5 Q Okay. What did you test then?

6 A I tested a portion of one tablet.

7 Q A one portion of one tablet. So one portion of
8 one tablet. So you didn't test every pill in that
9 baggie, right?

10 A I did not.

11 Q Okay. Could it have been possible -- sorry.
12 Could it have been possible that the other pills in
13 there were not controlled substances?

14 A It is possible. However, the likelihood of
15 me picking out the only tablet in the bag
16 containing Fentanyl is not -- not a good chance.

17 Q But -- I understand that. But, A, is it possible?
18 Yes or no.

19 A Yes.

20 Q Okay. And, B, and I just want to confirm this,
21 you didn't test every pill in State's Exhibit 4, your
22 1.3, right?

23 A Correct.

24 Q So you just did a sample of it, right, and you
25 assumed that everything else was a controlled

1 substance, right?

2 A I took a representative sample based on the
3 markings all being consistent and they were
4 packaged together.

5 Q Okay. But you assumed that every pill in there
6 was a controlled substance, even though you don't know
7 for sure?

8 A I don't know for sure, except for the one
9 tablet I tested.

10 Q All right.

11 MR. SCHULTZ: Sorry, Judge.

12 BY MR. SCHULTZ:

13 Q Going to the State's Exhibit 5. State's Exhibit 5
14 is what number that you have?

15 A That is 1.4, 1.41, and 1.42.

16 MR. SCHULTZ: Can I approach, Judge?

17 BY MR. SCHULTZ:

18 Q Could you hand me that?

19 A Uh-huh.

20 Q Thank you. Same thing, pills, right?

21 A Yes.

22 Q Blue pills?

23 A Yes.

24 Q Okay. Same question -- as to the State's Exhibit
25 4 the other tablets, same question. You took a

Testimony of Maribeth McCormack 221

1 representative sample, and then you just assumed that
2 everything else was a controlled substance, right?

3 A Yes.

4 Q Okay.

5 A I tested -- I fully test the representative
6 sample, and that is what's reported.

7 Q So there could be a possibility that all of the
8 other pills in there could not be controlled
9 substances, right?

10 A It's possible.

11 Q It's possible, okay.

12 So, you said you found 7.78 grams of
13 narcotics in there, right?

14 A Heroin and Fentanyl.

15 Q Legal controlled substances, right?

16 A Yes.

17 Q Okay. But, you just extrapolated that from the
18 sample that you tested, right?

19 A Yes, I tested one of the tablets.

20 Q Right. And then you extrapolated that out?

21 A Yes. They are treated as one population
22 because they all look the same and are packaged
23 the same.

24 Q All right. That's what I'm getting at.

25 Tell the jury what extrapolation means.

1 A It means doing one test, and I would say that
2 the rest were also heroin and Fentanyl based on
3 the testing of that one tablet.

4 Q So it's a guess, right?

5 A I'm not stating -- I only tested one of the
6 tablets, and they were in the same population,
7 so...

8 Q But it's a guess, right?

9 A I am assuming they all contain the same
10 substances, yes.

11 Q It's an assumption.

12 MS. LESKANIC: Objection, Your Honor.
13 Asked and answered.

14 MR. SCHULTZ: I'll move on, Judge.

15 THE COURT: Okay.

16 MR. SCHULTZ: Thank you.

17 BY MR. SCHULTZ:

18 Q Referring to State's Exhibit 6, 50 blue tablets,
19 right?

20 A Yes.

21 Q Okay. You said, and my notes indicate, no weight
22 was obtained from there.

23 A Correct.

24 Q But you found Fentanyl, or no?

25 A Yes.

Testimony of Maribeth McCormack 223

1 Q Okay. But no weight was obtained, so you don't
2 have a measurement for that, right?

3 A I did not report the weight. I did take a
4 weight in my notes.

5 Q Okay.

6 A And it was 3.84 grams.

7 Q All right. Thank you.

8 State's Exhibit 7, my notes indicate -- I
9 just want to confirm this with you. It didn't contain
10 anything legal, right?

11 A Which one?

12 Q 7, State's Exhibit 7?

13 A I'm sorry. The numbers don't respond with my
14 report, so it's kind of hard to --

15 Q It's okay. Take your time.

16 A 7, yes. That was just the Ziploc that
17 contained the next two items.

18 Q Did it contain anything illegal? Were there
19 narcotics in there? I don't want to confuse you.
20 Take your time.

21 A Okay. Exhibit 7 is a Ziploc Bag.

22 Q Yes.

23 A That contained -- minus the outer packaging,
24 it contained the tablets. So, yes, there is no
25 testing done on the Ziploc bag.

1 Q Okay. For State's Exhibit 7, right?

2 A Yes, sir.

3 Q Okay, thank you. So no testing.

4 State's Exhibit 8 --

5 MR. SCHULTZ: Can I approach?

6 THE COURT: Yes, sir.

7 MR. SCHULTZ: Thank you.

8 BY MR. SCHULTZ:

9 Q All shaped in the shape of Georgia.

10 A Yes.

11 Q Do you know -- I'm just curious -- what's the
12 significance of that?

13 A I don't know. It's something we've seen
14 recently. We get all sorts of logos and shapes.

15 Q All right, thank you.

16 Same question that I have previously, you
17 tested one of those pills in the shape of Georgia and
18 then you just extrapolate it out and then you assume
19 that everything else in there was illegal narcotics,
20 right?

21 A Yes. Based on how they were packaged and
22 they were all the same shape, yes.

23 Q And you extrapolated out 11.15 grams?

24 A I weighed them all as one population and that
25 was 11.15 grams.

Testimony of Maribeth McCormack 225

1 Q But, again, not to belabor the point, I apologize
2 for this, you didn't test every pill, right?

3 A I did not.

4 Q Thank you. Number 9 -- I'm almost done, I
5 promise. Number 9, State's Exhibit Number 9, there
6 was no weight threshold so you didn't do a
7 confirmatory test, right?

8 A There is a weight threshold for
9 methamphetamine, but testing -- based on the
10 weight of those, it would not move it to the next
11 level. Therefore, I did not do a confirmatory
12 test.

13 Q So there's nothing in there?

14 A I don't know. I didn't do a confirmatory
15 test.

16 Q But nothing that would be scientifically valid
17 there to report to the Court, right?

18 A Correct.

19 Q All right.

20 MR. SCHULTZ: All right. That's all I
21 have. Thank you, Judge.

22 THE COURT: Thank you.

23 Solicitor, anything?

24 MS. LESKANIC: Just briefly.

25 REDIRECT EXAMINATION

1 BY MS. LESKANIC:

2 Q Okay. Just briefly, looking at State's Exhibit 4,
3 which is your item 1.3 --

4 A Yes.

5 Q -- that was 84 white tablets -- partial tablets
6 and powder, correct?

7 A Yes.

8 Q I know that you only tested one pill. And what
9 did you find in the one pill that you happened to pick
10 out of that package?

11 A Fentanyl.

12 Q And did you examine all of the pills that were
13 contained in that package?

14 A Yes, I physically examined each to make sure
15 that the markings were similar.

16 Q And were all of the markings of those 84 white
17 tablets the same?

18 A The mark for the whole tablets, yes. And
19 there were partials in the bag, so they wouldn't
20 have had the markings.

21 Q Okay. And were they all packaged in the same bag
22 when you received it?

23 A Yes.

24 Q So, they look alike; is that correct?

25 A Yes.

Testimony of Maribeth McCormack

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1 Q They're packaged together?

2 A Yes.

3 Q And you picked a random pill and it tested
4 positive for Fentanyl?

5 A Yes.

6 Q Do you have any reason to believe that the other
7 pills in that bag are something different based on
8 your 12-plus years of looking at drugs and pills and
9 analyzing substances based on your education, your
10 training, and your over a decade of experience, do you
11 have any reason to believe that there is something
12 other than Fentanyl pills contained in the rest of
13 that bag?

14 A Based on my experience, I would not think
15 there would be a different substance.

16 Q Okay. You didn't see anything that gave you
17 concern?

18 A No.

19 Q Now, looking at State's Exhibit 5, that was
20 69 blue tablets. That is your item 1.4?

21 A Yes.

22 Q Can you look at that particular item because I
23 believe we have two sets of blue pills?

24 A Yes.

25 Q Now, out of those tablets, do they all appear to

1 be the same color of blue?

2 A Yes.

3 Q Did you physically examine each of those
4 tablets?

5 A Yes.

6 Q Did all of the tablets have the same markings that
7 were full tablets?

8 A Yes, they did.

9 Q Okay. And you picked a representative sample
10 again from that group?

11 A Yes.

12 Q Were they all packaged together?

13 A Yes.

14 Q And your result was that it contained heroin and
15 Fentanyl?

16 A Yes.

17 Q Then looking at State's Exhibit 6, which is your
18 item 1.5, that was 50 blue tablets, are they the same
19 color blue as State's Exhibit 5?

20 A No, they are a different shade.

21 Q So we have a different color. Did you physically
22 examine each of the items in State's Exhibit 6, which
23 is item 1.5?

24 A Yes.

25 Q And did they all have the same markings?

Testimony of Maribeth McCormack

229

1 A Yes.

2 Q And you pick a representative sample and that
3 sample tested positive for Fentanyl?

4 A Yes.

5 Q Did you see nothing in those 50 blue tablets that
6 gave you concern that all of them were the same?

7 A No.

8 Q Then looking at items 7, 8, and 9, which is your
9 item number 1.6, 1.6.1 and 1.6.2, you discussed that
10 with Mr. Schultz. There's an empty Ziploc bag.

11 A Yes.

12 Q But when you received that bag, did it have
13 something in it?

14 A Yes, it did.

15 Q Okay. And what was in that bag?

16 A It had a plastic bag containing 73
17 multi-colored tablets and partial tablets in the
18 shape of Georgia as well as another plastic bag
19 containing various multi-colored tablets.

20 Q So there were two plastic bags with the
21 multi-colored tablets all contained inside one Ziploc
22 back sealed up together?

23 A Yes.

24 Q Okay. And on those multi-colored tablets, you've
25 got a weight of 11.15 grams, did you physically

1 examine each of the Georgia-shaped pills?

2 A Yes.

3 Q Okay. And were they all packaged together?

4 A Yes.

5 Q Did you see anything that gave you concern that
6 those were not all the same type of pills based on
7 their appearance and their packaging?

8 A No.

9 Q And your testing showed that the representative
10 sample that you picked contained methamphetamine?

11 A Yes.

12 Q So in each of the these cases where you analyzed
13 separate pills, you physically examined them and
14 looked at them and they appeared to be the same with
15 the same markings?

16 A Yes.

17 Q And they were -- that the pills that you tested
18 were packaged individually a group of pills?

19 A Yes.

20 Q In their own packaging?

21 A Uh-huh.

22 Q And you selected one.

23 A Yes.

24 Q And in each of those Baggies where you selected a
25 pill, they came back positive for a controlled

Testimony of Maribeth McCormack

231

1 substance?

2 A Yes.

3 MS. LESKANIC: Thank you.

4 MR. SCHULTZ: I'll be brief, Judge.

5 THE COURT: Yes, sir.

6 MR. SCHULTZ: Thank you.

7 RECROSS-EXAMINATION

8 BY MR. SCHULTZ:

9 Q Just by physically examining pills, you can't tell
10 if all those pills were illegal narcotics, right?

11 A I cannot.

12 Q You cannot. What you're doing is -- you used a
13 very exact word there. You're testing for population,
14 right?

15 A I'm treating it as one population, yes.

16 Q You're treating it as one population, okay.
17 Almost like polling in an election, right, and you're
18 extrapolating data based upon that, right?

19 A Perhaps.

20 Q It's the same kind of statistical analysis,
21 right?

22 A Right.

23 Q Okay. And polls can be wrong, correct?

24 A Yes.

25 MR. SCHULTZ: Thank you.

Testimony of Stephen Anderson

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1 THE COURT: Thank you.

2 Agent, you may step down. Please be
3 careful.

4 THE WITNESS: Thank you.

5 MR. KENDALL: Your Honor, the State would
6 call Stephen Anderson at this time.

7 THE CLERK: Please raise your right hand.
8 Do you solemnly swear or affirm that the testimony
9 you give this Court will be the truth, the whole
10 truth, and nothing but the truth so help you God?

11 THE WITNESS: I do.

12 THE CLERK: Take a seat.

13 THE COURT: Officer, tell us who you are
14 and spell your last name for the court reporter,
15 please.

16 THE WITNESS: Stephen Anderson,
17 A-n-d-e-r-s-o-n.

18 THE COURT: Solicitor.

19 WHEREUPON:

20 STEPHEN ANDERSON,
21 after having been sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. KENDALL:

24 Q Could you please state your name?

25 A Stephen Anderson.

Testimony of Stephen Anderson

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1 Q And what is your rank, Mr. Anderson?

2 A Major. I'm over at the jail. The Cherokee
3 County Detention Center.

4 Q All right. And how long have you worked at the
5 detention center?

6 A I've been at the detention center for
7 10 years.

8 Q And what are your responsibilities down there as
9 the major at the detention center?

10 A I'm the director of the jail. I manage every
11 person that's in my employ, and also I keep those
12 records for any person contained in the jail.

13 Q Okay. And what about phone calls. How does the
14 phone call system work down at the jail?

15 A We have a phone service though Securus
16 Technologies, and they offer the phone service to
17 inmates. They make phone calls and then all those
18 phone calls are recorded, and it does tell them
19 that the phone calls are recorded. The only time
20 phone calls wouldn't be recorded is if we set it
21 up so that the attorney get to speak to their
22 clients.

23 Q Okay. And are you a custodian of records?

24 A Yes.

25 Q All right. You had the opportunity to listen to

Testimony of Stephen Anderson

234

1 these phone calls earlier; is that correct?

2 A Yes, sir. I listened to four different phone
3 calls this morning.

4 Q Okay. Was that a fair and accurate representation
5 of what you all maintained on this?

6 A Yes, sir. The phone call starts out with,
7 "This is a phone call from the Cherokee County
8 Detention Center..." The inmate gets to state his
9 name or her name. And then it says, if you would
10 like to keep talking to this person, press the
11 number and understand that it is recorded.

12 MR. KENDALL: Your Honor, we would offer
13 State's Exhibit Number 21 into evidence.

14 MR. KENDALL: We had agreed upon --

15 MR. SCHULTZ: That was stipulated before.

16 THE COURT: State's 21.

17 (STATE EXH. 21, Disk of jail calls, was
18 marked for identification and entered into
19 evidence.)

20 MR. KENDALL: We would request permission
21 to publish that at this time.

22 THE COURT: Yes, sir.

23 (State's Exhibit 21 published to the jury at
24 4:09 p.m.)

25 BY MR. KENDALL:

Testimony of Stephen Anderson

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1 Q And was that consistent with -- what you heard
2 there, this Securus from the Cherokee County jail, is
3 that consistent with how you all handle --

4 A Yes, every phone call would begin just like
5 that.

6 MR. KENDALL: I apologize. We got some
7 fairly specific times.

8 THE COURT: Yes, sir.

9 (State's Exhibit 21 continued.)

10 BY MR. KENDALL:

11 Q Were you able to hear that?

12 A Yes, sir.

13 Q And what was basically conveyed?

14 A He just said he was being charged. They
15 found stuff.

16 MR. SCHULTZ: Your Honor, I want to
17 object to this. It's not his job to interpret
18 what the recording said.

19 THE COURT: That's sustained.

20 (State's Exhibit 21 continued.)

21 BY MR. KENDALL:

22 Q And to be clear, the person making that call -- or
23 receiving that call was Bryson Smith?

24 A The person making that call was Bryson Smith.

25 MR. KENDALL: I believe we offered that

1 into evidence. Please answer any questions

2 Mr. Schultz may have.

3 CROSS-EXAMINATION

4 BY MR. SCHULTZ:

5 Q You don't have any connection to this case other
6 than --

7 A Just the keeper of the records.

8 Q Yeah, you're keeper of the records and you're the
9 custodian of the records. You weren't involved in the
10 active investigation of my client, right?

11 A No, sir. No investigation at all.

12 Q Thank you.

13 MR. KENDALL: Just to be clear, we did
14 offer Exhibit 21 into evidence.

15 THE COURT: It's in evidence.

16 MR. KENDALL: I've got nothing further,
17 Your Honor.

18 THE COURT: Thank you, sir.

19 Major, you may step down. Thank you.
20 Please be careful.

21 THE COURT: Thank you. Next will be
22 longer?

23 MS. LESKANIC: Yes, sir.

24 THE COURT: Madame Forelady, Ladies and
25 Gentlemen of the Jury, we're going to stop just a

1 few minutes early today. The next witness will be
2 longer. I really don't like to break up testimony
3 where you hear part of a witnesses testimony unless I
4 have to. So it's going to run longer than five
5 o'clock, as I understand it. So we're not going to do
6 that.

7 Please do not try to learn anything about
8 this case, don't do any research on this case. If
9 there's something that happens to be in a
10 newspaper or on TV, or whatever, just put that
11 aside. Do not read it. Do not listen to it.
12 Don't pay any attention to it.

13 Again, you and I have to learn about this
14 case in this courtroom. That is our system of
15 justice. Okay? It must be learned in this
16 courtroom.

17 So don't discuss the case. Don't make a
18 conclusion about the case. This certainly isn't
19 the end. We're just getting started. Okay?

20 With that, I'm going to excuse you. I'm
21 going to work on, not this case, but I got a
22 couple other things that I can do up until five
23 o'clock that are non-jury and I'm going to work on
24 those. It has nothing to do with this case. But
25 because you are on the jury, I'm going to ask that

1 you not come back into the courtroom.

2 Now, once you are no longer sitting on a
3 jury, you are welcome to my courtroom any time you
4 like. But, please, don't come by while you're
5 serving as a juror.

6 Madame Forelady -- do you need anything
7 else, Miss Brandy?

8 THE CLERK: No, sir.

9 THE COURT: We need you back in the
10 morning at 9:00 a.m. We're going to start at 9:00
11 a.m. in the morning. I'll be here at about a few
12 minutes after 8:00 a.m. And I don't have anything
13 we have to do first thing that I'm aware of.
14 Nothing? Nothing else, so we'll start right here
15 on this at 9:00 a.m.

16 Have a good evening.

17 (Jury excused at 4:20 p.m.)

18 THE COURT: Okay. We are going to be in
19 recess in this case.

20 (The trial was adjourned for the day at 4:20 p.m.)

21

22

23

24

25

CERTIFICATE OF REPORTER

I, SHARON G. HARDOON, Official Circuit Court Reporter, III for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in General Sessions in Gaffney, South Carolina, Cherokee County, South Carolina.

I do further certify that I am neither kin, counsel, nor interest to any party hereto.



Sharon G. Hardoon, CSR
Official Court Reporter, III

1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF CHEROKEE

4 State of South Carolina,
5 Plaintiff,

6 vs.

Transcript of Record
2020-GS-11-01147,
2020-GS-11-01148,
2020-GS-11-01149,
2020-GS-11-01150,
2020-GS-11-01151

7 Bryson Jamar Smith,
8
9

10 Defendant.
11
12
13

14 November 4, 2020
15 Gaffney, South Carolina
16 Volume III of IV

17 B E F O R E:

18 The HONORABLE R. KEITH KELLY

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

20 Kim Leskanic, Representing the State of South Carolina
21 Matt Kendall, Representing the State of South Carolina
22 Joshua Schultz, Representing the Defendant

23 SHARON G. HARDOON, CSR
24 Official Circuit Court Reporter, III
25

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5	STATE EXH. 29, Photo	253	16
	STATE EXH. 30, Photo	252	22
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7	STATE EXH. 31, Photo	253	20
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9	STATE EXH. 33, Black sock	255	5
	STATE EXH. 34, Bag with shoes	255	21
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11	STATE EXH. 35, Bag with pants	258	1
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12	STATE EXH. 36, Photo	261	13
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13	STATE EXH. 37, Photo	261	15
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14	STATE EXH. 38, Photo	261	17
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15	STATE EXH. 39, U.S. Postal mail bag	263	13
	STATE EXH. 40, Photo	266	23
16	STATE EXH. 40, Photo	267	20
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17	STATE EXH. 41, Photo	267	22
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18	STATE EXH. 43, Digital scales	270	9
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19	STATE EXH. 44, Box holding narcotics	335	19
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20	STATE EXH. 45, Box	337	4
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21	STATE EXH. 46, Painter's body cam video	366	10
	STATE EXH. 47, Photo	389	22

22

23

24

25

1 THE COURT: Is the State ready?

2 MR. KENDALL: Yes, sir.

3 MR. SCHULTZ: Yes, sir.

4 THE COURT: We'll have the jury.

5 Good morning, Ladies and Gentlemen.

6 Everybody good this morning?

7 FOREPERSON: Good morning. Yes.

8 THE COURT: Ready, Solicitor?

9 MR. KENDALL: At this time, we call
10 Brandon Dorsette to the stand, please.

11 THE CLERK: Please raise your right hand.
12 Place your left on the Bible. Do you solemnly
13 swear or affirm the testimony you give to this
14 Court will be truth, the whole truth, and nothing
15 but the truth so help you God?

16 THE WITNESS: I do.

17 THE COURT: Sir, if you would tell us who you
18 are and spell your last name for my court reporter.

19 THE WITNESS: Lieutenant Brandon
20 Dorsette, D-o-r-s-e-t-t-e.

21 WHEREUPON:

22 BRANDON DORSETTE,
23 after having been sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. KENDALL:

1 Q Lieutenant Dorsette, where are you currently
2 employed?

3 A Cherokee County Sheriff's Office.

4 Q And how long have you been in the sheriff's
5 office?

6 A Since 2010.

7 Q All right. What are your current
8 responsibilities, and what were your responsibilities
9 back in August of 2009 with the sheriff's office?

10 A Lieutenant in the narcotics division.

11 Q All right. And what did that job entail? What
12 sort of things did you do?

13 A We do investigations anywhere from drug
14 sales, uncovering distributions, prostitution,
15 anything within that division.

16 Q All right. And did you participate in a search
17 warrant executed at the home of Bryson Smith on
18 August 12, 2019?

19 A I did.

20 Q And do you recall what address that was at?

21 A [REDACTED] Lynwood drive.

22 Q Okay. What county and state is that located in?

23 A It's in Cherokee County.

24 Q South Carolina?

25 A South Carolina, yes, sir.

1 Q And while you were there executing that search
2 warrant, did you have a body camera active?

3 A I did, sir.

4 (STATE EXH. 22, Disk, was marked for
5 identification.)

6 BY MR. KENDALL:

7 Q All right. I am going to show you what is marked
8 State's Exhibit 22. Have you had the opportunity to
9 review that?

10 A I did review it.

11 Q Was that a fair and accurate representation of
12 what happened that day?

13 A Yes, sir.

14 MR. KENDALL: Your Honor, we would offer
15 State's Exhibit 22.

16 MR. SCHULTZ: Any objection?

17 MR. SCHULTZ: No.

18 THE COURT: It will be admitted as
19 State's Exhibit 22.

20 (STATE EXH. 22, Disk, was entered into
21 evidence.)

22 MR. KENDALL: We would ask permission to
23 publish at this time. It would be on mute.

24 THE COURT: Yes, sir.

25 BY MR. KENDALL:

1 Q Lieutenant Dorsette while this is loading up, let
2 me just ask you some interim questions about the
3 search.

4 How long were you out there? Was this
5 something you were out there for ten minutes on?

6 A I'm not sure of the time. It was a long time
7 we were out there.

8 Q And is it fair to say that a lot of that time you
9 all were just standing around?

10 A Once we go out to a house, if we see
11 something, we would stop. We don't touch
12 anything. If we want to secure a search warrant,
13 we don't touch anything, do anything else until we
14 have it signed by the judge.

15 Q And is that what happened in this case?

16 A Yes, sir.

17 Q And were you with the initial team that came and
18 initially came in to the residence?

19 A Yeah, I went there. I went over to the left
20 of the house initially while they -- before I went
21 to their front door, I went to the left. We had
22 warrants for Bryson at the time. Sometimes people
23 open the back door.

24 Q After that was initially found, did you stay on
25 scene to secure the residence?

1 A I did, sir.

2 Q Just give me a second.

3 I'm going to jump ahead. The body evidence
4 is in evidence. I apologize for not being able to
5 search on this type of video.

6 (Portion of video played.)

7 BY MR. KENDALL:

8 Q What is going on right there?

9 A Just waiting -- waiting for him to read the
10 warrant to the homeowner.

11 (Portion of video played.)

12 BY MR. KENDALL:

13 Q All right. I'd like to start right here. What
14 room are you in right now?

15 A I'm in his mother's room.

16 MR. KENDALL: Can you just mark this?

17 (STATE EXH. 23, Photo, was marked for
18 identification.)

19 BY MR. KENDALL:

20 Q All right. I'm going to show you
21 State's Exhibit 23. If you could, take a look at
22 this. And what is this?

23 A I believe this is his mother's room.

24 Q All right. So that's the room that you all are in
25 right there? Are you able to see?

1 A I can see it.

2 MR. KENDALL: Permission to have that
3 witness step down?

4 MR. SCHULTZ: Your Honor, just for
5 clarification, is that previously marked or is
6 that already entered into evidence?

7 MR. KENDALL: That's State's Exhibit 23.
8 We would offer State's Exhibit 23 into evidence.

9 MR. SCHULTZ: No objection.

10 THE COURT: Without objection.

11 (STATE EXH. 23, Photo, was entered into
12 evidence.)

13 THE COURT: If you need him to step down,
14 you can. Do you need him to step down?

15 MR. KENDALL: Yes, please, your Honor.

16 (Portion of video played.)

17 BY MR. KENDALL:

18 Q What is taking place right now?

19 A This is taken before we removed anything in
20 the room.

21 Q Okay. And did you have the opportunity to observe
22 the interior of that room?

23 A I did.

24 (STATE EXH. 24, Photo, was marked for
25 identification.)

1 (STATE EXH. 25, Photo, was marked for
2 identification.)

3 (STATE EXH. 26, Photo, was marked for
4 identification.)

5 BY MR. KENDALL:

6 Q I'm going to show you what is marked State's
7 Exhibit, State's Exhibit 25, State's Exhibit 26.

8 THE COURT: Any objection?

9 MR. SCHULTZ: Not at this time, Your
10 Honor.

11 MR. KENDALL: Your Honor, we offer
12 State's exhibit --

13 BY MR. KENDALL:

14 Q Well, would you take a look at these?

15 THE COURT: They are admitted without
16 objection; 24, 25, 26.

17 (STATE EXH. 24, Photo, was entered into
18 evidence.)

19 (STATE EXH. 25, Photo, was entered into
20 evidence.)

21 (STATE EXH. 26, Photo, was entered into
22 evidence.)

23 MR. KENDALL: Your Honor, they are
24 submitted and admitted without objection.

25 THE COURT: Without objection.

1 MR. KENDALL: All right.

2 BY MR. KENDALL:

3 Q And what were those pictures of?

4 A Those are the interior of -- when we look at
5 the body camera, the interior.

6 Q So these are just still frames is what we're
7 seeing up there, is that fair to say?

8 A That's correct.

9 MR. KENDALL: Your Honor, the court
10 reporter has asked if you can allow him to lower
11 his mask and speak louder so she is able to hear.

12 THE COURT: Okay.

13 (Portion of the video played.)

14 BY MR. KENDALL:

15 Q What is taking place now?

16 A This was me and Tony Moss basically on the
17 bed out in the open where he was going over it.
18 He actually had clothing items. When you do a
19 search warrant, you put item by item so you make
20 sure you put everything there. You want to make
21 sure there are no weapons. Nothing was going to
22 be knocked off.

23 (Portion of video played.)

24 BY MR. KENDALL:

25 Q All right. So this after you all had already

1 gotten the search warrant, correct?

2 A Yes, sir. That's true.

3 MR. KENDALL: Can you pause that?

4 BY MR. KENDALL:

5 Q And what is happening at this point?

6 A We're just conducting the search of the
7 house.

8 Q Let me clear that issue. That is you conducting a
9 search of that bag.

10 A That's correct.

11 (STATE EXH. 27, Backpack, was marked for
12 identification.)

13 BY MR. KENDALL:

14 Q I'm going to show you what is marked
15 State's Exhibit 27.

16 A Yes, sir.

17 Q Do you recognize this?

18 A I do, sir.

19 Q And what is that?

20 A It's the blue bag I found in the room that
21 day.

22 MR. KENDALL: Okay. We would offer
23 State's Exhibit 27 into evidence, please.

24 MR. SCHULTZ: No objection.

25 THE COURT: Without objection, admitted.

1 (STATE EXH. 27, Backpack, was entered into
2 evidence.)

3 (Portion of video played.)

4 BY MR. KENDALL:

5 Q I'm going to continue. Now, upon opening the bag,
6 what did you find?

7 A There was a green plant-like material in
8 there, a styrofoam cup, and it had white pills
9 inside of it.

10 MR. KENDALL: Go ahead and pause that.

11 (STATE EXH. 28, Cup, was marked for
12 identification.)

13 BY MR. KENDALL:

14 Q I'm going to show you what is marked State's
15 Exhibit 28. Do you recognize this?

16 A Yes.

17 Q What is this?

18 A That's the styrofoam cup I found in the room
19 that day.

20 (STATE EXH. 29, Photo, was marked for
21 identification.)

22 (STATE EXH. 30, Photo, was marked for
23 identification.)

24 (STATE EXH. 31, Photo, was marked for
25 identification.)

1 BY MR. KENDALL:

2 Q I'm going to show you State's Exhibit 29, 30, 31.

3 Do you recognize these?

4 A Yes, sir.

5 Q What are those?

6 A These are all the photos of the cup and the
7 green plant-like material, and the ball when I
8 opened it up.

9 MR. KENDALL: We would offer State's
10 30 -- 29, 30, 31 into evidence at this time,
11 Your Honor.

12 THE COURT: 29, 30, 31?

13 MR. KENDALL: Yes, sir.

14 THE COURT: Without objection?

15 MR. SCHULTZ: Yes, sir.

16 (STATE EXH. 29, Photo, was entered into
17 evidence.)

18 (STATE EXH. 30, Photo, was entered into
19 evidence.)

20 (STATE EXH. 31, Photo, was entered into
21 evidence.)

22 MR. KENDALL: We also offer State's
23 Exhibit 28 into evidence as well.

24 THE COURT: Any objection to 28?

25 MR. SCHULTZ: Is that the cup?

1 MR. KENDALL: Yes.

2 MR. SCHULTZ: No objection.

3 THE COURT: Without objection.

4 (STATE EXH. 28, Cup, was entered into
5 evidence.)

6 (Portion of video played.)

7 BY MR. KENDALL:

8 Q And what's happening here?

9 A We just opened up the items inside the bag.
10 There was two socks. I believe a black one that
11 had a white powder in there.

12 Q Okay.

13 (STATE EXH. 32, White sock, was marked for
14 identification.)

15 (STATE EXH. 33, Black sock, was marked for
16 identification.)

17 MR. KENDALL: If you could, pause it real
18 fast.

19 BY MR. KENDALL:

20 Q Let me show you State's Exhibit 32 and 33. Do you
21 recognize State's Exhibit 32 and 33?

22 A Yes, those appear to be the same socks.

23 MR. KENDALL: All right. We would offer
24 State's Exhibit 32 and 33 into evidence, Your
25 Honor.

1 MR. SCHULTZ: No objection.

2 THE COURT: Without objection.

3 (STATE EXH. 32, White sock, was entered into
4 evidence.)

5 (STATE EXH. 33, Black sock, was entered into
6 evidence.)

7 BY MR. KENDALL:

8 Q So just to be clear at this point in time,
9 basically when you opened up this bag, you found
10 marijuana, as well as these pills and this powder in
11 the socks; is that correct?

12 A Yes, that's correct.

13 MR. KENDALL: All right. If you go ahead
14 and continue to play.

15 (Portion of video played.)

16 BY MR. KENDALL:

17 Q And what do you have there that you just picked
18 up?

19 A Those are black Nike shoes.

20 Q Okay.

21 (STATE EXH. 34, Bag with shoes, was marked
22 for identification.)

23 BY MR. KENDALL:

24 Q I'm going to show you what is marked
25 State's Exhibit 34.

25 (Portion of video played.)

1 BY MR. KENDALL:

2 Q And who did you give that bag to?

3 A When that was placed on the bed, I believe
4 Captain Anthony Evan took possession of it.

5 Q What else was on that bed?

6 A A tray that had marijuana -- a bag of
7 marijuana. It looks like some cocaine there.

8 Q Was there any clothing on the bed?

9 A Huh?

10 Q Was there any clothing on the bed?

11 A There was some clothing, a black pair of
12 pants with some underwear.

13 (STATE EXH. 35, Bag with pants, was
14 marked for identification.)

15 BY MR. KENDALL:

16 Q I'm going to show you State's Exhibit 35. Do you
17 recognize that?

18 A Yes, it's pants.

19 Q The pants up on the bed?

20 A Yes.

21 MR. KENDALL: Your Honor, we offer
22 State's Exhibit 35 into evidence.

23 MR. SCHULTZ: No objection.

24 THE COURT: Without objection, 35 is
25 admitted.

1 (STATE EXH. 35, Bag with pants, was entered
2 into evidence.)

