

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from York County

Honorable J. Mark Hayes, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CANDACE MARIE SINICROPE,

APPELLANT

APPELLATE CASE NO 2019-001023

RECORD ON APPEAL

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**THE FOLLOWING EXHIBIT’S ARE ON FILE WITH THIS COURT:
STATE’S EXHIBIT NO. 1 (DASHCAM VIDEO FROM KUNDE)
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STATE’S EXHIBIT NO. 5 (BODY CAMERA VIDEO FROM LOGAN)**

STATE OF SOUTH CAROLINA)	
)	COURT OF GENERAL SESSIONS
COUNTY OF YORK)	2018-GS-46-05560
)	
)	
)	
)	
THE STATE,)	
)	
PLAINTIFF,)	
)	
vs.)	TRANSCRIPT OF RECORD
)	
CANDACE SINICROPE,)	
)	
DEFENDANT.)	
_____)	

June 12 - 13, 2019
 Rock Hill, South Carolina

B E F O R E:

THE HONORABLE J. MARK HAYES, JUDGE.

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I N D E X

(PW) - Denotes Plaintiff's Witness
(DW) - Denotes Defense Witness

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All Exhibits were retained by the Clerk of Court for York County.

P R O C E E D I N G S

1
2 MR. PORTER: Thank you, Your Honor. May it please the
3 Court. The State calls indictment 2018-GS-46-05560, Candace
4 Marie Sinicrope to trial.

5 THE COURT: Yes, sir. If the State would update us on
6 --

7 MR. PORTER: Yes, sir, Your Honor, in the negotiations
8 in this matter, the State has offered several offers prior
9 to today. We offered possession of a controlled substance
10 for time served. My understanding is the Defendant has
11 declined that offer.

12 Today, we have offered her a sentence where she would
13 be sentenced to a probationary sentence and screened for our
14 circuit's mental health program. The Defense has made some
15 statements regarding a mental health diagnosis that she has.

16 The way that would function is she would be sentenced
17 to probation. If she was accepted into our mental health
18 court program, the sentencing terms would be converted to a
19 mental health court sentence; and at that point, she would
20 receive the benefits of mental health treatment and as well
21 be on a probationary sentence. My understanding is the
22 Defendant has rejected that offer as well.

23 THE COURT: We don't have a mental health court in
24 Spartanburg, so that would be a sentence that she would be
25 monitored by mental health professionals?

1 MR. PORTER: She would be monitored by a person who
2 works with our office, who works very closely with several
3 agencies within the county who deal primarily with mental
4 health diagnoses, and they would work in tandem. A
5 probation agent would be assigned to the case, but would not
6 directly supervise her. The supervisory role would be
7 within our office.

8 THE COURT: And what would happen -- if someone goes to
9 mental health court, what happens if they're successful?

10 UNIDENTIFIED FEMALE: Your Honor, I think I can answer
11 that question. Your Honor, the charge would be expunged.

12 THE COURT: It would go away?

13 UNIDENTIFIED FEMALE: It would be reopened at the end
14 of the mental health court term and the charge would
15 basically be dismissed and then there would be a year after
16 care. And upon successful completion of the year after
17 care, the charge would be expunged.

18 THE COURT: So the purpose of mental health court then
19 is to address any mental health issues?

20 UNIDENTIFIED FEMALE: Yes, Your Honor, in addition to
21 supervision by the solicitor's employee, they are also
22 constantly supervised by Catawba Mental Health, which is our
23 local mental health. They would see Catawba Mental Health
24 multiple days a week. If the professionals associated with
25 the court believes that substance abuse counseling would

1 also be a good thing, then she would be referred to Keystone
2 as well, which is our local outpatient substance abuse
3 clinic. So we do provide dual diagnosis services as well.

4 THE COURT: And if I understand correctly, after that
5 period of time, mental health counseling and if they need
6 substance abuse counseling, if they are successful, then the
7 charge goes away?

8 UNIDENTIFIED FEMALE: Yes, Your Honor.

9 THE COURT: And the Defendant did not wish to accept
10 that?

11 MS. INZERILLO: That's correct, Your Honor, the
12 Defendant is rejecting the State's offer.

13 THE COURT: I'm making assumptions, I mean, the State
14 had offered mental health, are there mental health issues?

15 MS. INZERILLO: We don't believe there's any competency
16 issue for her to stand trial, no.

17 THE COURT: Okay. Is that still the Defendant's
18 position?

19 MS. INZERILLO: Yes, Your Honor.

20 THE COURT: All right. I've been provided with some
21 motions in limine.

22 Does the State have a copy of that?

23 MR. PORTER: I do, Your Honor.

24 THE COURT: What's your position?

25 MR. PORTER: With respect to one, I have complied with

1 Rule 5 and Brady. With respect to several things, I have
2 notified the Defense that under Brady that with respect to
3 sentencing that her prior charge where she pled in
4 possession of a schedule 1 to 5 controlled substance was
5 down from a trafficking oxycodone. And I believe the Court
6 could take that into consideration in sentencing. I think
7 that is relevant. And I wanted to make sure they knew that.
8 I've also made sure they have copies of all the disks. I
9 have two discovery receipts for that. And the paper
10 discovery, I confirmed I think it's 36 pages were sent
11 digitally to them by e-mail link and we have confirmation
12 that they downloaded that.

13 Would you like me to proceed to the next, Your Honor?

14 THE COURT: Yes, sir.

15 MR. PORTER: I have provided the Defense and the Court
16 with a list of witnesses. There are four witnesses. They
17 should be included in the record. The State has no
18 objection to sequestration of witnesses provided any
19 witnesses that the Defense provides are under the same
20 obligation.

21 THE COURT: Is the Defense all right with sequestering
22 any witnesses they're going to call?

23 MS. INZERILLO: We don't have any witnesses and so we
24 have not provided a list because we do not intend to call
25 any witnesses. My understanding is as of right now, the

1 Defendant is choosing not to testify. We would ask that the
2 Solicitor sequester any witnesses for the State at the point
3 the testimony begins for any type of pretrial hearings that
4 we're going to have.

5 MR. PORTER: The only issue would be our case agent.
6 Under Rule 615, I believe we're allowed to elect Officer
7 Kunde as our case agent.

8 THE COURT: All right. Is Kunde present?

9 MR. PORTER: Yes, Your Honor, he is here. Officer
10 Logan is also here. I'll make sure he steps out once we
11 address the other matters.

12 THE COURT: Okay.

13 MS. INZERILLO: Your Honor, the next motion that we
14 have is a motion for fighting the probable cause for the
15 traffic stop and suppression of all video materials and all
16 statements that's fruit of the poisonous tree. We would ask
17 that any other witnesses with the exception of the case
18 agent, Officer Kunde, be removed from the courtroom going
19 forward.

20 MR. PORTER: The State has no objection to that. I
21 think we should clear up the matters that don't require the
22 proffers before we start doing that, but I can go ahead --

23 MS. INZERILLO: That's fine. We can --

24 MR. PORTER: -- ask Officer Logan to step out.

25 THE COURT: All right.

1 MR. PORTER: Officer Logan is leaving the courtroom,
2 Your Honor.

3 The State will make a proffer of both Officer Logan and
4 Officer Kunde with respect to motions four, five, six,
5 seven. Those will be -- those videos will be played in
6 court and the Defense can view those videos and make any
7 objections to the redactions that have been done at that
8 time if the Court is amendable to that.

9 THE COURT: Yes, sir.

10 MR. PORTER: And with respect to eight, the State does
11 not intend to introduce any prior bad acts for Lyle
12 evidence. I understand the Defense intends to object to the
13 introduction of some paraphernalia that was found in this
14 case, so we can address that during the probable cause
15 motion, I believe, as well. And that is -- nine, actually,
16 is also going to be subject of the proffer. Motion ten, the
17 State does not intend to present any evidence of the cash
18 that was found in her pocket other than it will appear on
19 the video of Officer Kunde's dash camera. I don't intend to
20 elicit any testimony about the cash in her pocket.

21 MS. INZERILLO: Specifically, we just don't want any
22 reference to drug money.

23 MR. PORTER: No, I will not do that.

24 THE COURT: All right.

25 MR. PORTER: And then Denno will also be Officer Kunde.

1 If the Court would prefer to have those in separate
2 hearings, we can do that.

3 THE COURT: Can we not do them all at one time?

4 MR. PORTER: I believe we can.

5 THE COURT: Okay. You agree the State would not use
6 State vs. Beaty language?

7 MR. PORTER: Absolutely, I will not be searching for
8 the truth in that, Your Honor.

9 THE COURT: All right.

10 MR. PORTER: Or stating that, sorry.

11 With respect to those motions, Your Honor, if I may
12 call my first witness.

13 THE COURT: Yes, sir.

14 MR. PORTER: The State calls Officer Antoine Logan to
15 the stand.

16 I'm sorry, Your Honor, he has stepped to the restroom.

17 Your Honor, if the Defense does not object, I would
18 like to mark the same exhibit -- or State's Exhibit that
19 will be played, State's Exhibit and Court's Exhibit.

20 Does the Defense have any objection to Court's Exhibit
21 stickers on the State's Exhibit disk?

22 MS. INZERILLO: No, the Defense has no objection.

23 MR. PORTER: Your Honor, the court reporter has
24 informed me that Court's Exhibits cannot go to the jury. It
25 is a pretrial evidentiary hearing. If the Court doesn't

1 mind, we'll just play it.

2 THE COURT: Okay.

3 ANTOINE LOGAN, after being
4 duly sworn, testified as follows:

5 THE CLERK: Thank you. Please have a seat.

6 THE COURT: Watch your step and have a seat in the
7 witness stand.

8 MR. PORTER: May it please the Court, Your Honor.

9 DIRECT EXAMINATION

10 BY MR. PORTER:

11 Q Good morning. Would you please state your name for the
12 record?

13 A Officer Logan.

14 Q What's your first name?

15 A Antoine.

16 Q And where are you presently employed?

17 A Rock Hill Police Department.

18 Q How long have you worked there?

19 A Eight years.

20 Q What is your current position?

21 A I'm a patrol officer on Charlie shift.

22 Q Do you have any prior experience working for Rock Hill
23 police?

24 A From another agency or just --

25 Q What is your prior work in law enforcement?

1 A FedEx worker.

2 Q And have you had any specialized training with respect
3 to that job as a law enforcement officer?

4 A Yes.

5 Q And what is that?

6 A Went to several narcotics interdiction classes,
7 interview classes and just basically stuff that's related to
8 narcotics.

9 Q Narcotics use?

10 A Yes.

11 Q Now, were you working on July 3rd of 2018?

12 A Yes, sir.

13 Q Were you working with Officer Kunde that day?

14 A Yes.

15 Q Do you recall coming into contact with the Defendant
16 that day?

17 A Yes.

18 Q Please describe to the Court how that happened.

19 A Officer Kunde pulled over her vehicle I believe on
20 Green Street and Marion, pulled into the Family Dollar
21 parking lot and he said it was occupied three times.
22 Usually, when I hear that, if it's occupied more than once,
23 we go automatically to back them and I was his backup
24 officer.

25 Q And as backup officer, what are your duties on the

1 scene?

2 A To make sure everybody -- while he runs the
3 information, I keep eyes on everybody in the vehicle.

4 Q Did you approach the vehicle at any point?

5 A Yes.

6 Q Did you observe anything about the vehicle that was
7 suspicious?

8 A Afterwards by talking to the people in the car.

9 Q And what did you see?

10 A Plastic torn baggies and, like, torn pieces of Brillo
11 pad.

12 Q And in your training and experience, what is the
13 significance of those items?

14 A That's significant to drug use.

15 Q Can you please describe to the Court how?

16 A Drug dealers package drugs in plastic baggies and
17 Brillo pads are used to stuff into crack pipes for people to
18 smoke crack cocaine.

19 Q And you have training and experience that gives you
20 that knowledge?

21 A Yes.

22 Q Were those items in plain view?

23 A Yes.

24 Q Did you see them on both sides of the vehicle?

25 A Yes.

1 Q Did you alert Officer Kunde to the presence of those
2 items?

3 A I did.

4 Q Now, also, as a portion of this traffic stop, did you
5 have any inquiry into whether the Defendant -- first off,
6 was the Defendant the driver of that vehicle?

7 A Yes.

8 Q Did you inquire as to whether she had a valid license?

9 A I asked Officer Kunde if she handed him an ID or
10 anything, he said, No, she just gave her name. I said,
11 Possibly, she may be driving under suspension.

12 Q Okay. And throughout the course of the stop, did you
13 ever determine whether she had a -- or you or Officer Kunde
14 determine whether she had a valid license?

15 A Officer Kunde did and she did not have a valid --

16 MS. INZERILLO: Objection, Your Honor, to hearsay.

17 MR. PORTER: Your Honor, this is a pretrial hearing.

18 The witness will testify, so I think it's appropriate.

19 THE COURT: I'll allow it.

20 MR. PORTER: Thank you, Your Honor.

21 BY MR. PORTER:

22 Q So Officer Kunde found out her license was suspended.
23 Is driving under suspension an arrestable offense?

24 A Yes.

25 Q And do you arrest people for driving under suspension?

1 A Yes.

2 Q What is Rock Hill Police's policy with respect to
3 personal items where a person is under arrest?

4 A When they're under arrest, all of their property goes
5 with them and we inventory it.

6 Q Why do you inventory it?

7 A To keep contraband from going inside the jail and also
8 for officer safety in case they have a weapon in their
9 possession that we don't know about.

10 Q So if she had only been under arrest for DUS, would you
11 have searched her purse?

12 A Yes.

13 Q And what was located in the vehicle?

14 A For what I saw?

15 Q Did you ever see the items that were located in the
16 vehicle inside the Defendant's purse?

17 A Yes, Officer Kunde put them out and took a picture of
18 them.

19 Q Okay. I'll leave those questions for Officer Kunde.

20 MR. PORTER: I have no further questions for this
21 witness, Your Honor.

22 MS. INZERILLO: May it please the Court, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. INZERILLO:

25 Q Good morning, Officer Logan.

1 A How are you?

2 Q Good. So you, basically, got involved in this case
3 because it was a traffic violation; is that right?

4 A Yes.

5 Q And I think you indicated that normally you're Officer
6 Kunde's backup, so you responded on this day?

7 A Yes, ma'am.

8 Q And that's pretty normal practice when you hear there's
9 more than one person in the car?

10 A Yes.

11 Q And it's your understanding that the car was pulled
12 over because it did not stop before the stop bar at a stop
13 sign?

14 A Yes.

15 Q And the car was not stopped for erratic driving other
16 than that?

17 A Yes.

18 Q And you didn't get any calls of any drug use from the
19 car or drug sales from the car; is that correct?

20 A No drug sales, no.

21 Q When you arrived on the scene, you indicated that you
22 saw little torn pieces of Brillo in the car; is that right?

23 A That, along with torn pieces of plastic bags.

24 Q The plastic bags?

25 A Baggies.

1 Q And how many of those did you see?

2 A I'm not sure. I can't recall.

3 Q And you saw one at the foot of the passenger, James
4 Rawlings; is that correct?

5 A Yes.

6 Q And then you saw another one in the back seat; is that
7 right?

8 A I saw it in the driver's side.

9 Q You pointed out to Officer Kunde on your video where
10 you found everything; is that right?

11 A Yes.

12 Q So if the video was shown and it showed something
13 different, that would be an accurate reflection of what
14 happened that day?

15 A Yes.

16 Q As to the Brillo, was it a complete Brillo or torn
17 Brillo?

18 A Torn.

19 Q Did you pull out the Brillo and photograph it?

20 A I didn't.

21 Q Did you study it to look at the nature of it?

22 A No.

23 Q You didn't do that with the baggies either, right?

24 A No.

25 Q In your view of the car, you didn't find any burnt

1 spoons?