3 BY MR. KENDALL:

4 Q Can you take a look at the pants? What can you
5 tell us about the pants? Can you tell what size they
6 are?

7 A It says U.S. medium.

8 Q Okay.

9 A About my size, what I wear.

10 Q Approximately how tall are you?

11 A About five six.

12 Q Okay.

13 MR. KENDALL: All right. Your Honor, we
14 would ask the defendant to stand up at this time
15 to gauge his height.

16 THE COURT: Defendant please stand.

17 (Defendant stands.)

18 THE COURT: Thank you. You may be
19 seated.

20 BY MR. KENDALL:

21 Q And do these appear to be men's or women's
22 pants?

23 A Men's pants.

24 Q Okay. Just to be clear, those were found on top
25 of the bed, correct?

1 A That's correct.

2 Q Not back in some closet, or anything like that?

3 A No, sir. They were just on the bed.

4 MR. KENDALL: If would you continue,
5 please.

6 (Portion of video played.)

7 BY MR. KENDALL:

8 Q What do you got there?

9 A That's the tray that we saw that was in plain
10 view when we first came in. It was marijuana --
11 excuse me -- green plant-like material.

12 Q All right. And what else --

13 MR. SCHULTZ: Your Honor, I'm sorry. I
14 can't hear the witness.

15 THE COURT: It's a little hard to hear. If
16 you could speak a little clearer, sir. Maybe a little
17 louder.

18 THE WITNESS: Yes, sir, I will.

19 It was a -- a tray with green plant-like
20 material on it and what appeared to be a little
21 bit of cocaine and then the marijuana. So out of
22 plain view when we came in the room.

23 MR. KENDALL: All right. Continue on.

24 (Portion of video played.)

25 MR. KENDALL: If you pause it right

1 there. I'm sorry. Keep going.

2 BY MR. KENDALL:

3 Q And what are you doing now?

4 A Just continuing the search right now.

5 Q What did you discover there?

6 A A Food Saver vacuum seal bag.

7 Q Vacuum seal bags.

8 A Yes, sir. Like a Food Saver vacuum seal bag.

9 Q What would be the relevance of that in the
10 narcotics trade?

11 A Typically, to seal up marijuana in that.
12 Because the smell is really strong, so they try to
13 hold in the odor.

14 Q All right.

15 (Portion of video played.)

16 MR. KENDALL: You can pause it right
17 there.

18 (STATE EXH. 36, Photo, was marked for
19 identification.)

20 (STATE EXH. 37, Photo, was marked for
21 identification.)

22 (STATE EXH. 38, Photo, was marked for
23 identification.)

24 BY MR. KENDALL:

25 Q I'm going to show you what is marked as

1 State's Exhibit 37 -- 36, 37, 38. Do you recognize
2 these?

3 A Yes, sir.

4 Q What are those? Or is that a fair and accurate
5 representation of what you found?

6 A It is.

7 MR. KENDALL: We would offer
8 State's Exhibits 36, 37, and 38 into evidence,
9 Your Honor.

10 MR. SCHULTZ: No objection.

11 THE COURT: Without objection, they're
12 admitted.

13 (STATE EXH. 36, Photo, was entered into
14 evidence.)

15 (STATE EXH. 37, Photo, was entered into
16 evidence.)

17 (STATE EXH. 38, Photo, was entered into
18 evidence.)

19 BY MR. KENDALL:

20 Q All right. And what was located -- what was
21 that?

22 A It was paperwork with the name Bryson J.
23 Smith on it.

24 Q So personal effects -- or personal paperwork of
25 Mr. Smith?

1 A Correct. It was.

2 Q And where was that located?

3 A Under the bedspread right there.

4 Q What's shown on the screen before you?

5 A Yes.

6 (Portion of video played.)

7 BY MR. KENDALL:

8 Q All right. And what was that?

9 A It was a baggie of green plant-like material
10 that was located in the tub.

11 MR. SCHULTZ: Your Honor, I cannot hear
12 the witness.

13 THE WITNESS: It was another bag of
14 plant-like material that was located.

15 MR. SCHULTZ: Thank you. Your Honor, if
16 it pleases the Court, can I move over there?

17 THE COURT: Yes, sir.

18 (Portion of video played.)

19 BY MR. KENDALL:

20 Q And what part of the room are you in now?

21 A It looks like the closet. The closet area.

22 Q Okay. Do you recognize that?

23 A Yes, sir.

24 Q And what is that?

25 A U.S. Postal Service mail bag.

1 (STATE EXH. 39, U.S. Postal mail bag,
2 was marked for identification.)

3 BY MR. KENDALL:

4 Q I'm going to show you what is marked
5 State's Exhibit 39. Do you recognize this?

6 A Yes, sir, I do.

7 Q And what is this?

8 A It's a U.S. Postal mail bag.

9 MR. KENDALL: Now, we offer
10 State's Exhibit 39 into evidence.

11 MR. SCHULTZ: No objection.

12 THE COURT: No objection. It's admitted.

13 (STATE EXH. 39, U.S. Postal mail bag,
14 was entered into evidence.)

15 BY MR. KENDALL:

16 Q And to be clear, this postal service bag the same
17 as what's on the screen right there?

18 A It is.

19 Q Now, taking a look at this, are you able to
20 determine what address that's made out to?

21 A It's partial on there. Someone ripped off
22 the check number, but that's a check package from
23 USPS on there.

24 MR. SCHULTZ: I still can't hear, Judge.
25 I'm sorry.

1 THE WITNESS: I said, somebody ripped off
2 the -- it looks like the U.S. tracking number was
3 took off of there. You can see the little bit of
4 partial address. Maplewood Drive is the address,
5 and all I see is a V.R. for an address. There's
6 an H, for a last name, and Smith, and then
7 possibly the Zip code. [REDACTED] which is here in
8 Gaffney.

9 Q All right.

10 MR. KENDALL: If you continue playing.

11 BY MR. KENDALL:

12 Q You just hold on to that for a second.

13 A All right.

14 MR. KENDALL: We offer State's Exhibit 39
15 into evidence. I believe we did.

16 THE COURT: It's in.

17 (Portion of video played.)

18 BY MR. KENDALL:

19 Q What is that right there that you just pulled out
20 of that box?

21 A Sandwich baggies.

22 MR. KENDALL: Pause it, please.

23 BY MR. KENDALL:

24 Q Sandwich baggies?

25 A Ziploc baggies.

1 Q What relevance is that to the narcotics trade?

2 A That's how they pack the material for sale.

3 Typically, they sell them in the baggies.

4 Q All right And what was found in that bag that we
5 got right there?

6 A In this bag, there was different types of
7 packaging. I can pull it out. This one is called
8 runts. It's got a marijuana symbol on the back.
9 This is called Alien Labs. You can buy these on
10 the Internet and have them sent to you.

11 MR. SCHULTZ: Your Honor, I'm sorry to
12 interrupt. I cannot hear him.

13 THE WITNESS: I said these are -- this is
14 different sizes. This one is called runts. It
15 has the marijuana symbol on the back. This one is
16 called Alien Labs. You can buy them and then have
17 them sent to you.

18 MR. SCHULTZ: Your Honor, I would object
19 to him testifying to, "You can buy them and have
20 them sent to you." I would just object to that.

21 THE COURT: Just testify to what it is
22 you found.

23 THE WITNESS: Yes, sir.

24 I found all these -- these are typically
25 used to package drugs in.

1 identification.)

2 BY MR. KENDALL:

3 Q I'm going to show you State's Exhibit 40 and 41.

4 If you could take a look at that?

5 A Yes, sir.

6 Q All right. Is that a fair and accurate
7 representation of what you saw and found in the box?

8 A Yes, sir. That's the box I found and it's
9 labeled right here. It said to B. Smith, [REDACTED]
10 Maplewood.

11 MR. KENDALL: I offer those into
12 evidence, Your Honor.

13 MR. SCHULTZ: No objection.

14 THE COURT: What numbers are we talking
15 about?

16 MR. KENDALL: 40 and 41.

17 THE COURT: 40 and 41 without
18 objection.

19 MR. KENDALL: If you could continue.

20 (STATE EXH. 40, Photo, was entered into
21 evidence.)

22 (STATE EXH. 41, Photo, was entered into
23 evidence.)

24 (Portion of video played.)

25 MR. KENDALL: We can go ahead and pause

1 it now.

2 BY MR. KENDALL:

3 Q What did you do -- when you found narcotics, what
4 did you do with them? Who took possession of the
5 narcotics?

6 A The captain took possession of them. He
7 boxed them and took them right there. He was just
8 in the kitchen doing the search warrant.

9 Q Okay.

10 A He was doing the search warrant and
11 everything we found connected to that person, they
12 write it down where it was found at and what it
13 was.

14 Q This was always in the custody and control of the
15 sheriff's office?

16 A It was.

17 Q And that is applicable to State's Exhibit 9; is
18 that correct? You can step back up here. That's
19 State's Exhibit 9, 8, 4, 5, 3, 2, 6, 7, and all the
20 narcotics encased in Number 1; is that correct?

21 A Yes, sir.

22 Q You all had control over those? You were able to
23 see the narcotics in the room and stuff?

24 A That's correct.

25 Q Do you recall if there were any other mail or

1 anything like that was also found in Mr. Smith's room?

2 A I believe an envelope that had a piece of
3 mail.

4 Q Okay. Do you recall where that was found?

5 A I could be wrong. I think it was in that
6 drawer you saw open a minute ago. I think there
7 was a piece of mail right there. I told Joe to
8 take a picture of it as well.

9 (STATE EXH. 42, Photo, was marked for
10 identification.)

11 BY MR. KENDALL:

12 Q I'm going to show State's Exhibit 42. Do you
13 recognize that?

14 A Yes, sir, I do.

15 Q And what is that?

16 A It's a piece of mail that I had that said
17 Bryson Smith [REDACTED] Maplewood Drive, Gaffney, South
18 Carolina.

19 MR. KENDALL: All right. We offer
20 State's Exhibit 42 into evidence.

21 MR. SCHULTZ: No objection.

22 THE COURT: 42 is admitted without
23 objection.

24 (STATE EXH. 42, Photo, was entered into
25 evidence.)

1 BY MR. KENDALL:

2 Q Now, when you walked into the room, did you see
3 any other indication of marijuana? Any other
4 paraphernalia or devices used for packaging or
5 weighing?

6 A I saw the set of digital scales that were in
7 the room.

8 Q Okay.

9 (STATE EXH. 43, Digital scales, was marked
10 for identification.)

11 BY MR. KENDALL:

12 Q Do you recognize this?

13 A Yeah, it appears to be scales that were in
14 the room.

15 MR. KENDALL: We offer State's Exhibit 43
16 into evidence, Your Honor.

17 MR. SCHULTZ: No objection.

18 THE COURT: Without objection.

19 (STATE EXH. 43, Digital scales, was entered
20 into evidence.)

21 MR. KENDALL: I'm just going to show the
22 jury.

23 Would you go ahead and play this for a
24 second.

25 (Portion of video played.)

1 MR. KENDALL: You can stop that there.

2 BY MR. KENDALL:

3 Q Now, to be clear, Lieutenant Dorsette, once you
4 found narcotics, they were turned over to a central
5 location?

6 A Yes, that's correct.

7 Q And who is that?

8 A Captain Anthony who got the bag.

9 Q He was inventorying that, is that fair to say?

10 A Yes, sir.

11 Q Okay. And you have been a narcotics officer for
12 how long?

13 A Since 2012.

14 Q And based on that experience, what sort of things
15 do you do as a narcotics officer?

16 A In 2012, we do patrol. We do investigations.
17 We get tips on houses and we do an investigation
18 on that. I'm also on the Homeland Security Task
19 Force in South Carolina in Greenville. So
20 anything that comes through the mail that's
21 shipped to Gaffney and we're aware of it, we do
22 investigations. We do undercover VICE. Other
23 agencies, when they come here, we control that,
24 and I have a couple people that work underneath me
25 to do that.

1 Q All right. Because of that, are you familiar with
2 some of the slang used in narcotic sales?

3 MR. SCHULTZ: Your Honor, I would object
4 to this. I believe that Mr. Kendall is purporting
5 to present him as, possibly, an expert. I'd like
6 to proffer that first outside the presence.

7 THE COURT: Let me see the lawyers.

8 MR. SCHULTZ: Yes, sir.

9 (Bench conference off the record.)

10 THE COURT: Madame Forelady and Ladies
11 and Gentlemen of the Jury, as I explained to you,
12 it might be necessary, it usually is necessary, at
13 least one or more times, to be removed from the
14 courtroom while we talk about a matter of law.
15 This is now a disagreement between the lawyers
16 about whether or not -- about a legal issue.

17 All right. We'll use this as your
18 morning break, so we're going to work. Just
19 expect about a 20-minute break maybe, or a little
20 more. Because we're going to work on this for a
21 few minutes and then we'll take our break, too, so
22 that we don't have you coming in and out.

23 Don't talk about the case. The case is
24 has not ended.

25 Madame Forelady, if you will take the

1 jury out.

2 (Jury exits the courtroom at 10:13 a.m.)

3 THE COURT: Okay, Mr. Schultz, you want
4 to be heard on the record?

5 MR. SCHULTZ: I do, Your Honor.

6 Your Honor, at this time, I believe what
7 the State is trying to do is they're going to
8 present the officer as -- for the purposes of this
9 trial, I think they are going to present him as an
10 expert in the field of drug transactions and for
11 value on the streets, or street value.

12 I would like to, at this time -- well, I
13 would like the State to proffer this witness. I
14 would be allowed -- I would ask the Court to be
15 allowed to present questions to him as to his
16 expert qualifications, and then I'll object at the
17 appropriate time to his alleged qualifications as
18 a, for lack of a better word, expert on the street
19 value of narcotics.

20 THE COURT: Solicitor.

21 MR. KENDALL: Just two things on this,
22 Your Honor. I think his testimony is
23 extraordinarily relevant. We will call
24 Traci Smith, which we plan to do, based on -- at
25 some point -- this house is a rental house and she

1 was -- at some point, it was rental house. One of
2 the things we were trying to establish is based on
3 the quantity of drugs and the value of these
4 narcotics, it would be very unlikely for someone
5 to leave thousands of dollars of narcotics
6 abandoned. I believe there's some case law to
7 that effect, too, and I could refer that to
8 Your Honor.

9 With regards to -- I can certainly go
10 through his qualifications.

11 THE COURT: Okay. Well -- so, you're
12 anticipating that Traci Smith -- that's somebody
13 you're going to call.

14 MR. KENDALL: Yes, sir. And she owns --
15 this is a rental house?

16 MR. KENDALL: She actually, I believe,
17 owns the home. It's her house and this is her
18 son. Initially, I think this is going to come
19 out, she told law enforcement very clearly whose
20 room that was, where it was located, whose it was,
21 she had nothing to do with that. Her story has
22 changed a bit and now focuses on previous renters
23 who were there months before.

24 And the State is attempting to establish
25 that based on the value of these narcotics, it

1 would be extraordinarily unlikely that he would
2 leave, I believe this is totaling around \$11,000
3 or \$10,000 of narcotics that are sitting in there,
4 the street value of those.

5 THE COURT: Mr. Schultz.

6 MR. SCHULTZ: I don't think -- absent an
7 expert, I don't think that the State can infer
8 what the street value is.

9 THE COURT: Okay. You want to proffer
10 his testimony while we got the jury out?

11 MR. SCHULTZ: Yes, sir.

12 PROFFERED TESTIMONY OF BRANDON DORSETTE
13 BY MR. KENDALL:

14 Q Can you please state your name again on the
15 record? You're Brandon Dorsette?

16 A Yes, sir.

17 Q How long have you worked in narcotics?

18 A About 2012 I started.

19 Q So approximately eight years?

20 A That's correct.

21 Q And during that time, what sort of things have you
22 done in narcotics?

23 A We do a number of things. One of the things
24 we do is, we purchase street narcotics in
25 undercover distribution buys.

1 Q Okay. So you actually make purchases. Why would
2 the value of narcotics be typically relevant? What
3 does doing a street purchase allow you to do?

4 A We do distribution buys. If we buy drugs
5 from someone -- you know, if I got an informant
6 that comes in, I'm going to buy pills or I'm going
7 to buy weed or whatever I want. They tell us how
8 much people charge for those drugs.

9 Q All right. And do you take action or rely on
10 that? In other words, who generates the money when
11 you're doing these buys?

12 A We supply the money.

13 Q So you basically have to match the value of the
14 narcotics to the amount of money that you're giving
15 them, correct?

16 A That's correct.

17 Q And this is something you check on as a part of
18 that case, is that fair say?

19 A We do check on it. The DEA sends out a list
20 every so often of the value.

21 Q I was referring to the CI.

22 A The CI --

23 Q You actually track it so the CI is not pocketing
24 \$20 dollars and keeping \$10.

25 A That's correct, yeah.

1 Q And how many of those CI buys would you say you've
2 done over the years?

3 A How many I participated in?

4 Q Yes.

5 A Maybe hundreds. A lot.

6 Q Okay. And are these for all types of narcotics,
7 pills, and methamphetamine, and cocaine and --

8 A Yeah. Pills, marijuana. All types of pills;
9 marijuana, Ecstasy, cocaine, heroin,
10 methamphetamine, Fentanyl.

11 Q Okay. And you, kind of, received additional
12 training in narcotics?

13 A I have.

14 Q Okay. What kind of training have you received?

15 A I didn't bring my book. I got probably maybe
16 hundred hours or so of different classes of
17 training that I've been to throughout that
18 Homeland Security sent me to. St. Petersburg
19 College they sent me to.

20 Q Okay. So the purchase of narcotics is
21 something -- or the price and purchase the narcotics
22 is something you deal with fairly often, is that fair
23 to say?

24 A That is fair to say. Every time we do an
25 order -- I'm allowed to say, but you'd be

1 surprised of the spiked increase in
2 methamphetamine. Once the border got shut down --
3 it was really cheap now -- it's back up to \$18,000
4 a kilo, where you was getting it for half of that
5 price.

6 Q Are there different -- when you're pricing
7 narcotics, is there different amounts based on where
8 someone is in the chain? So if somebody is, let's
9 say, wholesaling kilos, is the price per gram
10 different than street level?

11 A No. It's the same usually.

12 Q So when you purchase them, what quantities do you
13 typically deal with?

14 A We purchase, the majority of the times,
15 street level value drugs. So we might purchase
16 \$20 or a \$40 pill or \$20 worth of marijuana.

17 Q Okay. And what about at -- and you also -- do you
18 ever do trafficking as well?

19 A We do trafficking buys, yes, sir.

20 Q Obviously, it's more expensive?

21 A They are. They're real expensive right
22 now.

23 Q Have you had the opportunity to purchase and know
24 the price of cocaine?

25 A Yes, sir.

1 Q How much does cocaine, you know, cost
2 approximately per gram?

3 A \$100.

4 Q \$100 a gram?

5 A Yes, sir.

6 Q Okay. And is there -- what are the differences
7 you see in the price of cocaine? Like, is it quality,
8 is it quantity?

9 A Cocaine is pretty steady. It don't really
10 fluctuate too much.

11 Q Okay. What about -- I'm going to ask this, sort
12 of, two ways. Do you guys typically see pure uncut
13 powder form Fentanyl?

14 A Not a lot. I have found it.

15 Q Where do you typically find Fentanyl, in what sort
16 of form?

17 A For all of us, right now we find it when
18 people press the pills.

19 Q Pressing pills?

20 A Uh-huh.

21 Q Was that consistent with what we saw -- you
22 found during that search warrant?

23 A That's correct.

24 Q And approximately -- those Fentanyl were pressed
25 like Percocets. Approximately, how much would

1 something like that go. I'm saying the Percocet as
2 not necessary a direct quote for the pharmaceutically
3 prepared thing made by a drug company but for, like,
4 the street Percocet. How much do those go for a
5 piece?

6 A Probably around \$30.

7 Q So that would be on the low end of that?

8 A Yes.

9 Q All right. And he had 84 of those; is that
10 correct?

11 A That's correct.

12 Q And what about Fentanyl as oxycodone? What about
13 oxycodone pills?

14 A So oxy pills, they usually run \$10 a
15 milligram, so he had 30. So if blue roxies are
16 30s -- that's \$30. He can get eight milligrams
17 oxies that are \$80, so it's \$10 a milligram.

18 Q Okay. And now, again, we're talking street level
19 drugs. There is some give and take, is that fair to
20 say?

21 A (Witness nods head up and down.)

22 Q Okay. What about heroin?

23 A Heroin pretty much stays steady. It doesn't
24 move at all. The low end is \$100 a gram.

25 Q And that would be the cheap heroin, is that fair

1 to say?

2 A Yes.

3 Q So he had 69 of those marked as oxies. You're
4 looking at -- even on the cheap end of 30 bucks a
5 piece -- is that the lowest end you usually find
6 those, 30 milligram?

7 A Those roxies, yeah, they're going for 30.
8 People buy them for 30.

9 Q Okay. So you're looking at 69 of those at \$30 a
10 gram, is that fair to say?

11 A Yeah, \$30 per dosage unit.

12 Q That were the roxies, okay.

13 How much does heroin typically go for?

14 A The heroin? It's typically \$100 a gram or
15 \$20 a ten.

16 Q What about methamphetamine?

17 A Methamphetamine right now is going 4- to \$600
18 an ounce right now.

19 Q Four to \$600 an ounce?

20 A Uh-huh.

21 Q What about if you buy it -- I believe there's a --
22 so this was a little less than half an ounce.

23 A It's half an ounce. It's back to around \$100
24 a gram.

25 Q Okay. So 11.15 grams would potentially be

1 \$1,000?

2 A Yes.

3 Q Okay. And what about marijuana? What does an
4 ounce of marijuana run?

5 A I would say -- you know, it's grade marijuana
6 where you have trash marijuana. You have mid-
7 low-marijuana which people grow, and then you have
8 -- get a shipment in the mail of hydroponic, or
9 everybody calls it lab on the street. It's \$20 a
10 gram typically around here.

11 Q All right. What would an ounce of relatively
12 low-grade marijuana go for?

13 A A hundred-something dollars.

14 Q Over \$100?

15 A Yeah.

16 Q So, in this case, he's got 149 grams, which equate
17 to about five ounces; is that correct?

18 A It's close to that, yeah.

19 Q So we're looking at another \$500 or so of
20 marijuana?

21 A Just my opinion, yeah. That's not low-grade
22 marijuana, though.

23 Q Okay. So this is a better quality of marijuana?

24 A Yeah. This is actually \$20 a gram. But we
25 purchased that. I don't know how many hundreds of

1 times we purchased that.

2 Q What about methamphetamine, is that something you
3 all purchase fairly regularly?

4 A Yes, sir.

5 Q Now, there were some substances in there that had
6 no controlled substance too. Why would somebody keep
7 something that contains no controlled substance?

8 A You got some narcotics there, you want to try
9 to push your own pills. Say you want to cut about
10 an ounce of pure cocaine, you got to mix it with
11 some cut to make money.

12 Q So you're basically doing the equivalent of
13 watering down --

14 A Watering it down to make more money.

15 Q Okay. Is that something fairly common to see on
16 the distribution side?

17 A That is, yes, sir.

18 Q People wouldn't do that as a user, is that fair to
19 say?

20 A I wouldn't think that made sense.

21 Q So, basically, the equivalent, if you order a
22 drink from a restaurant and they fill the whole thing
23 up with ice that would be --

24 A Yes, that's correct.

25 MR. KENDALL: Nothing further,

1 Your Honor.

2 THE COURT: Yes, sir.

3 MR. SCHULTZ: Thank you, Judge. Do you
4 mind if I take off the face mask.

5 THE COURT: That's fine with me.

6 MR. SCHULTZ: Thank you.

7 CROSS-EXAMINATION

8 BY MR. SCHULTZ:

9 Q Officer, you've been on a -- well, you still work
10 for Cherokee County?

11 A Yes, sir.

12 Q And you also do some work for Homeland Security,
13 or are you a liaison with Homeland Security?

14 A Yes, sir. I'm a task force officer.

15 Q You work for the State -- or excuse me -- the
16 county, but you also work for the federal
17 government?

18 A Yeah, I'm a task force officer at the
19 Greenville office. Yes, sir.

20 Q How long have you worked for Homeland Security?

21 A Right around 2012, in that area.

22 Q Now, do you have a CV? Do you have a curriculum
23 vitae, resume designating you as an expert?

24 A What I typed out before of everything that
25 I've done?

1 Q Yes.

2 A I do. I didn't bring it with me.

3 Q You don't have that today?

4 A I didn't bring it, no, sir.

5 Q Do you have a bachelor's of science or a bachelor
6 of arts?

7 A I do not.

8 Q What is your education?

9 A I finished high school. Went to work and
10 just studying on-line at the St. Petersburg
11 College. I took those.

12 Q So you have a high school diploma and on-line --
13 some on-line classes?

14 A Yeah, St. Petersburg College and then you
15 take classes there. They have in-person as
16 well.

17 Q But you don't have a degree from the
18 St. Petersburg College; is that correct?

19 A I don't have a degree from there. No, sir.

20 Q You do not have a degree. Do you have a
21 associate's degree or anything?

22 A I did not go to college, sir.

23 Q Okay. Are you a drug recognition expert?

24 A I did not take the DRE. I took the ARIDE
25 class before that, when I went on patrol.

1 Q You said ARIDE?

2 A It's called ARIDE. It's a prerequisite to
3 the DRE. You have to take that class.

4 Q All right. So you just took the prerequisites to
5 be drug recognition expert, right?

6 A As far as DUI is concerned. You're talking
7 about the effects of the drugs on the body,
8 correct?

9 Q Yeah, that's what I'm talking about. So, for
10 instance, like, you couldn't -- well, if you stopped
11 somebody -- if you were working traffic stops --

12 A Yes, sir.

13 Q -- and you stop somebody for a DUI, you could not
14 test that person for intoxication as far as marijuana,
15 right?

16 A I can call somebody.

17 Q Yeah, but you couldn't do it yourself?

18 A Not for the fix. I didn't take that class.

19 Q Okay. But you took the prerequisite courses, but
20 you never received any kind of certification or any
21 kind of advanced training with DRE, right?

22 A That's correct.

23 Q Okay, thank you.

24 Did you ever sign a warrant on my client,
25 Bryson Smith, before?

1 A Before what, sir?

2 Q Before this whole thing.

3 A For the charges, I believe my name is on the
4 warrants.

5 Q Sir?

6 A You're talking about for the charges for
7 today?

8 Q No, I'm talking about previously. Have you ever
9 served a warrant on him?

10 A I don't recall if I did.

11 Q Okay. Did you ever have any contact with him
12 before?

13 A Mr. Smith?

14 Q Yeah.

15 A I have not.

16 Q Okay. What about any known associates of
17 Mr. Smith?

18 A I don't know who all his associates are.

19 Q Okay.

20 A He lives in Gaffney. I don't know.

21 Q What about any family members of Mr. Smith?

22 A I wouldn't think I did.

23 Q All right. So other than just seeing him here
24 today, you don't know him from a hill of beans?

25 A I don't know any more than just by his

1 nickname.

2 Q Right. This is the first time you heard of
3 Bryson Smith, correct?

4 A You're talking about before this case?

5 Q Yeah, before this case.

6 A I would say -- like, I hear in our office
7 other agents work cases, you know what I'm saying?
8 So Detective Gardner, he might know him by Bryson.
9 He works out of that area. He knows all those
10 people in that circumspect or whatever. I may
11 know him in passing, but I do not know him.

12 Q You, specifically, never heard of him, correct?

13 A That's correct.

14 Q You never investigated him?

15 A That's correct.

16 Q Okay, thank you.

17 A Not that I remember. I stopped a lot of
18 people in 12 years.

19 Q I understand. I understand. And you specifically
20 work Cherokee County, right?

21 A Most of the time, yeah.

22 Q Do you work other counties?

23 A We do. Yes, sir.

24 Q Okay. Do you go up to North Carolina because you
25 work for the feds too?

1 A Sometimes I do.

2 Q Okay. You made a comment there about the value of
3 a drug and I didn't get that. You said once the
4 border got shut down the street level of the drug went
5 up?

6 A That's correct.

7 Q Okay. What drug were you talking about?

8 A Most of them. All of them went up, but
9 mostly methamphetamine went up.

10 Q And why did the border get shut down? Are you
11 talking about the coronavirus or are you talking about
12 an issue with immigration enforcement?

13 A Well, they shut down before the coronavirus.
14 I guess it was completely shut down for a while.

15 Q What do you mean? What border? Mexican or
16 Canadian border?

17 A I guess they shut them all down. Most of our
18 methamphetamine comes from across the Mexican
19 border.

20 Q All right.

21 A Supply and demand.

22 Q I understand. So I just want to confirm this
23 because you mentioned this. Is the Mexican border
24 with the United States shut down to all traffic?

25 A It's not shut down to all traffic.

1 Q Okay. But you said it was a shut down a couple
2 minutes ago, right?

3 A Yes, sir.

4 Q But it's not really, right?

5 A What I'm saying, if you take a ton more
6 presence --

7 Q A ton more of what, I'm sorry?

8 A Presence of the National Guard, more people
9 down there. So if I got a business and my
10 business is selling methamphetamine, right, supply
11 and demand, I got an opportunity to say, hey, we
12 can't get drugs through. Instead of 10,000 kilos,
13 I need 30 kilos because I can't get it. So the
14 price just went up.

15 Q All right.

16 A I can't -- I don't know. I'm just telling
17 you what I've heard as far as the price going up
18 and down.

19 Q That's fine.

20 Now, would you -- in your experience, would
21 you say this is a -- the street value of drugs is an
22 overly technical issue?

23 A Say what, sir?

24 Q Overly technical issue, like DNA testimony?

25 A I don't think you can say technical.

1 Q Yeah.

2 A I wouldn't think so.

3 Q Like what a doctor would testify or what a
4 forensic pathologist would testify to?

5 A It depends. It fluctuates all the time, so
6 you need to know what's going on. You know what I
7 mean? It's not like I say, hey, this happened.
8 You would have to be in constant contact every day
9 to know what was going on.

10 Q So, it fluctuates every day. So there's not
11 really a -- I hate to be flippant with this, but I'm
12 just going to ask this question. You don't -- like,
13 you couldn't get some kind of advance certification or
14 some kind of degree or any kind of training in the
15 value of drugs, right? You couldn't go to a class or
16 some kind of seminar for that, right?

17 A I feel like I could. The DEA, Drug
18 Enforcement Administration would pretty much tell
19 you. And that's what their constant job is, to
20 say this is the street value we've seen. We get
21 all the information all over the United States, we
22 put them together, and this is basically what
23 drugs are going for right now.

24 Q Okay. Let's get into that. The Drug Enforcement
25 Agency offers these classes, right?

1 A I suppose they do. We have a sheet from them
2 that tells you what it is.

3 Q So let's assume for a second that DEA does offer
4 these drug valuation classes at regular intervals
5 throughout the course of the year, right?

6 A That's correct.

7 Q Okay. Have you taken any of these classes?

8 A We're short staffed. It's very hard to get
9 training, sir.

10 Q Okay. So no?

11 A That's correct.

12 Q Thank you.

13 MR. SCHULTZ: Beg the Court's patience.

14 THE COURT: Yes, sir.

15 BY MR. SCHULTZ:

16 Q The valuation of drugs on the street, is that a
17 science?

18 A I wouldn't think it was science.

19 Q Sir?

20 A You said, is it a science?

21 Q Yeah, it's a science. Is it a science?

22 A Street science, or what, I don't know.

23 Q Street science?

24 A I don't know. I'm confused by your
25 question.

1 Q All right. Well, let's --

2 A I'm trying to answer.

3 Q Let me clarify this a little bit. A scientist
4 observes known quantities of an item and then analyzes
5 it and makes a hypothesis on knowable observations and
6 then presents findings, published, peer-reviewed
7 findings. Would you say that is basically a
8 definition of what a scientist does?

9 A I guess that's what a scientist does.

10 Q All right. Do you do those things in your work,
11 in your line of work?

12 A I'm not a scientists. I don't know.

13 Q That's what I'm asking. Okay.

14 You were here yesterday, right?

15 A Yes, sir.

16 Q You heard two people come from SLED, McCormack and
17 Lyles. Do you remember that?

18 A Yes, sir.

19 Q They both had advanced technical training,
20 right?

21 A That's correct.

22 Q All right. She both had BS's in forensic
23 science -- well, may not be BS's in forensic science,
24 but science in some field. I think it was biology for
25 Lyles, right?

1 A I know they had a degree, yes, sir.

2 Q But you were here, right? Were you listening to
3 the testimony?

4 A That's correct.

5 Q Would you say that they would be proper experts
6 before the Court?

7 A In telling what type of drug, I would.

8 Q Right, in telling what type of drug.

9 MR. SCHULTZ: That's all I have, Judge.
10 Thank you.

11 THE COURT: Anything?

12 REDIRECT EXAMINATION

13 BY MR. KENDALL:

14 Q Are you aware of anywhere that has a course
15 specifically, a college course for the value of
16 narcotics here in Cherokee County?

17 A No, sir.

18 Q All right. How are the value of things
19 determined?

20 A For us, we look at the sheet. But mostly
21 it's our confidential informants that's on the
22 street every day and buy drugs.

23 Q What people are paying for it?

24 A That's correct. Paying every day for drugs.

25 Q And this is something that -- so you are on the

1 front end of this, correct? You do these values of
2 drugs and these are compiling stuff, correct?

3 A That's correct.

4 Q And you all are in the area -- the relevant area
5 and making purchases and basing the amount of money to
6 give the CI's to buy these things based on that, is
7 that fair to say?

8 A That is fair to say.

9 MR. KENDALL: Nothing further,
10 Your Honor.

11 THE COURT: Okay.

12 MR. KENDALL: I would just, as far as his
13 testimony, Your Honor, I would draw the Court's
14 attention to State vs. Jamison. It's a 2007 case.
15 372 S.E. 649.

16 MR. SCHULTZ: What is the cite on that?

17 MR. KENDALL: 372 S.C. 649, South
18 Carolina Court of Appeals.

19 THE COURT: Well, I'm going to read that.
20 But while you're reading, also look at
21 State vs. Mealor, M-e-a-l-o-r, that's at
22 425 S.C. 625, February of 2019. Stilwell was the
23 trial judge. Konduros was the writer for the
24 Court of Appeals.

25 We'll take a quick break. I'll go look

1 at that case. Mr. Schultz, read that.

2 MR. SCHULTZ: Yes, sir. I'm reading it
3 now.

4 THE COURT: Anything further?

5 You may step down. You can't talk to
6 anybody about your testimony at this point, okay?

7 THE WITNESS: Yes, sir.

8 (A break was taken from 10:41 a.m. to 10:54 a.m.)

9 THE BAILIFF: Remain seated. Come to
10 order.

11 THE COURT: Be seated. Thank you. Thank
12 you.

13 Okay. I took the time to go back and
14 review that Jamison case, which is right on point
15 in this matter. Have you seen that, Mr. Schultz?

16 MR. SCHULTZ: I have, Your Honor.

17 THE COURT: Okay. And it's my
18 understanding that Judge Goolsby wrote that
19 opinion, and I think it was joined in by Hearn and
20 Stilwell, which would be Sam Stilwell, Judge Rock
21 Stilwell's father when he was on the Court of
22 Appeals.

23 Under 702, if would aid the jury in
24 understanding some facts in this case, the expert
25 testimony can be offered and heard by them.

1 This witness has the experience. He has
2 about 12 and a half years, I think I wrote, of
3 experience in law enforcement, specifically in --
4 I don't know what I did with my note now. But,
5 specifically, he has that experience in narcotics.
6 He knows it by sight. He knows what the street
7 prices are. He participates in hundreds of buys,
8 he testified, over the course of his career. And
9 in addition to that, he had been -- he's received
10 some training from Homeland Security. I think I
11 understood he had over a hundred hours in some
12 specialized training with narcotics and he
13 continues to educate himself.

14 So the Court will qualify him as an
15 expert. He can testify to the drug amounts.
16 Whatever amounts, he can testify to the price of
17 the drugs. I believe that's what you were wanting
18 to offer him for.

19 MR. KENDALL: Yes, sir. I was going to
20 ask just some general questions about what he
21 experienced and what they called these things.
22 And I was going to ask him about generally. We're
23 not doing this down to the dollar. I'm not going
24 to go and say, what's the exact amount. I want
25 the jury to understand what we're talking about is

1 a substantial amount of money. I'm not going to
2 use him to create an additional thing for the
3 defendant. It's really that important and it's
4 sitting here.

5 THE COURT: He will be allowed to testify
6 to that.

7 MR. KENDALL: Thank you, Your Honor.

8 THE COURT: And, again, the Jamison case
9 instructive. And then I referred to -- I guess
10 it's Mealor or Mealor, M-e-a-l-o-r, 425 S.C. 625,
11 a February 2019 case as well.

12 Anything further, Mr. Schultz?

13 MR. SCHULTZ: Not here, as far as this
14 goes. But, obviously, I'm going to object to it.
15 Obviously, I'm doing that right now and I'm going
16 to do it in the State's case in chief.

17 But the ruling is that -- the ruling from
18 the Court is that this gentleman is an expert for
19 purposes of drug valuations?

20 MR. KENDALL: I'm going to qualify him --
21 if the State moves, I will qualify him as an
22 expert in valuation.

23 MR. SCHULTZ: Yes.

24 THE COURT: He can tell these jurors what
25 the price is.

1 MR. SCHULTZ: Thank you, Judge.

2 THE COURT: Yes, sir.

3 MR. KENDALL: We can go off the record
4 for a second. I'd like to approach the bench for
5 a second.

6 (Bench conference off the record.)

7 THE COURT: Okay. We'll have our jury.

8 (Jury enters the courtroom at 11:01 a.m.)

9 THE COURT: Thank you, Madame Forelady,
10 Ladies and Gentlemen of the Jury.

11 You ready, Solicitor?

12 MR. KENDALL: Thank you, Your Honor.

13 CONTINUATION OF BRANDON DORSETTE

14 BY MR. KENDALL:

15 Q Before the break, I believe we were talking about
16 your time in narcotics. How long have you been a
17 narcotics officer.

18 A Around 2012.

19 Q And what sort of things do you do as a narcotics
20 officer?

21 A I do distribution buys, buying narcotics on
22 the street. We buy small amounts, large amounts.
23 We do, you know, prostitution stings. Anything
24 with distribution.

25 Q Okay. And as part of those purchases you make,

1 what relevance is the price of narcotics?

2 A Well, we spend our money to buy them, so we
3 have to keep up with what the price is every day.

4 Q Okay. And when you're making those controlled
5 buys, are you're undercover officers typically wearing
6 cameras?

7 A They are.

8 Q And so you're able to see what they purchase the
9 narcotics for; is that correct?

10 A That's correct.

11 Q Do you have any other specialized training as a
12 narcotics officer?

13 A Like I said, I've been dealing with
14 Homeland Security since 2012. They sent us to
15 multiple classes. I took a lot at St. Petersburg
16 College. I did on-line college and a lot of
17 classes. They do have some in-person ones. Maybe
18 another a hundred or so hours of training in
19 different narcotics.

20 Q Okay. But more important to here, where is the
21 area you typically work?

22 A Typically, I work in Cherokee County most of
23 the time.

24 Q Okay. So you're familiarity with the sale and
25 purchase of narcotics, you would say is really

1 specialized to Cherokee County, is that fair to say?

2 A That's correct. Yes, sir.

3 Q And about how many of these controlled buys have
4 you made over the years?

5 A I probably participated in hundreds of them.
6 It's a lot.

7 Q Okay. So it's something that happens fairly
8 often, is that fair to say?

9 A That's true. Yes, sir.

10 Q And does it happen with regards to marijuana?

11 A It does.

12 Q Is that fairly common?

13 A That is common. Yes, sir.

14 Q What about methamphetamine? Is that something we
15 don't see very often here?

16 A No. We see it a lot here in Cherokee County.

17 Q So purchasing a quantity of methamphetamine would
18 be something you all would do fairly regularly?

19 A Yes, sir.

20 Q All right. What about pills, Percocets and
21 oxycodones?

22 A Yes, it's pretty deep here in our county.

23 Q And what about heroin?

24 MR. SCHULTZ: Your Honor, I'm going to
25 have to object at this point. I understand the

1 Court's previous ruling, but I don't think the
2 State has moved in the presence of the jury to
3 qualify him as an expert.

4 MR. KENDALL: I'm just putting up his
5 qualifications.

6 THE COURT: Yeah, he's putting up
7 qualifications.

8 MR. SCHULTZ: Yes, sir.

9 BY MR. KENDALL:

10 Q What about heroin?

11 A Yes, sir. We purchased it.

12 Q All right. And with regard to heroin and
13 Fentanyl, or both of them, but even more particular
14 with Fentanyl, is this something you're typically
15 seeing in its, kind of, pure, just powdery form?

16 A No, sir.

17 Q How do you typically see it?

18 A We typically see it in -- people make their
19 own pills, and you can -- they'll just press their
20 own pills out and they'll take the Fentanyl and
21 mix it with whatever they want to and then they'll
22 press out pills, different colors.

23 Q Okay. And are sometimes those made in disguise to
24 look like -- or not disguise, but made to look like
25 pharmaceutical grade pills, similar markings and

1 whatnot?

2 A They are. I've seen them try to make them
3 look just like Xanax and Percocets. They look
4 just like roxies. I've actually seen them look
5 just like Tylenol, which is really dangerous
6 because children wouldn't know. You wouldn't know
7 they weren't a Tylenol. They look like a lot of
8 things.

9 Q And do you have experience, kind of, purchasing
10 that stuff?

11 A Yes, we purchase those.

12 MR. KENDALL: All right. At this time,
13 Your Honor, we offer Lieutenant Dorsette as an
14 expert in drug pricing here in Cherokee County,
15 narcotics pricing.

16 THE COURT: Mr. Schultz.

17 MR. SCHULTZ: Your Honor, I would object
18 to the qualifications at this time. If it pleases
19 the Court, it's unfairly prejudicial to Mr. Smith
20 because he's not being judged for other crimes
21 that other people committed that do not involve
22 Mr. Smith. This is built by inference,
23 Your Honor, and I strenuously object to this.

24 THE COURT: The objection is overruled,
25 and he's now qualified as an expert in the drug

1 pricing as to the street drugs that are in
2 question.

3 MR. KENDALL: Thank you, Your Honor.

4 THE COURT: Ladies and Gentlemen, you
5 don't have to accept his opinion. You give
6 whatever weight to it you deem advisable.

7 BY MR. KENDALL:

8 Q Okay. Detective Dorsette, on the drug report --
9 you were here for the testimony yesterday, so please
10 correct me if I'm wrong.

11 A That's correct.

12 Q But the analyst came back with approximately
13 2.55 grams of cocaine. Approximately how expensive is
14 cocaine a gram?

15 A Right now, it typically stays the same. It's
16 around \$100 a gram.

17 Q That's here in Cherokee County?

18 A That's correct.

19 Q And, certainly, there's price point fluctuations
20 for quality and quantity and things like that, is that
21 fair to say?

22 A That is fair to say.

23 Q The per gram, it's approximately \$100?

24 A Yes. It stayed at \$100.

25 Q 2.55 grams, we're looking at about -- around 200,

1 \$255?

2 A That's correct.

3 Q Next, we have, I believe, Fentanyl's that were
4 marked, if I'm not mistaken, as Percocets. Now, I
5 understand Fentanyl in its pure form, is that
6 significantly more valuable than what we're talking
7 about here?

8 A It is.

9 Q What about these, sort of, kind of, Percocet
10 pills? And I don't mean -- I'm not using that term as
11 like a brand name Percocet made by a pharmaceutical
12 company, but the pills that are sold on the street as
13 opiate Percocets. How much do those approximately go
14 for?

15 A They typically -- usually go for \$30 a piece.
16 They can go higher than that. But on the low end,
17 it's \$30 a piece.

18 Q So our low ball average for the 84 Percocets he
19 has is about \$30 a piece; is that correct?

20 A That's correct.

21 Q Okay. Now, what about heroin? About how much
22 does heroin go for per gram?

23 A It's around 100, \$115 a gram. It's about the
24 same.

25 Q Okay. So he's got 7.78 grams of that; is that

1 correct?

2 A That's correct.

3 Q So we're looking into around 7 -- between seven to
4 \$800, would that be a fair estimate?

5 A That would be fair.

6 Q Now, what if that is pressed as oxycodone? How
7 much would oxycodone go for as a tablet? If he's
8 selling them as oxycodones, how much would that go
9 for?

10 A Those blue pressed pills, they call them
11 roxies. They're oxycodone. Oxycodone is seven to
12 \$10 a milligram on the street. So if it's
13 30 milligram that's \$30. If he had 80 milligram
14 oxies, those are \$80 on the street. That's on the
15 low end of this.

16 Q And what's, kind of, the lowest quantity you get?
17 Is there, like, a one-milligram oxycodone that you're
18 aware of?

19 A I've seen it -- I believe 10 and 30s, but 30s
20 is what we see 90 percent of the time around here.

21 Q All right. So 10s and 30s and he's got 69 of
22 those.

23 A The 30-milligram ones, yes, sir.

24 Q All right. As well as the blue tablets -- and so,
25 likewise, the A-25 oxycodones, that would still be in

1 that same analysis when 50 of those were found, same
2 thing. Basically, one dollar per every milligram.
3 Typically 10s, 30s, and sometime 80s, is that fair to
4 say? There's an additional 50?

5 A That's right. So the blue ones are roxies,
6 30 milligrams.

7 Q And what about methamphetamine? How much does
8 methamphetamine typically go for a gram?

9 A Right now, it's \$100 a gram.

10 Q Okay. So 11 grams of methamphetamine is over
11 \$1,000, is that fair to say?

12 A Yes, sir.

13 Q All right. What about marijuana? Now, if you're
14 buying -- now, I understand that the value is
15 different if you're buying a little or if you're
16 buying a lot. But if you're purchasing an ounce of
17 marijuana, so 28 grams, approximately how much would,
18 I would say, a low end ounce of marijuana cost?

19 A A low end, if you get up -- what a lot of
20 people call that -- or the higher grade marijuana,
21 it comes from California or Colorado, it's around
22 \$250 an ounce on the low end.

23 Q What about from stuff that you would just get,
24 sort of, from around here? Is that just a general --
25 if you were going to say what marijuana typically goes

1 for in Cherokee County?

2 A You might get it for a little over \$100 an
3 ounce, maybe, if you know someone.

4 Q And that would be on the very low end.

5 A Yes.

6 Q We're not talking about the good hydroponics stuff
7 growing on a big farm. We're talking about the lowest
8 grade you can get.

9 A Yes, sir.

10 Q I'm just trying to establish a bottom value.

11 So if he's got five ounces -- over five
12 ounces of that, you're looking at between five and
13 \$600, is that fair to say?

14 A That would be about right, yeah.

15 Q Okay. And there was a substance that was found
16 within there that was no controlled substance, that
17 looked like a crystal rock-like substance. Do you
18 recall that from the testimony yesterday?

19 A I do.

20 Q And what significance does that have in drug
21 distribution?

22 A If I buy an ounce of cocaine, I take it and
23 I'm going to cut it down so I make more money. It
24 just makes sense as a business. That's what you
25 do. So I take one ounce and put whatever kind of

1 flex I want with it, and then it makes me two
2 ounces of cocaine to sell versus having one.
3 That's how they make two ounces.

4 Q So when you "cut," what is cut?

5 A So you take pure cocaine and you can put
6 Fentanyl in it, they put baby powder, you can put
7 anything you want with it to cut it.

8 Q Is it fair to say it's something that looks like
9 cocaine?

10 A Yes, it looks exactly the same. It just
11 weakens it up.

12 Q Is it fair to characterize this as basically the
13 equivalent as watering down drinks?

14 A That would be the same equivalent, yes.

15 Q In Cherokee County, how hard is it to get
16 marijuana? Is this an exotic substance, it's very
17 hard to get a re-up on?

18 A It's really easy to get.

19 Q Okay. So it's not something that would take a
20 pre-order weeks in advance or anything like that, is
21 that fair to say?

22 A That's fair to say.

23 Q Okay. And are you familiar in your experience
24 with law enforcement with some of the nicknames to use
25 narcotics?

1 A Yes, sir.

2 Q And what do you generally understand beans to
3 be?

4 A I didn't hear what you said.

5 Q Beans, what you generally understand beans to
6 be?

7 A Typically, it's some type of pill.

8 Q Okay.

9 A It could be ex-pills, could be regular
10 pills.

11 Q But something in pill form?

12 A That's correct.

13 Q And what about percs?

14 A It called Percs are Percocets. It's an
15 opiate.

16 Q Again, we're talking about Percocet. Is that
17 always coming back as pharmaceutical grade made by the
18 company someplace, and shipped off in the tamper proof
19 packaging?

20 A No, not always.

21 Q And it's true, sometimes they'll press they're own
22 pills to make, kind of, an equivalent Percocet?

23 A That's true. They do do that.

24 Q Please answer any questions Mr. Schultz may have.

25 THE COURT: Mr. Schultz.

1 MR. SCHULTZ: Thank you, Judge.

2 RECROSS-EXAMINATION

3 BY MR. SCHULTZ:

4 Q Officer Dorsette, you've have been with Cherokee
5 County for a while, right?

6 A Yes, sir.

7 Q You said 12 years, did I get that right?

8 A Since 2010.

9 Q 2010?

10 A Uh-huh.

11 Q Okay. The Court just qualified you as an expert
12 in the field of drug valuation in Cherokee County; is
13 that correct?

14 A I believe so.

15 Q All right. Explain supply and demand in
16 Cherokee County as it relates to price?

17 A So a lot -- supply and demand. Let's see, if
18 I sell cocaine, and then, for some reason -- the
19 main supplier in Cherokee County is in Atlanta,
20 Georgia, if he gets knocked off, nobody can get
21 cocaine, but I might held a little back, and then
22 my price went from \$100 a gram to \$500 a gram
23 because I'm the only one that has it. If I got
24 it, I can sell it.

25 Q Is that an ingress relationship on a graph or is

1 that a direct relationship?

2 A I didn't understand the question.

3 Q Oh, okay. Well, I thought you were an expert on
4 drug valuation?

5 A I just didn't understand your question.

6 Q Okay. Looking at it as a graph, because there's
7 such a thing as supply and demand, you must be
8 familiar with graphs of supply and demand, right? Or
9 no?

10 A I know what supply and demand is, yes, sir.

11 Q Okay. Well, have you ever seen a graph detailing
12 supply and demand as it relates to price?

13 A Maybe when I was in high school.

14 Q Oh, high school.

15 Okay. Do you have any advanced technical
16 knowledge when it comes to drug valuation?

17 A I didn't understand the question when you
18 called it a valuation.

19 Q Do you have any technical knowledge as it relates
20 to drug valuation?

21 A You're talking about what type of drugs they
22 are, or what?

23 Q Yeah, do you have any special skills or education?

24 A I'm not forensic scientist in drugs.

25 Q You're not a scientist, right?

1 A That's correct.

2 Q Okay. You're an officer, right?

3 A That's correct, sir.

4 Q Okay. Do you have a bachelor's of science or
5 anything?

6 A I do not.

7 Q All right. So you don't have a bachelor's of
8 science like the SLED people that testified yesterday,
9 right?

10 A I do not.

11 Q Okay. Do you have a BA? Do you have a bachelor
12 of arts?

13 A I have no college degree, sir.

14 Q Okay. Do you have any other certifications or
15 classes in drug valuation?

16 A I have a couple.

17 Q A couple?

18 A Yeah.

19 Q Okay. Where did you take them?

20 A St. Petersburg College.

21 Q Okay. Where's that?

22 A That's on-line, but then you can go
23 sometimes. I've been to a couple class in-person
24 there.

25 Q St. Petersburg, is that in Florida?

1 A It would be, sir.

2 Q All right. It's not Russia, is it?

3 A No, sir.

4 Q All right. So a high school diploma and some
5 on-line classes, right?

6 A Yes, sir.

7 Q Okay. Are you a drug recognition expert?

8 A I am not.

9 Q Explain to the jury what a drug recognition expert
10 is?

11 A A DRE is somebody that -- we do DUIs a lot,
12 drinking and driving and all that. A DRE
13 recognition expert, you take a lot of classes.
14 You can tell when somebody is under the influence
15 of either it would be marijuana or cocaine. You
16 can tell the different kind of drugs. You do a
17 test on them, like roadside impairment tests, and
18 tell what they are on.

19 Q But you're not qualified as a DRE?

20 A No. I am not Drug Recognition Expert, no.

21 Q Again, just to clarify, DRE stands for Drug
22 Recognition Expert, right?

23 A Yes, sir.

24 Q All right. You said that the prices of various
25 narcotics fluctuate. What is the -- what would you

1 say is the level of fluctuation in the county since
2 the coronavirus pandemic that began in
3 March of 2020?

4 A Some drugs went up in price, some have not.

5 Q Okay. What about in August -- specifically,
6 August 2019?

7 A I believe that would be just before the
8 pandemic, correct?

9 Q Yes. What is the amount of fluctuation? Let's
10 just use, for clarity, Fentanyl. What's the amount of
11 fluctuation between August and now?

12 A Between August and now?

13 Q Yeah.

14 A Depending on when it went up. It's just
15 started to come back down.

16 Q Sir?

17 A At the height of the pandemic, it was a
18 little bit higher.

19 Q Okay. And in August, it was less or August it was
20 more?

21 A It was less in August, yeah.

22 Q Okay. And what would you say the -- as time goes
23 on, what does -- what affects price fluctuation in
24 the -- under -- in the black market of narcotic sales?
25 What affects that?

1 A If a big supplier gets hit or some of them
2 just know they can't get it, then the price goes
3 up.

4 Q The price goes up, okay.

5 All right. Well, let me ask you this: In
6 August of 2019, in your experience and training and
7 the fact that you're an expert in the valuation of
8 narcotics in Cherokee County, was there anything like
9 that in your -- did anything like that happen in the
10 summer of 2019?

11 A I wouldn't say that. Methamphetamine was a
12 little bit cheaper back then before the pandemic.
13 All other drugs remained the same.

14 Q Okay. So did you do any studies or did you
15 present any findings to your supervisor or superior
16 officer as to the valuation of drugs in the summer of
17 2019?

18 A I didn't. He's the captain. I didn't tell
19 him what the drugs was going for. He typically
20 knows what's going on.

21 Q But you did not, right? You didn't present any
22 findings or anything?

23 A To tell him -- I don't understand your
24 question. I apologize.

25 Q Well, you're an expert on valuation in

1 Cherokee County, right?

2 A Yes, sir.

3 Q Okay. So did you present any findings to your
4 superior officers as to the valuation in August of
5 2019? Yes or no?

6 A No. We buy drugs together. I did not.

7 Q What was that, Officer?

8 A We all purchased. We do distribution. They
9 all do the same thing I do.

10 Q So the answer is, no, you didn't present any
11 findings to your supervisor, right?

12 A That's correct.

13 Q Thank you.

14 Now, Officer, referring to the State's
15 exhibit that you were able to pull from the room
16 there, were you -- did you handle all the evidence
17 collection that day?

18 A I didn't. I didn't collect evidence.

19 Q You did not collect the evidence.

20 A No.

21 Q Who collected the evidence?

22 A He said on the video, Captain Anthony and
23 Lieutenant Jake Mullinax.

24 Q So Captain Anthony collected the evidence, but you
25 observed the evidence, right?

1 A Yes, I did.

2 Q Okay. Let's talk about State's Exhibit 27. You
3 observed this?

4 A Yes, sir.

5 Q Okay. But you did not collect this, right?
6 Officer Anthony did that, right?

7 A Yeah, on the video.

8 Q On the video. But you observed it?

9 A Yes, sir.

10 Q All right. Did you ever think about running this
11 for any kind of fingerprint analysis or anything?

12 A No, sir, I did not.

13 Q Okay. Would that have been a good idea to do?

14 A It depends on the case by case, sir.

15 Q Okay. Well, you just testified to the fact that
16 there was a fairly large amount of narcotics in this
17 room, right?

18 A That is correct.

19 Q And it's a fairly important case, right?

20 A It is an important case, yes, sir.

21 Q Okay. And you failed to collect any DNA evidence
22 or anything like that, right, from this?

23 A Would you like me to answer why?

24 Q No.

25 A Okay.

1 Q But you just failed to do it, right?

2 A I did not collect DNA in that case.

3 Q Okay, thank you.

4 What about this? Same thing? Did you
5 collect any DNA evidence or anything on it?

6 A I did not collect any DNA on the clothes.

7 Q What about hair? Did you examine for hair
8 follicle or anything like that?

9 A No, I did not.

10 Q Okay, thank you.

11 MR. SCHULTZ: Can I approach the witness,
12 Judge?

13 THE COURT: Yes, sir.

14 BY MR. SCHULTZ:

15 Q This is a scale, right?

16 A That is a scale, yes, sir.

17 Q All right. And scales are used for other purposes
18 as well, not necessarily legal purposes, right?

19 A That's correct. Yes, sir.

20 Q Let me ask you this: I'm not putting my
21 fingerprints on it. Can you collect latent
22 fingerprints on something like this?

23 A I wouldn't know. I'm not a fingerprint
24 expert.

25 Q Okay. But you investigated cases involving

1 fingerprint analysis, have you not?

2 A I've asked for them before in the past, yes,
3 sir.

4 Q Okay. Based upon your skills and experience, do
5 you know if fingerprints were ever collected on
6 this?

7 A On this case, I know they were not collected
8 in this case.

9 Q They were not?

10 A That's correct.

11 Q Okay. Well, let me ask you this: You were the
12 chief officer investigating my client, right?

13 A That's correct.

14 Q So no fingerprints on this thing?

15 A That is correct.

16 Q Referring to State's Exhibit 43. No DNA on the
17 book bag.

18 A That's correct.

19 Q No DNA on the pants.

20 A No, sir.

21 Q Oh, let's talk about the shoes. Have you ever
22 tried to match these shoes up with Mr. Smith?

23 A I did not.

24 Q Okay. Did anybody you know of try to match up
25 these shoes to Mr. Smith?

1 A I didn't ask --

2 MR. KENDALL: I've got an objection. We
3 need to approach, Your Honor.

4 THE COURT: All right.

5 (Bench conference off the record.)

6 BY MR. KENDALL:

7 Q Officer, I'm referring to State's Exhibit 42.

8 MR. SCHULTZ: Can I approach the witness,
9 Judge?

10 THE COURT: Okay.

11 MR. SCHULTZ: Thank you.

12 BY MR. SCHULTZ:

13 Q This is a letter that you found in the room
14 there?

15 A Yes, sir.

16 Q Okay. Do you have the original copy of that
17 letter?

18 A I don't know where it's at.

19 Q Okay.

20 A As I mentioned, I didn't collect the
21 evidence.

22 Q All right. The picture itself, is this the only
23 copy that you have, or is this the only -- you didn't
24 take that picture, right?

25 A I did not.

1 Q But you were in the room when the picture was
2 taken, right?

3 A I could have been. I would have reviewed the
4 thing.

5 Q Okay. But you were around --

6 A Yes, sir.

7 Q -- when the picture was taken?

8 A Right.

9 Q But you don't have an original copy of that
10 letter, right?

11 A I don't know. I can look at the search
12 warrant and see if it's on there.

13 Q Okay. Is there any date on this letter right
14 here?

15 MR. SCHULTZ: May I approach the witness,
16 Judge?

17 THE COURT: Yes.

18 THE WITNESS: No, sir. I don't see a
19 date on there.

20 BY MR. SCHULTZ:

21 Q So this letter itself, at least, you know, the
22 evidence that you collected here, this letter could
23 have been in that room for years, right?

24 A It's a possibility.

25 Q A possibility, okay. It could have been there for

1 a day, it could have been there for a months, right?

2 A That's correct, sir.

3 Q Okay. I'm referring to State's Exhibit 37, 36,
4 and 38.

5 MR. SCHULTZ: May I approach?

6 THE COURT: Yes, sir.

7 MR. SCHULTZ: Thank you.

8 BY MR. SCHULTZ:

9 Q What does this say right here?

10 A You want me to read the whole thing?

11 Q Yes, sir.

12 A It says, South Carolina Department of
13 Probation & Parole Services.

14 Q What is the name on there, sir?

15 A Bryson J. Smith.

16 Q In that photograph right there, do you see any
17 dates or anything like that?

18 A I didn't see one on there.

19 Q This is a zoomed out photograph of that same
20 letter there -- or whatever it is. Do you see any
21 dates on that, sir?

22 A I did not see one on there.

23 Q Okay. So same thing with State's Exhibit 42, you
24 don't see any of these letters, documents, you don't
25 see any dates on there, right?

1 A No, I didn't see any dates on there.

2 Q Do you remember where the officers found this
3 letter with Bryson Smith on there?

4 A I believe I said earlier, I think it was in
5 that drawer. When they opened that drawer in the
6 bedroom, it was right there.

7 Q Okay. So in a drawer underneath a bunch of
8 things?

9 A No. I think when we opened the drawer, you
10 could see the letter laying there on the left
11 side. It was just right there.

12 Q Okay. But, again, you don't know when the letter
13 was placed there and you have no date of this letter,
14 right?

15 A I don't know when it was placed there.

16 Q Okay. What about this State's Exhibit 36, 38, and
17 37, where did you find that?

18 A It was under the bedspread when I pulled it
19 back.

20 Q Under the bench?

21 A The bedspread.

22 Q The bedspread, I'm sorry. Under the bedspread.

23 Okay. Did you -- okay, let me ask you this: Did
24 you find any wallets there, or other kind of
25 identification of Bryson Smith?

1 A I don't remember seeing a wallet there, no,
2 sir.

3 Q What about any kind of I.D., or anything like
4 that?

5 A I don't remember seeing one.

6 Q Did you find any cell phones?

7 A There was a cell phone there.

8 Q Okay. Did you examine that cell phone?

9 A I didn't.

10 Q Okay. Did you find any other -- other than the
11 letters, did you find any other material linking
12 Bryson Smith to this room?

13 A There was another mailbox that said B. Smith
14 at [REDACTED] Maplewood Drive.

15 Q All right. Did you collect that into evidence?

16 A I believe the box is. I'm not sure. I
17 didn't collect the evidence. I know we took
18 pictures of it.

19 Q Okay.

20 A Not that one, sir. I apologize. It's a
21 brown cardboard box. There's a picture of it.

22 Q Okay.

23 A I believe it's like the letter. We have a
24 picture of the address on it. We looked at it
25 earlier.

1 Q Oh, so it's a -- it's not a -- I thought you said
2 it was box. I'm sorry.

3 A Yeah, it's a picture of the box.

4 Q A picture of the box.

5 A Just like the letter you have right there.

6 Q Yes, I'm sorry. Okay.

7 A There you go.

8 Q I apologize, Officer. This is State's Exhibit 40
9 and 41.

10 A That's correct. Yes, sir.

11 MR. SCHULTZ: Can I approach?

12 THE COURT: Yes, sir.

13 MR. SCHULTZ: Thanks.

14 BY MR. SCHULTZ:

15 Q Again, do you have that, the original of that here
16 today?

17 A I don't know if we have the box here or not.
18 I took a picture of it that showed who I believe
19 the owner is.

20 Q There's some pictures there, do you see any dates
21 on those?

22 A No dates on those.

23 Q Okay, no dates on those.

24 So all the letters, everything with
25 Bryson Smith, you don't see any dates or anything like

1 that, right?

2 A That's correct.

3 Q Okay. So you don't know how long these, for lack
4 of a better word, documents, mailings, were in that
5 room at that time, right?

6 A No, I could not say how long they'd been
7 there.

8 Q They could have been there for years, right?

9 A One day to a year. I do not know, sir.

10 Q Okay.

11 MR. SCHULTZ: Beg the Court's patience.

12 THE COURT: Yes, sir.

13 MR. SCHULTZ: That's all I have,
14 Your Honor.

15 THE COURT: Solicitor, anything?

16 MR. KENDALL: Yes, sir.

17 REDIRECT EXAMINATION

18 BY MR. KENDALL:

19 Q Lieutenant Dorsette, who basically gets DRE
20 certified?

21 A Most of the time traffic divisions get DRE
22 certified.

23 Q All right. And what's the purpose of a DRE
24 certification?

25 A The purpose is, if you pull over at the scene

1 -- you pull them over, he been drinking alcohol,
2 could he could be took too many pills, marijuana,
3 ingest too much heroin or whatever, it causes
4 automobile accidents as well. If you're a DRE
5 expert, you're able to charge somebody -- if they
6 hurt somebody, or kill somebody, you're able to
7 charge them for that, being under the influence of
8 drugs and not just alcohol.

9 Q It doesn't have anything to do with, like,
10 physically looking at drugs and deciding what they
11 are, is that fair to say?

12 A That's correct. All it has to do with, a DRE
13 can tell what -- be able to give a real educated
14 guess what type of drug you ingested. They can't
15 tell, so they have you tested. They do field
16 sobriety testing.

17 It's like, if you been drinking, I can't tell
18 exactly how much you had to drink until you take the
19 actual breathalyzer test.

20 Q Okay. So it deals with the effects of drugs or
21 alcohol, not like being able to look at them and see
22 what they are, is that fair to say?

23 A That's correct, yeah.

24 Q And, in your line of duty as a narcotics officer,
25 are DUIs something you regularly -- are DUI arrests

1 something you regularly make?

2 A I do not recall how often I do that.

3 Q And that's because that's a specialization, is
4 that fair to say?

5 A That's correct.

6 Q All right. And you testified a moment ago that --
7 Mr. Schultz asked you a couple questions ago about the
8 value of these narcotics. You said meth was little
9 bit cheaper back -- most of them were the same. Meth
10 was a little bit cheaper back then?

11 A It was a little bit. Yes, sir.

12 Q All right. And what would say, back then, the
13 range for meth would be? When you say a little bit
14 cheaper, we're not talking about like, you know, a
15 dollar an ounce or anything?