2 A I didn't.

3 Q Or any glass pipes?

4 A I didn't.

5 Q And you didn't find any other drugs in the car?

6 A I didn't.

7 Q And you didn't find any other things that could be used
8 to smoke drugs in the car?

9 A I did not.

10 Q I believe you searched the passengers, is that right,
11 at least, one or two of them?

12 A Just the passenger, front passenger.

13 Q And you didn't find anything on him?

14 A No.

15 Q To your knowledge, nothing was found on Ms. Sinicrope
16 either? No drugs were found on her person?

17 A I didn't search her.

18 Q You recall that on this day with this car that the car
19 was fairly dirty? It had stuff in the floorboards?

20 A Yes.

21 Q And I think you had indicated it was Ms. Sinicrope that
22 was driving; is that right?

23 A Yes.

24 Q And it's not her car?

25 A No.

1 Q And I believe that the front seat passenger is the
2 owner of the car?

3 A Yes.

4 Q And the front seat passenger did not consent to the
5 search of the car; is that correct?

6 A No.

7 Q You tell Officer Kunde at the scene that there's
8 probable cause to search the car because of the Brillo and
9 the torn baggies; is that correct?

10 A Yes.

11 Q So from your recollection and your perception, Officer
12 Kunde relied on that to search the car?

13 A Yes.

14 Q And in the car was Ms. Sinicrope's purse; is that
15 correct?

16 A Yes.

17 Q And based on your assertions as to probable cause, he
18 searched the purse while it was in the car?

19 A Yes.

20 Q And this was happening while you were determining the
21 status of her driver's license; is that correct?

22 A Yes.

23 Q Because I think it took maybe 20 minutes or something

24 --

25 A Something like that.

1 Q -- to figure out --

2 A They couldn't spell her name correctly or something
3 like that.

4 Q I got you. Okay. So, basically, while you're talking
5 to dispatch trying to work that out, Officer Kunde is
6 searching the car and her purse?

7 A Yes.

8 Q And at no point did you ask for her consent to search
9 her purse; is that correct?

10 A I don't think I ever spoke with her.

11 Q Okay. Do you recollect whether she gave any consent to
12 search her purse on that day?

13 A I never spoke with her.

14 Q She was the only woman in the car?

15 A Yes.

16 Q The other two passengers were male?

17 A Yes.

18 Q And were you aware that the purse was more towards the
19 back seat when Kunde pulled it out of the car?

20 A I'm not sure where it was in the car.

21 Q Do you recollect that each person was pulled out of the
22 car separately?

23 A Yes.

24 Q And that's pretty standard procedure as well?

25 A Yes.

1 Q And that's so you can search each person individually;
2 is that correct?

3 A Yes.

4 Q And that as an officer, you don't have to deal with two
5 people at one time?

6 A Yes.

7 Q You pulled out, I think you indicated, the passenger?

8 A Front passenger.

9 Q The front passenger, who was the owner of the car?

10 A Yes.

11 Q And he was the first person out of the car; is that
12 correct?

13 A Yes.

14 Q And then to your recollection, Candace was the next
15 person that was asked out of the vehicle; is that correct?

16 A I believe so.

17 Q And then there was a rear passenger, and he was asked
18 out of the car after that?

19 A Yes.

20 Q And then, basically, your job was to stay with the
21 three of them while Officer Kunde searched the car?

22 A Yes.

23 Q Did you -- you didn't read Ms. Sinicrope her rights in
24 this case; is that correct?

25 A I didn't. Officer Kunde did.

1 Q Were you present when that happened?

2 A Yes.

3 Q And you recall him reading them off a card?

4 A Yes, because I handed it to him.

5 Q And that was done after a pill and paraphernalia was
6 found in her purse; is that correct?

7 A Yes.

8 Q So the conversations you had with her before then was
9 asking her biological information to ascertain the status of
10 her driver's license; is that correct?

11 A Yes.

12 Q Did you have any other conversations with her prior to
13 the reading of Miranda?

14 A I'm not sure.

15 Q Do you recall having any conversations with her after
16 the reading of Miranda?

17 A I don't recall.

18 Q Do you recall if you informed her there was a pill
19 found in her purse?

20 A I don't recall that.

21 Q Do you recall her telling you that she didn't know of
22 any pill in her purse and that someone must have put it in
23 there?

24 A I don't recall.

25 MR. PORTER: Your Honor, I'm going to object to this

1 questioning based on this being self-serving hearsay.

2 MS. INZERILLO: Your Honor, I think this is a pretrial
3 motion involving Jackson V. Denno, so I just want to elicit
4 any statements for the consideration of the Court.

5 THE COURT: All right.

6 MS. INZERILLO: And then whether the State asked to use
7 it or not would be a separate issue.

8 BY MS. INZERILLO:

9 Q So if that were reflected on your body cam, that would
10 be a correct and accurate reflection; is that correct?

11 A Yes.

12 Q After Ms. Sinicrope was arrested, did you leave the
13 scene in your own vehicle?

14 A Yes.

15 Q And I believe you allowed the owner of the car to drive
16 away?

17 A I don't think the owner had a valid driver's license,
18 I'm not sure.

19 Q Have you had a chance to review your video in this
20 case?

21 A Yes.

22 Q So if the video reflected that the owner of the car
23 drove away, that would be an accurate reflection?

24 A Yes.

25 Q Other than the statements that we have just reviewed,

1 did you have any other conversations with Ms. Sinicrope?

2 A No.

3 MS. INZERILLO: Beg the Court's indulgence.

4 (Pause).

5 MS. INZERILLO: No further questions.

6 THE COURT: Any redirect?

7 MR. PORTER: Yes, sir, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. PORTER:

10 Q Do you recognize this disk?

11 A Yes.

12 Q Can you tell me what's on it?

13 A My body cam footage from that date.

14 Q How do you recognize it?

15 A I reviewed it and it has my initials and date.

16 Q Is it a true and accurate depiction of the events as
17 they occurred that day?

18 A Yes.

19 Q Other than some redactions?

20 A Yes.

21 MR. PORTER: Your Honor, I'd ask to publish this to the
22 Court?

23 THE COURT: Where will we publish it?

24 MR. PORTER: Right here, Your Honor. Pull the screen
25 down and dim the lights.

1 MS. INZERILLO: Your Honor, the only thing I would make
2 the Court aware of is the redactions and also some of the
3 statements that I asked Officer Logan about regarding Ms.
4 Sinicrope's denial of the pill in her purse. So I didn't
5 know if the Court wished to hear an unredacted copy of it to
6 be able to make a finding on that as part of this hearing or
7 if the Court is accepting the State's offer to not enter
8 those statements.

9 MR. PORTER: I don't have an unredacted copy of the
10 video --

11 MS. INZERILLO: I have an unredacted copy.

12 THE COURT: So you're not going to elicit those
13 statements?

14 MR. PORTER: No, sir. My argument is that they're
15 self-serving hearsay and I don't intend to enter them in.
16 If the Defense would like -- I actually offered in our
17 redactions conversation to include those portions into the
18 redacted video if they wished to enter evidence.

19 THE COURT: Okay.

20 MR. PORTER: But I have no objection to watching the
21 unredacted version if that's what the Court would like.

22 THE COURT: I think that would be sufficient.

23 MR. PORTER: The redacted or the unredacted?

24 THE COURT: The one that you prepared.

25 MR. PORTER: Thank you, Your Honor.

1 (WHEREUPON, the video was played for the Court.)

2 MS. INZERILLO: Your Honor, if I may, I believe it's
3 this portion of the tape, which is at 3:24, where Officer
4 Logan is speaking to this particular gentleman, who is the
5 owner of the car, about whether he can search the car and
6 the owner of the car is indicating that he does not want
7 Officer Logan to search the car.

8 MR. PORTER: Your Honor, the State will stipulate that
9 the driver of the vehicle multiple times denied consent to
10 search.

11 THE COURT: All right.

12 (WHEREUPON, the video was continued to be played.)

13 MR. PORTER: Thank you, Madam Clerk.

14 BY MR. PORTER:

15 Q Officer Logan, I neglected to ask you on direct -- I
16 asked you about experience. Approximately how many times
17 have you dealt with crack cocaine -- not crack cocaine, I'm
18 sorry, any sort of controlled substances in the course of
19 your career?

20 A I'm not sure.

21 Q Do you deal with it on a weekly basis?

22 A Almost on a weekly basis.

23 Q And the paraphernalia that comes along with that?

24 A Yes.

25 Q Specifically, torn Brillo pads and torn baggies?

1 A In my training and experience, torn baggies and Brillo
2 pads is consistent with drug use.

3 MR. PORTER: No further questions, Your Honor.

4 RECROSS-EXAMINATION

5 BY MS. INZERILLO:

6 Q In your experience, do you smoke pills?

7 A It's up to whatever the user requires.

8 Q Brillo pads, as you've indicated, is mainly used for
9 the ingestion of crack cocaine; is that correct?

10 A It's not mainly used for that.

11 Q But it's primarily used for that, that and
12 methamphetamine?

13 A It can be used for other things.

14 Q What other things?

15 A Whatever the user requires.

16 Q So in your experience, when you see that -- let me back
17 up. Tell me about the classes you took.

18 A Narcotics interdiction classes, knowing how to
19 recognize drugs and stuff like that.

20 Q And how long was that class?

21 A Couple days.

22 Q And how long ago did you take that class?

23 A I'm not sure. It was in the span of a 10-year career.

24 Q And is that the only class you've taken?

25 A No.

1 Q What other classes have you taken?

2 A Other interdiction classes.

3 Q Similar to that?

4 A Yes.

5 Q And when was the most recent class you've taken?

6 A I'm not sure.

7 MS. INZERILLO: I have no further questions.

8 THE COURT: Thank you, sir.

9 MR. PORTER: The State calls Officer Nathaniel Kunde.

10 NATHANIEL KUNDE, after being
11 duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. PORTER:

14 Q Good morning. Would you please state your name for the
15 record?

16 A Nathaniel Kunde.

17 Q And what is your current occupation?

18 A I'm a street crimes officer with Rock Hill Police
19 Department.

20 Q How long have you been in that role?

21 A Three years.

22 Q And what was your prior occupation before being in law
23 enforcement?

24 A I was in the Air Force as a firefighter.

25 Q Do you have any specialized training or experience as a

1 street crimes officer?

2 A Yes.

3 Q And what is that?

4 A I've had narcotics and interdiction classes,
5 interviewing classes, street side/roadside interview
6 classes.

7 Q And do you recall when those were?

8 A I do not recall the exact dates.

9 Q But within the past three years?

10 A Yes, sir.

11 Q Were you on the street crimes unit on July 3rd of 2018?

12 A No, sir. At the time, I was on Charlie team, which is
13 a patrol shift.

14 Q Had you had some of that training prior to July 3rd of
15 2018?

16 A Yes.

17 Q Specifically which? Can you recall?

18 A I cannot recall specific classes, no.

19 Q Do you recall coming in contact with the Defendant that
20 day?

21 A Yes.

22 Q Can you please describe for the Court how that
23 happened?

24 A I conducted a traffic stop for a violation that
25 occurred at the intersection of Green and Marion. The

1 traffic stop yielded in the Family Dollar parking lot off
2 Saluda.

3 Q You said traffic stop. What was the offense?

4 A For stopping past the stop bar at an intersection.

5 Q At the intersection of Green and Marion?

6 A Correct.

7 Q Did the Defendant actually roll the stop sign?

8 A Yes.

9 Q Is that also a violation?

10 A It is.

11 Q Was the Defendant the driver of that vehicle?

12 A Yes.

13 Q Where did the vehicle yield?

14 A Into the Family Dollar off Saluda.

15 Q How far away is that?

16 A I would say approximately 50 yards.

17 Q Was your dash camera active while this violation
18 occurred?

19 A Yes.

20 Q Had you initiated blue lights after the violation?

21 A Yes.

22 Q Does your dash camera and body camera activate going
23 back 30 seconds from when you initiate blue lights?

24 A Yes.

25 Q So it captured the violation?

1 A Yes.

2 Q When the vehicle yielded at the Family Dollar, what did
3 you do?

4 A I exited my patrol vehicle and approached the passenger
5 side of the vehicle, introduced myself, asked for driver's
6 license, registration and insurance and explained the reason
7 for the stop.

8 Q How many occupants were in the vehicle?

9 A There was three occupants.

10 Q Did they provide information?

11 A They did.

12 Q And at that point, what did you do?

13 A Officer Logan arrived on scene. I returned to my
14 patrol vehicle to conduct the rest of the traffic stop
15 checking for a valid driver's license on the driver, valid
16 registration, valid insurance.

17 Q Is that standard procedure?

18 A Yes.

19 Q And did the Defendant have a valid driver's license?

20 A She did not.

21 Q Was it suspended?

22 A Yes.

23 Q Is that an arrestable offense?

24 A It is.

25 Q Now, at any time, did Officer Logan -- you've heard

1 Officer Logan testify. At any point, did Officer Logan
2 alert you to the presence of any suspicious items in the
3 vehicle?

4 A Yes.

5 Q And what was that?

6 A Torn drug baggies and torn Brillo pad.

7 Q And in your training and experience, did those have any
8 significance to you?

9 A Yes.

10 Q What is that?

11 A The drug baggies are used for transporting and
12 packaging drugs and the Brillo pad is used for packing into
13 usually a crack pipe to smoke crack cocaine.

14 Q And did you later find what you believed to be a crack
15 pipe in the Defendant's purse?

16 A I did.

17 Q Now, based upon observing the items that you believed
18 to be drug paraphernalia, what did you do?

19 A I had the other two occupants, the Defendant, and a
20 rear passenger exit the vehicle.

21 Q And did you search the car at that point?

22 A Yes.

23 Q And when you began searching the vehicle, did you find
24 anything illegal in the vehicle?

25 A Yes.

1 Q Where did you find that?

2 A In the Defendant's purse.

3 Q Where was the purse located?

4 A On the center console between the driver and the
5 passenger's seat.

6 Q Kind of in the middle of the three occupants?

7 A Yes.

8 Q Now, up until that point, had you asked any questions
9 other than biographical information from the Defendant?

10 A No.

11 Q And at that point, was she in custody?

12 A No.

13 Q Would she have been free to leave the stop?

14 A No.

15 Q And why is that?

16 A She was being detained.

17 Q Because you were investigating further based on the
18 paraphernalia?

19 A Yes.

20 Q And also checking her license?

21 A Yes.

22 Q So she was not free to leave?

23 A Correct.

24 Q But she had not answered any questions at that point?

25 A No.

1 Q Now, what did you find in her purse?

2 A What I believed at the time to be three dosage units of
3 Xanax.

4 Q So a Xanax bar comes in four bars, three of those bars?

5 A Correct.

6 Q Now, did you find anything else in the purse?

7 A Yes. I found a crack pipe, a used syringe and a small
8 plastic drug baggy with a white powder substance in it.

9 Q Okay. That was all located inside her purse?

10 A Yes.

11 Q Once you located those items, did you place the
12 Defendant under arrest?

13 A Yes.

14 Q Or did Officer Logan place her under arrest?

15 A Officer Logan did place her in handcuffs and under
16 arrest.

17 Q Did he bring her over to you to speak with you?

18 A He did.

19 Q Did you read her her Miranda rights?

20 A Yes.

21 Q Did you ask those off of a Miranda card?

22 A I did.

23 MR. PORTER: Beg the Court's indulgence.

24 (Pause).