16 A No, sir. We're not.

17 Q What would like -- what would a gram of
18 methamphetamine run?

19 A Seventy-five dollars.

20 Q Seventy-five. So back then we're looking at about
21 \$75 a grams. He had about 11 grams, is that fair to
22 say?

23 A That's correct.

24 Q Now, Mr. Schultz, a moment ago, I asked you why
25 you didn't do a DNA on the backpack where the drugs

1 were found, or a fingerprint or anything on the
2 scales. Why is that?

3 A In this case, I feel like when we went in and
4 did a search warrant, his mom said that's his room
5 back there on the right. That's where he stays
6 at. She told me he stays there. On top of that,
7 I found the mail that said Bryson Smith. Not just
8 one piece, but several pieces. His probation
9 paperwork was in there. I feel like that Bryson's
10 room. His mom said they were the only two people
11 that lived there. She said they were the only two
12 that lived there.

13 I feel I didn't need to do the fingerprints
14 when the owner of the house says, that's my son. He
15 lives in that room. That's his room back there on the
16 right. On top of that, I found all the stuff in there
17 that coincides with Bryson Smith. That's why I didn't
18 ask for the fingerprints.

19 Q Okay. So the identity of whose room that was
20 wasn't really an issue when you guys came in through
21 the door, is that fair to say?

22 A That's fair to say. If I had any questions,
23 I would try to ask for DNA or get fingerprints or
24 be more involved in the -- you don't want to
25 charge the wrong person with any kind of crime.

1 MR. KENDALL: I have nothing further,
2 Your Honor.

3 THE COURT: Anything?

4 MR. SCHULTZ: No, sir.

5 THE COURT: Thank you. Officer, you may
6 step down. Please be careful.

7 MR. KENDALL: The State would call
8 Billy Anthony, Your Honor.

9 THE COURT: Okay.

10 THE CLERK: Raise your right hand. Do
11 you solemnly swear or affirm the testimony you
12 give to this Court will be the truth, the whole
13 truth, and nothing but the truth so help you God?

14 THE WITNESS: I do.

15 THE COURT: Sir, tell us who you are and
16 spell your last name for my court reporter,
17 please.

18 THE WITNESS: Yes, sir. Billy Anthony,
19 A-n-t-h-o-n-y.

20 THE COURT: Thank you.

21 Solicitor.

22 WHEREUPON:

23 BILLY ANTHONY,
24 after having been sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. KENDALL:

2 Q Sir, what is your rank with the Cherokee County
3 Sheriff's Office?

4 A I am the captain with the uniform patrol
5 division.

6 Q And how long have you been with the uniform patrol
7 division?

8 A I've been captain there for about eight
9 months, nine months now. Previously -- I've been
10 employed at the sheriff's office a total of
11 20 years.

12 Q Okay. And what are your responsibilities as an
13 evidence custodian? How does this work?

14 A During the time of this accident, I was an
15 evidence custodian at the sheriff's office where I
16 currently still am. We take in evidence, package
17 it. We'll take it to anywhere it needs to be
18 taken to, such as the South Carolina Law
19 Enforcement Division for any testing. We bring it
20 to court. Anything that relates to the evidence,
21 we would handle it.

22 Q Okay. And what are your procedures for that?
23 Walk me through how the procedure works for
24 maintaining evidence at the sheriff's office?

25 A We have an evidence vault in the sheriff's

1 office. Inside -- it's behind a locked door. As
2 officers bring evidence in that we don't collect
3 ourselves, we have a mail slot, kind of like you
4 would on a door that's in the wall that officers
5 can place evidence into. It drops into a box that
6 only one of the evidence custodians can retrieve.
7 It drops into evidence vault.

8 For items larger than that, we have a set of
9 evidence lockers. The officers will place evidence
10 into it. It's secured. The key is dropped into the
11 evidence vault. That way only one of the evidence
12 custodians would have access to it.

13 Q Okay. And, in this case, did you execute a search
14 warrant on August 12, 2019 in the area of -- or at the
15 address of [REDACTED] Maplewood Drive?

16 A Yes, sir, I did.

17 Q And what was your role in executing that search
18 warrant?

19 A I executed the search warrant. At the time,
20 I was also in crime scene. We typically will
21 photograph items. I was assisting
22 Lieutenant Mullinax. We photographed the items,
23 and I actually went in the residence, searched a
24 minimum amount, and then I did complete the
25 evidence return, the search warrant return,

1 basically logging all the evidence that was found,
2 and then took it back to the evidence -- to the
3 sheriff's office to be packaged.

4 Q Okay. And so you were the one that was ultimately
5 the collection point for the evidence, is that fair to
6 say?

7 A Yes, sir. That's correct.

8 Q Okay. And you were in the room sometimes and
9 sometimes in the kitchen just always collecting
10 evidence, is that fair to say?

11 A Yes, sir. If anyone else collected evidence,
12 it would have been brought to me and I maintained
13 the custody of it from the residence all the way
14 through court today.

15 Q Okay. And where, after you collected the
16 evidence, was it stored?

17 A It was stored in the evidence vault.

18 Q Okay. Now, in this case, how did you secure the
19 evidence? What did you do to actually secure it to
20 make sure it didn't, you know, get tampered with or
21 anything like that?

22 A What we do with smaller items of drug
23 evidence, we'll typically put it into what we call
24 a best bag, which is a tamper evident container.
25 It has a glue seal on it. The items were too

1 large to be placed into that package. So, in this
2 case, we placed it into a cardboard box. We taped
3 it with box tape. Then we put evidence tape,
4 which is a tamper evident tape, we place it on
5 their and initial and date it when it is sealed.

6 Q Okay. So you actually seal it inside this box.
7 Is there any way for an individual to open the box and
8 take stuff out and put stuff in or move stuff
9 around?

10 A The only way that the box could be opened,
11 they would have to cut the seal off to gain
12 access. That would break the tape, so you would
13 be able to tell that someone had opened that
14 container.

15 Q Okay. Now, I'm going to show you -- well, let me
16 just do this first. I'm going to show you
17 State's Exhibits 3, 8, 7, 5, 9, 1, 4, 6, 2. And also,
18 which has not been admitted yet, State's Exhibit 44.

19 (STATE EXH. 44, Box holding narcotics, was
20 marked for identification.)

21 THE WITNESS: Yes, sir.

22 BY MR. SCHULTZ:

23 Q Okay. And what are those?

24 A Those are the items that I placed into the
25 box when we left the residence and secured it

1 until it was taken to SLED.

2 Q All right. And did you take those items
3 ultimately to SLED?

4 A Yes, sir, I did.

5 Q And dropped them off. How did you drop it off up
6 there?

7 A What we do, the procedure at SLED now is, we
8 transport the evidence to their facility. They
9 have a secure room that has lockers. When we go
10 in, we time stamp our documents, our paperwork.
11 We initial what locker it's being placed into with
12 our initials. We place that evidence with the
13 paperwork in that locker and lock it behind us,
14 and then only their technicians have access to
15 it.

16 Q Okay. So to be clear, this evidence was secured
17 in a box with evidence tape in the local -- in
18 you-all's vault prior to being taken to SLED where it
19 was turned over to them; is that correct?

20 A Yes, sir. That's correct.

21 Q And how did you guys get this back? How did this
22 come back you?

23 A It was returned in the same box. When I
24 retrieve it back from SLED, I sign a form stating
25 that -- the chain of custody stating that I'm

1 getting the evidence back. And then on that box,
2 it is inspected by them and myself that their seal
3 is intact before I receive the evidence.

4 (STATE EXH. 45, Box, was marked for
5 identification.)

6 BY MR. KENDALL:

7 Q I'm going to show you, State's Exhibit 45, do you
8 recognize this?

9 A Yes, sir.

10 Q Okay. What was that?

11 A This is the box that I packaged all of the
12 items into when we were removing them from the
13 residence. It has our bar code with our case
14 number on it, which is the way we track our
15 evidence to know where it is located, whether it
16 was on the shelf or at the SLED lab. And it has
17 my evidence tape that I initialed and dated the
18 date that we took it, top and bottom, and that was
19 sealed until I received it back, but SLED had to
20 cut that seal to get the evidence out and test
21 it.

22 MR. KENDALL: Your Honor, we would offer
23 State's Exhibit 45 into evidence.

24 THE COURT: Any objection?

25 MR. SCHULTZ: No objection.

1 THE COURT: Without objection State's 45
2 is admitted.

3 (STATE EXH. 45, Box, was entered into
4 evidence.)

5 BY MR. KENDALL:

6 Q Now, when those narcotics came back, I'm going to
7 show you what is marked 13, 14, 15, and 16. If you
8 could take a look at these, and what are those of?

9 A This is photographs of the box, the container
10 I just had and the items that were inside of the
11 box when I opened it.

12 Q All right. And is it fair to say that those --
13 I'm going to show you State's Exhibit 46.

14 MR. KENDALL: Your Honor, we would offer
15 those exhibits. It was, I think, 13 through 16
16 into evidence at this time.

17 MR. SCHULTZ: Are those the pictures?

18 MR. KENDALL: Yes.

19 MR. SCHULTZ: No objection.

20 THE COURT: 13, 14, 15, and 16 are in.

21 (STATE EXH. 13, Photo, was marked for
22 identification and entered into evidence.)

23 (STATE EXH. 14, Photo, was marked for
24 identification and entered into evidence.)

25 (STATE EXH. 15, Photo, was marked for

1 identification and entered into evidence.)

2 (STATE EXH. 16, Photo, was marked for
3 identification and entered into evidence.)

4 BY MR. KENDALL:

5 Q I'm also going to show you State's Exhibit 44.

6 A Yes, sir.

7 Q And what is that?

8 A That is the box that I repackaged the
9 evidence into yesterday morning.

10 Q Okay. And why did you --

11 MR. KENDALL: We would offer State's 44
12 into evidence as well.

13 MR. SCHULTZ: No objection.

14 THE COURT: Without objection.

15 (STATE EXH. 44, Box, was entered into
16 evidence.)

17 BY MR. KENDALL:

18 Q And since they were packaged into that box, would
19 they had been in the custody of the sheriff's office
20 or here as entered as exhibits?

21 A Yes, sir. It was in our evidence vault until
22 we brought it up for court. And then due to
23 extreme caution because the packaging contained
24 Fentanyl inside, we wanted to place it into a
25 secondary bag to make sure there was no chance of

1 any transfer or anyone coming in contact with any
2 small amount of transfer of the substance.

3 Q Okay. So basically, we added this extra step in
4 the chain just to make sure it was prepared for court.
5 Is that a fair way so say that for the jury?

6 A Yes, sir.

7 Q Okay. And so to be clear: All the narcotics we
8 have sitting here, State's Exhibits 2, 3, 4, 5, 6, 7,
9 8, 9, and Exhibit 1 had been in a secured -- were
10 taken by you and kept securely until you took them to
11 SLED, and, since they were returned, they have been
12 kept in a secure vault?

13 A Yes, sir. That's correct.

14 Q And are those the narcotics which were recovered
15 from the search warrant August 12, 2019 at
16 [REDACTED] Maplewood Drive?

17 A Yes, sir, they are.

18 MR. KENDALL: All right. Your Honor, the
19 State would offer State's Exhibits 1 through 8
20 into evidence at this time.

21 MR. SCHULTZ: What are they?

22 MR. KENDALL: All the drugs.

23 MR. SCHULTZ: All the drugs. Are they in
24 the box right there?

25 MR. KENDALL: Yes.

1 MR. SCHULTZ: Beg the Court's patience.

2 THE COURT: Yes, sir.

3 MR. SCHULTZ: No objection.

4 THE COURT: 1 through 8?

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

6 THE COURT: 1 through 8 are in without
7 objection.

8 (STATE EXH. 1, Cannibus evidence, was marked
9 and entered into evidence.)

10 (STATE EXH. 2, White powder, was marked for
11 identification and entered into evidence.)

12 (STATE EXH. 3, Cocaine evidence, was marked
13 for identification and entered into evidence.)

14 (STATE EXH. 4, Fentanyl pills, was marked
15 for identification and entered into evidence.)

16 (STATE EXH. 5, Heroin/Fentanyl pills, was
17 marked for identification and entered into evidence.)

18 (STATE EXH. 6, Blue tabs, was marked for
19 identification and entered into evidence.)

20 (STATE EXH. 7, Empty bag, was marked for
21 identification and entered into evidence.)

22 (STATE EXH. 8, Pills in shape of Georgia,
23 was marked and entered into evidence.)

24 MR. KENDALL: One moment, Your Honor.

25 Please answer any questions Mr. Schultz

1 may have.

2 CROSS-EXAMINATION

3 BY MR. SCHULTZ:

4 Q Officer, you've been doing this for a long time,
5 being the evidence custodian?

6 A Yes, sir.

7 Q Do you work for Cherokee County?

8 A Yes, sir, I do.

9 Q All right. And did you -- I guess for lack of a
10 better word, when you went into this house, was that
11 the last involvement in this case for you, or did you
12 go in the house at all?

13 A Yes, sir. I went in the house.

14 Q All right. And when you left, was that your last
15 involvement in this case?

16 MR. KENDALL: We need to approach.

17 MR. SCHULTZ: Okay.

18 (Bench conference off the record.)

19 BY MR. SCHULTZ:

20 Q August 12, 2019, you left the house, right?

21 A Yes, sir. That's correct.

22 Q Okay, very good. And you delivered this to the
23 evidence locker at the Cherokee County Sheriff's
24 Office?

25 A Yes, sir. That's correct.

1 Q Very good. You're not a forensic scientist,
2 correct?

3 A No, sir, I am not.

4 Q You didn't test any of the drugs here for
5 anything, correct?

6 A No, sir. That's correct.

7 Q So you performed no field test on these, right?

8 A No, sir.

9 Q Okay. So all you did was, you essentially
10 collected the evidence, locked it up, that's it,
11 right?

12 A Yes, sir. That's correct.

13 MR. SCHULTZ: That's all I have, Judge.
14 Thank you.

15 THE COURT: Anything?

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

17 THE COURT: Thank you. Officer, you may
18 step down. Please be careful.

19 MR. KENDALL: Your Honor, can we
20 approach?

21 THE COURT: Yes.

22 (Bench conference off the record.)

23 THE COURT: Ladies and Gentlemen, we're
24 at the lunch hour here. And they're just wanting
25 to talk about how the afternoon is going to run

1 here, so there's no reason for you to hang around
2 for that. We'll talk about some nut and bolts
3 about who the witness may or may not be next, then
4 we're going to eat ourselves. But I'm going to
5 ask you to be back at 1:30. That's hour and a
6 half. 1:30. If you would please be back
7 assembled so we can get started then.

8 Again, we're going to talk nuts and
9 bolts. We're not going to have any witnesses or
10 anything, but we're going to talk some
11 housekeeping stuff outside of your presence, so
12 we'll be ready to go at 1:30.

13 Don't talk about the case. Don't try to
14 learn anything about it. It's not over, but we're
15 working on it.

16 Thank you, Madame Forelady.

17 (Jury exits the courtroom at 12:00 p.m.)

18 THE COURT: Do you all just want to talk?
19 Do you need me?

20 MR. KENDALL: If we could just, kind of,
21 talk among ourselves, maybe be back about
22 1:00-ish, 1:15. We need to, kind of, talk about
23 something.

24 THE COURT: How about if we're back
25 around 1:15. Will that give you plenty of time?

1 MR. SCHULTZ: Yes, sir.

2 THE COURT: 1:15.

3 (A recess was taken from 12:00 p.m. to 1:37 p.m.)

4 THE COURT: We will go on the record.

5 While the jury is out, if you want to rest, rest
6 outside the presence of the jury. I'm going to
7 recognize everybody for motions. We'll take that
8 up. And then when the jury comes back in, you can
9 rest in front of the jury. That way we don't have
10 to -- is your client -- he's not going to
11 testify.

12 MR. SCHULTZ: He is not, Your Honor.

13 THE COURT: Okay. I'll have that
14 colloquy with him while the jury is out, too.

15 MR. SCHULTZ: Would the Court do that
16 right now? Oh, I see.

17 THE COURT: Well, he's not rested.

18 MR. SCHULTZ: Okay.

19 THE COURT: So any matter's from the
20 State?

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

22 THE COURT: Matters from the defense?

23 MR. SCHULTZ: I would just like to renew
24 my motion to object to the testimony of the -- the
25 expert testimony of the officer.

1 THE COURT: All right. Anything from the
2 State?

3 MR. KENDALL: Just for the same reason we
4 found it appropriate before. As somebody that
5 regularly purchased narcotics, I think it
6 appropriate, the price of something, some people
7 are paying for it. He's a law enforcement
8 officer. He's tasked with making narcotics
9 purchases through confidential informants. They
10 have to know what these are, and the amounts that
11 are necessary. I think that's appropriate in
12 light of this to -- as expert testimony.

13 THE COURT: All right. Well, for the
14 same reasons here before, I'll enunciate even
15 further, the officer is qualified under Rule 702
16 as an expert witness, in that our case law allows
17 him to testify to the monetary value, and his
18 information was probably not within the realm of
19 the common knowledge of a juror, so it's helpful
20 them. It was not confusing or nor was it
21 misleading to the jury.

22 MR. SCHULTZ: And again, Your Honor, I
23 don't mean to belabor the point, I'm trying to
24 protect my client's rights for the record. It's
25 fairly prejudicial. We're trying him for crimes

1 that he wasn't involved in. And I believe any
2 expert testimony as to the evaluation is not
3 relevant to the crime charged. Thank you.

4 THE COURT: Thank you.

5 MR. SCHULTZ: I understand the Court's
6 ruling, Your Honor.

7 THE COURT: All right. Anything further,
8 Mr. Schultz?

9 MR. SCHULTZ: Not at this time.

10 THE COURT: Okay. Mr. Smith, if you'll
11 stand please and be sworn.

12 MR. KENDALL: Your Honor, can I just add
13 one more thing to that last point we made? I do
14 think it's also relevant to whether or not it's
15 possession with intent to distribute versus a
16 self-possession. A large value of the money would
17 also be relevant.

18 THE COURT: Okay.

19 THE CLERK: Please raise your right hand.
20 Do you solemnly swear information you give to this
21 Court will be the truth, the whole truth, and
22 nothing but the truth so help you God?

23 MR. SMITH: Yes, ma'am.

24 THE COURT: Sir, if you don't mind, take
25 your hand out of your pocket. That's a safety

1 issue.

2 MR. SMITH: Yes, sir.

3 THE COURT: Sir, at this time, I'm going
4 to explain certain rights that you have, and if
5 you do not understand something that I say, I want
6 you to stop me and I will withdraw and allow you
7 to talk to Mr. Schultz, okay?

8 We have reached the stage of this trial
9 where you may present your defense. You have the
10 right to claim protections given to you by the
11 Fifth Amendment to the constitution of our
12 United States which in part: "No person shall be
13 compelled in any criminal case to be a witness
14 against themselves."

15 Additionally, you have the right to claim
16 protections given to you by Article I, Section 12
17 of South Carolina constitution which states in
18 part: "No person shall be compelled in any
19 criminal case to be a witness against themselves."

20 This means you cannot be required to
21 testify in this trial. You have the right to
22 testify on your behalf, but no one can make you do
23 so. This is a personal right and no one except
24 you can waive that right.

25 If you decide to testify, you will

1 subject to the same rules that govern other
2 witnesses and you may be examined and
3 cross-examined on relevant issues in this case.

4 Additionally, if you have convictions
5 involving dishonesty or a false statement or for
6 crimes punishable by imprisonment for more than
7 one year, and this Court determines the probative
8 value of admitting the evidence outweighs its
9 prejudicial effect, the solicitor will be able to
10 introduce your record to attack your credibility.

11 If you decide to testify, the decision of
12 your part must be freely, intelligently, and
13 voluntarily made with full knowledge of the
14 protection given to you by the constitutions of
15 our United States and of this State and the
16 consequences of your decision. If you decide not
17 to testify, I will instruct the jurors that they
18 cannot give the fact that you did not testify any
19 consideration and there is to be absolutely no
20 prejudice to you because you did not testify. The
21 decision is entirely up to you as to whether or
22 not you will testify.

23 Sir, have you talked with your lawyer
24 about whether or not you want to testify?

25 MR. SMITH: I have. I don't want to.

1 THE COURT: You do not want to.

2 MR. SMITH: No, sir.

3 THE COURT: Do you have any questions
4 about your decision?

5 MR. SMITH: No, sir.

6 THE COURT: Do you wish to talk to
7 Mr. Schultz any more about your decision?

8 MR. SMITH: No, sir.

9 THE COURT: Are you under the influence
10 of any drug or alcohol or any substance that
11 alters your thinking ability?

12 MR. SMITH: No, sir.

13 THE COURT: You know fully what you're
14 doing today?

15 MR. SMITH: Yes, sir.

16 THE COURT: Okay. All right, sir. Thank
17 you. You may be seated.

18 MR. SCHULTZ: Thank you, Judge.

19 THE COURT: Thank you.

20 Okay. Anything further from the State?

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

22 THE COURT: From the defense?

23 MR. SCHULTZ: No, sir.

24 THE COURT: What we'll do is, we'll bring
25 them in, you have rested, and you don't have to

1 renew any motions, okay?

2 MR. SCHULTZ: That's fine, okay.

3 THE COURT: You'll rest because we've
4 done that outside the presence of the jury.

5 MR. SCHULTZ: Yes, sir.

6 THE COURT: So I don't bring them in and
7 send them right back out.

8 MR. SCHULTZ: Yes, sir.

9 THE COURT: Ready to go, Mr. Schultz?

10 MR. SCHULTZ: I am.

11 THE COURT: We'll have the jury.

12 (Jury enters the courtroom at 1:43 p.m.)

13 THE COURT: Everybody ready?

14 FOREPERSON: Yes.

15 THE COURT: Solicitor.

16 MR. KENDALL: Thank you, Your Honor. The
17 State would rest at this time.

18 THE COURT: The State rests at this time.

19 Madame Forelady and Ladies and Gentlemen,
20 the State has now rested its case. That means the
21 State does not intend to put up any other witness
22 or introduce any other exhibit in this trial.

23 Mr. Schultz.

24 MR. SCHULTZ: Thank you, Your Honor. I
25 renew my previous objections and move for anything

1 outside the presence of the jury.

2 THE COURT: Yes, sir. You're protected.

3 MR. SCHULTZ: Yes, sir.

4 THE COURT: You ready?

5 MR. SCHULTZ: I am, Your Honor.

6 THE COURT: Okay.

7 MR. SCHULTZ: Thank you, Your Honor.

8 At this time, Your Honor, the defense
9 would call Traci Smith to the stand.

10 THE COURT: Traci Smith.

11 THE CLERK: Please raise your right hand.
12 Place your left hand on the Bible. Do you solemnly
13 swear or affirm the testimony you give to this Court
14 will be the truth, the whole truth, and nothing but
15 the truth so help you God?

16 THE WITNESS: I do.

17 THE COURT: Ma'am, if you will, lower
18 your mask. But tell me who you are and spell
19 your last name for my court reporter, please.

20 THE WITNESS: Do I look at you?

21 THE COURT: Talk into that microphone for
22 me, please.

23 THE WITNESS: Traci Smith.

24 THE COURT: Last name, spelled?

25 THE WITNESS: S-m-i-t-h.

1 THE COURT: Thank you, Mr. Schultz.

2 MR. SCHULTZ: Thank you, Your Honor.

3 WHEREUPON:

4 TRACI SMITH,

5 after having been sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. SCHULTZ:

8 Q Miss Smith, could you please state your full name
9 any for the record?

10 A Traci Monique Smith.

11 Q And how old are you? How old are you?

12 A I'm 50.

13 Q All right. And how are you related to
14 Bryson Smith?

15 A I'm his mother.

16 Q All right. And you were here. You did not attend
17 all these -- the trial, but you know Bryson Smith,
18 obviously?

19 A Yes, sir, I do.

20 Q Okay. And let me take you back to August of 2019.
21 Where were you staying at the time?

22 A [REDACTED] Community Circle.

23 Q [REDACTED] Community Circle?

24 A Yes, sir.

25 Q All right. And where is that?

1 A It's located in Gaffney, South Carolina.

2 Q Okay. What area of Gaffney is that?

3 A It's on East Beaufort Street in Gaffney.

4 Q All right. Now, do you recognize the address of
5 [REDACTED] Maplewood Drive?

6 A Yes, sir. It's a residence that I bought
7 20 years ago.

8 Q And you bought that 20 years ago.

9 A Yes, sir.

10 Q Were you there on at Maplewood Drive in August of
11 2019?

12 A Is it a specific date that you're asking me?

13 Q August 12, 2019.

14 A Yes, sir, I was.

15 Q Why were you there?

16 A Because that Sunday night, me and my
17 boyfriend had got into a verbal altercation and we
18 needed to cool things off, so I went to [REDACTED] to
19 cool off because we had got into an argument and I
20 went to my permanent address.

21 Q So that was your permanent address?

22 A Well, [REDACTED] is where I bought the house at.
23 But where I lived at with my boyfriend is at his
24 house at [REDACTED] Community Circle. So I left his
25 residence to come to [REDACTED].

1 Q So your testimony here today is that you had lived
2 at [REDACTED] Community Circle but went to [REDACTED] Maplewood to
3 cool off, you said.

4 A Yes, sir.

5 Q Do you remember the day, afternoon that the police
6 came to [REDACTED] Maplewood?

7 A Yes, sir. It was during the morning time.
8 It was probably around 9:00, 9:30, 10:00.

9 Q All right. And do you remember talking to them?

10 A Well, Yes, sir. Yes, sir. They came to the
11 door and it was a woman. She said that they
12 wanted to talk to Bryson and see was Bryson there,
13 and I told them that they could come in and check.

14 Q And did they come in and check?

15 A Yes, sir, they did. They came in.

16 Q At the time, was there another individual there at
17 [REDACTED] Maplewood?

18 A Yes, sir. It was my boyfriend.

19 Q Your boyfriend?

20 A Yes, sir.

21 Q Okay. What is his name?

22 A Jeffrey Good.

23 Q Jeffrey Gould?

24 A Good, G-o-o-d.

25 Q Good.

1 A Yes, sir.

2 Q I'm sorry.

3 And to your recollection, I know this is a
4 long time ago, perhaps 16 months ago, but how long did
5 you talk to the police for?

6 A Well, actually sit and physically talk to
7 them, they just asked me a couple questions. But
8 to sit and actually talk to them, it was never
9 that. I was just asking questions when they --
10 when they was asking me questions, I answered the
11 questions for them.

12 Q All right. Do you remember that the police had a
13 body cam on at the time, or did they tell you that?

14 A No, sir, they didn't.

15 Q Okay. Now, what happened here is when -- do you
16 remember the police doing a search of the house?

17 A Yes, sir. Because they asked me could they
18 search the house for Bryson, and I told them
19 yes.

20 Q And you said yes?

21 A Yes, sir.

22 Q All right. And was Bryson there at the house that
23 day?

24 A No, sir, he wasn't.

25 Q Do you know where he was that day?

1 A No, sir, I didn't.

2 Q Okay. And Bryson is obviously a grown man so you
3 don't know where he is all the time, right?

4 A No, sir, I don't.

5 Q Okay, thank you. When this -- when the police
6 were doing a search of your residence -- is it fair to
7 call it your residence?

8 A Yes, sir, because I do own it.

9 Q Were you able to walk around with the officers
10 when they were doing the search?

11 A No, sir. I was seated in the living room on
12 the couch.

13 Q All right. When were you seated in the living
14 room -- or sitting on the couch in the living room --

15 A Yes, sir.

16 Q -- were any other officers questioning you?

17 A Yes, sir. It was one that questioning me.
18 Yes, sir.

19 Q Do you remember those conversations?

20 A Well, yes. Yeah, probably. Yeah.

21 Q Do you remember the police carrying out a box of
22 any sort?

23 A A box? No, not a box. No, sir. It wasn't a
24 box. When I was sitting in the living room, I
25 seen an officer come with a yellow platter or

1 something, and he gave it to the officer in front
2 of me and said that they had found this in the
3 bedroom. That's all I seen. It was a platter
4 that they bought out of the bedroom.

5 Q A what?

6 A A platter.

7 Q A platter.

8 A Like a yellow tray. Like a yellow tray.

9 Q That you would put food on?

10 A Something like that.

11 Q Like for a party?

12 A You know like one of those school trays when
13 you get your lunch at school. It was yellow. It
14 was sort of made, kind of, like that.

15 Q Did you find out later that there were drugs in
16 that room?

17 A Well, yes. They came out, they said they
18 said they was going to need a search warrant
19 because they found some drugs in the room.

20 Q Okay. And you had indicated, at least previously,
21 that that was a junk room?

22 A Yeah, it was. I had somebody to rent my
23 house. And they was, like, two, three months
24 behind on rent, so I changed the locks on the
25 door. I told her when she gave me my rent money

1 that I would give her her stuff. It was like two
2 bedrooms that I had their stuff in. I put their
3 stuff in a bedroom.

4 Q So you were renting that house out, is what you're
5 saying?

6 A Yes, sir.

7 Q Who were you renting it out to?

8 A Tamia Smith and her boyfriend. His name was
9 Chad. I don't know his last name. I only met him
10 one time.

11 Q All right. Did they pay you rent?

12 A Yes, sir, they did.

13 Q Were they receiving their mail there?

14 A Yeah, they did. Yeah, she was.

15 Q Where is Tamia Smith right now.

16 A She's was my cousin from D.C. She's in D.C.

17 Q Okay. Did you at least acknowledge that nobody
18 was living in that room for a while?

19 A That question never came up. The only
20 question that the police was asking me was, did
21 Bryson -- was Bryson living there and he was the
22 occupant of that room. I said Bryson hadn't lived
23 there in a year.

24 Q All right. There was some paperwork with Bryson's
25 name on it found in that room. Do you have any idea

1 how that got there?

2 A No, sir. I got five kids and everybody
3 receive their mail there, like they still continue
4 to receive my mail. My mail is there, because it
5 was my mail, my kids' mail, so everybody mail was
6 in there. I can't just physically say it was one
7 person's mail in there, but it was everybody that
8 lived there mail came there. After my kids move,
9 their mail still come there.

10 Q Why did Tamia Smith -- with was Tamia Smith not
11 living there anymore?

12 A Because she was behind on her rent. She
13 didn't pay rent for three months. I told her if
14 she didn't give me my rent money, she wasn't
15 getting her stuff until I get my rent money, which
16 I thought was fair.

17 Q Let me ask you this: Did Bryson have a key to the
18 house?

19 A No, he didn't.

20 Q Okay. Did he -- to your knowledge, did he have
21 any kind of access to the house?

22 A No, sir. The only body that had a key to the
23 new lock was me. Like I said, I had changed
24 locks. Because the former tenants that I had
25 living there, they still had the keys to the

1 house. So I changed the locks, so the only person
2 who had a key to house was me.

3 Q Let me ask you this: This was last August, who
4 lives at [REDACTED] Maplewood drive now?

5 A Nobody.

6 Q Nobody?

7 A Nobody.

8 Q So the house is vacant?

9 A Yeah.

10 Q And you live right now at [REDACTED] Community Circle?

11 A Yes, sir.

12 Q Do you have any other houses?

13 A No, sir, I don't.

14 Q All right.

15 MR. SCHULTZ: That's all I have at this
16 time, Your Honor.

17 THE COURT: Thank you.

18 Solicitor.

19 CROSS-EXAMINATION

20 BY MS. LESKANIC:

21 Q Good afternoon, Miss Smith?

22 A Good afternoon.

23 Q So you do remember August 12th of 2019 when
24 officers came to your home?

25 A Yes, I do.

1 Q And you were at your house that day?

2 A Yes, I was there.

3 Q Did officers tell you why they were there?

4 A Well, when -- it was a woman that knocked on
5 my door, and she was just saying that --

6 Q Were they looking for Bryson? I'm just -- were
7 they looking for Bryson?

8 A They wasn't looking for him. They just said
9 was he at my home. I told them he wasn't there.

10 Q And then they asked if they could come in and
11 look?

12 A Yes, ma'am.

13 Q And you allowed them to come into the home?

14 A Yes, ma'am, I did.

15 Q Now, who were at the house with that day?

16 A With Jeffrey.

17 Q Okay. Jeffrey Good?

18 A Yes, ma'am.

19 Q Isn't it true that you and Jeffrey had actually
20 broken up and you were at the home that day with
21 Pierre?

22 A No, ma'am.

23 Q That's not right.

24 A Pierre had came to house because he was
25 getting to ready to get deployed. He was a friend

1 of mine.

2 Q So it was Pierre at the house not Jeffrey?

3 A Both of them was at the house.

4 Q Both of them.

5 A Both of them was at the house.

6 Q When the police was there, both of them were at
7 the house?

8 A No, no. Just -- Pierre was there then.

9 Q You just Mr. Schultz under oath that it was -- let
10 me get the name right. You and Jeffrey Good, your
11 boyfriend, were at our home?

12 A No, I said me and Jeffrey had got into it and
13 I was at home. He asked me did I know if he was
14 at home.

15 Q Right. And you said Jeffrey was at the Maplewood
16 address with you when police arrived. That's what you
17 just told the jury.

18 A No. I said he was there. Jeffrey was there.
19 Jeffrey had left. Pierre was there when the
20 police actually got there.

21 Q So now Pierre was there when the police arrived?

22 A Pierre was there, too.

23 Q And, in fact, you had been seeing Pierre for a
24 couple of months.

25 A No, ma'am. Pierre was my friend.

1 Q Okay. So you didn't tell police that his name was
2 Pierre and that you all had started talking a couple
3 months back and that he was from Cowpens?

4 A No, I didn't.

5 MR. SCHULTZ: Objection; relevancy.

6 MR. KENDALL: It goes to the truthfulness
7 of the witness, Your Honor.

8 THE COURT: Overruled. Go ahead.

9 THE WITNESS: No, I never said that
10 Pierre was my boyfriend, because Pierre wasn't my
11 boyfriend. Pierre was a friend.

12 BY MS. LESKANIC:

13 Q Yes, ma'am. But Pierre was the man -- I just want
14 to get clear, you started with your testimony --

15 A Okay.

16 Q -- that you were at the house with your boyfriend
17 Jeffrey. You testified that you and Jeffrey had
18 gotten into an argument the night before --

19 A Yes, ma'am.

20 Q -- and that he had come to the home that
21 morning --

22 A Right.

23 Q -- and the two of you were there when police
24 arrived.

25 A I never that me and him both was there. I

1 said that he was there. We had got into it that
2 night. I said that he was there. I never said
3 that he was there when the officers was there. I
4 said he was there because we had talked about it.
5 That's what I said, ma'am.

6 Q You talked about what?

7 A The altercation that we had gotten into that
8 night.

9 Q I thought Pierre stayed the night.

10 A No, I never said that.

11 Q You didn't tell the police that Pierre had stayed
12 the night?

13 A No, ma'am, because he hadn't. He hadn't.
14 No.

15 Q You remember talking to officers while you sat on
16 the couch in her living room, correct?

17 A Yes, ma'am. I was sitting on the couch, yes,
18 ma'am.

19 Q You were on the couch, yes, ma'am. And officers
20 were standing in there and they had one body cameras,
21 so they recorded every conversation -- every statement
22 that you made to them.

23 A Well, I never knew that they had on body
24 cams. I never knew that. They never told me that
25 they had a body cam on. I never knew that.

1 Q Okay. Well, does it change your testimony now
2 that you know what you told police back in August was
3 actually recorded?

4 A No. No, ma'am.

5 MS. LESKANIC: Your Honor, at this time,
6 I'd like to mark Ronnie Painter's body cam video
7 that contains the conversation with this witness
8 as State's Exhibit 46.

9 THE COURT: State's 46.

10 (STATE EXH. 46, Painter's body cam video,
11 was marked for identification.)

12 MS. LESKANIC: And I would ask to
13 publish.

14 THE COURT: Do you have any objection,
15 Mr. Schultz?

16 MR. SCHULTZ: No objection.

17 THE COURT: Okay.

18 BY MS. LESKANIC:

19 Q That's going to take a moment to load, so I'll go
20 ahead and ask a few other questions, and go back to
21 the first questions.

22 Did you tell Captain Painter and the other
23 officers in the room that the first room on the right
24 when you walk down your hallway was a room that you
25 would just throw junk in?

1 A No, ma'am. I never said the first bedroom on
2 the right. That never came up. That question
3 never came up.

4 Q Okay.

5 A They never asked me that question.

6 Q All right. And did you tell officers that --
7 referring to the last bedroom on the right where the
8 drugs were found, did you tell them that you couldn't
9 tell them what's in that room because you never go in
10 there?

11 A Well, I never knew what drugs came out of the
12 room, because, like I said, I was sitting on the
13 couch. So I never knew what room that the drugs
14 came out of. I never knew that.

15 Q Did you tell officers that you never go in that
16 room?

17 A Well, yeah, I told them -- they asked me do I
18 go in that room. No, I never physically go in the
19 room, but I did sometimes go in there because I
20 had went in there Friday because my grandbaby had
21 spent the night with me. And I told him -- he had
22 his football cleats on, and I told him to put his
23 football cleats in the back bedroom. So that
24 Monday morning, I did go in that room to get his
25 cleats because I took him to football practice at

1 eight o'clock that Monday morning. So I went in
2 the room to get his cleats.

3 Q Okay. So if you told police that you never went
4 into that room, then you lied to police?

5 A No, because -- no, because I couldn't say.
6 The way that I actually just go in the room, no.
7 And look around, no. But I did go in that room
8 that day to get those football cleats. I did do
9 that. I told Mr. Kendall that, and you.

10 Q You told Mr. Painter that?

11 A No, I told Mr. Kendall.

12 Q Okay. But back on August 12, 2019, did you, in
13 fact, tell officers that never let the grandchildren
14 go in that room?

15 A No, ma'am. I never told them that, no. They
16 little kids. They can't just go in that room.
17 They small kids. They can't even -- they wasn't
18 walking then, so they can't just go in that room
19 But I did let my grandson go in there to throw his
20 shoes in that room because his feet were stinking.

21 Q Okay. So you didn't tell police, I don't let him
22 go in that room, referring to your grandkids. You
23 didn't say that either.

24 A Unh-uh.

25 Q Did you tell officers that the last bedroom on the

1 right where the narcotics were found -- and not that
2 you said where the narcotics were found -- but the
3 last bedroom on the right that that was Bryson's
4 room?

5 A No, ma'am. I never told them that was
6 Bryson's room.

7 Q Okay. But that's the room that he goes in?

8 A They never asked me. They asked me did
9 Bryson go in that room. I said, yeah, he had been
10 in there before because his kids' stuff was in
11 that room. Like, I had the baby bed in there. I
12 had clothes. I had --

13 Q And his clothes.

14 A No, his clothes wasn't in there. No.
15 Because he hadn't stayed there in a year, ma'am.
16 So his clothes weren't in there. The clothes that
17 was in there was the occupants' that I had staying
18 there. It was their clothes in the first bedroom
19 and the second bedroom. The third bedroom across
20 the hallway is the room I had fixed up for
21 myself.

22 Q And that's the room Pierre went into to get your
23 cell phone so you could make a phone call, went into
24 your bedroom where you hadn't been staying to get your
25 phone.

1 A I made a phone call. I don't remember making
2 a phone call. Because who would I call? I mean,
3 I don't remember that, ma'am. I can't be a
4 hundred percent sure and I'm not going to sit here
5 and lie. I don't know if Pierre went in a bedroom
6 to get a phone. I don't know that. They wouldn't
7 let us get up. I was in the living room and
8 Pierre was outside. I didn't get up one time, so
9 I don't even remember talking Pierre to ask him to
10 get a cell phone.

11 Q The officers, you had a very nice conversation
12 with the officers that were in there. I think it was
13 a pleasant conversation with everyone.

14 A They was nice to me. They was nice.

15 Q And you were very nice to them. But you did tell
16 them, I can't tell you what's in that room, and you
17 were questioning why Bryson was in there sleeping like
18 a savage because he didn't even put the bed together.
19 Did you say that?

20 A No. When I said savage, I said I wouldn't
21 have my son living like a savage because the
22 mattress was on the floor. It was stuff -- the
23 clothes basket, there was stuff all over the room.
24 If Bryson lived there, I surely wouldn't had him
25 living like that.

1 Q How old is Bryson?

2 A Thirty-three.

3 Q Thirty-three, okay.

4 A Yes, ma'am.

5 Q Just to be clear, you never identified this room
6 to officers as being Bryson's room?

7 A No. They might have asked me, did he go in
8 that room, but I identified that as Bryson's room
9 because Bryson didn't live there.

10 Q Okay. And you never told officers that you don't
11 even go into that room?

12 A I mean, when you say physically go into that
13 room -- it was my house, of course I'm going to go
14 into bedrooms room, ma'am. I can't say I ain't
15 never been into that room, but I have been into
16 the room. I had to go in that room to put the
17 stuff of the occupants that lived there before
18 into that room. So I'm not going to sit here and
19 lie and say I ain't never been into that room. I
20 have. It was my house, of course I go into every
21 bedroom in my house.

22 Q Okay. I'm going play a portion of your
23 conversation with the officer.

24 A Yes, ma'am.

25 (Video played at 2:05 p.m.)

1 BY MS. LESKANIC:

2 Q So, now do you remember telling the officers that
3 that's the room he goes in when he comes there?

4 A Right. He goes into my house. But to
5 physically say it's his room, no. But you cut it
6 off when asked me -- when he asked how long have
7 Bryson been -- how long has it been since Bryson's
8 been there, I said a year. You cut it off right
9 there.

10 Q I'll go to that portion if you'll give me just a
11 moment.

12 A Yes, ma'am.

13 Q And you say that he did not have a key to the
14 house; is that correct?

15 A Uh-huh.

16 (Video continued.)

17 BY MS. LESKANIC:

18 Q So you just told the officer that he did have a
19 key to house?

20 A I didn't hear that part. I didn't hear that.
21 Can you replay that, because I didn't hear that?

22 Q Sure. I'm getting ready to play it.

23 A Yes, ma'am.

24 (Video continued.)

25 THE WITNESS: I never heard me say, yeah.

1 I didn't hear that.

2 BY MS. LESKANIC:

3 Q If you need to step down, I think you can see your
4 head nod in the affirmative when you say, "Yeah."

5 A I can see. I never heard the statement, yes,
6 ma'am. I never.

7 Q Okay.

8 A You was going to play the video where the
9 officer asked me the last time that Bryson had
10 lived there, and I said he hadn't been in my house
11 in a year. And the officer also asked me when was
12 the last time I seen him. And I said I'd seen him
13 the day before on Cherokee Avenue.

14 Q Yes, ma'am. And you said the last time you had
15 physically seen him was on Thursday.

16 A No, I said Cherokee Avenue. I never said
17 Thursday.

18 Q Cherokee Avenue was when you saw him in a vehicle
19 and Thursday was when you actually saw him face to
20 face.

21 A I never said I seen him on Thursday.

22 Q Okay. We'll go through that portion.

23 A If I said I seen him on Thursday, he was
24 definitely not at the house. Because I work two
25 jobs, so I know I wouldn't have seen him

1 Thursday.

2 Q Do you still work the two jobs --

3 A Yes, ma'am, I do.

4 Q -- as you did at the time?

5 A Yes, ma'am.

6 Q How many hours a day do you work approximately?

7 A I work 16 hours a day.

8 Q So you're gone from home a lot?

9 A Yeah. I leave in the morning at 4:30. I
10 don't go to that home. I go to [REDACTED] Community
11 Circle. I get off usually at eleven o'clock and I
12 come -- and I go to [REDACTED] Community Circle.

13 Q So that's what I'm saying. You're at work. You
14 work a lot.

15 A Yes, ma'am.

16 Q You're not at that home or any home. So you're at
17 work so you don't know who's coming or going?

18 A I work 16 hours a day. I'm not physically at
19 [REDACTED], but I know my house is secure because I locks
20 it up.

21 Q Yes, ma'am.

22 (Video played.)

23 BY MS. LESKANIC:

24 Q So you -- actually you said, I didn't see him
25 there at the house on Saturday, correct?

1 A On Saturday?

2 Q Yes, ma'am. Because the balloons in the back, you
3 all were having a going away party for Pierre because
4 he's in the military and your son did no show up for
5 that on Saturday when you were at this house.

6 A Right.

7 Q Right. So you were in this house --

8 A Saturday we had a going away party for
9 Pierre, yeah.

10 Q And so the last time you saw your son was
11 Thursday, is what you told police?

12 A Well, if I seen him on Thursday, I don't
13 remember because I work two jobs. I work --

14 Q I'm just asking: Is that what you told police?

15 A Well, that's what it said I said, Thursday.
16 But I couldn't have seen his Thursday because I
17 work two jobs. I couldn't have seen him Thursday.
18 And if I say that, I did. There ain't no way I
19 could have seen him Thursday, because, ma'am, I
20 work two days. I might have did say I seen him
21 Thursday, but I don't remember seeing him Thursday
22 because I work two jobs.

23 Q All right. And you say that you were still with
24 Mr. Good?

25 A Uh-huh. Because Jeff and Pierre was friends,

1 ma'am, if you didn't know that.

2 (Video played.)

3 BY MS. LESKANIC:

4 Q So I believe you just said that when you all broke
5 up you moved back into this house?

6 A No. When we broke up? We wasn't broke up.
7 We wasn't broke up. We had broke up that night.
8 We got into that night. We had got into it that
9 night and I came back to my house.

10 Q I understand. You told the officer you moved back
11 into that house.

12 A I said, when the occupants -- when the
13 occupants left, I took control back over my house,
14 ma'am. I never physically moved back into the
15 house.

16 Q Okay.

17 (Video played.)

18 THE WITNESS: I moved back home, yeah. I
19 moved back into my house after the occupants left.
20 Yeah. But I physically didn't stay there. I took
21 back ownership of it because they weren't staying
22 there. They weren't staying there no longer,
23 ma'am.

24 BY MS. LESKANIC:

25 Q You're talking about you and your boyfriend having

1 problems and then moved back home.

2 A We was having problems? That night, we did.

3 We did have a problem that night. We did. That's

4 why I was there. We did. But it was my house,

5 ma'am. So, therefore, I could come and go to that

6 house when I please. And I go to my boyfriend's

7 house. I mean, is that a crime?

8 Q So you weren't talking to Pierre during this time,

9 dating Pierre?

10 A Sleeping with Pierre?

11 Q No, ma'am. I'm not insinuating whether you were

12 sleeping with him. I said dating.

13 A I said him and Jeffrey was friends. We all

14 was friends.

15 (Video played.)

16 BY MS. LESKANIC:

17 Q You just started talking to him a couple months

18 back?

19 A I started talking to him, yes, because we

20 started communicating. Yes, ma'am.

21 Q All right. Did you tell officers that you throw

22 junk into the first bedroom on right, and explained

23 that you couldn't tell them what's in the last bedroom

24 and how Bryson sleeps like a savage?

25 A Ma'am?

1 Q You're saying you didn't say that?

2 A Ma'am, when I -- the junk that was in the
3 room, it was our cousin's junk. I put it in the
4 first bedroom and I put it in the second bedroom.

5 You're asking me to testify to something that
6 I -- you know, you're making feel like I'm on trial,
7 putting my personal life up and everything. But we
8 here because of something with Bryson that you all
9 want me to say, but I can't say. I can't physically
10 say it, ma'am. I'm sorry.

11 Q No, ma'am. I'm just asking you questions based on
12 what you told law enforcement.

13 A You asking me about my personal life.

14 THE COURT: Ma'am, excuse me. You just
15 answer the questions.

16 THE WITNESS: Okay. Yes, sir.

17 THE COURT: Solicitor.

18 MS. LESKANIC: Thank you, Your Honor.

19 (Video played.)

20 BY MS. LESKANIC:

21 Q Is that when you said, I don't know you're in here
22 sleeping like a savage?

23 A I wouldn't have him sleeping like a savage,
24 yes, ma'am.

25 Q I'm sorry?

1 A I wouldn't have him in there sleeping like a
2 savage. Yes, ma'am.

3 Q But you said -- that you say, why are you in here
4 sleeping like a savage.

5 A I said, I would not have him in here sleeping
6 like a savage.

7 Q Okay. If the jury wants to hear that again,
8 they'll have an opportunity.

9 Now, when Captain Anthony arrived with the
10 search warrant and asked where his room was, Bryson's
11 room was, isn't it true you told them last room on the
12 right-hand side?

13 A I don't remember that, no, ma'am.

14 Q Is that Pierre?

15 A It is it okay if I get down?

16 Q Yes, ma'am. Please watch your step.

17 A Yes, ma'am, that's him.

18 Q That's not Mr. Good?

19 A No, ma'am.

20 (Video played.)

21 Q So Captain Anthony asked, where is his room, and
22 you said, last one on the right-hand side; is that
23 correct?

24 A I heard me saying the last room. I never
25 heard him say was that Bryson's room.

1 Q He said, where is his room?

2 A Could you replay it again? I didn't hear
3 that, ma'am.

4 (Video played.)

5 THE WITNESS: It seems like I had said --
6 they asked me about the -- the officer said
7 something about a room, and I said on the
8 left-hand side. I might have did. But I don't
9 remember him asking me is that Bryson's room. I
10 never heard that part.

11 BY MS. LESKANIC:

12 Q Okay. But the room on the left-hand side was your
13 room. The room on the right-hand side was Bryson's
14 room?

15 A Well, I couldn't say that because nobody
16 stayed there like that. You asked me, was it one
17 room on the left-hand side that was fixed up, yes,
18 ma'am, it was.

19 Q You told the jury that you had moved out of this
20 house and that you had an argument with your
21 boyfriend, Mr. Good, the night before officers came to
22 the home, correct?

23 A No, I never said -- I'm sorry. Go ahead.

24 Q Did you testify that you had an argument with
25 Mr. Good and so you came back to this residence on

1 Maplewood the night before officers arrived?

2 A Yes, ma'am, I did say that.

3 Q And then I asked you about the balloons --

4 A Right.

5 Q -- and all of a sudden, we're back at the house on
6 Saturday having a party for Pierre; is that correct?

7 A Yes, ma'am.

8 Q And Mr. Good and Pierre are supposedly friends.

9 A Yes, ma'am.

10 Q But we're going to have the party at the home
11 where no one lives?

12 A We had that down at my house. We didn't have
13 it at -- we had it at my house, yes, ma'am, that
14 Saturday.

15 Q The party was at your house?

16 A At [REDACTED], yes, ma'am.

17 Q Yes, ma'am. And you originally told this jury
18 that you were at the home with Mr. Good. That's what
19 you testified to when Mr. Schultz asked you who was at
20 the house, and that's not true. You were at the house
21 with Pierre.

22 A Ma'am?

23 Q Is that correct?

24 A At that time, Pierre was there. Yes, ma'am,
25 he was. But Mr. Good was there. He was.

1 Q You told the officers that you're son had a key to
2 the house, correct?

3 A I don't remember that.

4 Q We played that portion.

5 A I don't remember hearing that. I said he
6 physically had a key to my house.

7 Q You don't remember hearing that when we just
8 played it for the jury?

9 A No, I didn't. Unh-uh.

10 Q I know Bryson is your son, correct?

11 A Yes, ma'am.

12 Q And I'm sure you care about him very much.

13 A I care about all my kids, very, very much.

14 Q Have you talked to him about this case?

15 A About -- we had -- on the phone, yeah, we
16 have.

17 Q Okay.

18 A Because I'm the only one that he can tell
19 when it first happened, yes, ma'am.

20 Q Okay. And have you spoken with his lawyer about
21 this case?

22 A No. I mean, I did hire his lawyer. But have
23 I talked to him about it, I don't know nothing
24 about it myself.

25 Q You never spoke with Mr. Schultz about this case

1 before?

2 A Oh, yeah, when I was -- not about -- the
3 drugs?

4 Q About this case.

5 A What you mean talk to him? I had to if I
6 hired him.

7 Q Okay. Is that the only time you've spoken with
8 him about the case?

9 A I spoke to him plenty of times about the case
10 because I am Bryson's only -- I had to hire a
11 lawyer for Bryson.

12 Q Now, did you tell -- you testified to the jury
13 that you had a cousin who was renting the house?

14 A Tamia, yes, ma'am.

15 Q And do you know how to get in touch with Tamia?

16 A No, ma'am. I hadn't no contact with her
17 every since I didn't get no rent from her.

18 Q And you said that you had to kick her out of the
19 home?

20 A Yeah, I put her out. Yes, ma'am.

21 Q Is it true that you told police that you had
22 rented the house out for five years, but you moved
23 back home when their lease was up?

24 A Right. I came back to the house. I got
25 physical custody of it, yes, ma'am.

1 Q When the lease was up. Not when somebody failed
2 to pay rent and you had to kick them out.

3 A Well, lease, kick them out, all the same,
4 ma'am.

5 Q Well, if you evict someone, you can get your
6 property. If I wait for their lease to be up, then
7 you wait for their lease to be up. I'm just saying it
8 sounds like you told the jury one thing and officers
9 another.

10 A Well, evict -- I couldn't evict them. When I
11 kicked her out, I told her, if you don't give me
12 my rent, you get out. When she had left, I came
13 and changed my locks to my doors and I haven't had
14 no more --

15 Q Why couldn't you evict her?

16 A Because I ain't never came to, like, the
17 courthouse to try to get a --

18 Q So you could have evicted her. You just didn't
19 take the necessary steps to do it.

20 A I just didn't -- like, I didn't go to court
21 to try to get in there. I just told her she can
22 come live at the house if she paid me rent. And I
23 never came to the courthouse to try to get her
24 evicted, because I did it myself. I just told her
25 to get out.

1 Q Did you go in in the middle of the night and just
2 grab her and throw her out?

3 A No, ma'am.

4 Q Okay.

5 A She left and went back to D.C.

6 Q So she left, kind of, on her own terms. You told
7 her she needed to leave, but then she left?

8 A No. The last conversation I had with her, I
9 told her, I said, if you don't give me my rent,
10 I'm kicking you out. She kept saying, I'm going
11 to give you -- she's going to give me the money
12 for the rent. She went back home to DC to visit
13 her mom. When she came back, I had already
14 changed the locks on the doors. I already changed
15 all the locks.

16 Q And you don't have a phone number, an address, or
17 anything for this family member of yours?

18 A Not no more. I hadn't talked to her for
19 probably about two months before I had kicked her
20 out. And had I talked to her since all this
21 happen, no, ma'am, I haven't.

22 Q Did you tell police, "I don't condone what he
23 does. I tried to raise him the best I could,"
24 referring to Bryson?

25 A I don't condone no drugs in my house.

1 Because if I'm ever there and his kids are there
2 with me that means they putting me in jail. I
3 don't condone no drugs. If I knew drugs was in my
4 house, I would have -- I would have got them. I
5 would have got rid of them. I don't do that. I
6 don't do that. No. I don't believe in that.

7 Q So that's true, you did tell police that you don't
8 condone what he does, you tried to raise him the best
9 you could.

10 A A lot of things that he do, I don't --

11 THE COURT: Ma'am, I'm going to ask you
12 again. Answer the question yes or no, and then
13 you can explain. She's asking you a straight
14 question.

15 THE WITNESS: Go ahead, ma'am. I'm
16 sorry.

17 BY MS. LESKANIC:

18 Q Did you tell officers, "I don't condone what he
19 does. I tried to raise him the best I could?"

20 A Yeah, I don't condone what he does.

21 Q So is that a yes, that that's what you said? Or I
22 can go back to the video. I'm just asking if that's
23 what you said.

24 A Do I condone some of the things?

25 Q No, ma'am. Just did you tell that to police?

1 A Yeah. Yes, ma'am, I did.

2 Q Thank you.

3 A I don't condone some of the things he do.

4 Some things he do good, some things he do wrong.

5 Q And you don't allow smoking in your house, right,
6 or do you?

7 A I don't allow smoking around me.

8 Q Okay.

9 A I can't say around in the house because I
10 don't condone smoking around me because I have
11 chronic asthma. I don't condone smoking around
12 me, no, ma'am.

13 Q And you said that as far as that back room, you
14 don't let your grandkids go in that back room, the
15 back room on the right; is that correct?

16 A The one on the right -- ma'am, my grandkids
17 are little grandkids. They can't even walk. They
18 weren't even walking a year ago. The only
19 grandson that went in that bedroom that night,
20 that Friday, was my oldest grandson. And he
21 played football, and he went and took his shoes in
22 that room. To play in that room, no, because it
23 was a junk room.

24 Q I'm not talking about the junk room, the first one
25 on the right. I'm talking about Bryson's bedroom, the

1 last bedroom on the right.

2 A There was two rooms -- there was two rooms in
3 there that was junk rooms. The first one and the
4 second one.

5 Q Right. The first room you referred to with
6 officers, the first bedroom is where you throw the
7 junk. And then for the second bedroom where the drugs
8 were found and Bryson's mail, I can't tell you what's
9 in that room, and then that's when you referred to him
10 sleeping like a savage because the bed wasn't on a bed
11 frame.

12 And you did tell officers that you had moved
13 back into this home.

14 A Ma'am, when you say move back into the home,
15 do you mean physically move back into it, I'm
16 staying there every night, or I took back
17 ownership of the home because I had moved her out?

18 Q I'm using your words that you told officers you
19 moved back into the home because you and your
20 boyfriend had a falling out, and you had been talking
21 to Pierre for about two months.

22 A Ma'am -- okay. When I say move back into the
23 home that means, I was taking ownership back of my
24 hour because I had moved her out. Maybe your
25 version and my version is two different things.

1 Q Just in the kitchen, I see pots and pans, clearly
2 cooking and using the home. Very neat and clean. You
3 keep a very nice home.

4 A Yeah, because it was our home. I mean, I had
5 all that stuff there when she stayed there. I
6 never got rid of none of my furniture. The only
7 thing she brought in there was her bedroom suite.
8 My furniture stayed there. I still had the light
9 bill in my name. Everything was still in my
10 name.

11 Q You said that you went into Bryson's room on the
12 Friday -- on Friday?

13 A No, I went into there that Monday. I went in
14 there Monday.

15 Q Did you see when you went in on Monday the yellow
16 tray with the marijuana residue and the scale on the
17 floor?

18 A No, ma'am.

19 Q And the cigarettes. There's a photograph.

20 MR. SMITH: I'll have this marked
21 State's Exhibit 47.

22 (STATE EXH. 47, Photo, was marked for
23 identification.)

24 BY MS. LESKANIC:

25 Q So let me just make sure, on Saturday, you had a

1 party at the house?

2 A Right.

3 Q Okay. And then on Monday, you went in to get
4 cleats or put -- to get cleats on Monday?

5 A Yes, ma'am. Monday morning.

6 Q And on Monday morning, did you see a yellow tray
7 with a bag of marijuana, a set of scales on the
8 floor -- did you see that on the bed?

9 A No, ma'am, I didn't.

10 Q Okay. And how about smoke -- some sort of
11 cigarettes in that bedroom as well?

12 A No, ma'am.

13 Q I'll show you just, so you can look at it and be
14 sure, State's Exhibit 17.

15 A This is the tray they brought out. I didn't
16 -- I don't know when they got it, but he said it
17 was in that room. I didn't see that when I went
18 in there to get the cleats.

19 Q So on Monday that wasn't there?

20 A I didn't see it. When I went into the room,
21 I just got the cleats off the floor and came back
22 out.

23 Q And how about the cigarettes there on the table,
24 because you don't allow smoking when you're there?

25 A I didn't see them when I was there. I

1 physically go in the room. I opened the door and
2 I got the cleats out. That's it.

3 Q So now you didn't go into the room?

4 A I went in there -- I opened the door. I had
5 to go -- because he had them right there in front
6 of -- right there. I had to physically -- I
7 didn't just reach in there and get the cleats,
8 ma'am. I did go right there. You know, to look
9 around in the room, I didn't do that. That looks
10 like that's against the wall somewhere.

11 Q Yes, ma'am. But it's in that room.

12 A Oh, okay.

13 Q And when you went in there on Monday, you didn't
14 see any of this?

15 A I didn't, no.

16 Q Now, was this Monday the same day the officers
17 came?

18 A It was Monday morning, yes, ma'am, because my
19 grandbaby had a football practice.

20 Q So the Monday morning before -- who stayed with
21 you Sunday night?

22 A Nobody stayed with me Sunday night.

23 Q Well, how did your grandbaby --

24 A He called me on the phone. He called me and
25 said he had -- his cleats was over there. He came

1 there that Friday. He came there that Friday. I
2 had seen him that Friday because I had picked him
3 up from football practice and he wanted to come
4 and spend the night with me. When he came, he
5 kicked his shoes in the room. I told him to take
6 his shoes in the room, he did. We left and went
7 up to Jeff's house that Friday and spent the night
8 over there. I took him home.

9 That Monday he called me and told me could I
10 bring him his cleats, and I took them to him at his
11 mama's house and we went to football practice.

12 Q So let me make sure I got your testimony right
13 now. On Friday, you're at this house that you don't
14 live at.

15 A Right, because we was having a party that
16 Saturday.

17 Q So Friday your grandson comes over --

18 A I picked him up. I picked him up from home
19 and we came down to the house.

20 Q Okay. So came down to your house.

21 A Uh-huh.

22 Q All right. And then you all left and went to
23 spend the night with --

24 A Jeff.

25 Q Jeff.

1 A Uh-huh.

2 Q Even though you told officers you were on the outs
3 with Jeff and had moved back home?

4 A He said we fell out that Saturday -- that
5 Sunday night, ma'am. That's what I said. I said
6 we got into it that Sunday night. I came home
7 that Sunday. I said we got into it that Sunday.

8 Q Okay. So Friday, he drops the cleats off.

9 A No. We came back to my house Friday. We had
10 planned to have party that Saturday for Pierre.
11 My grandbaby came home. He came to my house. I
12 told him to put his cleats in that bedroom because
13 they had an odor. He put them in there.

14 Monday morning he called me, asked me could I
15 bring his cleats, and I went in the room and got the
16 cleats and took them to him.

17 Q You told officers you never let your grandchildren
18 go into that room and that you never go into that
19 room. That's what you told the officers.

20 A Ma'am, he went in -- I told him to take his
21 cleats and put them in the room. Is throwing them
22 in the room -- is throwing shoes in a room the
23 same thing as physically going in a room and
24 sitting down and looking at TV?

25 I said he went in -- I told him to take his

1 cleats in that room because his cleats was having an
2 odor and I told him to put the cleats in the room. I
3 never said he went in there to watch TV and lay down
4 there. I told him to take the shoes and put them in
5 that room.

6 Q Okay. And that was Friday?

7 A That was Friday.

8 Q And then Saturday we have a party.

9 A Yes, ma'am.

10 Q At this house?

11 A Uh-huh.

12 Q For Pierre.

13 A Yes, ma'am.

14 Q Okay. And then on Sunday, I don't know. On
15 Monday morning, you go into Bryson's room to get the
16 cleats and you do not see or smell the marijuana, the
17 cigarettes, you don't see digital scales on the floor,
18 none of that is in the room Monday morning.

19 A No, ma'am.

20 Q Is that your testimony to this jury?

21 A Ma'am, I never seen any of that in that room.
22 When I went in there to get the cleats, I got the
23 cleats and went back out of the room. I never
24 seen that in there. No, ma'am, I didn't.

25 Q Who rented the house?

1 A My cousin Tamia Smith.

2 Q And who else?

3 A Her boyfriend, Chad.

4 Q What's his last name?

5 A I don't even know his last name. I only met
6 him once, and she brought him down from D.C.

7 Q Did they have a baby or anything with them, or
8 just the two of them?

9 A No. No, it was just those two. The baby
10 stuff was stuff that we had bought for my
11 grandbaby because Bryson has two -- well, he's
12 one-year-old now. He has two kids. So the stuff
13 that was -- the baby stuff was in the room that I
14 put in there.

15 Q So the baby stuff that was in the room was for
16 Bryson's baby. Bryson's baby stuff was in Bryson's
17 room.

18 A The stuff that was in the room of the baby's
19 was stuff that I bought.

20 Q I'm just asking if the stuff for the baby was for
21 Bryson's baby?

22 A Was it for Bryson's baby? Yeah, it was
23 Bryson's baby because I kept the kids, my
24 grandkids.

25 Q Thank you very much.

1 A Thank you.

2 MR. SCHULTZ: Just a couple questions,
3 Judge. Can I take off my face mask?

4 THE COURT: Yes.

5 REDIRECT EXAMINATION

6 BY MR. SCHULTZ:

7 Q On August 12th, you allowed the police to come
8 into your house.

9 A Yes, sir, I did.

10 Q Okay. And you own that house?

11 A Yes, sir, I do.

12 Q Okay. [REDACTED] Maplewood Drive, right?

13 A Yes, sir.

14 Q And you correct me if I'm wrong. [REDACTED] Maplewood
15 Drive you own, right?

16 A Yes, sir, I own it.

17 Q Okay. You also own a house at
18 [REDACTED] Community Circle?

19 A I live there, yes, sir. I live there with my
20 boyfriend.

21 Q Okay.

22 A [REDACTED].

23 Q [REDACTED].

24 A Uh-huh.

25 Q Do you rent that or do you own that?

1 A He own that.

2 Q Okay.

3 A He own that house.

4 Q Thank you.

5 Let's go back to August 12th when you were
6 talking to the police, I'm not even going to attempt
7 to play that again. But I will say, when you were
8 talking to the police, were you nervous when you were
9 talking to the police?

10 A I had no reason to lie to them. I mean --

11 Q I'm not asking you that. I'm just saying, there
12 were three, four police there -- let me finish.

13 A Okay.

14 Q Were you nervous talking to the police?

15 A Of course. When you see six or seven polices
16 come into your house and -- of course, anybody get
17 nervous. And then when they said there was drugs
18 in my house, of course. I mean, anybody would get
19 nervous because they said they found drugs in my
20 house. I mean, yeah, of course, anybody that ever
21 seen police, of course, they going to be
22 nervous.

23 Q Now, you were never charged with anything,
24 right?

25 A No, sir.

1 Q But you didn't know that at that point, did you?

2 A Did I know what now?

3 Q You didn't know if you were in trouble at that
4 point, did you?

5 A No, sir, I didn't.

6 Q So you had, your testimony, four, five, six police
7 peppering you with questions from every directions,
8 right?

9 A Yes, sir.

10 Q Okay.

11 A They asked me questions.

12 Q And again, I know this has been asked and
13 answered, but that caused you, I believe --

14 MS. LESKANIC: Objection; leading.

15 THE COURT: Rephrase the question.

16 BY MR. SCHULTZ:

17 Q Did it cause you a lot of stress to be questioned
18 by the police?

19 A Of course it would. Of course it did.

20 Q Especially a lot of police. Yes or no?

21 A Yes.

22 Q Thank you.

23 You did say, and I just want to clarify this,
24 "I don't even go in that room," on that tape, right?

25 A Yeah. When she played it, it said that I

1 said I don't go in that room.