25 BY MR. PORTER:

1 Q Officer Kunde, I'm showing you an item. Can you tell
2 the Court what that is?

3 A It's a copy of the Miranda card that I read to the
4 Defendant.

5 Q Is that your handwriting there on that photocopy?

6 A It is.

7 Q Is that a true and accurate depiction of what you
8 provided into your law enforcement file that was provided to
9 the solicitor's office?

10 A Yes.

11 MR. PORTER: Your Honor, I would ask to make this
12 Court's Exhibit 1.

13 THE COURT: Any objection?

14 MS. INZERILLO: No objection, Your Honor.

15 THE COURT: Without objection.

16 (WHEREUPON, Court's Exhibit No. 1 was marked for
17 identification.)

18 BY MR. PORTER:

19 Q Now, did you read that card in its entirety?

20 A Yes.

21 Q Did she appear to understand it?

22 A Yes.

23 Q Did she appear intoxicated in any way?

24 A No.

25 Q Had you offered her anything in exchange for talking to

1 you?

2 A No.

3 Q What was her response when you asked her if she wanted
4 to continue to speak with you?

5 A She said no.

6 Q Did she reengage conversation with you?

7 A She did.

8 Q How did she do that?

9 A I asked her if I could ask her about what I found in
10 her purse and she said, What did you find in my purse?

11 Q Okay. Not going into -- but she did say it was her
12 purse?

13 A Correct.

14 Q Had you withheld any water from her?

15 A No.

16 Q She did ask about water or something to drink at one
17 point during the stop, correct?

18 A I cannot recall.

19 Q But if she did, you were in the middle of a traffic
20 stop at that point?

21 A Yes.

22 Q Did you deprive her of any food?

23 A No.

24 Q Did you threaten her?

25 A No.

1 Q Did you offer her any money?

2 A No.

3 Q Approximately how long was it from when you actually
4 got out of the car until when you had the conversation where
5 she stated it was her purse? About 15 minutes?

6 A From the initial traffic stop?

7 Q Yes.

8 A I would say roughly 15 to 20 minutes, yes, sir.

9 MR. PORTER: Beg the Court's indulgence.

10 (Pause).

11 BY MR. PORTER:

12 Q Did she appear to have trouble understanding any of the
13 rights?

14 A No.

15 Q She actually invoked at one point? She actually said
16 she did not want to speak to you?

17 A Yes.

18 Q But then she started talking back with you as well?

19 A Yes.

20 Q So she claimed it was her purse. Now we're back to
21 what did you do once you determined her license was
22 suspended?

23 A She was placed under arrest and put into the rear of my
24 patrol vehicle.

25 Q At that point, was she under arrest for two offenses?

1 A Yes.

2 Q What were they?

3 A Driving under suspension and possession of a controlled
4 substance.

5 Q All right. Now, driving under suspension, is that an
6 arrestable offense?

7 A Yes.

8 Q And do you have any police department policy with
9 respect to personal items when people are arrested?

10 A Yes.

11 Q What is that policy?

12 A If they have any personal property in the vehicle, we
13 take it with them and it goes with them back into the jail
14 to be placed in their personal property. During that time,
15 we conduct an inventory of all of their property to make
16 sure there's no contraband or weapons that get back into the
17 jail.

18 Q And would you have placed her under arrest for DUS?

19 A Yes, sir.

20 Q And you located what you believed Alprazolam inside her
21 purse?

22 A Yes.

23 Q I'm showing you two disks. Can you tell the Court
24 what's on these two disks?

25 A One is my body cam footage and one is my patrol vehicle

1 dash cam footage.

2 Q How do you know that?

3 A I signed and dated both of them and reviewed both of
4 them.

5 Q Prior to trial?

6 A Yes.

7 Q Are they true and accurate depictions of the events
8 that occurred minus any redactions that occurred?

9 A Yes.

10 MR. PORTER: Your Honor, I would ask to publish these
11 to the Court? And I would only publish the body camera
12 because the dash camera does not contain any redactions,
13 unless the Defense has any objections.

14 MS. INZERILLO: No objections.

15 THE COURT: All right.

16 (WHEREUPON, body cam was played for the Court.)

17 BY MR. PORTER:

18 Q Now, Officer Kunde, we saw you step back to your
19 vehicle at one point for what appeared to be gloves.

20 A Correct.

21 Q Can you explain to the Court why you did that?

22 A Because I found a needle in the purse and it was
23 uncapped, so I just wanted to protect from getting poked by
24 the needle or anything.

25 Q Is that evidence of drug paraphernalia?

1 A Yes.

2 Q When did you find the pipe?

3 A It was all in the same pocket in the purse, so about
4 the same time that I found the needle.

5 Q At 2:47 on the audio, you say 2:47, what did you find
6 at that point?

7 A That was the Alprazolam.

8 Q So you found the pipe and the needle first?

9 A Correct.

10 Q And your conversation then where Ms. Sinicrope states
11 it's her purse is immediately after this incident?

12 A Yes.

13 Q She states she didn't want to speak to you, correct?

14 A Yes.

15 Q What did you tell her at that point?

16 A I told her I wanted to ask her about what I found in
17 her purse.

18 Q And what did she respond with?

19 A "What did you find in my purse?"

20 MR. PORTER: No further questions, Your Honor.

21 CROSS-EXAMINATION

22 BY MS. HOLT:

23 Q Good morning, Officer Kunde.

24 A Good morning.

25 Q So I know you've already gone over this with the

1 solicitor, but you did pull this vehicle over for failure to
2 stop at a stop sign, correct? Or pulling past the stop
3 back; is that correct?

4 A Yes.

5 Q So there was no erratic driving? Whenever you pulled
6 her over, you weren't pulling her over for that? And you
7 testified that she stopped about 50 yards in the parking lot
8 after you had initiated the lights?

9 A Yes.

10 Q And there were two other passengers in the vehicle, one
11 in the driver's seat and one in the back seat; is that
12 correct?

13 A Yes.

14 Q And the passenger that was in the back seat, while the
15 Defendant and the front seat passenger were outside the
16 vehicle, he remained in the vehicle for a certain period of
17 time?

18 A Yes.

19 Q Are you aware of how long he was in the vehicle for
20 that period of time?

21 A No.

22 Q It was about 51 seconds, that's how long he was in the
23 vehicle.

24 A Okay.

25 Q And at that time, Officer Logan was standing with the

1 Defendant and Mr. Rawlings. Were you standing beside the
2 vehicle at the point that he was in the back seat of the
3 vehicle, still in the vehicle?

4 A Yes.

5 Q You were standing beside the vehicle the entire time?

6 A I'm not understanding your question. I apologize.

7 Q So the back passenger is in the vehicle?

8 A Correct.

9 Q And the Defendant is outside the vehicle at the back of
10 the vehicle?

11 A Yes.

12 Q And so is the other passenger, the front seat
13 passenger, Mr. Rawlings?

14 A Yes.

15 Q And Officer Logan is standing with them?

16 A Correct.

17 Q At that point when they are behind the vehicle for that
18 entire 51 seconds that he's in the vehicle, are you standing
19 beside the vehicle the entire time?

20 A Yes.

21 Q So you can see him the entire time that he's in the
22 vehicle?

23 A Yes.

24 Q Okay. And then at the point that you approach the
25 vehicle, you have to slide the seat up to let him out; is

1 that right?

2 A Yes.

3 Q And you stated on direct that the purse was between the
4 center console and -- I don't want to misquote you, but I
5 believe you said in between the driver's seat and the
6 passenger seat, the front seat passenger seat; is that
7 right?

8 A Yes.

9 Q But at the point that you searched it, the video showed
10 at the point of six seconds 20, it is actually behind the
11 seat. So it was between the -- it was by the center
12 console, but behind the center console. Would you say that
13 was an accurate depiction on what we just saw on the camera?

14 A I did not see that.

15 MS. HOLT: I'd like to play that.

16 BY MS. HOLT:

17 Q At this point in the video, Ms. Sinicrope is still in
18 the vehicle. She's still seated in the vehicle. You'll see
19 again later after she had exited the vehicle, at the point
20 you are letting the back seat passenger out, you'll see the
21 purse is still in that same position.

22 (WHEREUPON, portion of the body cam was played.)

23 BY MS. HOLT:

24 Q Do you see there where the purse is? It's actually
25 sitting in the floorboard behind the two seats.

1 MR. PORTER: Your Honor, I'm not sure impeachment is
2 the appropriate thing during a pretrial hearing, but that
3 sure looks a whole heck of a lot like the center console of
4 the car to me.

5 THE COURT: Go ahead.

6 BY MS. HOLT:

7 Q Would you agree, though, that it is behind the driver's
8 seat?

9 A It looks between the passenger and the driver's seat.

10 (WHEREUPON, portion of body cam was played.)

11 BY MS. HOLT:

12 Q Would you say that the purse is in the back seat at
13 that point?

14 A I can't tell, but it's still in between the driver and
15 passenger seat.

16 Q So you are not going to agree that that is behind the
17 driver's seat?

18 A She would have to reach back to get it, but it's still
19 in between the driver and passenger seat.

20 Q Okay. I'll come off of that question then. So when
21 you opened the purse and you began to search it, is it
22 already opened? Is it already unzipped or do you have to
23 unzip it?

24 A I don't recall.

25 Q And Candace does not give you consent to search the

1 purse; is that correct?

2 A Correct.

3 Q She doesn't give you consent to search the vehicle
4 either, correct?

5 A Correct.

6 Q You proceed on what you believe to be a probable cause
7 search based upon finding a Brillo pad in the vehicle and
8 torn up baggies; is that right?

9 A Yes.

10 Q And she tells you multiple times in the video that she
11 does not know what the item is; is that correct?

12 A Yes.

13 Q And she tells you at some point that someone must have
14 put it in her purse; is that correct?

15 A Yes.

16 Q When you say that you're going to 67 her, does that
17 indicate that you're arresting her for drugs?

18 A That means that she's being placed under arrest, yes.

19 Q At the time that she told you her name, she tells you
20 at some point that her name is Candace Rawls and then she
21 said it's Candace Sinicrope. Does she indicate to you that
22 Sinicrope is her maiden and Rawls is her married name? Do
23 you recall?

24 A I don't recall.

25 Q Back to the Brillo pad, at the point that you

1 approached the vehicle, whenever you first come up to the
2 vehicle, do you smell any burnt Brillo or notice the Brillo
3 pad yourself?

4 A No.

5 Q And you don't at any point smell any burnt -- even when
6 searching, you don't smell any burnt Brillo in the car?

7 A No.

8 Q And you don't see any indication that it's been burnt?

9 A No.

10 Q And there's no glass pipes in the vehicle that you see?
11 You only found one in the purse, correct?

12 A Correct.

13 Q You don't see one in the vehicle?

14 A No.

15 Q Now, it was testified earlier that potentially -- well,
16 let me back up. Would you say in your training and
17 experience that you would smoke a pill?

18 A I've seen all types of different drugs ingested in
19 different manners. I would not know.

20 Q But you would think it would be plausible that somebody
21 could smoke a pill?

22 A They could try.

23 Q The baggy that you find in the purse with the white
24 powder, do you test that baggy?

25 A No.

1 Q Do you place it into evidence?

2 A No.

3 Q The needle, the crack pipe, is any of that placed into
4 evidence?

5 A No.

6 Q Is any of it tested for residue?

7 A No.

8 Q Do you see any baggies in the vehicle with residue in
9 them?

10 A No.

11 Q Do you at any point question whether or not to charge
12 Ms. Sinicrope with this Alprazolam?

13 A No.

14 Q At no point on the video do you question whether or not
15 to charge her?

16 A No.

17 Q On the video at some point, you ask Officer Logan -- or
18 Officer Logan says to you, You need to make a decision.
19 After you think about it for a minute, you say, It looks
20 like a pill. And Logan says, It is not even readable. And
21 you said, You cannot even read it. Do you recall saying
22 that?

23 A I do not recall.

24 Q Are there any other statements made to you by the
25 Defendant when your body camera was off?

1 A No.

2 Q And you read Candace her Miranda rights; is that
3 correct?

4 A Yes.

5 Q Are there any conversations that you recall before
6 reading her her Miranda rights?

7 A No.

8 Q And then is it before or after reading her her Miranda
9 rights that she tells you that it is her purse?

10 A After.

11 Q At what point do you find out her license is suspended,
12 is it before or after you have searched?

13 A After.

14 MS. HOLT: Court's indulgence.

15 (Pause.)

16 MS. HOLT: I have no further questions at this time.

17 Thank you, Officer Kunde.

18 THE COURT: Any redirect?

19 MR. PORTER: Beg the Court's indulgence.

20 (Pause.)

21 REDIRECT EXAMINATION

22 BY MR. PORTER:

23 Q Officer Kunde, one quick follow-up about the statement
24 about "what did you find in my purse?" Do you recall
25 exactly what you said immediately prior?

1 A Immediately prior to after reading Miranda?

2 Q After she said she doesn't want to speak to you, do you
3 recall exactly what you said?

4 A Yes, I believe I told her that I thought she was lying
5 to me about her name.

6 Q Okay. And then what did you tell her?

7 A Then I told her I wanted to ask her about what I found
8 in her purse.

9 Q Would reviewing a copy of the unredacted video where
10 you discussed with her help refresh your recollection as to
11 what you said?

12 A Yes.

13 MR. PORTER: May I have a copy of that unredacted
14 video?

15 (WHEREUPON, portion of unredacted video was played.)

16 BY MR. PORTER:

17 Q You stated something to her and she reengaged?

18 A Correct.

19 Q And then she engaged in a conversation with you?

20 A Yes.

21 Q After understanding her rights?

22 A Yes.

23 MR. PORTER: Thank you.

24 THE COURT: Anything further of this witness?

25 MS. HOLT: No cross.

1 THE COURT: Thank you, sir. You may step down. Watch
2 your step as you're stepping down.

3 MR. PORTER: Your Honor, that completes the State's
4 proffer.

5 THE COURT: All right. Any arguments?

6 Let's see, we've got four, five, six -- I'm looking at
7 the numbers on the motion in limine. Four, five, six, seven
8 and nine; is that correct?

9 MS. INZERILLO: That's correct.

10 Your Honor, if we could, could we start with number
11 five? We may be able to knock out that one with a
12 stipulation.

13 THE COURT: All right.

14 MR. PORTER: Your Honor, I've got no objection to
15 number five.

16 THE COURT: Okay. Any others that are agreed to?
17 Agree that we do the redacted?

18 MR. PORTER: Yes, sir, Your Honor, six, as long as the
19 Defense is okay with those redactions as were played in
20 court, I think six is satisfied as well as seven. And then
21 we're left with four and nine.

22 MS. INZERILLO: So the State has no objection to six or
23 seven?

24 MR. PORTER: I believe they would be the Defense
25 objections. I presented what my redactions would be. I

1 think the Defense needs to either object further to what was
2 presented or --

3 My position on this, Your Honor, is what we produced in
4 court is what we intend to show the jury.

5 MS. INZERILLO: Court's indulgence, please.

6 (Pause.)

7 MS. INZERILLO: Your Honor, the Defense's position is
8 that the video as redacted is sufficient. The only thing
9 about the suspended license would be as long as they're not
10 going to in testimony intimate that she was lying, that they
11 believed that she was lying, I don't have any objection to
12 what's on the video.

13 MR. PORTER: Your Honor, if the Defendant is not
14 testifying, I don't intend to take that step. If the
15 Defendant takes the stand, obviously, there will be a change
16 in posture in the redactions and we'll have to address that
17 at the appropriate time. But as it stands, I did not
18 anticipate, based on the Defense's statements, the Defendant
19 would testify. So as we are here right now, I don't tend to
20 introduce anything about her lying. I don't believe she
21 lied to the officers likely.