2 Q I will say this as well, this was a long time ago,
3 correct?

4 A Yes, sir. It was in 2019.

5 Q 2019. And last summer so much has happened in the
6 meantime, right?

7 MS. LESKANIC: Objection; leading.

8 THE COURT: You can't lead. You're on
9 redirect.

10 BY MR. SCHULTZ:

11 Q This was 16 months ago, right?

12 A Yes, sir.

13 Q It's a fair amount of time, wouldn't you say?

14 A Yes, sir.

15 Q All right. So your memory of that time?

16 MS. LESKANIC: Objection.

17 THE COURT: Same objection. Sustained.

18 BY MR. SCHULTZ:

19 Q Is your memory as clear then as it is now?

20 A No, because a lot of things I don't
21 remember.

22 Q Thank you.

23 When the officer said to you, do you have --
24 does Bryson have a key to the house, did you clearly
25 hear them what they said.

1 A No, sir, I didn't.

2 Q Because he doesn't have the key to the house,
3 right?

4 A No, he didn't.

5 Q Another clarification question: Who was the man
6 sitting next to you on the couch?

7 A It's Pierre.

8 Q Pierre, okay. Pierre was there when the police
9 were conducting the search, correct?

10 A Yes, sir, he was.

11 Q Okay. Was there another person there?

12 A Jeff had been there. Yes, sir, he had.

13 Q Had been there.

14 A Yeah.

15 Q But, frankly, I'm confused, and I want to ask this
16 question.

17 A Okay.

18 Q Was Pierre and you there when the police conducted
19 the search?

20 A Yes, we both was there. Yes, sir. Pierre
21 and me.

22 Q Was Good there as well, or did he leave?

23 A He had came there and he left.

24 Q He left.

25 A Yes.

1 Q So by the time the police had done the search, it⁴⁰¹
2 was just you and Pierre, correct?

3 A Yes, sir.

4 Q And Pierre was sitting next to you on the couch?

5 A Yes, sir.

6 Q Okay. And in August of 2019, how would you
7 describe the relationship to the jury between you and
8 Pierre?

9 A We friends. Just we friends.

10 Q Okay. What about the relationship with you and
11 Mr. Good?

12 A We are boyfriend and girlfriend.

13 Q Okay. All right.

14 Who were you referring to "sleeping like a
15 savage?"

16 A I was referring to -- because that's the way
17 that room was looking, like a savage. It was
18 looking like -- look how everything was.

19 Q So you weren't referring to Bryson or anybody
20 else?

21 A No, sir. Because I'm the one that put that
22 stuff in the room. I'm the one that put the stuff
23 in the first bedroom and the second bedroom.

24 Q OKay. I don't want to put words in your mouth.

25 A No.

1 Q Okay. So you're just generally saying, you don't
2 want anybody being in there sleeping like a savage.

3 A Exactly. Because you could tell by the first
4 bedroom how neat it was. That first bedroom --
5 the second bedroom on the right-hand side, that's
6 where I had stored the stuff of the people that
7 rent there. That's why the room looked like that.
8 Because if I was physically living there, then two
9 bedrooms, if you see how my house looked, you
10 would know that I would have physically had that
11 bedroom fixed up and that second bedroom fixed up.
12 But I didn't because it was storage for my
13 cousin's stuff that I had in the first bedroom and
14 the bedroom.

15 I would have never had my other bedrooms
16 looking like that. I would never.

17 Q Where was Bryson living at the time?

18 A He was with his baby-mama. He was living
19 with his baby-mama.

20 Q Did you know where that was?

21 A Yes, sir.

22 Q Where?

23 A I knew she was living in some apartments,
24 uh-huh.

25 Q But, clearly, he wasn't living with you --

1 A No.

2 Q Let my finish the question.

3 A Okay.

4 Q Was he living with you at the time on
5 August 12, 2019? Yes or no?

6 A No, he wasn't.

7 Q Thank you.

8 MR. SCHULTZ: That's all I have.

9 THE COURT: Thank you.

10 Yes, ma'am, briefly.

11 MS. LESKANIC: Briefly, Your Honor.

12 RECROSS-EXAMINATION

13 BY MS. LESKANIC:

14 Q Now, we have the entire video. Do you believe
15 it's an accurate description that Mr. Schultz gave
16 that you were being peppered with questions from all
17 directions from these officers?

18 A I'm saying they was asking me questions and I
19 was answering them.

20 Q And there were, I believe, three officers,
21 Captain Painter, there was the female and there was
22 another male.

23 A No. In the house, it was two -- a woman, a
24 black police officer, and it was four -- four or
25 five other, like, officers. I don't even know who

1 Officer Painter is.

2 Q Captain Painter. He was the main one that you
3 were talking to that we actually played his body cam
4 when you were talking with him.

5 A I never -- they never -- I never knew him.

6 Q But it was three of them that were in the room
7 with you while they were waiting for the search
8 warrant; is that correct?

9 A All I know is, there was some police officers
10 in the living room with me.

11 Q Okay.

12 A Do I remember how many was in there, no,
13 ma'am. I do know it was a woman, a black man, and
14 I know there was -- I honestly had to meet the
15 other officer because he was asking me questions.
16 I know some two or three officers down the
17 hallway.

18 Q Did they ever act like the drugs were yours?

19 A No, they never act -- no.

20 Q Did they ever put you in handcuffs?

21 A No, ma'am, they didn't.

22 Q Did they ever ask you questions about whether the
23 drugs were yours or where you got them from or
24 anything like that?

25 A They never asked me whose drugs it was.

1 Q But they asked you whose room it was and you told
2 them it was Bryson's room?

3 A If I said that, I don't remember.

4 Q Okay.

5 A I remember them asking --

6 Q But at no time did they handcuff you or take you
7 down to the station to interrogate you?

8 A No, ma'am, they didn't.

9 Q All right. In fact, they apologized that you
10 couldn't go to bed because you weren't going to work
11 that day because they had to wait on a search warrant.

12 A No, that question never came up.

13 Q Not a question. But they said they were sorry it
14 was taking so long, but they needed to follow protocol
15 and get a search warrant.

16 A No, ma'am, they never said that me.

17 Q Did you say -- did you give them consent to search
18 that room and they said, no, we need to get a search
19 warrant because it's Bryson's room?

20 A No, ma'am. When they first came into the
21 house -- when they first came into the house, they
22 wanted to see was Bryson there. I told them to
23 come in. When they went in the bedroom and got
24 that yellow tray that's when they said they were
25 getting a search warrant. I remember that. I can

1 say that's what they said.

2 Q And you said that you understood.

3 A Yeah. I mean, I didn't care about them going
4 and getting a search warrant. I didn't, because I
5 had nothing to hide. I never knew those drugs was
6 in the house.

7 Q And you had a very pleasant conversation with the
8 officers, actually shook hands when they left.

9 A No, I never shook hands when they left.

10 Q Let me just ask you this: Did you have any
11 problems with the officers while they were there?

12 A No.

13 Q Did you get along well?

14 A I mean, they didn't never, like, talk mean to
15 me.

16 Q Okay. So they weren't peppering you with
17 questions, just one after the other, asking you
18 questions. They were waiting on a search warrant.

19 A Well, when they went to get -- I mean, the
20 questions was asked when, I think, before got the
21 search warrant or whatever. They brought the
22 thing -- the yellow thing out of there. I mean,
23 they was asking me questions. Yes, ma'am, they
24 was.

25 Q Okay.

1 A I mean, they was asking me questions, and,
2 obviously, I was answering them because it was on
3 the video.

4 Q Okay. And the reason that you told the officers
5 that Bryson had a key to your home is because you
6 didn't hear the question?

7 A I don't even remember that question.

8 Q Right. You told Mr. Schultz that since you said
9 that he had a key, the reason you said that is because
10 you didn't hear the question; is that right?

11 A I didn't hear the question on there. I
12 didn't.

13 Q No, not on there. I think he was asking you if
14 you told the officers he had a key because you didn't
15 hear the officers when they said it. I'm just trying
16 to see if that makes sense.

17 A I didn't hear the officer ask me did he have
18 a key. No, ma'am, I didn't.

19 Q So you just answered yes and you didn't even know
20 what you had been asked?

21 A I didn't even remember hearing anything about
22 a key. I'm being honest.

23 Q But it's on video.

24 A When you played that, I never heard that.
25 That's what I'm telling you, I never heard the

1 word key. When you played it, I didn't hear that.

2 Q Okay. And you told Mr. Schultz that your memory
3 is not clearer today than it was on August 12th when
4 that video recording was made. That's what you
5 testified to, is that correct, that your memory today
6 is not clearer than it was at that date that this
7 happened?

8 A Ma'am --

9 Q Just -- if you'll just -- is that what you told
10 Mr. Schultz?

11 A Yeah, I haven't even thought about it. I
12 haven't thought about that day a year ago until
13 you all subpoenaed me and asked me about the
14 questions. That's the only thing that was
15 recollected that I even remember about this stuff,
16 when you all asked me about it.

17 Q I'm just clarifying that your memory on
18 August the 12th when the video was made was clearer
19 than your memory is today?

20 A No.

21 Q No? Okay. So what you told Mr. Schultz was not
22 true?

23 A What I told -- what I told Mr. Schultz is
24 that I recall 16 months ago. I don't even
25 remember half the stuff that I said back then. I

1 don't. Some of the questions that you asked me
2 did I say, I don't remember. I don't.

3 Q But you would have known them at the time. It's
4 harder to recall -- I understand it's harder to recall
5 now. But on that day, it was that day. So it was
6 fresh in your mind as to what you told officers, is
7 that a fair statement?

8 A Some things is and some things are not.

9 Q Okay.

10 A That's all I can say, ma'am.

11 Q Thank you.

12 THE COURT: Thank you. Ma'am, you may
13 step down. Please be careful.

14 Madame Forelady, Ladies and Gentlemen,
15 we've actually gone past about 15 minutes. In
16 fact, we've been in the courtroom since 1:15, so
17 that's two hours for us. We're going to take our
18 afternoon break, 15-minute break. I think someone
19 needed to smoke earlier. If you need to do that,
20 we'll have to escort you out the back of the
21 courthouse. It's not allowed in a government
22 buildings.

23 Don't talk about the case. It's not at
24 an end. This is the afternoon break. If you need
25 some water or snack, or whatever they've got back

1 there. If you need something, let us know.

2 Mr. Bailiff, if you'll take them back.

3 (Jury exits the courtroom at 3:15 p.m.)

4 THE COURT: Take about 15 minutes.

5 (A break was taken from 3:15 to 3:35 p.m.)

6 THE COURT: Ready for the jury?

7 MR. SCHULTZ: Yes, sir.

8 THE COURT: We'll have the jury.

9 Everybody Good, Madame Forelady?

10 FOREPERSON: Yes, sir.

11 THE COURT: Mr. Schultz.

12 MR. SCHULTZ: May it please the Court?

13 THE COURT: Yes, sir.

14 MR. SCHULTZ: The defense calls

15 Tameka Shippy.

16 THE CLERK: Raise your right hand. Place
17 your left on the Bible. Do you solemnly swear or
18 affirm the testimony you give this Court will be
19 the truth, the whole truth, and nothing but the
20 truth so help you God?

21 THE WITNESS: I do.

22 THE COURT: Ma'am, if you will tell us
23 who you are and spell your last name, please.

24 THE WITNESS: My name Tameka Shippy,
25 S-h-i-p-p-y.

1 THE COURT: Thank you, ma'am.

2 Mr. Schultz.

3 WHEREUPON:

4 TAMEKA SHIPPY,

5 after having been sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. SCHULTZ:

8 Q Miss Shippy, how old are you?

9 A Thirty.

10 Q Thirty. And do you know my client,
11 Bryson Smith?

12 A Yes, sir, I do.

13 Q How do you know him?

14 A He is the father my children.

15 Q All right. And are you currently still -- are you
16 boyfriend and girlfriend?

17 A Yes.

18 Q Back in August of 2019, did you know him?

19 A Yes.

20 Q All right. And how did you know him? When did
21 you get to know Bryson?

22 A I met Bryson in 2014.

23 Q And have you been with him ever since?

24 A Yes.

25 Q Okay. And where were you living in 2019?

1 A [REDACTED] West Beaufort Street.

2 Q [REDACTED] West Beaufort Street?

3 A Yes.

4 Q All right. And that's in Gaffney, correct?

5 A Yes, it is.

6 Q All right. How long have you lived there for?

7 A We had just moved there. We were there for
8 four months. But before we lived there, we lived
9 together in another location.

10 Q All right. When you say "we," whom do you mean?

11 A Me and Bryson.

12 Q All right. And how long did Bryson live with you
13 at [REDACTED] West Beaufort Street?

14 A It was four months there.

15 Q Okay. And -- could you describe what

16 [REDACTED] West Beaufort Street is? Is it a house, is it a
17 double-wide, is it an apartment?

18 A It's apartment complex. It was brand new
19 when we moved there.

20 Q Okay.

21 MR. SCHULTZ: Beg the Court's patience.

22 THE COURT: Yes, sir.

23 BY MR. SCHULTZ:

24 Q And you're sure -- you're positive in August 2019
25 that Bryson Smith was living with you in your

1 apartment?

2 A Yes, I'm positive.

3 Q Thank you.

4 MR. SCHULTZ: That's all I have. Please
5 answer any questions Miss Leskanic has.

6 CROSS-EXAMINATION

7 BY MS. LESKANIC:

8 Q Good afternoon, Miss Shippy.

9 A Good afternoon.

10 Q Were you with Bryson at all times?

11 A What do you mean by that?

12 Q I mean, did you all go everywhere together
13 24 hours a day? Were you always with him?

14 A Around this time period, I was pregnant. I
15 had a very high risk pregnancy. Bryson was with
16 me almost all the time. He was at our home all of
17 the time.

18 Q All the time? He never left your house?

19 A If he left, we probably left together.

20 Q So, on August 10th, you all would have been
21 together all day?

22 A I can't recollect that time, but we were
23 together every day.

24 Q Okay. August 11th, you would have been together
25 all day?

1 A Probably most of the day.

2 Q Most of the day?

3 A Yes.

4 Q And on the 12th, when they drugs were found, you
5 all were together all day?

6 A On the 12th, I don't think I was with him
7 that morning. No.

8 Q Okay. So there were times that you weren't with
9 him?

10 A It was very unlikely.

11 Q Okay. Who rented the apartment? Whose name was
12 the lease in?

13 A That lease, both of our names were on that
14 lease.

15 Q Okay. And who actually paid the rent?

16 A I paid the rent.

17 Q Okay. Was Bryson working at the time?

18 A No, he wasn't.

19 Q Okay.

20 All right. And you all had been living there
21 for four months.

22 A Yes, they had just opened for four months.

23 Q Where did you all live together prior to that?

24 A In Grace & Vine.

25 Q Okay. Now, were you working?

1 A I was out on disability because of my high
2 risk pregnancy.

3 Q All right. Did you and Bryson both have a
4 vehicle? Did you share a vehicle?

5 A I had a vehicle.

6 Q Okay. And did he have a vehicle?

7 A No, he didn't. Not one that was running.

8 Q What about the Mustang?

9 A That was not his vehicle. That was his
10 mother's vehicle.

11 Q But he had access to it?

12 A I'm not sure.

13 Q Okay. But you know that vehicle?

14 A I know it as his mother's vehicle.

15 Q Okay. So you know his mom?

16 A Yes, I know his mother. That's my kids'
17 grandmother.

18 Q Okay. So it's your kids' items that are in the
19 bedroom in the house on Maplewood Drive?

20 A Yes, she bought my kids items.

21 Q Okay. Well, are you aware that Bryson would drive
22 the Mustang?

23 A She probably let him borrow it sometimes,
24 yeah.

25 Q Okay. And those times, you weren't with him?

1 A Yes, I've been with him when he's borrowed
2 her car. He's actually taken me to doctor's
3 appointments in her car.

4 Q Okay. I guess I'm asking, was there ever a time
5 that you went somewhere without Bryson or Bryson went
6 somewhere without you?

7 A Around this time period, ma'am, it this very
8 unlikely, because, like I said, my pregnancy was
9 very high risk. I had pre-eclampsia. I needed
10 someone with me almost all the time, and he was
11 with me. He stayed at our home every day.

12 Q Okay. So, all day. On August the 10th, he would
13 have been home all day?

14 A I can't go back to that day. That was over a
15 year ago.

16 Q I understand. But I'm just saying, if you say
17 "around this time," that's -- I just want to confirm
18 that you can say that. If we're going to make a
19 general statement that he's with you all the time,
20 then I'm going to specify and say, okay, on
21 August 10th, was he with you all day at your home?

22 A Well, he was there every day. I can't tell
23 you he was there the whole day because I do not
24 remember that day exactly because it was so long
25 ago.

1 Q Okay. How about August the 11th?

2 MR. SCHULTZ: Objection, Your Honor.

3 Asked and answered.

4 THE COURT: Go ahead. Overruled. Go
5 ahead.

6 THE WITNESS: I'm sorry. What are you
7 asking?

8 BY MS. LESKANIC:

9 Q If he was home with you all day on August 11th.

10 A I do not remember August the 11th of 2019,
11 but he was at our home every day.

12 Q All right. Thank you.

13 THE COURT: Anything?

14 MR. SCHULTZ: That's all I have, Judge.

15 THE COURT: Ma'am, you may step down.
16 Please be careful.

17 Mr. Schultz.

18 MR. SCHULTZ: Your Honor, I would seek
19 permission for my witness to be excused at this
20 point.

21 THE COURT: Any objection?

22 MR. KENDALL: No, Your Honor.

23 THE COURT: Ma'am, you are excused from
24 your subpoena. You may stay or you may leave,
25 whichever you choose.

1 MR. SCHULTZ: Thank you, Judge.

2 THE COURT: Mr. Schultz.

3 MR. SCHULTZ: At this time, the defense
4 rests.

5 THE COURT: Is there going to be anything
6 from the State?

7 MR. KENDALL: Nothing from the State,
8 Your Honor.

9 THE COURT: Okay. Madame Forelady,
10 Ladies and Gentlemen of the Jury, let me tell you
11 what has happened. The defense has now rested its
12 case, meaning the defense is not going to offer
13 another witness, another picture, another exhibit
14 of any sort. They're through. They rested. The
15 State rested earlier. The State would have an
16 opportunity to respond, if they so choose. That's
17 why I asked about that. They are not going put up
18 anybody else either, okay, in rely or response.
19 Which means, you now have before you all of the
20 evidence that's going to be put in this trial.
21 There's nothing that can be put into evidence.
22 This case, as far as the evidence goes, is now
23 closed.

24 Okay. It takes about 90 minutes to
25 close, the arguments from the lawyers and for me

1 to argue you on the law in this case before it
2 comes to you. Most of us judges do not -- it's a
3 rule in a book somewhere, but most of us will not
4 begin that process this late in the afternoon.
5 After about 4:00 p.m., we just won't do that,
6 because you will be 5:30, 5:40 getting the
7 exhibits and documents to begin your
8 deliberations. Okay? So we are going to stop a
9 little early today.

10 I need you here at 9:00 tomorrow morning
11 ready to work, as you were this morning. I
12 appreciate that. And what will happen in the
13 morning is that the lawyers will make their
14 closing statements to you. First one, then the
15 other, and then back to the State. And then I
16 will stand up and I will charge the law. I will
17 read the law to you as to these indictments. And
18 then you will retire to your jury room to begin
19 your jury deliberations. It won't be back here.
20 It's the room downstairs.

21 Isn't it, Brandy?

22 THE CLERK: Yes, sir.

23 THE COURT: The big one. That's the jury
24 assembly room downstairs. You're going to use
25 that as a jury deliberation room so you can social

1 distance and spread out down there. Okay?

2 So, tomorrow morning at 9:00, the process
3 will begin; the arguments from the lawyers, I will
4 charge you law, after which you will retire, all
5 14 of will go to that room. And I'll say this
6 again tomorrow, when you leave the room here the
7 lawyers are going to join my court reporter
8 because all of these exhibits belong to you. They
9 have stickers on them. And the lawyers are going
10 to make sure that everything is there, nothing is
11 missing.

12 And then my bailiff will bring that
13 evidence to you, Madame Forelady.

14 And when he does so, Ladies, you
15 alternates will leave the room. He'll bring the
16 evidence to the jury room. And when he does, you
17 two will leave, because it will only be proper for
18 the 12 to be together at that point.

19 All right. Don't try to learn anything
20 about this case. Don't do any research about this
21 case. I don't know if there's any kind of
22 anything in the news about it. But, if so, don't
23 pay any attention to that until after the case
24 ended.

25 With that, Madame Forelady, if you'll

1 take your jury out and be excused for the day.

2 I'll see everyone at nine o'clock in the morning.

3 (Jury exits the courtroom at 4:06 p.m.)

4 THE COURT: Okay. The jury is out of the
5 courtroom now. Any matters from the State?

6 MR. KENDALL: No, sir, Your Honor.

7 THE COURT: From the defense?

8 MR. SCHULTZ: Your Honor, the State would
9 move for directed verdict on all counts on the
10 indictments.

11 THE COURT: The defense moves?

12 MR. SCHULTZ: The defense. Did I say
13 State?

14 THE COURT: The defense.

15 MR. SCHULTZ: It's been a long day,
16 Judge. The defense is moving for directed verdict
17 on all counts.

18 THE COURT: Anything from the State?

19 MR. KENDALL: What is the basis for the
20 motion?

21 MR. SCHULTZ: The basis for the motion is
22 the testimony of the expert that testified
23 yesterday on Wednesday. That was Miss McCormack
24 who acknowledged or at least testified to the fact
25 that the sum of the drugs that she tested were not

1 tested completely. She took a sample of, for
2 instance, one pill and then extrapolated out
3 everything, and then she said it tested positive
4 for a controlled substance.

5 So at the very least, Judge, we would --
6 if I could see the indictments right quick. Thank
7 you, Judge.

8 So, Your Honor, I would move,
9 respectfully, for a direct verdict on possession
10 with intent to distribute Fentanyl and trafficking
11 heroin at this time, Your Honor.

12 So not on all indictments, but at least
13 possession with intent to distribute Fentanyl and
14 trafficking heroin.

15 Thank you.

16 THE COURT: Solicitor.

17 MR. KENDALL: Your Honor, at this time,
18 we look at the facts in the light most favorable
19 to the jury -- the State. Excuse me.

20 All of these substances were packaged
21 together. She took a sample of the packaged material
22 and tested it. It came back positive for the
23 aforementioned substance. I believe from that the
24 jury can infer when things are packaged together,
25 marked the same way, and contained in the same baggies

1 and showing no visible signs of differentiation that
2 they can be -- the jury could and should find that
3 those are all the same pills.

4 I think the analogy -- this is no
5 different than any other drug case. I don't think
6 there's any sort of distinction that can be drawn.
7 We don't test the entire pile of marijuana. That
8 would consume the entire thing. You take a piece
9 of it and do it. The fact these are in pill form
10 doesn't change that analysis. It's the same as
11 anything else. We have quantity of pills,
12 packaged together, all marked the same way. She
13 tested them and it came back for the
14 aforementioned subject.

15 Because of that, I believe that we've met
16 our burden of establishing that that's what the
17 substance is. Certainly, Mr. Schultz can argue
18 otherwise if he wants to.

19 I would also point out that in none of
20 these did she find that it was not -- of the pills
21 she did find in the bag, were cut. She's either
22 the luckiest person on the planet where out of,
23 you know, the 80-something of one, or 100 pills,
24 you just happened to get the ones that had
25 narcotics in them I think is extremely unlikely,

1 so much so that I think it certainly established
2 beyond a reasonable doubt.

3 THE COURT: All right. Well, the Court
4 must view the motion in light most favorable to
5 the non-moving party, which is the
6 State of South Carolina. The Court does not weigh
7 the evidence. The Court sends it to the finder of
8 fact, which is the jury, if there is any evidence
9 to support a jury question, and there is in this
10 case.

11 So for that, the directed verdict motion as
12 to the Fentanyl and to the heroin, Mr. --

13 MR. KENDALL: I'm sorry. Can I add one
14 more thing just so the record is complete should
15 it ever come up again, Your Honor?

16 I would also point out with regard to the
17 PWIDs, there is additional evidence of an intent
18 to distribute including him saying that he
19 basically had them for sale on Facebook records.
20 I think that would also, even without the weight,
21 establish, independently, an intent to distribute.

22 THE COURT: The Court doesn't weigh the
23 evidence. That evidence is weighed by the finder
24 of fact, the jury.

25 So as to the two indictments, PWID

1 Fentanyl and tracking heroin, those directed
2 verdict motions are denied.

3 Do you have other motions?

4 MR. SCHULTZ: No, sir, Your Honor.

5 THE COURT: Okay. Anything further from
6 either anyone?

7 MR. KENDALL: No, sir.

8 THE COURT: All right. Let's do this,
9 we'll get off the record and let's have the
10 lawyers go back here. I got the jury charge
11 printed and let's talk about it just real quick
12 here so that I don't have make any additions or
13 subtractions or anything in the morning, and I'll
14 be ready to go when everybody is ready to go.

15 So be ready at 9:00 in the morning and
16 we'll kick this off right at 9:00 with clothing
17 arguments. I'll have my charge ready to go, too.

18 MR. SCHULTZ: Yes, sir.

19 THE COURT: We are in recess.

20 (The trial was adjourned for the day at 4:11 p.m.)

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CERTIFICATE OF REPORTER

I, SHARON G. HARDOON, Official Circuit Court Reporter, III for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in General Sessions for Cherokee County, Gaffney, South Carolina.

I do further certify that I am neither kin, counsel, nor interest to any party hereto.

May 3, 2021

Sharon G. Hardoon, CSR
Official Circuit Court Reporter, II

1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF CHEROKEE

4 State of South Carolina,
5 Plaintiff,

6 vs.

Transcript of Record
2020-GS-11-01147,
2020-GS-11-01148,
2020-GS-11-01149,
2020-GS-11-01150,
2020-GS-11-01151

7
8
9 Bryson Jamar Smith,

10
11 Defendant.

12
13
14 November 6, 2020
15 Gaffney, South Carolina
Volume IV of IV

16
17 B E F O R E:

18 The HONORABLE R. KEITH KELLY

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

20 Kim Leskanic, Representing the State of South Carolina
21 Matt Kendall, Representing the State of South Carolina
Joshua Schultz, Representing the Defendant

22
23
24 SHARON G. HARDOON, CSR
Official Circuit Court Reporter, III
25

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1 THE BAILIFF: Remain seated. Come to
2 order.

3 THE COURT: Thank you. Be seated. Good
4 morning, everyone.

5 (Off the record.)

6 THE COURT: Anything for the record
7 before I bring the jury in?

8 (Off the record.)

9 THE COURT: Bring the jury in.

10 (Jury enters the courtroom at 9:34 a.m.)

11 THE COURT: Good morning, Ladies and
12 Gentlemen.

13 Madame Forelady, are we ready?

14 FOREPERSON: Yes, sir.

15 THE COURT: Are we ready?

16 MR. KENDALL: Yes, sir. May it please
17 the Court?

18 THE COURT: Yes.

19 CLOSING STATEMENT

20 MR. KENDALL: Ladies and Gentlemen of the
21 Jury, good morning. I thank you for coming here
22 and your careful attention during the course of
23 this trial.

24 At the beginning of this trial, I asked
25 of you three things; you listen carefully to the

1 instructions of the Judge, you listen to all the
2 evidence, and you use common sense.

3 In a few moments, the Judge is going to
4 give you the final instructions on the law that
5 will guide you and set the standards for your
6 deliberations that you will need to apply in this
7 case. I'd like to take a few seconds before going
8 over the facts to discuss with you what State's
9 position on the law is. Now, if I say something
10 that conflicts with what the Judge says, please
11 listen to the Judge. In the same way that you are
12 the ultimate judges of fact, the Judge is the
13 ultimate judge of the law. So, in short, if I say
14 something that conflicts, he's right and I'm
15 wrong.

16 The defendant in this case is charged
17 with five separate indictments; PWID Fentanyl,
18 possession with intent to distribute Fentanyl,
19 possession with intent to distribute marijuana,
20 possession with intent distribute cocaine,
21 trafficking methamphetamine, and trafficking
22 heroin.

23 I'd like to take a second about what
24 these charges are and what we're going to -- the
25 standards have been set up for you to guide the

1 evidence you're looking at.

2 First, let's talk about the PWID
3 offenses. Under South Carolina law, it is illegal
4 to manufacture, distribute, dispense, deliver,
5 purchase, aid, abet, attempt, or conspire to
6 manufacture, distribute, deliver, purchase, intent
7 to manufacture, distribute, disperse, deliver, or
8 purchase a controlled substance or a controlled
9 substance analog.

10 In addition, Ladies and Gentlemen, you
11 are allowed in these cases to make what are called
12 permissive presumptions. The law provides that
13 for marijuana and cocaine, you may, but are not
14 required to, find somebody guilty of PWID as to --
15 if you find them to be in possession of more than
16 one gram of cocaine or 28 grams of marijuana,
17 absent any other evidence to sell. Though, as we
18 will discuss later in this case, there actually is
19 additional evidence that Mr. Smith was intending
20 to sell.

21 For narcotics statutes, it's the amount
22 of drugs, rather than the criminal act that
23 distinguishes this from PWID. In other words,
24 this is no longer permissible inference. If the
25 State has over -- if the defendant had over

1 10 grams of methamphetamine or four grams of
2 heroin, that's what makes it trafficking, not just
3 something that could be trafficking.

4 Additionally, Ladies and Gentlemen, it's
5 not necessary for the State to prove that the
6 defendant knew precisely what kind of drug he was
7 trafficking, only that he knew it was a controlled
8 substance. It was an illegal drug.

9 Now, I'd like to speak generally to you
10 all about the idea of possession, having something
11 in one's possession. Generally, in cases like
12 this, there are broadly two kinds of possession;
13 actual possession and constructive possession.

14 Actual possession is when you have the
15 substance on you. For example, you have drugs in
16 your pocket.

17 Constructive possession, by contrast, is
18 whether the defendant has the right to exercise
19 dominion and control over the drugs. This can be
20 established by direct evidence or circumstantial
21 evidence. And when drugs are found on premises
22 under the control of the defendant, this alone can
23 give rise to an inference, which you can accept or
24 reject as you see fit with the evidence, of
25 someone's knowledge and possession.

1 It's also important to note that the
2 weight of the controlled substance includes not
3 only what it would be in its purest form, but any
4 compounds or mixtures. So we're not required to
5 prove that each one of these pills had all heroin
6 or had all Fentanyl. It can be any mixture that
7 was within.

8 Now, with that in mind, Ladies and
9 Gentlemen, I'd like take a few moments to discuss
10 the evidence that was actually produced in this
11 case.

12 Now, I know we put this case up and we
13 were a bit out of order. We had drug analysts and
14 Facebook people, and, for scheduling purposes, we
15 sort of had to do it. But I'd, kind of, like to
16 go through as it unfolded.

17 The first witness you heard from was
18 Sergeant Fuller. Sergeant Fuller testified that
19 he went to the address of Mr. Smith to attempt to
20 serve a warrant. When he was met there, when he
21 got there, he was met by a gentleman, and,
22 ultimately, his mother who allowed him to enter
23 the home. They went down the hallway, passing a
24 room. It was basically a junk room. And he
25 continued to enter into Bryson's room.

1 After entering the room, he found a small
2 bag of marijuana sitting on the bed. And, at that
3 point, he backed out and executed a search
4 warrant.

5 Law enforcement was then called to the
6 scene, additional law enforcement officers. And
7 you, Ladies and Gentlemen, were able to see the
8 video of Lieutenant Dorsette as he executed that
9 search of the home.

10 Now, Ladies and Gentlemen, that video is
11 in evidence. If there's something on there that
12 you would like to see, or you'd like to show it
13 again, you can simply ask and we can play all or
14 parts of that video as you find necessary.

15 But what we saw as we got inside the
16 room, they conducted a search, took photographs,
17 and found narcotics. In the room, they found a
18 backpack containing narcotics both in a Coca-Cola
19 cup, but also, in pairs of socks, is where he had
20 his bagged marijuana. You also were able to see
21 the other contents of the room; the men's
22 clothing, the shoes, the bed, sheets and comforter
23 that were on the bed. The bed wasn't a stripped
24 down bed left for nothing. It was actually a
25 made-up bed. You saw them locate the drugs, and,

1 subsequently, turn these drugs over to
2 Billy Anthony for further analysis.

3 They also found other things in the room
4 connecting it Mr. Smith. They found mail in the
5 room addressed to Bryson Smith at that address.
6 They found a box addressed B. Smith at that
7 address. They also found personal paperwork on
8 the bed, under the comforter in that room of
9 Mr. Smith's.

10 But in addition to the narcotics, Ladies
11 and Gentlemen, they also found additional things
12 consistent with these sales of narcotics. They
13 found packaging materials. They found a package
14 with the label ripped off, the last letter ending
15 in H, as in Smith, and the last letter of the
16 address ending in D, as would be -- or excuse me
17 -- the last letter H as it Smith.

18 They found large quantities of drugs in
19 pill form; beans, Percs. What they found there
20 ultimately were pills and what were labeled as
21 Percocets, the very drug that over Facebook he was
22 discussing selling or distributing.

23 They also found large quantities of
24 marijuana, scales out in plain view, clothing,
25 men's clothing, and what is known as flex.

1 Now, flex, Ladies and Gentlemen, is
2 important in this case because it helps separate a
3 mere possession with an actual distribution. As
4 the Lieutenant Dorsette testified, flex is what
5 you use to basically water down your drugs so you
6 can basically stretch them. Something that looks
7 like the substance and stretches it on.

8 You also heard his testimony, Ladies and
9 Gentlemen, of the value of these drugs. These drugs
10 were worth thousands of dollars. This will become
11 important later.

12 You also heard, once he collected these
13 drugs, he subsequently turned them over to
14 Billy Anthony, our evidence custodian who
15 consolidated them and sent them to SLED for
16 testing.

17 You also heard, Ladies and Gentlemen,
18 from Josh Mata. Mr. Mata was a friend of
19 Bryson's. He had picked him up at the house. He
20 was able to identify the house from the picture.
21 He also testified, Ladies and Gentlemen, that he
22 was familiar with the account of Buddy Dawkins.

23 Buddy Dawkins, Ladies and Gentlemen, is
24 actually Bryson Smith. He knew that because, when
25 they had conversations, the person reacting on the

1 other end to pick him up or whatever was Bryson
2 Smith. When they had face chats, the person he
3 was face chatting with. Buddy Dawkins, Ladies and
4 Gentlemen, was just a fake name that Bryson Smith
5 made up.

6 And why did he do that? Well, Ladies and
7 Gentlemen, you also heard from Brandon Gardner,
8 the person who had gotten these Facebook messages.
9 You saw that the Facebook account in this case was
10 actually tied to a Bryson Smith email address.

11 In the messages contained, which you will
12 have in the jury room, Ladies and Gentlemen, he
13 was offering, on August 9th, to get Percs or
14 Percocet-type drugs and beans, which
15 Officer Gardner later testified is Percocet and
16 pills.

17 About a day after that, in those same
18 things, he indicated -- or a day or two after
19 that, he indicated that he had the Percs. And
20 though he did not have any weed, he had people
21 asking to about it, trying to get weed, a
22 substance that Brandon Dorsette later indicated
23 was pretty easy to get. People were asking for
24 it. Suddenly it's found in his room.

25 He also used a fake name in this case,

1 Ladies and Gentlemen, to conceal his identity.

2 After that, Ladies and Gentlemen, you
3 heard some jail calls. Calls that were made by
4 Mr. Smith. Now, I know they were very hard and
5 that machine is somewhat difficult to work with,
6 but if you need to hear those again, we can play
7 those.

8 Now, let's talk about what he says. On
9 one jail call he indicates that they went to his
10 house and charged him with, expletive, he wasn't
11 even there for. Not someone else's house, not the
12 rental property, not mama's house I never go to,
13 they went to his house. He's admitting, Ladies
14 and Gentlemen, that it's his house, and he wasn't
15 there when they came.

16 You also heard in those conversations,
17 Ladies and Gentlemen, that he, basically, admits
18 to being involved in narcotics, selling drugs. He
19 just says he doesn't do them in front of his kids,
20 which is certainly a good thing. It will be very
21 important later when we talk about the testimony
22 of his children's mother.

23 You also heard him admit that this was
24 his Facebook page. Not only that, Ladies and
25 Gentlemen, but he admitted that it was a fake

1 name. How did they even know it was me. It's not
2 my name.

3 Later, Ladies and Gentlemen, we heard
4 from SLED analysts. I want to talk -- this was
5 kind of confusing. We had two SLED analysts for
6 the marijuana. We had, first, Alexis Fowler.
7 Miss Fowler's job wasn't to do the ultimate
8 marijuana test, as she testified. She was the
9 technician. Her job was to open the packaging, do
10 the initial test to see if this was something that
11 was potentially marijuana and pass it off the
12 Ashley Lyles, who took off -- or a small piece was
13 taken off for testing. And then they subsequently
14 did confirmatory testing to determine it was
15 marijuana. Not just cannabis, well beyond the
16 standard of what was required for simply cannabis
17 but actual marijuana greatly exceeding the
18 threshold standard.

19 They also weighed this substance, Ladies
20 and Gentlemen, and found it to be 149 grams of
21 marijuana.

22 You also heard with regard to the
23 non-marijuana drugs that were found from
24 Maribeth McCormack. She detailed the testings of
25 the various types of drugs. You heard her explain

1 not only what was in that packaging, but how it
2 was labeled and -- how it was labeled, basically
3 to look like other pills. What did she find after
4 she did this testing and weighing, over two and a
5 half grams of cocaine, well over 100 Fentanyl
6 tablets, 7.78 grams of heroin, and 11.15 grams of
7 methamphetamine.

8 More interesting though, Ladies and
9 Gentlemen, is how these were marked. With some of
10 the Fentanyl tablets, they appeared to be marked
11 as one would mark Percocet if it was coming from a
12 pharmacy. She was very clear that this had not
13 been made by a pharmacy. This was not consistent
14 with pharmaceutical preparation. But the tablets
15 were marked with markings similar to Percocet, the
16 very substance Bryson indicated he had.

17 We also had markings of other pills,
18 Oxycodone. Another pill form consistent with
19 beans, the slang term for these pills.

20 So in short, Ladies and Gentlemen, we have
21 pills, they're marked as Percocets. We have pills
22 marked as oxycodones. On his Facebook messages, he
23 indicates he's got Percocets and he's getting beans.

24 You also heard from Traci Smith, Ladies
25 and Gentlemen, a defense witness. Now, her story

1 has changed a bit since that day, but on the day
2 she spoke to law enforcement, what's freshest in
3 her mind as it was unfolding, what did she say?
4 As you saw on the video -- and again, Ladies and
5 Gentlemen, that video is in evidence. You can
6 come and see that at your request.

7 She indicated that she had moved back in
8 the home after renting for five years when the
9 former residents' lease was up. She had moved
10 back in. She didn't say anything about evictions
11 at that time to the police. Just the lease was up
12 and she moved back in. She also said that Bryson
13 comes now and then -- comes now and then.
14 Acknowledges that the room where the drugs were
15 found were his room and that she doesn't go in
16 that room. She also acknowledges on that video,
17 Ladies and Gentlemen, that he still had a key to
18 the house.

19 She says the first bedroom of the house
20 was the junk room. And you all were able to see,
21 I think it was from the body camera video of what
22 it looked like in there.

23 The second room where the drugs were
24 found is where she notes, I can't tell you what's
25 in that room and says, he's in there sleeping like

1 a savage. He didn't even put the bed together.

2 He's sleeping like a savage.

3 This isn't the stranger room. This isn't
4 the junk room. This is Bryson's room where he's
5 sleeping like a savage, as she puts it, because he
6 hadn't put the bed together.

7 When Billy Anthony comes in, the evidence
8 technician that's getting a hold of all these
9 drugs, what does she tell him, the last one down
10 the hall on the right.

11 Everything she says to law enforcement,
12 Ladies and Gentlemen, points to this being
13 Bryson's room. Not somebody else's room. This is
14 where he is. This is where he's sleeping. This
15 is where he hasn't put the bed together, and
16 that's where his drugs were found.

17 That's what she told the police that day
18 on video, Ladies and Gentlemen. And you were able
19 to watch that video. That wasn't a hot light
20 interrogation. They weren't peppering her with
21 questions. You were able to see it was a cordial
22 conversation. She was sitting on the couch. They
23 were talking to her. The police come in, they
24 didn't twist her arm to ask where the room was.
25 It's down the hall on the right.

1 This was a recording, Ladies and
2 Gentlemen, where you actually get to see and got
3 to see the recorded evidence. Ladies and
4 Gentlemen, that's important because recording
5 doesn't have an agenda. It's just a recording.
6 It's something that they create at the time that
7 you were able to see. You're able to see what her
8 reaction was and what her behavior was on that day
9 while it was unfolding. We didn't see any of this
10 other stuff. We didn't see any of this very
11 complex thing of boyfriends coming in and
12 switching, and cleats being in there, and her
13 looking in the room, but not looking in the room,
14 just getting the cleats without looking and not
15 knowing what's in there. What she said on the
16 video is what she said on the video. You all got
17 to see that. That's what happened that day.

18 Now, yesterday in court, her story
19 changed a little bit. Maybe this is because time
20 has passed since this happened. Maybe this is
21 because of conversations she's had with her son.
22 But her story yesterday, the folks she leased it
23 to, she put them out and changed the locks. She
24 no longer lived at the house but stayed there.
25 The night before she had a fight with her

1 boyfriend who was different than the gentleman
2 that was over there but the boyfriend had also
3 been over there that morning. And somewhere along
4 in this there was a grandson that had cleats and
5 they stunk and so she put them in the room, but
6 she didn't really look in the room. She just
7 reached in there and grabbed the cleats without
8 looking in the room. And somehow, despite saying
9 multiple times on video that it was Bryson's room,
10 suddenly, now, not Bryson's room. Once more, he
11 no longer has a key.

12 But what she did say that was consistent,
13 Ladies and Gentlemen, she acknowledged yesterday
14 that she did not condone his actions. She
15 acknowledged that she didn't go in that room. She
16 didn't let the kids go in that room. A room in
17 her own house that she doesn't go in and doesn't
18 let the kids go in.

19 She also acknowledged that she wasn't
20 there a lot. She wasn't in that home an awful
21 lot. She was staying with her boyfriend
22 sometimes. She also worked long hours, two jobs.

23 Now, Ladies and Gentlemen, you are the
24 ultimate finders of fact, and the State would
25 argue that her story does not make sense as it was

1 told yesterday. Why have a bedroom nobody goes
2 in? Why have it made up? Why have a bed with
3 sheets and comforters on there? How did nobody
4 see a bag of marijuana, scales on the floor? How
5 did nobody smell it? If someone else is living in
6 there, how is Bryson's stuff in there. I mean,
7 he's got a box, he's got paperwork, he's got
8 letters. I mean, you don't leave stuff in your
9 house when the renters come.

10 And let's not forget the thousands of
11 dollars of narcotics that were found in that room.
12 Thousands of dollars of narcotics are also found
13 sitting in that room. It's not something you're
14 just going to leave laying around, Ladies and
15 Gentlemen. It's not an umbrella that you just
16 leave in a stand someplace.

17 Next you heard, Ladies and Gentlemen,
18 from the mother of Bryson's children who said that
19 at this time she was primarily living with him.
20 And though she couldn't say -- and spending a lot
21 of time with her. But on the days leading up to
22 this, she couldn't say where he was exactly or how
23 long she'd been with him, or whether he was with
24 her that day. This is consistent with the State's
25 case, Ladies and Gentlemen.

1 As Mr. Smith said in his jail phone
2 calls, he doesn't like to do business in front of
3 his kids. He does his business elsewhere. And
4 what better place to do that, Ladies and
5 Gentleman, than mama's house. Nobody is ever
6 around. They are the only two that live there,
7 and she's either working or at her boyfriend's
8 house. He has a room that nobody ever goes in and
9 messes with. A room that he can keep his drugs,
10 his packaging materials, his scales, a virtual
11 Kinko's for a drug dealing all within that room
12 and nobody is going to mess with it.

13 This is important. We're dealing with
14 thousands of dollars of drugs, Ladies and
15 Gentlemen. This isn't something you're just going
16 to abandon someplace, just leave in some
17 stranger's house. Your options are someplace
18 where it's going to be safe, it's going to be
19 secure, and it's not going to be messed with.
20 Where is that for him? Well, it's either at his
21 house where he's living, which he doesn't want to
22 do, fair enough, or it's at mom's where nobody
23 checks, people aren't usually around, and he has a
24 room that nobody is going to go in and mess with.

25 Now, Ladies and Gentlemen, at the

1 beginning of this case, I asked you to use common
2 sense. And with that in mind, I would just point
3 out that there were drugs found in plain view in
4 this bedroom. Thousand of dollars worth of drugs
5 were subsequently found in a backpack in that
6 bedroom. There were scales in that bedroom.
7 There were packaging materials in that bedroom.

8 On scene, his mother admits multiple
9 times that is his room.

10 There are Facebook messages going back
11 and forth talking about the distribution of the
12 very drugs that were found in that room from an
13 account that Mr. Smith admits is his, other people
14 know is his, and established that he has got these
15 Percs for sale.

16 He also admits, Ladies and Gentlemen, to
17 selling these drugs, the State would contend, just
18 not around his kids at a house that Josh Mata has
19 picked him up, and what he acknowledges in that
20 jail call was his house.

21 Ladies and Gentlemen, based on this,
22 common sense would dictate that these narcotics
23 found in Bryson Smith's room, near Bryson's mail,
24 near Bryson Smith's paperwork, the room that his
25 mother said was his are his, Ladies and Gentlemen.

1 We would ask you to return a verdict of
2 guilty. Thank you.

3 CLOSING STATEMENT

4 MR. SCHULTZ: Thank you, Judge. May it
5 please the Court? Counsel?

6 I apologize, Ladies and Gentlemen, I have
7 a lot of evidence to go through here. I'll put
8 some here.

9 Well, good morning, everyone, again. I
10 just want to thank you again for your attention,
11 your time, your effort in this case. This took,
12 perhaps, longer than any of us anticipated. I
13 think we started on Tuesday. We're now into
14 Friday. Right now, and I think Mr. Kendall told
15 you this, but what we're doing right now is we are
16 arguing. We're doing concluding and closing
17 statements. And what Mr. Kendall just argued was
18 his position. I'm arguing for Mr. Smith's
19 position, the defense. The defendant's argument
20 to the jury.

21 Now, in the last couple days, we've heard
22 testimony. We've heard the evidence in the case.
23 I presented some evidence. I presented two
24 witnesses yesterday. The State presented their
25 case on Tuesday and Wednesday, a little bit of

1 Thursday. I watched each and every one of you
2 during this time. You paid attention. You did
3 what you had to do. You paid attention to not
4 only what was going on as far as witnesses, but
5 also looking at the evidence.

6 Now, the thing with this is that there's
7 a lot of evidence in this case. Not only this
8 pile down here, some of you may not be able to see
9 that, but there's also going to be audio and
10 videotape evidence that you can go back and look
11 at.

12 So what I want to do here today is, I
13 want to give a brief introduction of what I'm
14 going to be saying, and then I'm going to go step
15 by step through all the witnesses in the case.

16 On Tuesday I think it was, I last spoke
17 to you like this. And what I'm doing here is -- I
18 hope you don't mind that I'm not wearing my face
19 mask here. I'm six feet apart from everybody. I
20 want to follow all the social distancing
21 guidelines and everything. I've been doing trial
22 work for a long time. This is the first time I've
23 sat down like this so I can maintain social
24 distancing. Usually, I'm all over the place. I'm
25 gesturing and walking around. That's usually the

1 way I like to do things, but I want to keep
2 everybody safe until this all over with. So I
3 wanted to let you know that first.

4 On Tuesday, I spoke to you about what
5 burden of proof means. What's the burden of
6 proof? Well, here's what it means. It means that
7 the State has to prove their case beyond a
8 reasonable doubt. I talked to you about that a
9 couple days, too. What does reasonable doubt
10 mean? Well, it means -- a reasonable doubt means
11 that it is doubt that causes a reasonable person
12 some hesitation to act. Okay?

13 If you have one reasonable doubt as to
14 the guilt of the defendant, you got to find him
15 not guilty. Okay? It can't be -- there's no
16 number on it. Well, there is a number on it.
17 It's one. You got to find one reasonable doubt as
18 to the guilt of the defendant. It can't two,
19 three, four, five. The judge is not going to
20 instruct you on that, that you got to find five
21 reasonable doubts or something like that. It only
22 has to be one. That's the burden that these folks
23 over here have. Not me. I have no burden. The
24 State has the burden. That's why they go first.
25 That's why they present all their testimony.

1 That's why they present their witnesses. That's
2 why they go first. I don't have to prove
3 anything, or should have to prove anything.

4 So, we all understand that. I hope you all
5 understand. The judge is going to instruct you again
6 on what reasonable doubt and burden of proof means.

7 Another thing before I get into the
8 witnesses. Judge Kelly in a couple of minutes --
9 I think Mr. Kendall said a couple months. I hope
10 it's not a couple of months. But, in a couple
11 minutes, he's going to tell you what your standard
12 is and reasonable doubt. I hate to keep saying
13 that word, but it's very important. You have to
14 be firmly convinced. You have to be firmly
15 convinced of the defendant's guilt. If you're
16 not, you got to find him not guilty. If you are,
17 then the State has met their burden of proof.
18 Okay?

19 I believe, and I hope that each and every
20 one of you will shares this, that you can't find
21 him guilty. I think, and I'm going to ask in a
22 couple minutes -- I'm going to ask right now,
23 actually, for a verdict of not guilty on all
24 counts.

25 Now, first -- well, the first witnesses

1 that we've heard from were some officers in the
2 case. We've heard from Officer Gardener Fuller.
3 We also heard from a lay witness.

4 Now, what I mean by lay witnesses is
5 someone that was not necessarily there but is not
6 an expert but has in some knowledge of the case.
7 Josh Mata, he had a record. He had two
8 convictions for property crimes back in 2012. He
9 had some legal trouble up in North Carolina. To
10 me, he's not believable. So, he's -- that's what
11 I believe. He said he was talking to Bryson. But
12 again, that's over Facebook. Okay? That's over
13 Instant Messenger. But, again, I want you to
14 consider this fact that people use fictitious
15 names all the time on Facebook. You have to
16 understand that. But yet, at the same time, he
17 wasn't sure, he wasn't positive, one hundred
18 percent sure that he was talking to Bryson. Okay?
19 He could be talking to somebody else. We don't
20 know. Again, to me, that's reasonable doubt.

21 Now, it's interesting, at least I thought
22 it was interesting, we heard from some chemists
23 and some forensic technicians from SLED. Now, I
24 keep using the acronym SLED. I think we all --
25 maybe we all know what SLED means. SLED stands

1 for South Carolina Law Enforcement Division.

2 SLED, S-L-E-D. It's an acronym.

3 And they testified and I remember -- I
4 think it was Miss McCormack. And she weighed all
5 the controlled substances. Sometimes she found
6 controlled substances, sometimes she did not.
7 It's interesting to me, she said that -- this
8 under direct examination with Miss Leskanic here.
9 I remember this specifically. She only tested one
10 pill. One little thing. And I made a big deal
11 out of that because I think it's very important.
12 I think it's very important, because then she
13 tested one little pill out of a bag, and I believe
14 it was -- well, she had different items, but I
15 think -- State's Exhibit 4, if I can just get
16 this. I beg the Court's and the jury's patience
17 there.

18 I'm going to do -- this is State's
19 Exhibit 4. I asked her, I said, did you test
20 every pill? Did you test every pill? Do you know
21 what she said, oh, I tested one. Tested one pill.
22 That's fine. But what about the other ones?
23 There's a possibility that these can -- these will
24 not be controlled substances. What she did is,
25 she did a sample. They're going to say -- I know

1 what they're going to say. Well, that just begs
2 believability. Okay?

3 Well, shouldn't you test all of the
4 pills. Shouldn't you test all the evidence in the
5 case. I think you should. Just one sample, she's
6 essentially doing what polsters do. We've heard a
7 lot of poles this year. Hopefully that's going to
8 be over soon.

9 But essentially what she said did is, she
10 tested this as a sample and just assumed that, oh,
11 it's all illegal. It's all controlled substance.
12 All right, moving on. Let's test this one, too.
13 You probably remember this. These are the pills.
14 And this is State's Exhibit 8. State's Exhibit 8,
15 73 multi-colored tablets in the state of Georgia,
16 did the same thing. You can take a look at these.
17 Please do it with the gloves, but take a look at
18 this. These are in the state of Georgia. You
19 probably can't see that, but they look pretty
20 similar to the shape of the state of Georgia for
21 some reason.

22 But she tested one of these pills and
23 said, oh, well, all the rest of them got to be
24 illegal, too. All the rest of them got to be
25 controlled substances. Come on.

1 Is that -- I mean, this, to me, just
2 testing these and just doing, well, just one.
3 Okay? Or just one here. And then she just
4 assumes all the rest of them are illegal. Okay,
5 moving on. There was one bag that she tested
6 that -- I believe it's State's Exhibit 2. Yup,
7 State's Exhibit 2 here. No controlled substance
8 found.

9 Okay. Well, I will present to you, can
10 there be at least the possibility of no controlled
11 substance found when she tested more of these,
12 more of these pills in the shape of the State of
13 Georgia, or -- referring to these pills. Okay?
14 My whole point in saying this is that the criminal
15 justice system must do a better job in weighing
16 testing and ultimately looking at evidence and
17 presenting it to you all other than, well, we
18 tested one pill, go find him guilty. That's not
19 good enough.

20 To me, if I was one of you, that does not
21 leave me at least firmly convinced.

22 They take a sample size. Well, they take
23 a sample size, and then they use that fancy lawyer
24 word, extrapolate. What they do -- extrapolate is
25 a fancy word for saying assume. We just assumed

1 that all that stuff is controlled substance. All
2 that stuff is bad stuff.

3 Well, to me, assumptions, extrapolations
4 don't add up to convictions.

5 Now, we've had a lot of photographs
6 introduced. There was audio introduced. There
7 was video introduced. So what we got is, we
8 got -- you know, I can't put you back in that
9 room, but we can go close with some of these
10 pictures. We got a very disorganized room.

11 All right. Let's refer to
12 State's Exhibit 18. Okay? We got we got some
13 pants. We got at least one shoe on here. I think
14 we have the shoes there. And a backpack. I asked
15 the officer, did you test it, test it
16 forensically? Oh, no, we don't do that. All
17 right. Did you test it for DNA? Did you test it
18 for fingerprints? Oh, no, we don't do that.

19 So what are we doing here? Okay? They
20 could have easily wrapped up this case to say,
21 okay, well, Bryson Smith's hair fiber was found on
22 one of his shoes, or a hair fiber was found on one
23 of the pants there. And, you know, they could
24 test for fingerprints. They could test for a lot
25 of things. You know what, they didn't.

1 They essentially did the same thing that
2 the chemist did. Well, we only do this. One pill
3 is good. One pill in the shape of Georgia is
4 good. All the rest, done. Okay? We don't need
5 to go any further.

6 Well, in criminal cases, you do need to
7 go further. You need to have good evidence. I
8 would present to you that they don't have good
9 evidence.

10 Here's another thing. Got some letters,
11 some documents. This is State's 36, 37, 38. I
12 got some letters here addressed to -- or at least
13 with Bryson Smith's name on it. Okay? I asked
14 the officer, I think it was yesterday morning, I
15 believe. I kind of lose track of time, but I
16 think we all lost track of time this year. But
17 you look at this, where's the dates? Okay? Does
18 it say 2019? No. Does it say 2018? No. 2017?
19 Does it say anything? Where's the dates? Okay?

20 We know, at least, that Bryson was
21 probably in the house at some point, but where's
22 the dates on this. Where's the dates? It says
23 Bryson Smith. Okay? There. No dates. Letters
24 here. No dates. No dates.

25 And then -- that's the thing. This is

1 what -- it's not so much of what they have.

2 Right? It's what they're missing. It's what
3 they're missing.

4 I asked the officer. I said, all right, you
5 took a picture of this, right? Yeah, I did. Well,
6 where's the actual physical copy of it? Do you have
7 it? Oh, no. Where is it? I don't have it. Okay?

8 The whole point -- let me go back to this
9 burden of proof. They should show something more
10 than pictures of letters with no dates. You know,
11 show me -- and this is what I want you to think in
12 this, and this is what I'm hoping everybody is
13 thinking here -- show me the letter. If they
14 don't have the letter, how can you convict?

15 Let me go back to the -- there's another
16 letter in here. Okay, B. Smith, State's Exhibit
17 41. Where's the date? That room was a wreck.
18 Who knows how long that's been in there. They
19 pretend -- the police think, oh, it was just there
20 that day, or it was just there that week. We
21 don't know. And that's my whole point that we're
22 getting to, is that we don't know. If we did
23 know, this case may not go to trial. But we don't
24 know. We don't know. That should not leave you
25 firmly convinced. Should not leave you firmly

1 convinced.

2 All right. Let's talk about this letter,
3 referring to State's Exhibit 42. Again, you can
4 take a look at this. Can you see that back there?

5 Okay. Bryson Smith [REDACTED] Maplewood Drive,
6 Gaffney, South Carolina. Okay? I don't see any
7 date on there. You won't when you go back and
8 take a look at it. All right? We don't have that
9 letter. The actual letter. If I were you, I
10 would want to see that. Test it. Just a couple
11 letters with no dates on them, you can't find him
12 guilty. We don't have enough. You don't have
13 enough. Each and every one of you do not have
14 enough to be firmly convinced of the defendant's
15 guilt.

16 Now, Judge Kelly in a couple minutes is
17 going to talk to you about the difference between
18 actual and constructive possession. Actual and
19 constructive possession. You may have heard those
20 before.

21 Here's what actual possession means --
22 actual possession, the Judge is going to tell you
23 about this in a couple minutes. I walk down the
24 street, the police decide he's up to no good. I
25 have marijuana on me. The police arrest me. They

1 find it in my pockets. Okay, well, actually, they
2 find it in my pocket and then they arrest me.
3 That's actual possession. I actually had it on
4 me.

5 Constructive possession, well, what that
6 means is that at some point you may have been
7 around it. All right? Well, you heard yesterday,
8 there was a lot of people in that house. She was
9 renting it out. Where are those people? They're
10 up in D.C. We don't know. It could have been
11 those folks. We don't know.

12 There is no direct evidence, direct
13 evidence of Bryson Smith having possession of
14 these drugs. That's the simple fact of the
15 matter. There is no direct evidence, to me, that
16 would leave me firmly convinced, firmly convinced.
17 Let me say it again, firmly convinced.

18 They didn't catch him inside the bedroom.
19 They didn't catch him inside of the living room.
20 They didn't catch him going out of the house.
21 They didn't catch him in the lawn. They didn't
22 catch him on the porch. They didn't catch him
23 anywhere -- anywhere at that time.

24 So what are we left with? I just want to
25 summarize this. Some pills that are -- that they

1 tested -- they tested one of these, and then they
2 assumed that everything else was bad, was
3 controlled. Okay? Same thing for the other ones
4 that are probably buried here.

5 This scale. Okay? You got a scale
6 that's referenced in one of the photographs that
7 you're going to see. We got this. All right?
8 Did they lift any fingerprints on it? No, they
9 didn't do that. They just made assumptions. The
10 whole case is based upon the assumptions that they
11 made.

12 Well, they've already made up their
13 minds. It's Bryson Smith's room. That's fine.
14 We don't need anything else. Okay?

15 And then when they get down, the chemist
16 gets done, well, we just assumed that the rest of
17 these pills are illegal. Okay?

18 To me, in this country, you sitting here
19 on a jury, we don't get the benefit of
20 assumptions. We have to be firmly convinced. To
21 me, and this is wrapping this whole thing up,
22 assumptions are guesses. Assumptions are, yeah,
23 maybe. Okay?

24 When you go back there, you got to -- the
25 State's going to be asking you, probably again, to

1 convict him. They want you to find him guilty
2 beyond -- it has to go beyond, right? Over the
3 threshold. Over the reasonable doubt threshold.
4 They can't. They can't do it.

5 Some of you may have seen the little pin
6 that I have here. It's a poppy for Veteran's Day
7 next week. It's very important to me.
8 Patriotism, men and women that fought for this
9 country. They did their service to this country.
10 I spoke to you a couple of days ago about what
11 service means. Some of us voted on Tuesday, some
12 of us voted before, some of us voted absentee
13 ballot. Hopefully, we all did our duty.

14 Today, in the last couple days, we all,
15 as jurors, did your duty to uphold the law, look
16 at the evidence. And the judge is going to
17 instruct you upon what you have to do to decide
18 this case. I want to go back into that about you
19 have to be firmly convinced. In order to find him
20 guilty, you have to find him guilty beyond a
21 reasonable doubt.

22 I just presented all kinds of reasonable
23 doubts. I presented assumptions that the State
24 made. I presented assumptions that the police
25 made. Well, assumptions and guesses and what we

1 think happened does not add up to convictions.

2 Thank you very much.

3 CLOSING STATEMENT

4 MR. KENDALL: Thank you very much, Ladies
5 and Gentlemen. I'd just like to take a second to
6 go over a couple of the points that Mr. Schultz
7 brought up about this case and respond.

8 First, with regards to Josh Mata, it's
9 true Mr. Mata wasn't sitting there next to him
10 when he was texting back and forth with him. But
11 in his testimony, what you heard was, that, when
12 he Facetimed him, the other person on the other
13 end of that Facetime, Bryson Smith. When they
14 were texting back and forth to do something, like
15 switch cars or pick someone up, the person that
16 got picked up, Bryson Smith. There wasn't ever
17 this other person in there. There was a call to
18 do something, the person doing it, Josh Mata,
19 Bryson Smith.

20 Let's not forget, he also admits to it.
21 He actually says it on a jail phone call. This
22 isn't something we depend on Bryson Smith for.

23 Now, you also heard objections about how
24 this was tested, how the forensic scientists
25 tested this evidence. That some of this came back

1 as no controlled substance. So assume some of
2 this other stuff can come back as no controlled
3 substance. And, Ladies and Gentlemen, that
4 confuses two very different ideas. The idea of
5 flex and the idea of a representative sample.

6 You heard testimony yesterday, Ladies and
7 Gentlemen, about what flex was. This is something
8 that's intentionally fake. This is something
9 people get, drug dealer's get to do the equivalent
10 of water down their drinks. Right? But flex when
11 its in its flex form is like the water in a
12 separate pitcher. It hasn't been added yet. It's
13 a separate substance that's going to be mixed
14 later. The pills, by contrast, are in pill form.
15 They've been pressed. They are in that form now.

16 And what did the SLED analyst testify to?
17 That the pills in these individual bags all appear
18 to be the same, had these same markings that were
19 placed upon them. These were the same pills,
20 Ladies and Gentlemen, and they were packaged
21 altogether. And they were in large quantities. I
22 mean, was she just the luckiest person in the
23 world that in bags and dozens of pills she just
24 happened to pick out the one that was it?

25 Mr. Schultz brought up the idea that this

1 is the similar thing to what polling people do.
2 They just pick a representative sample. It's not
3 at all. There's an enormous difference, Ladies
4 and Gentlemen. When you're talking about polling,
5 you're talking about people. We're all different.
6 Different ideas. Different backgrounds.
7 Different experiences.

8 When you're talking about pills, they're
9 all in the same container, they all look the same,
10 they're all marked the same. Ladies and
11 Gentlemen, they are the same packaged together
12 sitting together.

13 And this is something, when I ask for
14 common sense, I hope you'll consider. If you go
15 to the store and get a can of Pringles, you know
16 the ones in the tube, they all look exactly the
17 same. Open that can of Pringles up, pour them
18 out, all look the same, take a Pringle, take a
19 bite of it, it tastes like a potato chip, do you
20 think the rest are potato chips? It's just common
21 sense, Ladies and Gentlemen.

22 He had the same pills together to sell
23 marked the same in the same containers. They're
24 all the same. It's just a representative sample.

25 It's the same when they take a piece of

1 the marijuana and test it. A representative
2 sample. They can't test the entire thing. We'd
3 have an empty bag.

4 They're also not required, Ladies and
5 Gentlemen, to show you a pure mixture. Any
6 mixture constitutes that crime. It doesn't have
7 to be pure heroin. It doesn't have to be pure
8 Fentanyl. It can be a mixed of that and other
9 stuff. They can add a whole bunch of cut to it,
10 as law enforcement testified to, later.

11 Now, Mr. Schultz also put a lot of
12 emphasis, Ladies and Gentlemen, on the fact of why
13 we didn't do more DNA testing, taking samples on
14 scene and things like that. Ladies and Gentlemen,
15 they were on scene. They knew whose room that
16 was. Why did they know that? Because his mother
17 told them that. It wasn't some stranger. Mom
18 told them that was his room. His mother. And
19 what did they find in there consistent with that;
20 paperwork, personal belongings.

21 Now, I know Mr. Schultz has pointed out
22 that at some point in time there was a renter in
23 there, but I have two thoughts on that. Number 1,
24 would the renter sleep in that room with his
25 paperwork under the covers. That just doesn't

1 make sense, Ladies and Gentlemen.

2 And, Number 2, we're not talking about
3 some tiny dime bag slipped under the rug. We're
4 talking about thousands of dollars in narcotics
5 sitting there. Thousands of dollars. Does this
6 seem to be the thing you would leave behind. The
7 thing that just gets abandoned. Oh, what did we
8 forget? Oh, the thousands of dollars of
9 narcotics. Oh, drats. Ladies and Gentlemen, this
10 doesn't make sense.