22 THE COURT: Okay. Then we'll go with the videos as
23 presented with the redactions.

24 MS. INZERILLO: So I believe the only motions the
25 Defense would have left are four, nine and 11.

1 THE COURT: Okay.

2 MS. INZERILLO: So the Defense is asking in a motion
3 for finding of probable cause for the traffic stop for the
4 suppression of all the material as fruit of the poisonous
5 tree. As we saw in the video and as the testimony that we
6 heard, the Brillo pad did not contain any burn marks, did
7 not contain any smell. There was no indication other than
8 what the officer says is in his experience that there could
9 be a possibility that there were other drugs in the vehicle
10 related to seeing Brillo present. There were no crack
11 pipes. There was no other paraphernalia that he saw with
12 exception to torn baggies, which he also said on the stand
13 that there was no residue in those baggies. And we would
14 contend that pursuant to her Fourth Amendment rights as well
15 as Article 1 Section 10 of the South Carolina Constitution
16 that the evidence seized in violation of the Fourth
17 Amendment rights and Article 1 Section 10 of the
18 Constitution be subject to the exclusionary rule.

19 I understand the State is going to argue that there was
20 an inventory search that was done, but as the officer
21 testified, the officer had not placed her under arrest yet
22 and was not even aware that her license was suspended at the
23 point that he searched the bag. So at the point that he
24 begins a search on the bag based upon seeing the Brillo in
25 the car from Officer Logan, he then continues to search and

1 then finds the drugs and then immediately afterwards says
2 that he is arresting her. And he says that it was a 67, but
3 he was arresting her based upon finding those drugs. And
4 it's not until after that that he finds out that her license
5 is suspended.

6 So we would ask that Your Honor find that the discovery
7 is subject to the exclusionary rule and the drugs be kept
8 out and any testimony related to.

9 We also have --

10 MR. PORTER: Your Honor, if the Defense doesn't mind,
11 I'd like to respond to the motions as they come rather than
12 all in one lump sum.

13 MS. INZERILLO: Oh, I was going to continue on.

14 MR. PORTER: My apologies.

15 MS. INZERILLO: Your Honor, in State V. Bultrum (ph),
16 the case was decided in two parts what was allowable --
17 pardon me, I'm trying to find my copy. My apologies, Your
18 Honor. It was actually referencing State V. Dobbins where
19 it is stated that there are two elements needed to satisfy
20 the plain view exception, one being the initial intrusion
21 that afforded the authorities, the plain view was lawful;
22 and the incriminating nature of the evidence was immediately
23 apparent to the seizing authorities.

24 We would argue it was not immediately apparent as
25 Officer Kunde did not see the Brillo. He does say that

1 Officer Logan did and told him that the Brillo was present.
2 But because they had no burn marks, no burn smell, there's
3 nothing inherently illegal about Brillo itself. There needs
4 to be some type of indication that the Brillo was used or
5 intended to be used in illegal or illegal activity and
6 absent any burn marks or any burning smell, I would attest
7 that it was just a Brillo pad.

8 MR. PORTER: Your Honor, the State believes there was
9 probable cause to search this vehicle. Officer Kunde and
10 Logan, they both stated that in their training and
11 experience that Brillo pads and torn baggies are consistent
12 with drug possession and drug use. Officer Logan is an
13 eight-year veteran. Officer Kunde has three years of
14 experience in law enforcement and dealing with this.
15 Officer Logan, I believe, testified about dealing with crack
16 cocaine specifically, which applies to Brillo pads, on a
17 daily basis. So as to the Dobbins factors, that would rise
18 over the limit -- it would show that the State can prove
19 that there was something illicit about these.

20 I would also point the Court to State vs. Morris. It
21 was a case that was decided out of this circuit. I'm sure
22 Defense is aware of that case. In that case, one of the
23 enforcement team officers stopped a vehicle and located a
24 blunt inside -- or observed a blunt inside the car and that
25 played into the probable cause determination. There were

1 some other factors that were determined by the Court. A
2 drug dog even failed to alert to the presence of the smell
3 of marijuana, but the Court found that an otherwise legal
4 item, based on an officer's training and experience, can be
5 indicia of and probable cause for a search. And I believe
6 Morris supports that position that we should be able to rise
7 to the burden of a warrantless search here in this case
8 based on Morris.

9 Now, in addition, based upon seeing the illicit items,
10 I went through with Officer Kunde about he observed a
11 needle. So he goes and gets his gloves, he observes the
12 needle. He observes the crack pipe, which is again
13 consistent with drug use. That plays into the probable
14 cause, and then he finds the Etizolam -- what eventually is
15 an Etizolam pill, what he believes is an Alprazolam pill.
16 So for those reasons, we believe we meet the requirement for
17 a warrantless search.

18 In addition, Your Honor, the reason the driving under
19 suspension is important is because the State also has
20 another reason to rely on inevitable discovery. The
21 officers both testified that it is their policy to search
22 property that the Defendant -- an arrestee has in their
23 possession for officer safety, to prevent contraband from
24 coming in and also for the protection of the agency.

25 And so I had in that regard State vs. Cardwell, recent

1 case from the Supreme Court. And I would pass that up to
2 Your Honor, if I may approach.

3 The pertinent discussion is on the third page. The
4 facts of that case are a police chief observes what he
5 believes to be child pornography on a PC technician's
6 computer. The facts aren't exactly on point, but what it
7 does state is the proposition -- it cites Nix vs. Williams,
8 which states for the purposes of inevitable discovery, the
9 State only needs to meet a burden by the preponderance of
10 the evidence. Let me get my language here. "Inevitable
11 discovery doctrine provides illegally obtained information
12 may nevertheless be admissible if the prosecution can
13 establish by a preponderance of the evidence that the
14 information would have ultimately been discovered by lawful
15 means. That cites to a Supreme Court case.

16 The cites for the record, Your Honor, for Morris is 411
17 S.C. 571 and for Cardwell, it's 425 S.C. 595. They are 2015
18 and 2019 cases respectively. And so for both of those
19 reasons, Your Honor, we believe that we have met the burden
20 to be able to introduce this evidence in front of the jury.

21 MR. INZERILLO: If I may respond? So the Morris case
22 was about -- there were other factors that were involved in
23 addition to the -- there was the smell marijuana. He was
24 asked if he had smoked marijuana earlier that day and he
25 said that he smelled it on him, which he admitted. And I

1 believe it was the presence of two hollowed-out blunts,
2 which was at issue.

3 We would argue there is a big difference between
4 hollowed-out blunts, which are arguably always used with the
5 exception of maybe tobacco in the smoking of marijuana. And
6 a Brillo, which, quite frankly, I have in my house. I clean
7 my dishes with it. I scrub my pots with it. So there are
8 other uses that are legal uses for a Brillo pad and why a
9 Brillo pad might be present. I mean, Mr. Rawlings may have
10 had them in his car to clean parts of metal pieces on his
11 car. We don't know what the presence of the Brillo was for,
12 but there are other uses for the Brillo pads versus smelling
13 of marijuana and hollowed-out blunts, which are primarily
14 used in the smoking of marijuana.

15 With regard to the State V. Cardwell, the facts are not
16 on point, we would agree on that, but what we would disagree
17 on is here, what we have is someone who is searching a bag
18 prior to deciding or even knowing that the Defendant has
19 been or should be arrested for another offense, which would
20 be the driving under suspension. He searches the bag prior
21 to ever knowing that her license has been suspended. So we
22 would argue that if it came back as suspended and he decided
23 later to ticket her for it or to let them drive her away,
24 that could have been a possibility. So I would attest that
25 potentially it is not inevitable unless he had known prior

1 to and had already planned to arrest her or had already put
2 her under arrest.

3 MR. PORTER: Your Honor, if I need to respond, I will,
4 but inevitable discovery isn't -- I mean, it doesn't require
5 the inevitable discovery facts to occur contemporaneously
6 with the probable cause. The purpose of inevitable
7 discovery is it is inevitable. And the officers would not
8 have released the driver from the scene under these facts
9 without determining the status of her license. She was
10 driving the car. But Morris, I think is on point. The
11 Brillo pads, they're torn. It's not a whole Brillo pad.
12 It's not -- the baggies are torn up. It's not like he's got
13 a box of sandwich baggies and some Brasso and a Brillo pad.
14 These are all distributed throughout the car consistent with
15 what the officers testified to, that the drugs come in the
16 baggies and they smoke them with a Brillo pad. It's
17 consistent with drug use and the State should be allowed to
18 present this evidence.

19 MR. INZERILLO: If I may just briefly. There was no
20 indication, though, the Brillo pad -- the burnt smell, the
21 burning of the Brillo pad, there was no indication from the
22 Brillo pad itself that would lead to the fact that it was in
23 use for an illegal activity. There was no residue in the
24 baggies, other than having a baggy, which I also have in my
25 house, baggies and Brillo pads. I mean, there's no other

1 indication, no burnt smell, no indication in the bags that
2 would lead anyone to believe or the officer to believe that
3 it was, in fact, used for drugs.

4 THE COURT: All right. Other items I need to address?

5 MR. NEWKIRK: Your Honor, Mr. Newkirk on behalf of the
6 State. I will be in theory hoping to enter the drugs into
7 evidence at the appropriate time. I just need to address
8 the Court briefly on item number -- redaction number five.

9 We had this issue in the trial we tried yesterday with
10 the bag needing to be redacted, obviously, the State doesn't
11 object. But logistically, how we did it yesterday was --
12 because we can't break the seal until it's been entered into
13 evidence. I think the Defense would agree with that. We
14 entered it enter evidence and then prior to retiring it to
15 the jury, if it becomes necessary to do that, we redact it
16 at that time. And I was cautious not to publish it until it
17 was properly redacted.

18 MS. INZERILLO: The Defense has no objection.

19 THE COURT: All right.

20 What about -- do we still have 11 outstanding?

21 MS. INZERILLO: Yes, Your Honor. We still have motion
22 number nine and motion number 11.

23 THE COURT: Okay. Let's move to those two.

24 MS. INZERILLO: Your Honor, similar to what I've
25 already said and I'll try not to continue to beat a dead

1 horse, but the motion is to preclude the introduction of any
2 evidence or testimony related to the crack pipe, the red
3 circular container, the needle, the baggies, the Brillo pad
4 being present or torn in the vehicle or the purse as they
5 are prejudicial to the Defendant and add no probative value.

6 THE COURT: I thought they agreed to that.

7 Did y'all agree?

8 MR. PORTER: No, sir. If I did, that's my mistake,
9 Your Honor. I did not intend to agree to nine.

10 THE COURT: Okay.

11 MS. INZERILLO: The preclusion being because the crack
12 pipe, the red circular container, the needle, the baggies,
13 the Brillo pad, none of this was put into evidence, none of
14 this was tested. And it's prejudicial to the Defendant
15 because the charge is possession of Etizolam, which we would
16 argue has nothing to do with the crack pipe, the red
17 circular cylinder or container that is in the bag, the
18 baggies, the Brillo pad or a needle as, historically, I
19 mean, we can just say from a common sense perspective say
20 that pills are ingested, not smoked in any kind of a crack
21 pipe or any kind of -- put into a person's body with a
22 needle just from a logistical standpoint. So we would argue
23 that those items be precluded from any testimony or any
24 evidence that's put into evidence.

25 MR. PORTER: With respect to the crack pipe and the

1 needle, the reason they are important in this case is they
2 are further indicia and probable cause. Once you have
3 probable cause, that is important, but if you continue to
4 develop probable cause before you find the ultimate item,
5 that can only bolster the State's case. It's part of the
6 res gestae. Officer Kunde in this case located the needle,
7 then located the crack pipe, then located the Etizolam. He
8 testified as such. The video is consistent with that. So
9 it should come in under a theory of res gestae. It also
10 connects the contraband found in the car.

11 THE COURT: Are you going to argue that evidence to the
12 jury and have them infer what?

13 MR. PORTER: I will not argue the evidence to the jury
14 with respect to her using the Etizolam or her having
15 personal use items. I do agree with the Defense, I don't
16 think you smoke Etizolam pills, but it is part of the
17 probable cause in this case. So I believe it should come
18 in, but I think it would be disingenuous to argue that one
19 could smoke an Etizolam pill. I've never heard of smoking
20 Xanax.

21 MS. INZERILLO: If I may briefly. I'm a little bit
22 confused as to what the State is arguing. Are they arguing
23 that there was probable cause or are they arguing inevitable
24 discovery? Because inevitable discovery, what the argument
25 would be is that there is some issue with probable cause and

1 it would have been discovered anyway.

2 THE COURT: The best that I can tell you is I'm going
3 to have my antennas up because not actually hearing the
4 evidence that's being presented yet, it's difficult -- I
5 always find it difficult to do the analysis under 403
6 without actually having heard part of the trial. So I will
7 -- I'll have my antennas up for the appropriate objections
8 at the time.

9 So if you're going to use it in that fashion that
10 you've argued to me, you'll probably need to lay a
11 foundation. Because I think the Defense still has a right
12 -- I don't know whether the Defense intends to do it, to
13 attack the -- if I don't rule the stuff out and we have a
14 trial, that the Defense is still going to, I would think,
15 attack the search. I don't know if they do or not. I see
16 some relevance of the information, so we can't exclude it
17 now, but it just depends on how it gets approached.

18 What about 11?

19 MS. HOLT: May it please the Court, Your Honor. Your
20 Honor, we would ask the Court to make finding pursuant to
21 Jackson V. Denno. I would just note for the Court that as
22 soon as Ms. Sinicrope was apprised of her rights, she
23 indicated that she did not wish to speak any further with
24 the officers. And notwithstanding that, the very next thing
25 out of the officer's mouth is, I just want to ask you about

1 this. And that that subsequently elicits the admission that
2 it is her purse, which I believe the State is going to use
3 as an incriminating statement against Ms. Sinicrope.

4 It also happens again when they're in the car, that the
5 officer again restarts conversation by saying, Ms.
6 Sinicrope, basically, I want to know what this is, can you
7 tell me what this is. And so despite her implication her
8 rights, he continued to question her which I think runs
9 afoul of Jackson V. Denno. And we ask the Court to exclude
10 any of her statements that the State intends to use, in
11 particular the admission that the purse was hers on that
12 basis.

13 MR. PORTER: The State has removed the statements in
14 the car because they would be self-serving hearsay from the
15 position of the Defense and the State is not intending to
16 introduce them, frankly, because it's not part of the
17 State's case. Her statements are self-serving and
18 inconsistent with our theory of the case.

19 Now, with respect to the statement that was made, the
20 reason that I played that video was so the Court could see
21 the -- it's a very specific series of events. Officer Kunde
22 reads her her rights. She says she does not want to speak
23 and then he explains to her what's about to happen. He's
24 telling her you're about to be arrested. He's trying to do
25 that, and she immediately reengages him. So her reengaging

1 was her waiving her right to remain silent. She can invoke
2 them all she wants to, but the officer can't just rapture
3 her out without giving her advice about what she was
4 arrested for, where she's going, things of that nature. She
5 has the right to be informed of grounds of arrest. And that
6 was Officer Kunde beginning that process and she immediately
7 waived her right to remain silent and started over.

8 We've met all the other factors from voluntariness.
9 We've met that she was not deprived of anything. She was
10 not deprived of any water or access to food. It was a short
11 length of the stop. The Court has watched the videos. So
12 the statement about "what did you find in my purse", it's
13 not -- the form of the question is even voluntary. It was a
14 reengagement of the discussion. It wasn't defensive or
15 anything like that. It was an attacking question. In
16 addition to that, it should come in based on her reengaging
17 with the officer about a discussion. I understand that an
18 officer has to scrupulously abide by the rights; however, if
19 the Defendant reengages, he can certainly then have a
20 conversation.

21 MS. HOLT: Your Honor, it certainly wouldn't be the
22 position of the Defense that she reengaged. I believe you
23 saw very clearly on the tape is that despite her invocation
24 of her rights, he proceeds to attempt to elicit
25 incriminating information. He begins by telling her, I

1 think you're lying. I don't find a debit card. I don't
2 find anything in your purse. He's laying out basically
3 inducements for her to speak. And I don't think this is a
4 situation where she invokes her rights and then after a
5 second, upon no response from the officer, then voluntarily
6 begins to speak. She speaks in direct response to what he
7 is telling her, basically, ignoring her invocation of
8 rights. And then he does it again in the car where she
9 informs him that she doesn't know anything about the items
10 in her purse.

11 Your Honor, as a secondary motion to this, if the Court
12 does find that the statement that the State wants to enter
13 is proper, we would ask the Court to consider the rule of
14 completeness. I believe that what you hear -- that the
15 statement that the State wants to get into is the officer
16 saying -- she said, What did you find in my purse, but the
17 remainder of the statement is, Because I had nothing in my
18 purse. There was nothing in there. And I don't believe
19 that the State can cut off the first part and allow the
20 second. So if that statement is admitted, we would ask the
21 Court to, at least, require -- undo that redaction and allow
22 testimony as to the remainder of that statement, that she
23 denied anything being in her purse.

24 MR. PORTER: If the Defense wants to enter evidence in
25 this case, the State has no problem facilitating that;

1 however, from the State's posture, the motion of
2 completeness does not compel the State to present evidence.

3 THE COURT: On the redacted video, was the statement
4 that she made that she said, What's in the purse? Was that
5 even played?

6 MR. PORTER: No, sir, Your Honor, it actually stops
7 when she says she doesn't want to speak with him.

8 THE COURT: That's what I thought.

9 All right. I will step down for a few moments.

10 Ms. Sinicrope, I'm going to ask the officers take you
11 into custody. Normally, what I do at this juncture is we
12 would break and I would receive a motion from the State on
13 the issue of bond. And what I typically do, then, would ask
14 the Defendant a series of questions. Your lawyer was smart
15 enough that they went ahead and prevented me from having to
16 go through that routine. So since I'm informed that you
17 cannot pass a drug test, I would have you taken into custody
18 at this time.

19 All right. We will step down.

20 (WHEREUPON, a short break was taken.)

21 THE COURT: We'll go back on the record briefly. I met
22 with the attorneys and informed them that my rulings would
23 be that there was probable cause for the stop as well as
24 even if there was not probable cause, there would have been
25 the ultimate discovery of the -- I've lost my words --

1 inevitable discovery of the evidence as well as I'm not
2 finding that there was a Jackson V. Denno violation related
3 to the statements that -- or the one statement that I was
4 asked to review by the officer. And I believe that we had
5 discussions in chambers that that could lead -- depending on
6 how it was presented by the State could lead to
7 cross-examination by the Defense, that they would then want
8 to get the entire response of the Defendant possibly through
9 cross-examination if they chose that.

10 Okay. Anything else?

11 MS. INZERILLO: Your Honor, just for a point of
12 clarification, I believe on the additional motions regarding
13 the paraphernalia found in her purse, you wished to hear the
14 testimony regarding that and any subsequent objections
15 before making a ruling?

16 THE COURT: That was number nine until 403. Yes.

17 MS. INZERILLO: Thank you, Your Honor.

18 MR. PORTER: I intend to ask about the Brillo pads and
19 the torn baggies for the probable cause. And then I don't
20 intend to go into the crack pipe and the needle unless the
21 Defense objects to probable cause and then at that point,
22 we'll see if we can lay a foundation for it. Is that the
23 Court's ruling?

24 THE COURT: When we were having that discussion, if the
25 Defense is going to challenge or make an issue of fact to

1 the jury of the lack of probable cause, I think that opens
2 the door to all of that.

3 MR. PORTER: Thank you, Your Honor.

4 MS. INZERILLO: And Your Honor, just for clarification,
5 I believe our objection to the Brillo and the baggies was
6 also that it implied there was drug use, basically, and that
7 could be used to implicate her as a drug user and improper
8 character evidence.

9 So in light of that objection, am I to understand the
10 Court will still allow the State to mention that?

11 THE COURT: I think the State has indicated that they
12 don't intend to make that argument.

13 MR. PORTER: Yes, sir, Your Honor. It is strictly for
14 the purposes of probable cause. I don't believe it is
15 relevant for possession of Etizolam, but it is res gestae as
16 a probable cause justification.

17 THE COURT: And I think if probable cause is going to
18 be an issue, I cannot see how I would keep it out. But if
19 it's going to be presented to cast some dispersion, improper
20 inference on the Defendant, I would keep it out.

21 MS. INZERILLO: Thank you, Your Honor.

22 THE COURT: I'll step back here until the jury comes
23 in.

24 (WHEREUPON, a short break was taken.)

25 THE COURT: Good afternoon, ladies and gentlemen. We

1 begin the trial that you have been selected to be the jury.
2 Before we begin the trial, I need for you to please stand,
3 raise your right hand and let the clerk administer the oath.

4 (The jury was sworn.)

5 INTRODUCTORY REMARKS BY THE COURT

6 THE COURT: Ladies and gentlemen, before we begin this
7 trial, I want to tell you that this trial probably will be
8 different from what you might expect. Many people don't
9 have the chance to attend an actual court session as you're
10 doing now and they think from watching television or movies
11 or reading books that trials are always full of high drama,
12 intense action and riveting circumstances. While all of
13 these things may be true at times, this trial is not for
14 entertainment. It is a fundamental part of our democracy.
15 And often a trial is often slow, deliberate and repetitive,
16 just the opposite of what you may have seen on television or
17 in movies or read about in books. This courtroom is a place
18 of honor dedicated to the protection and preservation of
19 citizens' rights to what many have called the greatest
20 justice system ever created.

21 The attorneys appearing before you are advocates for
22 the parties that they represent, but first and foremost,
23 they are officers of the court sworn to uphold the integrity
24 and fairness of our judicial system and to help you reach
25 the verdict in this case. You should expect them to be

1 professional, competent and ethical in the representation of
2 their client's interest. But remember that you have taken
3 an oath to try this case and reach a fair and just verdict,
4 you are also expected to be professional, reasonable and
5 ethical. I thank you for accepting the important
6 responsibility of jury service and for your contribution
7 today to our justice system.

8 What I will say now is intended to serve as an
9 introduction to the trial of this case. These remarks are
10 not a charge on the law of the case. I'm going to instruct
11 you on the law applicable to this case at the end of the
12 trial before you retire to consider your verdict. This is
13 merely an explanation of the procedures that we will follow
14 in the trial of this case so you may better understand what
15 may be happening.

16 The Defendant in this case is charged by way of
17 indictment filed in this court with the crime of possession
18 of a controlled substance, the elements of which will be
19 explained to you later. The indictment is simply the charge
20 by which the case is brought to court and it is not in any
21 sense evidence of the allegations contained in it. The
22 Defendant has pled not guilty to this indictment. The
23 State, therefore, has the burden of proving each of the
24 elements in the indictment beyond a reasonable doubt.

25 It will be your duty, ladies and gentlemen, to decide

1 whether the State has met that burden. Your purpose as
2 jurors is to find and determine the facts. You are the sole
3 judge of the facts. If at any time I make any comment
4 regarding the facts, you must disregard my comment. You are
5 to determine the facts from the testimony you hear and any
6 other evidence that is introduced in court. It is up to you
7 to determine the inferences which you feel may properly be
8 drawn from the evidence. It is especially important that
9 you perform your duty of determining the facts diligently
10 and conscientiously because ordinarily there is no way to
11 correct an erroneous determination of facts made by a jury.

12 On the other hand, with equal emphasis, the same law
13 that makes you the judge of the facts makes me the judge of
14 the law. The law as given by the Court is the only law that
15 you may consider. You must accept and follow it even though
16 you may disagree with it. I cannot tell you what the facts
17 are and you cannot disagree with me about what the law is or
18 should be. Your job is to take the law as I give it to you
19 and apply it to the facts as you find them from the
20 testimony of the witnesses and any other evidence that is
21 introduced. After doing that, you will render your verdict,
22 a true and just verdict under the solemn oath that you just
23 took as jurors.

24 Now, until I advise you to begin your deliberations,
25 you must discuss the case with anyone including your fellow

1 jurors, friends, family members and anyone else that is
2 involved with this case. This includes discussions whether
3 they're face-by-face, by telephone, e-mail, text, blog or
4 any other forms of communication. You may not use a
5 computer cell phone or other electronic device with
6 communication capabilities at any time while in this
7 courtroom or during your deliberations. Now, during breaks
8 for meals or overnight, if necessary, you may use the
9 devices, however, you may not use them in order to
10 communicate about the case nor can you use them to find out
11 information involving the case.

12 Now, ladies and gentlemen, I do not expect there to be
13 any type of news coverage of this case, but if so, do not
14 read, listen to or watch any news reports about the case.
15 This includes anything that might be in the newspapers or on
16 the internet, radio or television. You must not consider
17 anything that you may have read or heard about the case
18 outside of the courtroom whether before or during the trial.

19 Now after the case is submitted to you, you must
20 discuss it only in the jury room with your fellow jurors.
21 The attorneys and the parties in the case have been advised
22 that they are not to talk to you at all. So if you see
23 anyone involved in the case and they do not even say hello
24 to you, they're not being rude or unfriendly to you, they
25 are just following my instructions.

1 Now, it's important that you keep an open mind and not
2 decide any issue in the case until all of the evidence has
3 been presented, the parties have made their closing
4 arguments to you and I have instructed you on the law
5 applicable to the case. It is your solemn responsibility to
6 determine the guilt or innocence of the Defendant and your
7 verdict must be based solely on the evidence as it is
8 presented to you in this trial and on the law as I instruct
9 you during and at the close of the trial.

10 Now, in just a moment, the solicitor will make what is
11 called an opening statement in which the solicitor will
12 explain to you the issue in the case or, at least, what the
13 solicitor thinks the issues are in the case. The attorney
14 for the Defendant may also make an opening statement,
15 although she is not required to do so.

16 Now, what the attorneys tell you during their opening
17 statements is not evidence in the case. It is only their
18 contention as to what the issues are in the case. The
19 evidence in the case will be presented to you by testimony
20 of sworn witnesses from this witness stand and any exhibits
21 that may be introduced during the course of the trial.

22 From time to time during the trial, you may hear
23 someone say, like, Your Honor, I believe we have a question
24 of law or a matter of law to discuss with you. Or they may
25 say, Your Honor, may we approach the bench? Or sometimes I

1 myself may find it necessary to excuse you from the
2 courtroom for a short while, while the attorneys and I can
3 discuss what is known as matters of law. The reason for
4 this is because you are the judges of the facts in the case
5 and sometimes when I'm discussing matters of law with the
6 attorneys, it may be necessary for me to make some type of
7 comment concerning the facts in connection on the ruling
8 whether or not a particular law applies. I'm not supposed
9 to tell you what I think about the facts, so I will excuse
10 you from the jury room while the lawyers and I have this
11 discussion.

12 In determining what the true facts are in this case,
13 you must decide whether or not the testimony of a witness is
14 believable. It will be my responsibility to rule as a
15 matter of law as to whether certain testimony is admissible
16 at all or not, but once the testimony is admitted, whether
17 or not you believe it is solely for you to determine.

18 In deciding whether to believe a witness, you have the
19 right to consider the interest of any witness, the bias of
20 any witness, the prejudice of any witness, the opportunity
21 for the witness to have seen the matters and things about
22 which the witness may testify and the way the witness acts
23 on the witness stand. You have a right to consider anything
24 that is in the record that will help you evaluate the
25 testimony of the witnesses. That means that it is your duty

1 to pay close attention to the witnesses, to observe the
2 witnesses, to listen to the witnesses and to pay close
3 attention to the attorneys and to the Court. Do not let
4 your thoughts wander, but give strict attention to the
5 testimony in this case so that at the end of all the
6 testimony and the arguments of counsel have been made to you
7 and the charge of the law has been given to you by the
8 Court, you will then be in a position to determine what the
9 true facts are, you'll apply the law to those facts and thus
10 render a true and just verdict.

11 Now, Mr. Hirsch, it is your added duty to serve as
12 foreperson of this jury and to preside in the jury room
13 during the deliberations and to be their spokesperson in
14 this courtroom if necessary. It will also be your duty to
15 write the verdict, but I will give you further instructions
16 on that at the end of this trial.

17 Now, in order to preserve everyone's rights, I will
18 give the parties an opportunity to object to anything that I
19 have just said.

20 Any objections from the State?

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

22 THE COURT: Any from the Defense?

23 MS. INZERILLO: No, sir, Your Honor.

24 THE COURT: Thank you.

25 At this time, we will receive the opening statements

1 from the attorneys.

2 MR. PORTER: Thank you, Your Honor, may it please the
3 Court.

4 OPENING STATEMENT BY THE STATE

5 MR. PORTER: Good afternoon, ladies and gentlemen. On
6 July 3rd of 2018, Officers Kunde and Logan were patrolling
7 the area of Green Street, Marion Street and Saluda Street in
8 Rock Hill. Officer Kunde observed a red Hyundai pass past
9 the stop bar. They pulled up at a stop sign and stopped
10 over the stop bar.

11 Pursuant to his training, he knew that was a violation
12 of the law and he attempted to stop the driver. He turned
13 on his blue lights. The driver of the vehicle was Candace
14 Sinicrope. She drove the car down to Saluda Street where
15 the Family Dollar is, pulled off and Officer Kunde got out
16 with her. He made contact with her and began trying to find
17 out what was going on, why she had passed that stop bar.
18 Officer Logan observed what he believed to be contraband,
19 paraphernalia inside the vehicle. He saw some torn baggies
20 and some torn Brillo pads. From both of the officers'
21 training and experience, they knew that this could be
22 evidence that there was drugs in the vehicle. You will hear
23 about -- the State will present evidence and you will hear
24 from the officers about that training and experience and
25 about observing those items. They made the determination

1 that they would ask the occupants to step out of the vehicle
2 and search the car.

3 Officer Kunde searched the car and located inside the
4 Defendant's purse three dose units of Etizolam. The purse
5 was located in the center console area of the vehicle, and
6 there were three occupants of the vehicle, Candace Sinicrope
7 and two others. As a result, she's been charged with
8 possession of Etizolam. The elements of that crime are
9 simple. All the State has to prove is that she was in
10 possession of Etizolam and that's a schedule 4 controlled
11 substance.

12 Now, we will present evidence from Officer Kunde,
13 Officer Logan and the drug chemist, Cynthia Mitchum, for
14 York County Sheriff's Office who will tell you that Etizolam
15 is a schedule 4 controlled substance in South Carolina. So
16 that's that. Moreover, all of these events occurred on body
17 camera and dash camera. You will see portions of those
18 videos today so that you can judge the facts of the case.

19 The main thing I want you to keep in mind is under the
20 law of this state, a person is responsible for properties
21 under their control. They're responsible for items that are
22 on their property. It is the Defendant's purse the pill was
23 in. Thank you.