11 More over, they just happened to be the
12 exact same narcotics that he's on the Facebook
13 page talking about. What a coincidence. How
14 could he be so unlucky. The one pill they pick
15 out of that bag just happens to be heroin and
16 Fentanyl. The drugs that he's got just happen to
17 be the same ones that are found in the room with
18 the mail, his packaged his mom says is his.

19 Ladies and Gentlemen, this simply doesn't
20 make sense. They didn't need to do the
21 identification of the room then because his mother
22 told him them that's what it was. And everything
23 they found after that was consistent with that.
24 When you rent a house, you don't leave your stuff
25 in the house. That's common sense.

1 of the Jury, you have seen and heard the evidence
2 presented, as well as the arguments of the
3 lawyers. It is now my duty and my obligation to
4 instruct you on the law in this case. It will
5 then be your solemn duty and your obligation to
6 begin your deliberations. Through this process,
7 you will decide the facts, apply the law as I
8 instruct it, and render a fair and impartial
9 decision. It is your exclusive duty to determine
10 what the facts are in this case, and you do that
11 based on your common sense, examination, and
12 evaluation of the testimony and the evidence
13 received during the trial of this case.

14 You 12 alone will decide what effect,
15 value, and weight is to be given to any particular
16 testimony or evidence received. Quite simply,
17 your goal is to find the facts in this case, and
18 when doing so -- and when you do so, you will have
19 fulfilled your obligations.

20 The first indictment in this case charges
21 this defendant with possession with intent to
22 distribute marijuana. Specifically, that
23 Bryson Jamar Smith did in Cherokee County,
24 South Carolina on or about August 12 of last year
25 manufactured, distribute, dispense, deliver,

1 purchase, or aid, abet, attempt, or conspire to
2 manufacturer, distribute, dispense, deliver, or
3 purchase, or possess with the intent to
4 manufacture, distribute, dispense, deliver, or
5 purchase a quantity of marijuana which is defined
6 as a Schedule I controlled substance by our State
7 law and in violation of State law.

8 The second indictment in this case
9 charges this defendant with possession of intent
10 to distribute cocaine. Specifically, that he did
11 in Cherokee County, South Carolina on or about
12 August 12 of last year manufacture, distribute,
13 dispense, deliver, purchase, or aid, abet, attempt
14 or conspire to do so with regard to a quantity of
15 cocaine, a Schedule II controlled substance as
16 defined by our State law and in violation thereof.

17 The third indictment charges him with
18 trafficking methamphetamine. Specifically, that
19 he did in Cherokee County, South Carolina on or
20 about August 12 of last year knowingly sell,
21 manufacture, deliver, purchase, or bring into this
22 state, or provide financial assistance, or
23 otherwise aided, abetted, attempted, or conspired
24 to sell, manufacture, deliver, purchase, or bring
25 into this state, or knowingly actually or

1 constructively possess or attempt to do so
2 10 grams or more, but less than 28 grams of
3 methamphetamine which is defined as a Schedule II
4 substance and in violation of law.

5 The fourth indictment charges him and
6 alleges that he -- with the distribution of
7 Fentanyl and alleges that he did in
8 Cherokee County, South Carolina on or about
9 August 12 of last year, distribute, dispense,
10 deliver, purchase, deliver, dispense, or possess
11 with the intent to distribute, dispense, deliver,
12 or purchase a controlled substance, that being
13 Fentanyl, which is a Schedule II controlled
14 substance as defined by State law and in violation
15 of the law.

16 The fifth indictment charges and alleges
17 that he did in Cherokee County, South Carolina on
18 or about August 12 of 2019 knowingly sell,
19 manufacture, deliver, or purchase, or bring into
20 this state, or provide financial assistance, or
21 did otherwise aid, abet, or conspire to do so with
22 regard to -- or did with regard to heroin that
23 being four grams or more but less than 14 grams,
24 which is a Schedule I controlled substance in
25 violation of the law.

1 Ladies and Gentlemen, I previously told
2 her and I now remind you that the fact that this
3 defendant was arrested, charged, and indicted is
4 not evidence and cannot be used as evidence of his
5 guilt, nor does it create a presumption or an
6 inference of guilt. The documents themselves are
7 the formal written documents -- the formal written
8 instruments which bring him before the court. He
9 has entered a plea of not guilty and he is
10 presumed innocent of the allegations contained in
11 each and every indictment.

12 He has plead not guilty, that puts the
13 burden on the State to prove his guilt beyond a
14 reasonable doubt. A person charged with
15 committing a criminal offense in South Carolina is
16 never required to prove himself innocent. I
17 charge you and tell you it is a cardinal,
18 important, and vital rule of law that no matter
19 what the seriousness of the charge might be for
20 which he stands charged, this defendant is
21 presumed to be innocent of each and every crime
22 for which the indictments were issued unless guilt
23 has been proven by evidence satisfying you 12 of
24 that guilt beyond a reasonable doubt.

25 The presumption of innocence does not end

1 when you begin your deliberations. It accompanies
2 him throughout the trial until you reach a verdict
3 of guilt based on evidence satisfying you of his
4 guilt beyond a reasonable doubt.

5 The presumption of innocence has been
6 described, Ladies and Gentlemen, to be like a robe
7 of innocence placed about his shoulders which
8 remain with him from the moment of his arrest and
9 it continues with him until it is stripped from
10 his shoulders by you 12 by evidence satisfying you
11 of guilt beyond a reasonable doubt.

12 The presumption of innocence is not a
13 legal theory, nor is it a legal phrase. It is a
14 substantial right to which every defendant is
15 entitled unless you 12 are satisfied from the
16 evidence of his guilt beyond a reasonable doubt.

17 I remind you that during this trial you
18 and I have certain duties to perform. As the
19 trial judge, it is my responsibility to preside
20 over this trial and also to rule on the
21 admissibility of evidence. You are to consider
22 only the competent evidence before you. If there
23 were any testimony stricken from the record in
24 this case, you are to disregard it. You are to
25 consider only the testimony which has been

1 presented from this witness stand and any exhibits
2 which have been made a part of the record and any
3 stipulations by the lawyers.

4 Additionally, I have the duty to charge
5 you the law in this case. As presiding Judge, I
6 am the sole judge of the law and it is your duty
7 to accept it and apply it as I now state it to
8 you.

9 Ladies and Gentlemen, if you have any
10 idea as to what the law is or what the law should
11 be and it does not agree with what I now tell you
12 the law is, you must disregard your thought and
13 follow it as I now tell it to you.

14 In every case tried in this court before
15 a jury, you 12 become the sole and exclusive judge
16 of the facts in this case. A trial judge in
17 South Carolina cannot make a statement or a
18 comment about a fact in a case to a jury because
19 you 12 are the sole judge of the facts. And you
20 are not to infer from anything that I might have
21 said during the progress of this trial in ruling
22 on admissibility of evidence that I have an
23 opinion about a fact in this case. Once again,
24 our State law does not allow me or any other trial
25 judge to have an opinion about a fact in a case.

1 The State has the burden of proving this
2 defendant guilty beyond a reasonable doubt. Now
3 proof beyond a reasonable doubt is proof that
4 leaves you firmly convinced of this defendant's
5 guilty. There are very few things in this world
6 that we know with absolute certainty. And in
7 criminal cases, the law does not require proof
8 that overcomes every possible doubt.

9 A reasonable doubt has also been
10 described as the kind of doubt that will cause a
11 reasonable person to hesitate to act.

12 If you have a doubt as to the guilt of
13 this defendant, he is entitled to a verdict of not
14 guilty. Reasonable doubt may arise from evidence
15 in the case or from the absence or lack of
16 evidence in the case.

17 Based on your consideration of the
18 evidence, if you are firmly convinced this
19 defendant is guilty of the crimes charged, you
20 must find him guilty.

21 But, on the other hand, you think there
22 is a real possibility he is not guilty, you must
23 give him the benefit of the doubt and find him not
24 guilty.

25 You alone must make the determination as

1 to whether or not reasonable doubt exists as to
2 the guilt of this defendant.

3 There are two types of evidence, and the
4 lawyers have talked about this. There is direct
5 evidence and circumstantial evidence. Direct
6 evidence is testimony of a person who claims to
7 have actual knowledge, such as an eyewitness.
8 Circumstantial evidence is proof of a chain of
9 facts and circumstances which indicate the
10 existence of a fact. It is evidence which
11 immediately establishes collateral facts from
12 which the main fact can be inferred.

13 I tell you and charge you, the law makes
14 absolutely no distinction between the weight or
15 value to be given either to direct or
16 circumstantial evidence, nor is it a greater
17 degree of certainty required.

18 After weighing all the evidence, if you
19 not convinced of his guilt beyond a reasonable
20 doubt say so in finding him not guilty.

21 Under the constitution of this state, you
22 are the finder of facts, and, necessarily, you
23 must determine the credibility of witnesses who
24 have testified. Ladies and Gentlemen, credibility
25 simply means believability. It is your duty as

1 jurors to analyze and evaluate the evidence and
2 determine which evidence convinces you of its
3 truth -- which of the evidence convinces you of
4 the facts.

5 In determining believability of witnesses
6 who have testified, you may believe one over
7 several or several over one. You may believe part
8 of a witness's testimony, you may disbelieve the
9 remainder of that testimony. You may disbelieve
10 the entire testimony of a particular witness.
11 Whatever your good judgment and common sense tells
12 you is most believable is the testimony you should
13 accept and reject all of the other testimony.

14 Now, the rules of evidence ordinarily do
15 not permit witnesses to testify to opinions or
16 conclusions. An exception exists for witnesses we
17 call expert witnesses. A witness who by their
18 education and experience has become an expert in
19 art, science, or profession, or some other calling
20 may give an opinion as to relevant and material
21 matter in which a witness claims to be an expert.
22 You should consider the expert's opinion received
23 in evidence in this case like all the other
24 evidence and give it the weight you believe it
25 deserves. If you decide the opinion of an expert

1 is not based on sufficient education or
2 experience, or, if you conclude that the reasons
3 given in support of the opinion are not sound, or
4 that the opinion is outweighed by other evidence,
5 you may disregard it in its entirety. An expert's
6 testimony is not to be given any greater weight
7 than other witnesses simply because they were
8 qualified as an expert.

9 I instruct you and I emphasize the fact
10 that this defendant did not testify is not a
11 factor to be considered in any way in your
12 deliberations. Madame Forelady, it should not be
13 discussed in the jury room. Every defendant has a
14 constitutional right to remain silent, and the
15 assertion of the right cannot be considered in the
16 jury room. You are to draw no conclusion
17 whatsoever from the fact that he did not testify.

18 As I told you, no defendant is required
19 to prove his or her innocence. The burden always
20 remains on the State to prove the defendant guilty
21 beyond a reasonable doubt.

22 Now, criminal intent is a necessary
23 element of each crime that must be proven beyond a
24 reasonable doubt. Criminal intent is a matter
25 that must be determined by you 12 and there is no

1 way to prove to a mathematical certainty what
2 someone had in mind. Medical science cannot
3 dissect a person's brain and determine what that
4 person meant to do. So our law says that criminal
5 intent may be inferred from circumstances shown to
6 have existed. It is a state of mind which
7 operates jointly with an act and becomes the
8 commission of a crime. It is a mental state. It
9 is a conscience wrongdoing, so it is up to you 12
10 to determine what this defendant intended to do
11 based on the evidence presented before you.

12 I tell you that the State must prove
13 criminal intent beyond a reasonable doubt, just as
14 it must prove every element beyond a reasonable
15 doubt.

16 It is not necessary to establish intent
17 by direct and positive evidence because it may be
18 established by inference in the same way as any
19 other fact taken into consideration with the acts
20 of the parties and the facts and circumstances in
21 this case.

22 Now, the State is not required to prove
23 motive, but they must prove intent.

24 This defendant is charged with possession
25 with intent to distribute marijuana. The State

1 must prove beyond a reasonable doubt that he
2 possessed marijuana with the intent to distribute.

3 To prove possession, the State must prove
4 beyond a reasonable doubt that he had both the
5 power and the intent to control the disposition or
6 use of the marijuana. Possession may be either
7 actual or constructive possession.

8 Actual possession means it was actually
9 in his physical custody.

10 Constructive possession means that the
11 defendant had dominion and control or the right to
12 exercise dominion and control over either the
13 marijuana or the property on which the marijuana
14 was found. The defendant's knowledge and
15 possession may be inferred when a substance is
16 found on property under his control. However,
17 this inference is simply an evidentiary fact to be
18 taken into consideration along with other evidence
19 and to be given what weight you decide it should
20 have.

21 The State must also prove beyond a
22 reasonable doubt that this defendant intended to
23 distribute that marijuana. Distribution means to
24 deliver either by administering or dispensing a
25 drug. Intent may be shown by acts and conduct of

1 the defendant and under the circumstances from
2 which you may naturally and reasonably infer
3 intent. You must find the defendant did not
4 intend to have the marijuana solely for his own
5 use. Possession of more than 28 grams or one
6 ounce of marijuana creates an inference that this
7 defendant possessed the marijuana with the intent
8 to distribute. This inference does not relieve
9 the State from proving beyond a reasonable doubt
10 the defendant had the intent to distribute the
11 marijuana. It simply is an evidentiary fact to be
12 taken into consideration.

13 Now, possession with intent to distribute
14 cocaine, the defendant is charged, and the State
15 must prove beyond a reasonable doubt that this
16 defendant possessed cocaine with the intent to
17 distribute. To prove possession, the State must
18 prove beyond a reasonable doubt that he had both
19 the power and the intent to control the
20 disposition or use of the cocaine. And it may be
21 either actual or constructive possession, and I
22 have instructed you what actual and constructive
23 possession means.

24 The State must also prove beyond a
25 reasonable doubt that this defendant intended to

1 distribute the cocaine. Again, distribution means
2 to deliver either by administering or dispensing.
3 And the intent may be shown by the acts and the
4 conduct of this defendant. You must find that
5 this defendant did not intend to have the cocaine
6 solely for his use. Ladies and Gentlemen,
7 possession of more than one gram of cocaine
8 creates an inference that the defendant possessed
9 the cocaine with the intent to distribute. This
10 inference does not relieve the State from proving
11 beyond a reasonable doubt that he had the intent
12 to distribute. Again, it is an evidentiary fact.

13 The defendant is charged with trafficking
14 methamphetamine. The State must prove beyond a
15 reasonable doubt that he knowingly sold,
16 manufactured, cultivated, delivered, purchased,
17 brought into this state, provided financial
18 assistance, or otherwise aided, abetted,
19 attempted, or conspired to sell, manufacture,
20 cultivate, deliver, purchase, or bring into this
21 state, or was knowingly in actual or constructive
22 possession, or knowingly attempting to become in
23 actual or constructive possession of the
24 methamphetamine. The State must also prove beyond
25 a reasonable doubt that the amount of the

1 methamphetamine or any mixture containing
2 methamphetamine was 10 grams or more, but less
3 than 29 grams pursuant to our State code.

4 If you determine that the State has not
5 met its burden for trafficking, you may consider
6 the crime of possession with intent to distribute.
7 Possession with the intent to distribute
8 methamphetamine, the defendant would be charged
9 with the distribution of the meth, and the State
10 must prove beyond a reasonable doubt that the
11 defendant possessed methamphetamine with the
12 intent to distribute.

13 To prove possession, again, the State
14 would have to prove beyond a reasonable doubt that
15 he had both the power and the intent to control
16 its disposition or use, and it either may be
17 actual or constructively. Once again, I have told
18 you the definition of active and constructive
19 possession.

20 The State also must prove beyond a
21 reasonable doubt that he intended to distribute
22 it, and I have defined what distribution means.
23 You must find that the defendant did not intend to
24 have the methamphetamine solely for his use.

25 This defendant is charged with possession

1 to distribute Fentanyl. The State must prove
2 beyond a reasonable doubt that the intent that he
3 possessed the Fentanyl and with the intent to
4 distribute. To prove possession, the State must
5 prove beyond a reasonable doubt he had the power
6 and the intent to control the disposition or the
7 use of that Fentanyl. Possession again, may be
8 actual or constructive, and I have defined those
9 terms along with distribution. You must find that
10 this defendant did not intend to have the Fentanyl
11 solely for his own use.

12 The defendant is charged with trafficking
13 in heroin. The State must prove beyond a
14 reasonable doubt that this defendant knowingly
15 sold, manufactured, cultivated, delivered,
16 purchased, brought into this state, or provided
17 financial assistance, or otherwise aided, abetted,
18 or attempted, or conspired to sell, manufacture,
19 cultivate, deliver, purchase, or bring into this
20 state, and was either in actual or constructive
21 possession of heroin. The State must prove beyond
22 a reasonable doubt that the amount of the heroin
23 or any mixture containing the heroin was at least
24 four grams or more, but less than 14 grams
25 pursuant to our state law.

1 If you determine the State has not met
2 its burden of trafficking, you may consider the
3 charge of possession with intent to distribute.
4 The State would then prove that he possessed the
5 Fentanyl -- no. That he possessed the heroin with
6 the intent to distribute. To prove possession,
7 the State would prove beyond a reasonable doubt
8 that he had the power and the intent to control
9 the disposition or use of that drug as I
10 previously defined, and distributed that or
11 intended to do so. You must find that he did not
12 intend to have the heroin solely for his use.

13 Ladies and Gentlemen, you have been
14 selected as fair and impartial jurors, sworn to
15 impartially try and determine the facts of this
16 case. You are to decide this case according to
17 the testimony that you have heard from the
18 witnesses sworn and the exhibits presented during
19 this trial.

20 During the deliberations, you may only
21 discuss this case in the jury room with your
22 fellow jurors because they have seen and heard the
23 same evidence you have seen and heard. However,
24 you must not discuss this case with anyone else
25 until you have returned a verdict and the case has

1 ended.

2 Now, when a member of jury requires a
3 break for smoking, restroom or otherwise, please
4 discontinue your deliberations until that juror
5 returns, Madame Forelady.

6 Ladies and Gentlemen, your verdict must
7 be a unanimous verdict. Madame Forelady, when the
8 jury agrees on a verdict, you will indicate the
9 verdict on a jury form that I have here and my law
10 clerk has created. Sign your name as the
11 foreperson attesting to the fact that it is the
12 verdict of the jury. Knock on the door and alert
13 the bailiff, or the officer who might be there,
14 that the jury has made its determination and we
15 will return you to the courtroom to accept your
16 verdict.

17 Now, I want to emphasize that each one of
18 these indictments has a separate verdict,
19 Madame Forelady. The jury may find this defendant
20 guilty of all indictments. You may find him not
21 guilty of all indictments. You may find him
22 guilty of one or more. Each indictment is
23 entitled to its own verdict, its own deliberation.
24 Okay? And for that reason, you will have separate
25 and distinct forms for each charge made against

1 him. I emphasize that you must consider each
2 indictment on its own without regard to any other
3 indictment. Okay?

4 This is the verdict form of which I
5 speak, Madame Forelady. It is a form. It is a
6 piece of paper. The caption on here and the
7 number matches the indictment itself. Okay? And
8 it says: The State of South Carolina vs.
9 Bryson Jamar Smith, and it has a number. That
10 merely puts this particular verdict form with that
11 particular indictment, and it has a question: "We
12 the jury unanimously find the defendant,
13 Bryson Jamar Smith on the charge of possession
14 with intent to distribute marijuana...", it has
15 not guilt and then guilty. I tell you there is no
16 significance as to which one comes first on this
17 piece of paper. It necessarily flows that I have
18 to put one above the other. Whichever verdict it
19 is of this 12 unanimous verdict, ma'am, if you
20 would check it, put an X mark, put an initial,
21 mark it in any way that you deem appropriate. I
22 just simply ask that you make it unambiguous, that
23 there be no doubt as to what this jury decides on
24 one box or the other.

25 Then it says: "I certify this decision

1 was a unanimous decision of this jury." It has a
2 place here for you to sign your name and to put
3 the date the jury decided the verdict. Okay?

4 The next one would be the same, and then
5 you have two that are slightly different.

6 On this one it says: "We, the jury,
7 unanimously find the defendant,
8 Bryson Jamar Smith, on the charge of trafficking
9 in methamphetamine 10 to 28 grams..., " not guilty
10 or guilty. And then it says: "If your verdict
11 for question one is guilty, stop here, sign below.
12 If your verdict is not guilty, proceed to question
13 two." We have what is known as lesser included
14 offenses. So if the jury finds him guilty here,
15 again, you would sign your name, signify that is
16 the verdict of the jury. That's the end of it.
17 But if the jury finds him not guilty of question
18 one, please proceed and answer question two.

19 And then the signature page is on the
20 second page.

21 And, again, there are two of those and three
22 of the others.

23 Madame Forelady, I'm getting ready to
24 excuse the jury. I want you to take your morning
25 break. All 14 of you take your morning break at

1 this time because we're, kind of, past our time,
2 and I don't ever -- try not to ever break up
3 closings and charges. Take your morning break.

4 While you are on break, the lawyers are
5 going to come up with Madame Court Reporter.
6 She -- I know from my own record keeping -- but
7 she has a record of each of those exhibits over
8 there on the table. I've practiced law 25 years
9 before I came up on this bench and a lot of in
10 this courtroom, it is so very easy to be making a
11 closing statement, pick up an exhibit, talk to the
12 jury about it, have it in your hand, walk back
13 over to counsel table and lay it down, face down,
14 and don't mean to do that, and now an exhibit is
15 missing. All of that belongs to you and its all
16 coming to you.

17 So during your break, the lawyers are going
18 to get with Madame Court Reporter. They're going to
19 go through all of those exhibits and ensure that they
20 are all there. And once they are there, after about a
21 20-minute break, the bailiff is going to bring those
22 exhibits to you. The bailiff is also going to bring
23 these verdict forms and give them straight to you,
24 Madame Forelady.

25 You two alternates, Ladies, if you would be

1 kind enough, when the Forelady receives this and the
2 jury receives this evidence, please return to my
3 courtroom with the bailiff because it would not be
4 proper for you two to be with the 12. Come back to my
5 courtroom.

6 All right. Madame Forelady, if you would
7 take your jury out.

8 (Jury exits the courtroom at 10:58 a.m.)

9 THE COURT: Anything from the State?

10 MR. KENDALL: Not on the closings. Just
11 this logistical matter, Your Honor. Where are
12 they going to be? Are they going to be up here or
13 downstairs.

14 THE BAILIFF: They're deliberating
15 downstairs.

16 MR. KENDALL: I just want to make sure.
17 We have got some disks that we had -- that
18 Your Honor redacted, which we played portions of
19 it. I want to make sure there's -- there used to
20 be a computer in that room, in the jury assembly
21 room.

22 THE BAILIFF: No, it's out.

23 MR. KENDALL: It's out?

24 THE BAILIFF: Yes.

25 MR. KENDALL: Okay.

1 THE COURT: Anything that is done will be
2 done on the record in here. If they want to
3 listen to anything, if they want to see anything,
4 I'll bring them back.

5 MR. KENDALL: And that was what my
6 concern was, as soon as they get down there and
7 somehow get on that computer.

8 THE COURT: And I've inspected the jury
9 room with Officer Henderson.

10 Anything from defense?

11 MR. SCHULTZ: The only other concern I
12 would have would be if the jury wants to see the
13 Traci Smith video, because there's some -- we have
14 to be careful with playing certain portions of
15 that video.

16 THE COURT: Nobody is going to see
17 anything outside of this courtroom.

18 MR. SCHULTZ: All right. That's fine.

19 THE COURT: If they want to see the
20 video, if they want to hear a video, or audio,
21 they are going to do it in this courtroom.

22 MR. SCHULTZ: That's fine.

23 THE COURT: There's no computer
24 downstairs. It's been removed. And I don't do
25 that anyway. In seven and a half years, I haven't

1 done that.

2 MR. SCHULTZ: Yes, sir. I'm just making
3 that clear for the record.

4 THE COURT: Anything further about the
5 charge?

6 MR. SCHULTZ: No, sir.

7 THE COURT: Okay. No exceptions.

8 All right. We'll be off the record then for
9 the morning, too.

10 (Off the record pending verdict.)

11 THE COURT: I understand we have a
12 verdict.

13 THE CLERK: Ready for the jury, Judge?

14 THE COURT: Yes.

15 (Jury enters the courtroom at 12:32 p.m.)

16 THE COURT: Okay. We are back on the
17 record.

18 Madame Forelady, has the jury reached its
19 verdict?

20 FORELADY: Yes, sir.

21 THE COURT: If you would hand those to
22 the bailiff, please -- or Madame Clerk. Madame
23 Clerk, if you would publish.

24 THE CLERK: 2020-GS-11-1148, The State of
25 South Carolina vs. Bryson Jamar Smith. We, the

1 jury, unanimously find the defendant,
2 Bryson Jamar Smith on the charge of possession
3 with intent to distribute cocaine guilty. Signed
4 by Forelady, Tiara Phillips.

5 2020-GS-11-1150, State of South Carolina
6 vs. Bryson Jamar Smith, we, the jury, unanimously
7 find the defendant, Bryson Jamar Smith on the
8 charge of possession with intent to distribute
9 Fentanyl guilty. Signed by Foreperson, Tiara
10 Phillips.

11 2020-GS-1147, the State of South Carolina
12 vs. Bryson Jamar Smith, we, the jury, unanimously
13 find the defendant Bryson Jamar Smith on the
14 charged of possession with intent to distribute
15 marijuana guilty. Signed by Foreperson, Tiara
16 Phillips.

17 202-GS-11-1151, The State of South
18 Carolina vs. Bryson Jamar Smith, we, the jury,
19 unanimously find the defendant Bryson Jamar Smith
20 on the charge of trafficking in heroin 4 to 14
21 grams guilty. Signed by Foreperson, Tiara
22 Phillips.

23 202-GS-11-1149, The State of South
24 Carolina vs. Bryson Jamar Smith, we, the jury,
25 unanimously find the defendant Bryson Jamar Smith

1 on the charge of trafficking in methamphetamine 10
2 to 28 grams guilty. Signed by Foreperson, Tiara
3 Phillips.

4 Ladies and Gentlemen of the Jury, if this
5 the verdict of you all, please indicate by raising
6 your right hand.

7 JURY PANEL: (All members of the jury raise
8 their right hand.)

9 THE CLERK: Thank you.

10 THE COURT: Anything from the State?

11 MR. KENDALL: No, sir, Your Honor.

12 THE COURT: From the defense:

13 MR. SCHULTZ: Not at this time, Your Honor.

14 THE COURT: Okay. Madame Forelady, you
15 have sign the indictments. Recognize Madame Clerk
16 that she is going to -- we can use that little --

17 THE CLERK: Yes, sir. Madame Forelady
18 and Ladies and Gentlemen, this concludes your jury
19 service this week. We are doing some work this
20 afternoon. You're welcome, now that you're going
21 to be released from the jury to stay with us, but
22 you're certainly not going to be required to.

23 But I want to thank you for your service. I
24 do thank you for your service with us this week. We
25 could not do what we do without you.

1 With that, I'm getting ready to release
2 you to go back down to your jury assemble room.
3 You didn't know this, but the two sisters on the
4 jury that have been released, went down and picked
5 up their pay vouchers worth \$100,000 a piece. Now
6 Cherokee County didn't pay you that much, but they
7 do have something for you.

8 Madame Clerk wants to ask you a few things, I
9 think, about the COVID system that we have in place
10 here and any feedback you can give us, we'd
11 appreciate. I know we got the shields and some other
12 things, but any feedback we can get, she wants to ask
13 a few questions about that.

14 You are now free to talk about the case
15 or not about talk about the case, whichever is
16 your pleasure. You don't have to talk to anyone
17 about it, but you now free to do so if you choose
18 to do so.

19 Again, thank you so very much for your
20 service. And, Madame, thank for serving as our
21 Forelady this week. Next week, I'll have a foreman.
22 I try to go back on that.

23 Okay. With that, I'll release you. Go back
24 downstairs and get your pay vouchers, and have a good
25 afternoon and a good weekend.

1 (Jury is released the 12:40 p.m.)

2 THE COURT: Matters from the State?

3 MR. KENDALL: No, sir, your Honor.

4 THE COURT: Matters from the defense?

5 MR. SCHULTZ: Yes, Your Honor. The
6 defense at this time would move for a new trial
7 based upon any objections that were overruled.

8 THE COURT: Solicitor.

9 MR. KENDALL: Well, I believe the rulings
10 on those were appropriate based on what was
11 determined at the time, Your Honor.

12 THE COURT: The previous objections that
13 you are re-raising, Mr. Schultz, they are denied
14 once again, and your motion for a new trial is
15 denied. The evidence was there for the jury to
16 decide. There was sufficient evidence for the
17 jury to decided. The Court doesn't weight the
18 evidence, and the jury weighed and convicted this
19 defendant. But you are protected on the record,
20 sir.

21 Anything further?

22 MR. SCHULTZ: No, sir.

23 THE COURT: All right. Do you have the
24 sentencing sheets?

25 MR. SCHULTZ: I do, Your Honor. May I

1 approach?

2 THE COURT: Yes, sir.

3 MR. SCHULTZ: I assume you want my client
4 up here.

5 THE COURT: That would be good.

6 Solicitor, you would like to be heard on
7 sentencing?

8 MR. KENDALL: Your Honor, Mr. Smith is a
9 third offender on all of these charges, has a
10 criminal history. It included a distribution of
11 cocaine base, et cetera, from 2012. It appears to
12 be -- if I could just a moment, Your Honor.

13 A 2012 conviction for possession of more than
14 an ounce of marijuana. Assault and battery in the 2nd
15 degree from 2012. Possession of a I to IV substance
16 from 2000 -- excuse me. Strike that.

17 A 2015 possession with intent to distribute
18 marijuana, as well as a manufacture, distribution, et
19 cetera of cocaine, manufacture, distribution, et
20 cetera of methamphetamine, manufacture, distribution,
21 et cetera of cocaine base, unlawful possession of a
22 firearm, unlawful possession by certain persons, 2016.
23 A violation of probation as well from 2016.

24 THE COURT: Anything further, Solicitor?

25 MR. KENDALL: No, sir, Your Honor.

1 THE COURT: Okay. Mr. Schultz.

2 MR. SCHULTZ: Thank you, Your Honor. May
3 it please the Court?

4 THE COURT: Yes, sir.

5 MR. SCHULTZ: As the Court is well aware,
6 I represent Mr. Smith on, not only this charge,
7 but also other charges as well.

8 Obviously, we're disappointed with the
9 outcome today. Bryson has been an ideal client in
10 every respect during this time. I've spoken to
11 him over the phone at the jail during this
12 pandemic. I've spoken to him over Webex as well.
13 We went over videos on Webex. I've also spoken to
14 him prior to the pandemic as well in person. He's
15 always been in some sort of custody, either in the
16 Department of Corrections or in Cherokee County,
17 so unfortunately he was never in my office, but I
18 do have a good relationship with him nevertheless.

19 Your Honor, I would ask for any kind of
20 lienency in sentencing that the Court can give.

21 As the Court is well aware, his mother
22 lives here. His girlfriend lives here as well.
23 They both testified yesterday. He does have
24 family out here in Cherokee. I believe he's been
25 in Cherokee County all his life.

1 Is that correct?

2 MR. SMITH: Yes.

3 MR. SCHULTZ: And he has been very
4 pleasant with me and my staff going over the
5 videos and all of the technical difficulties that
6 come with over videos in this day and age.

7 So, Your Honor, I ask for any lienency
8 that the Court could give Mr. Smith. I know these
9 are quite serious charges. He does have a record.
10 And we are, again, requesting lienency.

11 Thank you.

12 THE COURT: Mr. Smith, I'm happen to hear
13 from you, sir, if you would like to speak.

14 MR. SMITH: I ask for lienency too on
15 these on charges, Your Honor. I apologize for
16 wasting the Court's time today.

17 THE COURT: You're not wasting my time,
18 sir.

19 Mr. Smith, I'm sure that I don't understand
20 why you did what you did. It's not a first-time
21 thing. You got a very serious record and you're a
22 very young man. I truly don't understand.

23 That child was -- I don't understand.
24 But I know one thing I do understand, and
25 everybody here understands, is that Fentanyl is an

1 especially dangerous drug. They all are
2 dangerous, but this is especially dangerous. I
3 learn something new everyday in this job. And one
4 thing I learned in this trial is that this stuff
5 is being put in there. These fake tablets, and a
6 user and addict, to end-user out there doesn't
7 know what they're getting, and it's Fentanyl.

8 It's wide over Spartanburg County. I know of
9 at least two young men. I'm talking about 18 years
10 old, 19 years old, good people, good families, come
11 home and find their child dead.

12 2020-1151, that's trafficking in heroin,
13 25 years, which is the mandatory sentence, 25
14 years and \$100,000. It is consecutive to
15 indictment 2020-1150, credit for time. 2020-1150,
16 distribution of Fentanyl, 15 years consecutive to
17 the other indictment ending in 1151 and credit for
18 time.

19 2020-1149, 25 years and \$50,000
20 concurrent, credit for time.

21 2020-1148, that's your cocaine, 25 years and
22 \$50,000 concurrent, credit for time.

23 2020-1147, 20 years. That's your marijuana.
24 concurrent, credit for time.

25 Very best of luck to you, sir.