24 OPENING STATEMENT BY THE DEFENSE

25 MS. INZERILLO: Good afternoon. The story that the

1 State just laid out seemed very clear. As you go through
2 this case, as the Judge indicated, you're going to hear
3 testimony from the witnesses on the stand. And in addition
4 to hearing that Candace Sinicrope drove a car that didn't
5 stop before the white line at a stop sign, she pulled over
6 and that the officers searched her car, you're also going to
7 hear that there were three people in the car. That her
8 purse was initially between her and the front seat
9 passenger. And that at some point while all this was going
10 on, it moved from that position to further back. You're
11 also going to hear testimony as to whether her purse was
12 opened or closed the whole time.

13 And as the State indicated, they wanted you to know
14 that she is responsible for the items in her purse. I think
15 that's an inference. I think you can decide that's not the
16 case and take into consideration who would have had access
17 to her purse. The way the drugs are found, did that
18 indicate to you whether she had knowledge of the drugs in
19 her purse. Because ladies and gentlemen, Candace is charged
20 with possession of a drug. And possession in the State of
21 South Carolina doesn't just mean you have it, it means you
22 have to know that you have it and that you have to exercise
23 control and dominion over it, not just the purse, but the
24 pill.

25 Ladies and gentlemen, in this case, just because it was

1 Candace Sinicrope's purse doesn't mean it was her pill. And
2 the State has to prove to you beyond a reasonable doubt not
3 that just it was her purse, but that it was her pill. And
4 as you hear the evidence in this case, I believe you will
5 find Ms. Sinicrope not guilty. Thank you.

6 MR. PORTER: May it please the Court, Your Honor?

7 THE COURT: Yes, sir.

8 MR. PORTER: The State calls Officer Kunde to the
9 stand.

10 NATHANIEL KUNDE, after being
11 duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. PORTER:

14 Q Would you please state your name for the record?

15 A Officer Nathaniel Kunde.

16 Q And where are you presently employed?

17 A At Rock Hill Police Department.

18 Q How long have you worked there?

19 A For three years.

20 Q What are your duties as a Rock Hill police officer?

21 A I'm currently assigned to the street crimes unit.

22 Q Were you on the street crimes unit on July 3rd, 2018?

23 A No, sir. I was assigned to Charlie team patrol shift.

24 Q Okay. Do you have any kind of training that you have
25 undergone while you were with Rock Hill Police Department?

1 A Yes, sir. I've had multiple narcotics classes and
2 interdiction classes, roadside interview classes.

3 Q And that's been within the last three years?

4 A Yes, sir.

5 Q Do you recall coming into contact with the Defendant on
6 July 3rd, 2018?

7 A Yes, sir.

8 Q Can you please explain to the jury how that occurred?

9 A I was conducting patrol in the area of Green Street and
10 Marion Street whenever I observed a Hyundai Accent stop past
11 the stop bar at the stop sign. I stopped the vehicle and it
12 yielded into the Family Dollar on Saluda Street. I made
13 contact with the occupants inside the vehicle, identified
14 myself, explained the reason for the stop, asked for their
15 driver's license, registration and insurance and conducted a
16 traffic stop.

17 Q Who was the driver of that vehicle?

18 A Candace Sinicrope.

19 Q Do you see her seated in the courtroom today?

20 A Yes.

21 Q Would you please point her out for the jury?

22 A (Witness complied.)

23 Q To be clear, is it the one seated on the far right
24 side?

25 A Yes.

1 Q And once you obtained the driver's license, what did
2 you do?

3 A I returned to my patrol vehicle, conducted warrant
4 checks, driver's license check to make sure she had a valid
5 driver's license, registration check and insurance.

6 Q When you returned to the vehicle, did you observe
7 anything suspicious about inside the vehicle?

8 A I did not, however, Officer Logan advised me that he
9 had seen Brillo pads and --

10 MS. HOLT: Objection, hearsay.

11 THE COURT: You want to rephrase the question.

12 MR. PORTER: Your Honor, if I may be heard? Officer
13 Logan will testify to the substance of that immediately
14 following Officer Kunde, so I would ask he be allowed to
15 testify to that.

16 THE COURT: All right. Go ahead.

17 MR. PORTER: Thank you, Your Honor.

18 BY MR. PORTER:

19 Q You were saying Officer Logan?

20 A Had advised me that he had seen a torn Brillo pad and
21 torn drug baggies inside the vehicle.

22 Q And in your training and experience, what did that
23 signify to you?

24 A That there was possibly drugs in the vehicle. A torn
25 Brillo pad is used to pack a crack pipe at the bottom and to

1 filter the crack pipe and smoke. And then drug baggies are
2 used to obviously transport and carry drugs.

3 Q At that point, did you remove the occupants from the
4 vehicle?

5 A Yes.

6 Q And what did you do next?

7 A I removed two of the occupants, the driver and the
8 passenger, and then I searched the vehicle. I came across
9 the Defendant's purse and observed a pill at the time, what
10 I believed was Xanax, which was later found to be Etizolam.

11 Q So based on the markings on the pill, you believed it
12 to be what?

13 A Xanax.

14 Q Now, where was the purse located when you were
15 searching the vehicle?

16 A Between the driver's seat and the passenger's seat on
17 the center console.

18 Q How many occupants were in the vehicle?

19 A Three.

20 Q Where were they seated?

21 A The Defendant was in the driver's seat. There was one
22 in the front passenger seat and one in the rear.

23 Q Is the Hyundai Accent a two-door vehicle or four-door
24 vehicle?

25 A Two-door vehicle.

1 Q So how does the back seat passenger get out of the car?

2 A He would have to slide the front driver or front
3 passenger seat forward so they could step out of the
4 vehicle.

5 Q And when that seat moves forward, does that -- did you
6 observe the purse at that time when the other occupants got
7 out of the vehicle and the rear passenger got out of the
8 vehicle?

9 A Yes.

10 Q Where was it located?

11 A It was between the driver's seat and the passenger
12 seat.

13 Q Was it within reach of the Defendant?

14 A Yes.

15 Q Now, you said you checked the Defendant's license?

16 A Correct.

17 Q What did you find out about her license?

18 A Her license was suspended.

19 Q Is that an arrestable offense?

20 A Yes.

21 Q When you located what you believed to be Alprazolam,
22 what did you do next?

23 A I then placed her under arrest and read her Miranda.

24 Q Okay. And did you do that from a Miranda card?

25 A Yes.

1 Q Is that standard Miranda rights?

2 A Yes.

3 Q Did she appear to understand those rights?

4 A She did.

5 MR. HOLT: Your Honor, I'd like to object and renew my
6 previous objection to his line of questioning.

7 THE COURT: Overruled.

8 Go ahead.

9 MR. PORTER: Thank you, Your Honor.

10 BY MR. PORTER:

11 Q Now, Officer Kunde, I'm going to show you an item. Do
12 you recognize that?

13 A Yes.

14 Q How do you recognize it?

15 A It is a disk of my dash cam, which I signed and dated
16 and reviewed prior to trial.

17 Q Is it a true and accurate depiction of the events as
18 they occurred that day?

19 A Yes.

20 MR. PORTER: Your Honor, we move what will become
21 State's 1 into evidence.

22 MS. INZERILLO: I have no objection.

23 THE COURT: Without objection, State's 1.

24 (WHEREUPON, State's Exhibit No. 1 was admitted into
25 evidence.)

1 MR. PORTER: Your Honor, move to publish?

2 THE COURT: Yes, sir.

3 MR. PORTER: Thank you, Your Honor.

4 (WHEREUPON, State's Exhibit No. 1 was published to the
5 jury.)

6 BY MR. PORTER:

7 Q Officer Kunde, we heard your voice just then, what were
8 you doing there when you were talking to dispatch?

9 A I was just relaying the information of the vehicle.
10 That way, if it's a stolen vehicle, license plate or
11 anything like that, they can advise me.

12 Q Did any other officers arrive to assign you?

13 A Yes.

14 Q Who was that?

15 A Officer Logan.

16 Q I'm showing you what will hopefully be marked as
17 State's Exhibit 2. Will you please tell the jury what that
18 is?

19 A It is a disk of my body cam footage.

20 Q And have you reviewed it prior to trial?

21 A Yes.

22 Q How do you recognize that disk?

23 A I signed and dated it.

24 Q Is it a true and accurate depiction of the events as
25 they occurred that day?

1 A It is.

2 MR. PORTER: Your Honor, I move this into evidence as
3 State's 2.

4 MS. HOLT: No objection.

5 THE COURT: Without objection, State's 2.

6 (WHEREUPON, State's Exhibit No. 2 was admitted into
7 evidence.)

8 MR. PORTER: Your Honor, I would like to publish it to
9 the jury.

10 THE COURT: All right.

11 MR. PORTER: Thank you.

12 (WHEREUPON, State's Exhibit No. 2 was published to the
13 jury.)

14 BY MR. PORTER:

15 Q Officer Kunde, we just heard you say something. What
16 occurred when you said that?

17 A Yes, sir. I was just making a mental note of the time
18 that I recovered what I believed at the time to be a Xanax
19 bar from her purse.

20 (WHEREUPON, State's Exhibit No. 2 was continued.)

21 BY MR. PORTER:

22 Q Now, Officer Kunde, after what we just observed, did
23 you ever reengage in conversation with the Defendant?

24 A I did.

25 Q And did she claim the purse?

1 A She did.

2 Q Did she also state to you that she did not have
3 anything in her purse and did not know the pill was in her
4 purse?

5 A She did.

6 Q Now, on the -- we just watched your body camera. Can
7 you explain to the jury how you and Officer Logan were
8 working during the traffic stop as far as how you were
9 interacting or handing off duties?

10 A Right. So as you saw, Officer Logan pulled out the
11 passenger initially because he saw the Brillo pad and the
12 torn baggies. He got the passenger out. Once he was with
13 the passenger, I was watching the other two occupants in the
14 vehicle, at which time, I came around to the other side of
15 the vehicle, had the Defendant step out, asked for consent
16 to search. She gave me consent. I had her step back, then
17 I had the rear passenger step out of the vehicle. Then once
18 all three of them were at the rear of the vehicle, at the
19 front of my patrol vehicle with Officer Logan, I then began
20 to search the vehicle.

21 Q What was your primary role as the stopping officer on
22 the case?

23 A My primary role initially was the reason for the stop
24 and the traffic violation. Once we started to see signs of
25 drug paraphernalia and contraband in the vehicle, that's

1 when it's moved toward a drug investigation. And because I
2 was the primary officer, I took over the search to maintain
3 a chain of custody if we located anything in the vehicle.

4 Q And prior to the occupants leaving the vehicle, what
5 was Officer Logan's role?

6 A He was backup, watching the occupants in the vehicle
7 making sure they weren't moving around inside the vehicle
8 trying to grab a weapon or trying to hide any contraband or
9 anything like that.

10 Q Did you ever assume that role?

11 A I did multiple times back and forth. Like I said, once
12 Officer Logan pulled the passenger out of the vehicle, I
13 then started to watch the occupants in the vehicle.

14 Q And does that occur by verbal arrangement or hand
15 signals? How do you communicate with each other?

16 A It's just through our training. Usually, if somebody
17 is talking or going hands on with an individual in the
18 vehicle, someone else is watching the occupants.

19 Q At any point, did you observe any rooting, digging, any
20 kind of behavior like that?

21 A No.

22 Q Did you observe anyone manipulating the purse?

23 A No.

24 Q Now, you mentioned a pill. And just for identification
25 purposes, do you recognize this item?

1 A Yes.

2 Q Do you recognize the bag within it?

3 A Yes.

4 Q And do you recognize your signature anywhere on that?

5 A I do.

6 Q And how do you recognize it?

7 A I signed and dated and put the time that I dropped this
8 into evidence.

9 Q Okay. You said dropped into evidence. How does the
10 evidence procedure work at Rock Hill PD?

11 A So if it's during the day, you would physically hand it
12 over to the two individuals working behind the evidence
13 counter in the evidence locker room. If it is after hours,
14 then you would drop it into a temporary drop bin, which is
15 secured. The only people that can access that drop bin are
16 the two individuals that work in the evidence locker room.

17 Q And when you're packaging evidence, do you use a
18 special bag?

19 A Yes.

20 Q What kind of bag?

21 A A drug bag.

22 Q Does that have tamper proofing on it?

23 A Yes.

24 Q And what does that show?

25 A It shows who sealed the bag and the date that it was

1 sealed.

2 Q And once you placed that into evidence, did you ever
3 have any possession of the evidence?

4 A No.

5 Q Did you have any access to it?

6 A No.

7 Q Prior to today when you brought that to court, have you
8 ever seen it since then?

9 A No.

10 Q And is Saluda Street in York County?

11 A It is.

12 Q In Rock Hill?

13 A In the City of Rock Hill, yes, sir.

14 MR. PORTER: Beg the Court's indulgence, Your Honor.

15 (Pause.)

16 BY MR. PORTER:

17 Q Officer Kunde, did the Defendant consent to a search of
18 her person?

19 A She did.

20 Q Did she ever say anything about her purse?

21 A No.

22 Q But it was located inside the vehicle?

23 A Yes.

24 MR. PORTER: No further questions at this time, Your
25 Honor.

1 MS. HOLT: May it please the Court?

2 THE COURT: Yes.

3 CROSS-EXAMINATION

4 BY MS. HOLT:

5 Q Good afternoon, Officer Kunde.

6 A Afternoon.

7 Q So you pull over this vehicle, as the solicitor said,
8 for not completely stopping -- or stopping past a stop bar;
9 is that correct?

10 A Yes.

11 Q There was no erratic driving?

12 A No.

13 Q She did not appear to be impaired during any of your
14 interactions?

15 A No.

16 Q And she gave you name of Candace Rawls. She indicated
17 to you that was her married name, correct?

18 A I don't recall.

19 Q She later tells you her maiden name is Candace
20 Sinicrope?

21 A Yes.

22 Q And there was a front seat passenger in the car with
23 her, correct?

24 A Yes.

25 Q As we saw in the video. And there was also a back seat

1 passenger in the car?

2 A Yes.

3 Q And we saw on the video the placement of the purse and
4 it was between the driver's seat and the passenger seat, but
5 it looked like it was more towards the back of the car.

6 Would you mind pulling that video up just so the jury
7 can see it.

8 (WHEREUPON, video was played for the jury.)

9 BY MS. HOLT:

10 Q You can't quite see it. As he gets out of the vehicle,
11 is this the purse here? Is that the purse that you
12 searched?

13 A It's difficult to see, but yes, that was the purse.

14 MS. HOLT: Can you back it up just a little bit? Pause
15 it for me. Play it.

16 (WHEREUPON, video was played for the jury.)

17 MS. HOLT: Pause.

18 BY MS. HOLT:

19 Q Could you see it there?

20 A I saw it.

21 Q And do you recall if the purse was unzipped or zipped
22 whenever you began to search it?

23 A I don't recall.

24 Q Are you aware of how long the back seat passenger was
25 in that back seat while you were standing outside the

1 vehicle and all other passengers were outside the vehicle?

2 A No, ma'am.

3 Q You did review the video before trial, though, correct?

4 A Correct.

5 Q So if I told you that it was 51 seconds he was in that
6 back seat, you would agree with that?

7 A Yes, ma'am.

8 Q You were outside the car at that time and you were
9 searching Ms. Sinicrope's pockets; is that correct?

10 A Yes.

11 Q And she did give consent to search her person, but
12 nothing else?

13 A Correct.

14 Q And when you search her, do you find any drugs or
15 illicit materials?

16 A No.

17 Q And she does say the purse is hers, correct?

18 A Yes.

19 Q But she says specifically, What did you find in my
20 purse because I had nothing in my purse; is that correct?

21 A Yes.

22 Q And the pill that was obtained, there were no markings
23 that indicated that it was Etizolam; is that correct?

24 A Not at the time, no.

25 Q When you approached the vehicle, did you smell any

1 burnt Brillo?

2 A No.

3 Q Did you see any burn marks on the Brillo when you
4 located the Brillo in the car?

5 A No.

6 Q Did the baggies contain any residue of any kind?

7 A No.

8 Q Was the Brillo or baggies tested?

9 A No.

10 Q Was any of it obtained and put into evidence for the
11 jury to see?

12 A No, ma'am.

13 Q Just one more question, would you say that someone
14 would smoke an Etizolam, a pill?

15 A I can't speak on that.

16 MS. HOLT: Thank you. No further questions.

17 THE COURT: Anything further?

18 MR. PORTER: No, sir, Your Honor.

19 THE COURT: Thank you. You may step down.

20 Lawyers approach.

21 (WHEREUPON, a bench conference was held.)

22 THE COURT: Is the State ready to call their next
23 witness?

24 MR. NEWKIRK: Yes, Your Honor. The State calls Paul
25 Willey to the stand.

1 Q And how many of those are there?

2 A There are two, myself and one other.

3 MR. NEWKIRK: Your Honor, may I approach the witness?

4 THE COURT: Yes, sir.

5 Q Paul, I'm handing you what's been marked for
6 identification only as State's Exhibit 3. Do you recognize
7 what State's 3 is?

8 A Yes, sir.

9 Q What do you recognize it to be?

10 A It is what we call a drug bag indicated as three dose
11 units of Xanax.

12 Q Okay. And have you ever seen that before?

13 A Yes, sir. I'm on the chain of custody, so I've checked
14 it out so it could be processed.

15 Q And do you recognize anybody else's signature on that
16 bag?

17 A Yes, sir. I would recognize everybody's signature.

18 Q Okay. And specifically, who dropped that bag into the
19 evidence locker?

20 A Sure. That would be Officer Nate Kunde who made the
21 original drop.

22 Q And who moved it from your locker to your secure bin?

23 A That would be Rebecca Pryor, my coworker.

24 Q How do you know?

25 A Because she indicates -- Officer Kunde indicates he put

1 it into evidence and Becky indicates she took it from the
2 locker and assigned it to the bin.

3 Q And did Ms. Pryor sign the bag?

4 A Yes.

5 Q How would you recognize her signature?

6 A Just from reading it. I mean, I'm not sure what you
7 want me to say there.

8 Q And if the bag had -- you mentioned that the bag was in
9 what you referred to as a drug bag. Can you describe what
10 that is to the jury?

11 A Sure. Within this sealed bag, there's another plastic
12 bag. That is our Rock Hill Police Department drug bag.
13 That is where they placed the drugs when they bring them in
14 and then they apply this evidence label to the bag and it
15 has all the information related to the case, case number,
16 item description, where they got it, what time they got it
17 and indicates the officer's name and also indicates, as I
18 said, where he writes that he dropped it into evidence.

19 Q And pursuant to your duties as an evidence technician,
20 does that bag appear to have been tampered with in any way?

21 A I would say no, sir.

22 MR. NEWKIRK: Thank you, Paul. I don't have any
23 further questions for you, but please answer any questions
24 the Defense may have.

25 MS. HOLT: The Defense has no cross-examination of this

1 witness.

2 MR. NEWKIRK: Your Honor, in that case, we ask that
3 Paul be excused from his subpoena.

4 THE COURT: Thank you, sir. You may step down and you
5 may be excused. Thank you for coming.

6 THE WITNESS: Thank you, sir.

7 THE COURT: Is the State ready to call their witness?

8 MR. NEWKIRK: Yes, Your Honor. At this point, the
9 State would call Cynthia Mitchum to the stand.

10 CYNTHIA MITCHUM, after being
11 duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. NEWKIRK:

14 Q Could you please introduce yourself to the jury?

15 A My name is Cynthia Mitchum.

16 Q And where are you currently employed?

17 A I'm employed at the York County Sheriff's Office in the
18 drug analysis laboratory.

19 Q And how long have you been in that position?

20 A I've been at the sheriff's office now for 19 years in
21 the same position.

22 Q And do you have to have any specialized education or
23 training in order to hold your current position?

24 A Yes.

25 Q And could you please explain your training and

1 education to the jury?

2 A I have a Bachelor of Science degree in chemistry, which
3 I received from Winthrop University in 1990. And prior to
4 working with the sheriff's office, I worked with the South
5 Carolina Law Enforcement Division, also known as SLED in
6 Columbia, South Carolina for seven and a half years in their
7 drug analysis department.

8 Q In order to maintain your position, are you personally
9 required to maintain certain certifications?

10 A Yes, we are.

11 Q And as of today, are all of your certifications up to
12 date?

13 A Yes.

14 Q I believe you were involved in this case in March of
15 last year. Were your certifications up to date at that
16 time?

17 A Yes.

18 Q And what are some of your responsibilities in your
19 current position with the sheriff's office?

20 A I receive evidence and I will analyze the evidence for
21 controlled and noncontrolled substances and then report out
22 my results so the case can further, whether it would go to
23 court or whatever the officers need to do with it.

24 Q Over the course of your career, how many chemical
25 analyses do you believe that you've done on substances that

1 have been requested?

2 A Generally, about a year's worth is about 2,500 samples
3 that we do, so I've been doing this for 26 years now,
4 probably about the same amount every year, some less, some
5 more.

6 Q And have you ever been certified as an expert in court
7 before?

8 A Yes, I have.

9 Q How many times?

10 A Approximately greater than 250 times.

11 MR. NEWKIRK: Your Honor, at this point, the State
12 would move to certify Ms. Mitchum as an expert in the field
13 of forensic chemistry.

14 MS. INZERILLO: No objection.

15 THE COURT: All right.

16 Ladies and gentlemen, normally, a person cannot give
17 opinion testimony. Normally, when a person testifies, they
18 must testify as to what they either saw, heard or sensed by
19 smell or something of that nature. However, there is an
20 exception when someone is qualified because of education or
21 experience. They are permitted to give their opinion in
22 certain areas if the Court qualifies them in that way.

23 This witness will be qualified in the area of forensic
24 chemistry to give opinion testimony in that area. That does
25 not mean you must accept the opinion, but it is evidence for

1 you to use in any way that yo usee fit.

2 BY MR. NEWKIRK:

3 Q Cynthia, I'm handing you what's been marked for
4 identification purposes as State's Exhibit 3. Do you
5 recognize that?

6 A Yes, I do.

7 Q And how do you recognize it?

8 A I recognize it having my initials on the bag here where
9 it's come to me.

10 Q And how are items that have been requested for testing
11 typically sent to you?

12 A This is Rock Hill PD's case, so they have evidence
13 custodians that will bring the case over to the laboratory.
14 What we receive is this inner bag first and I'll put that
15 into my control in evidence, I have a storage locker, until
16 I have a chance to do the analysis on it.

17 Q And if the bag appeared to have been altered or
18 tampered in any way, would you have accepted it?

19 A No, I wouldn't have. At that point, since the officer
20 is sitting there with me, I would have gotten him to either
21 take it back to have the officer look at it or have him look
22 at it to make sure that the proper drugs were in the bag and
23 everything. This one in this case was not tampered with,
24 and I know that because I've got okay and my initials at the
25 top and I check every piece of evidence I get to make sure

1 it is sealed properly.

2 Q And once you receive a piece of evidence that has been
3 requested for testing, what do you do next?

4 A I then get the evidence and I will store it in my
5 storage locker, which I have the only keys for, and I will
6 store it until the chance I get to do an analysis on it.

7 Q And did you perform an analysis on this particular
8 item?

9 A Yes, I did.

10 Q And what item of equipment would you use to perform
11 that type of analysis?

12 A I'm going to start out with a chemical test on this
13 particular one and then, also, an instrumental test.

14 Q Could you explain what those procedures are?

15 A The chemical test, basically, I will drop some reagents
16 on my substance, on a part of it and I'll look for a
17 chemical change. This will give me an idea of what I might
18 be looking at. Also, since this is a tablet, we can look at
19 the coding on the tablet to give us an idea also of what it
20 might be, the markings, such as when you go to the pharmacy
21 and you are getting Aleve. Aleve is written on the tablet
22 that you're looking at, so you know it's an Aleve. So we'll
23 look at it to see. That will give us an idea of what we
24 might be looking at, also.

25 From there, I'll take a portion of the sample and then

1 I'll dissolve it in the solution and run it through what's
2 called a GC mass spec. Now, this instrument will then give
3 me a fingerprint of the compound and I will compare that to
4 a known substance or standard that we get. And then from
5 that, I can then make my results to what the substance
6 actually is.

7 Q And once you've done that, once you've run it through
8 the GC mass spec, do you generate a report of your results?

9 A Yes, I do.

10 Q Could you please explain that process a little to the
11 jury?

12 A The report is just basically we enter the results into
13 our LIM system, which is a computerized system that we have
14 in the laboratory and then it will print the report. We can
15 actually e-mail the report. It automatically goes to the
16 officer and to the solicitor's office to let them know what
17 our results are in the case.

18 Q Is there any sort of peer review process?

19 A Yes. All our cases are reviewed by another chemist and
20 they review the whole case to make sure that what I'm
21 looking at is the same thing that if it were their case and
22 they were doing it, that that's the same results they would
23 report out.

24 Q And did you prepare a report in this case?

25 A Yes, I did.

1 Q And is the report that you prepared related directly to
2 what's been marked for ID purposes as State's Exhibit 3?

3 A Yes, it is.

4 Q And how do you know?

5 A On the report, it's also listed our case number, our
6 lab case number, also the agency case number, which is Rock
7 Hill's case number and the officer's name, the Defendant in
8 the case, whoever that might be, and then the items and the
9 agency. They'll have a bar code up here that on this
10 particular one that we go by. That's also listed on the
11 report.

12 Q And does all of that information from your ultimate
13 report and for ID purposes State's Exhibit 3 match?

14 A Yes, it does.

15 Q And how do you know that you're the one that
16 specifically tested those drugs?

17 A My initials are on the bag. The report is issued in my
18 name. It's signed by me. The initials on the bottom of the
19 bag where I filled it is there. On the evidence inside the
20 Ziplock bag, I've put the case number and my initials so
21 that way I know that that is my case that I did.

22 MR. PORTER: Your Honor, may I approach the witness?

23 THE COURT: Yes.

24 BY MR. PORTER:

25 Q Cynthia, I just handed you what's been marked for

1 identification purposes as State's Exhibit 4. Do you
2 recognize it?

3 A Yes. This is the report I issued in this case.

4 Q And did you generate it?

5 A This one I have in my hand I think y'all generated it.
6 I brought one that I generated. But it's the report that I
7 put into the system, yes.

8 Q Is it a fair and accurate copy of the report that you
9 generated?

10 A Yes, it is.

11 Q Does it truly represent the conclusions of your
12 chemical testing?

13 A Yes, it does.

14 MR. NEWKIRK: Your Honor, at this point, the State
15 would move Exhibit 4 into evidence.

16 MS. INZERILLO: No objection, Your Honor.

17 THE COURT: Without objection.

18 (WHEREUPON, State's Exhibit No. 4 was admitted into
19 evidence.)

20 BY MR. NEWKIRK:

21 Q Cynthia, State's Exhibit 4, as you previously said,
22 references State's Exhibit 3. Could you explain what the
23 results of your report were?

24 A State's Exhibit 3, which was also item number one in
25 this case, was a partial white tablet, which was determined

1 to contain Etizolam, which is a controlled 4 substance.

2 MR. NEWKIRK: Your Honor, at this point, the State
3 would introduce Exhibit 3 into evidence.

4 MR. INZERILLO: Your Honor, we have no objection
5 subject to prior discussions about the outside of the bag.

6 THE COURT: All right. It's admitted.

7 (WHEREUPON, State's Exhibit No. 3 was admitted into
8 evidence.)

9 BY MR. NEWKIRK:

10 Q What was the ultimate finding?

11 A It was determined to contain Etizolam, which is a
12 control 4 substance.

13 Q And have you had occasion to test Etizolam in the past?

14 A Yes.

15 Q Have you had occasion to test Alprazolam, commonly
16 referred to as Xanax, in the past?

17 A Yes.

18 Q Is there any coalition between the two?

19 A Basically, they're what you would call cousins.
20 Etizolam is an analog to diazepam, which is also known as
21 Valium, so they're in the same family. They're a little bit
22 chemically different, but they're for anxiety and stress.
23 So what we're seeing with the Etizolam is we're having Xanax
24 tablets come in that look like a Xanax tablet --

25 MS. INZERILLO: Objection, Your Honor. I would object

1 to this portion of the testimony regarding other evidence
2 outside of this case and what she has seen outside of this
3 case.

4 MR. NEWKIRK: Your Honor, she has been certified as an
5 expert in forensic chemistry and has testified over 19 years
6 experience. She test 2,500 pills a year. She is certainly
7 more than qualified to explain to the jury what she has
8 commonly seen in Etizolam pills and Xanax pills based on her
9 knowledge, experience and expertise.

10 THE COURT: Briefly, we don't want to get too far.

11 MR. NEWKIRK: Your Honor, I'm going to let her finish,
12 but that was my last question.

13 BY MR. NEWKIRK:

14 Q Cindy, if you would continue.

15 A Basically, we're seeing tablets that come in that look
16 like Xanax, they're stamped like that, so they're illicitly
17 stamped, but what we're finding in them is Etizolam.

18 MR. NEWKIRK: Thank you, Ms. Mitchum. I don't have any
19 further questions. Please answer any questions that either
20 Ms. Holt or Ms. Inzerillo might have for you.

21 CROSS-EXAMINATION

22 BY MS. INZERILLO:

23 Q Good afternoon, Ms. Mitchum.

24 A Good afternoon.

25 Q Just a few questions. So I believe you had testified

1 when you test drugs, you have several ways you can test
2 drugs?

3 A Correct.

4 Q And there are something that you, especially with
5 pills, you can take a look at a pill and judging by its
6 markings, you can tell what it is?

7 A Right. We'll say it could be this. Until we further
8 analyze, then we don't know for sure that's what the tablet
9 is.

10 Q Okay. So, basically, you're looking at the outside to
11 get a guesstimate?

12 A Correct.

13 Q And then you have to actually test it to learn exactly
14 what it is?

15 A That's correct.

16 Q And that's basically what you did initially in this
17 case?

18 A Correct.

19 Q And with the little bitty pill that you have in your
20 hand, does that have sufficient markings on it to test?

21 A It appears it has like part of an X and part of an A,
22 but really not enough for me to say yes, this is Xanax, so
23 that's why I did further testing. And come to find out, it
24 was Etizolam instead.

25 Q And that little pill you've got in your hand, that's

1 probably, what, smaller than a tic-tac?

2 A It is probably about half -- yeah, it looks about the
3 size of a tic-tac, but I did use a portion of the tablet to
4 do my analysis, so it was a partial tablet. It was probably
5 about half of one of the Xanax bars. The bars half like
6 four little pieces on it and the word Xanax would be always
7 spelled across it. So it looked like it was probably about
8 half of the tablet.

9 Q And I believe in this case you indicated that you had
10 to basically drop some chemicals on it to see what's inside
11 the pill?

12 A Right. What I did is took a portion of the tablet and
13 I had what's called a spot well, it's a little place that
14 you put the stuff, and then drop the reagents on it. So I
15 don't actually drop it on the whole tablet itself, just a
16 portion of it that I take off.

17 Q Okay. Now, on your report, you indicate the substance
18 is Etizolam; is that right?

19 A That's correct.

20 Q And you've written CID next to it?

21 A Right, meaning control 4 substance.

22 Q And control 4 substance, is that a determination made
23 by the State or the federal government?

24 A Both, actually. The feds and then South Carolina will
25 adopt what the federal government has.

1 Q Are you sure the federal government has categorized
2 this pill?

3 A No, I'm not sure, but I looked it up under our statute
4 for South Carolina under the DHEC controlled substances and
5 that's where I got the control 4 substance because it does
6 say it's a control 4 since 2012 or '14, I can't remember.

7 Q And you're just not sure if it's federal?

8 A Right, because I'm more concerned with South Carolina
9 control.

10 Q I got you. You had described that, basically, Xanax
11 and Etizolam are kind of like cousins?

12 A Correct.

13 Q But they would have the same sedative effects?

14 A Correct, they do.

15 Q But maybe different chemical compounds. Is that why
16 they would be considered cousins?

17 A Right. Because they're chemically structured a little
18 bit different, yes.

19 Q So if someone were under the influence of Etizolam, you
20 would expect to see tiredness or sleepiness? Is that
21 generally what it's used for?

22 A Right. It's basically for anxiety-type things, so it
23 would make them relaxed.

24 Q Okay.

25 MS. INZERILLO: Your Honor, I have no further

1 questions.

2 THE COURT: Any redirect?

3 MR. NEWKIRK: No, Your Honor, I would ask that Ms.
4 Mitchum be excused.

5 THE COURT: Any objection?

6 MS. INZERILLO: No, Your Honor.

7 THE COURT: Thank you, ma'am. You may be excused.

8 Ladies and gentlemen, what we're going to do, given the
9 hour that it is, we are going to take a break for the
10 evening. I need to remind you of some instructions. You
11 cannot have any discussions with anyone about the case.
12 That includes among yourselves as well as family members,
13 friends. General curiosity, you'll go home, sit around the
14 supper table, you got picked on a jury, what kind of case is
15 it. Just very politely tell them that the Judge has
16 instructed me that I cannot have any discussions about
17 anything about this case while the case is going on. You
18 can tell them the Judge says I can talk to you until I'm
19 blue in the face after the case is over, but while the case
20 is going on, do not have any discussions with anyone.

21 I need to remind you of my instructions about looking
22 up things about the case. You might have heard a phrase or
23 one of the lawyers might have said something or I might have
24 said something and you're like I just don't think I quite
25 understand what that means. Do not go to the internet and

1 punch it up and try to Google something about anything
2 involved in the case, and that includes who the lawyers are,
3 who I am, who the witnesses are. Just do not do any type of
4 independent research or investigation. That includes even
5 if you heard a word and you looked it up in Webster's
6 dictionary off the shelf, don't do that. Allow lawyers to
7 educate you as to what the evidence is in this case, allow
8 me to educate you as to what the law is that you will apply
9 to that evidence. Allow us the opportunity to do that, so
10 do not do any type of independent research or investigation
11 as well.

12 With those instructions to you, I'm going to let the
13 bailiff show you out of the courtroom. I'm going to ask
14 that you be back in the jury deliberations room by ten
15 o'clock in the morning and we will resume the testimony of
16 the case. You may go at this point.

17 (WHEREUPON, the jury exits the courtroom at 4:00 p.m.)

18 MS. INZERILLO: May we approach and ask a question?

19 THE COURT: Yes.

20 (WHEREUPON, a bench conference was held.)

21 THE COURT: The schedule, as the lawyers have related
22 to me from the State is that they would have one more
23 witness.

24 MR. PORTER: Yes, sir, we have one more witness,
25 Officer Logan.

1 THE COURT: And then we'll hear whether or not the
2 Defendant intends to testify or put up any witnesses.

3 MS. INZERILLO: That's correct, Your Honor.

4 THE COURT: All right.

5 MS. INZERILLO: Your Honor, prior to dismissal, I would
6 at this time ask the Court to allow Ms. Sinicrope to go home
7 for the evening. Ms. Holt has actually been her attorney
8 the whole time, but my understanding is that Ms. Sinicrope
9 has reported and she has kept in constant contact with Ms.
10 Holt. We reached out to her bondsman, as of now, I have not
11 heard back anything, but we did take the extra time to reach
12 out to her bondsman. I believe Mr Sinicrope's father
13 reached and the bondsman indicated they would stay on, but
14 as an officer of the court, I cannot attest to that because
15 we have not heard back from the bondsman.

16 But on behalf of Ms. Sinicrope, we would ask the Court
17 to allow her to go home for the evening and report back in
18 the morning. Ms. Holt has extensively spoken with her about
19 trying the case in her absence. We've emphasized to her
20 several times to come back. She did come today as requested
21 and has had numerous conversations with us regarding this
22 case.

23 So at this time, Your Honor, since this case is going
24 into tomorrow, on behalf of Ms. Sinicrope, we ask the Court
25 to allow her to go home.

1 MR. PORTER: Your Honor, without a surety and statement
2 the bondsman is going to be on, remain on the bond during
3 the pendency of the trial, the State believes it's
4 appropriate to remain in custody.

5 THE COURT: Any reply?

6 MS. INZERILLO: No, Your Honor.

7 THE COURT: I appreciate the motion. I consider it
8 seriously, but given the fact that she could not pass a drug
9 test, that drug test violation being a violation of her
10 bond, I would feel uncomfortable releasing her back out. So
11 I will deny the motion.

12 MS. INZERILLO: Thank you, Your Honor.

13 (WHEREUPON, Court was adjourned for the day to
14 reconvene on Thursday, June 13, 2019.)

15 THURSDAY, JUNE 13, 2019

16 THE COURT: I had a brief conference with the attorneys
17 about the charges and I've made the change that the State
18 recommended. And I think the charge that the Defense had
19 presented is covered in the charges that I have now, but
20 we'll make Defendant's proposed charge a Court's Exhibit.

21 (WHEREUPON, Court's Exhibit No. 2 was marked for
22 identification only.)

23 THE COURT: Yes, sir.

24 MR. PORTER: Your Honor, the State would request to
25 recall the case agent for two questions. We believe it may

1 be pertinent other potential testimony.

2 MS. HOLT: May it please the Court, Your Honor. We
3 would object to any recall of Kunde. The State has already
4 had an opportunity to direct and redirect after my
5 cross-examination, limited to my cross-examination. They
6 declined to do so. If they have new evidence under Rule 5,
7 we should be apprised of that evidence. If not, I would ask
8 that you renew the request as we believe that since they
9 released him from subpoena, they could have asked you at
10 that time if they believed they needed additional testimony
11 later to not release him from his subpoena. They did not.
12 They asked you to release him from the subpoena, so they
13 should not have an additional opportunity to ask additional
14 questions if they did not ask in their initial case of
15 direct with Officer Kunde. If the Defendant should change
16 her mind and wish to testify, they could at that time.
17 There would be new facts at that point and new testimony and
18 at that time, they could call him as a rebuttal.

19 THE COURT: The additional testimony is what?

20 MR. PORTER: It's strictly about the Defendant's purse
21 and what Officer Kunde found inside the purse during his
22 inventory of the item. It would be two questions. He's the
23 State's case agent, Your Honor, so he would be here
24 regardless. I'm not sure what the subpoena has to do with
25 it.

1 THE COURT: All right. Two questions.

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

3 THE COURT: I'm told all 12 members of the jury are
4 back. Anything else before we bring them in?

5 MR. NEWKIRK: Yes, Your Honor, just one additional
6 matter. If you recall, Defense's pretrial motion number
7 five involved a redaction of the -- what has now been
8 entered as State's Exhibit No. 3. It had language to the
9 effect of possession of a controlled substance second or
10 subsequent offense. The State did agree in pretrial to
11 redact that at the appropriate time. We did not feel it was
12 appropriate until it had been entered into evidence. It's
13 now been entered into evidence.

14 Ms. Holt and Ms. Inzerillo were present as well as
15 myself and Mr. Porter while Investigation Jamie Faulkenberry
16 from our office, who is not a witness to this case and a
17 former law enforcement officer, came and opened the bag,
18 redacted it and resealed. I have shown that to the Defense
19 and they are in agreement with the redaction. The State is
20 also in agreement with the redaction.

21 Your Honor, would you like to see the piece of evidence
22 as well?

23 THE COURT: Yes.

24 MR. NEWKIRK: May I approach?

25 THE COURT: Yes, sir.

1 MR. NEWKIRK: Your Honor, I'm handing you what's been
2 entered as State's 3.

3 THE COURT: Okay. You did a good job.

4 MR. NEWKIRK: Thank you. Because of that, Your Honor,
5 I think that Mr. Porter may -- now that it's been redacted
6 could use it in his closing or it could be published and
7 they can take it back to the jury room now that it's been
8 appropriately been redacted.

9 MS. HOLT: The Defense has no objection. I would ask,
10 may I be heard in response to Mr. Porter on the two
11 additional questions. At this point, what would be the
12 testimony be? Because we need to determine whether or not
13 it's relevant. Because if it wasn't relevant before and
14 wasn't asked before, what makes it relevant now?

15 MR. PORTER: Your Honor, I stated it was about the
16 inventory of the purse. It's strictly the items of the
17 Defendant's personal property, clothing. There was a
18 lighter, makeup. Personal property used to establish that
19 that was her purse, that was her property and she was using
20 things inside the purse.

21 It was relevant before. It's in the discovery on the
22 dash cam, on the body cam of Officer Kunde. There's no
23 discovery violation. It's certainly relevant to knowledge
24 and possession.

25 MS. HOLT: If I may? We're not contesting that it was

1 her purse. In fact, it came out on direct and again on
2 cross whenever I crossed him, it came out that she, in fact,
3 did take ownership of the purse. So that is not a matter
4 that's being contested. So I don't believe the additional
5 material would be relevant.

6 THE COURT: I'm going to allow it.

7 Anything else?

8 MR. PORTER: Nothing from the State, Your Honor.

9 MS. HOLT: Nothing from the Defense.

10 THE COURT: Let's bring them in.

11 (WHEREUPON, the jury enters the courtroom.)

12 THE COURT: Is the State ready to call their next
13 witness?

14 MR. PORTER: Yes, sir, Your Honor. The State recalls
15 Officer Kunde to the stand.

16 THE COURT: Come on up here, sir. I just remind you
17 that you remain under oath.

18 THE WITNESS: Yes, sir.

19 MS. HOLT: Judge, we would just renew out objection.

20 NATHANIEL KUNDE, having
21 previously been sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. PORTER:

24 Q Officer Kunde, two questions. Did you inventory the
25 Defendant's purse?

1 A I did.

2 Q And what did you find inside that purse?

3 A When I inventoried it, I found a couple of makeup
4 items, pieces of female clothing, a lighter as well as a
5 broken pen, which was used --

6 Q So back to what you stated, those three things. What
7 were those three things?

8 A Like I said, a lighter, female clothing and a couple
9 items of makeup.

10 MR. PORTER: Thank you. No further questions.

11 THE COURT: Thank you, sir. You may step down.

12 MR. PORTER: Your Honor, the State calls Officer
13 Antoine Logan to the stand.

14 ANTOINE LOGAN, after being
15 duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. PORTER:

18 Q Good morning.

19 A Good morning.

20 Q Would you please state your name for the record?

21 A Officer Antoine Logan.

22 Q And where are you presently employed?

23 A Rock Hill Police Department.

24 Q How long have you worked there?

25 A Eight years.

1 Q What are your duties as a Rock Hill police officer?

2 A I'm a patrol officer on Charlie team.

3 Q And do you have any specialized training and experience
4 in law enforcement?

5 A Specialized training, did a couple narcotics classes,
6 interdiction classes and speed measuring device and DUI
7 classes.

8 Q Were you working on July 3rd of 2018?

9 A Yes.

10 Q And do you recall coming into contact with the
11 Defendant that day?

12 A Yes.

13 Q Could you describe to the jury how that happened?

14 A Officer Kunde pulled over the vehicle, gave a
15 description of the vehicle and said it was occupied three
16 times. He's only one officer, so I went to be his backup.
17 I'm his backup officer.

18 Q So as a backup officer, what are your duties on a
19 traffic stop?

20 A As the backup officer, we, basically, stay with the car
21 while the primary officer, which is the one that pulled the
22 car over, goes back to his vehicle and runs their
23 information while I stay with the vehicle and make sure
24 nobody is like doing anything like moving around in the car.

25 Q And you said how many people were in the vehicle?

1 A Three.

2 Q Now, when you approached the vehicle, did you notice
3 anything about it that was suspicious?

4 A Not at first. There was a female driver, one male
5 passenger up front and one male passenger in the back. And
6 after talking to the female driver for a while, I went to
7 the passenger side and noticed some drug paraphernalia in
8 the floor.

9 Q What was that drug paraphernalia?

10 A Torn plastic baggies and torn pieces of Brillo pad.

11 MS. INZERILLO: Your Honor, I would renew previous
12 objections to this testimony as it relates to the search.

13 THE COURT: Overruled.

14 Go ahead.

15 BY MR. PORTER:

16 Q And you stated previously that you had training and
17 experience in narcotics and drug investigations?

18 A Yes.

19 Q So what did the presence of those items means to you?

20 A Those items usually mean drug is going on. Drug
21 dealers package their drugs in plastic baggies and drug
22 users usually use Brillo pads to stuff like a crack pipe.

23 Q Did you alert Officer Kunde to the presence of those
24 items?

25 A Yes.

1 Q Did you see them on both sides of the car?

2 A Yes.

3 Q Who was the driver of the vehicle?

4 A The Defendant.

5 Q Would you please point that person out to the jury?

6 A Over there.

7 Q And what's she wearing?

8 A Black and white top, very nice hair.

9 Q Now, what did you do based on observing those items?

10 A I alerted Officer Kunde, told him I was going to try to
11 get consent from the passenger who owned the car.

12 Basically, he told me --

13 Q Without discussing what happened with the passenger in
14 the car, were you able to develop sufficient probable cause
15 to search the car?

16 A Yes.

17 Q And did you do so?

18 A Yes.

19 Q Did you remove the occupants?

20 A Yes. I removed the passenger.

21 Q How did that process go?

22 A I took the front seat passenger out, asked him if I
23 could search his person. He stated yes. I searched his
24 person --

25 MS. INZERILLO: Objection to the hearsay, Your Honor.

1 MR. PORTER: Your Honor, it's not offered for the truth
2 of the matter. I'll instruct --

3 THE COURT: Thank you.

4 MR. PORTER: Yes, sir.

5 BY MR. PORTER:

6 Q Staying away from any conversations with the other two
7 occupants in the vehicle, did you remove the other two
8 occupants from the vehicle?

9 A I didn't.

10 Q Did you or Officer Kunde remove the occupants --

11 A Officer Kunde did.

12 Q And while you were on the traffic stop, you mentioned
13 you were the backup officer. Are you responsible for
14 watching the other people on the stop?

15 A Yes.

16 Q Would you please describe how those duties between you
17 and Officer Kunde work for the jury?

18 A When we get everybody out of the car, I, basically,
19 keep an eye on the three occupants while Officer Kunde is
20 searching the car.

21 Q At some point, Officer Kunde is checking driver's
22 licenses, correct?

23 A Yes.

24 Q Now, while that is going on, what is your
25 responsibility?

1 A Just make sure nobody is doing anything illegal. I'm
2 watching their hands, making sure they keep them out of
3 their pockets because I'm not sure if they have a weapon on
4 them or anything like that. Just making sure, officer
5 safety issues.

6 Q Did you observe any sort of suspicious behavior?

7 A Not while they were out of the car, no.

8 Q What about while they were in the car?

9 A Not while they were in the car either.

10 Q Now, were all of your behavior that day recorded by a
11 body camera?

12 A Yes.

13 Q I'm handing you a disk, Officer Logan. Can you tell
14 the jury if you recognize that item?

15 A Yes.

16 Q How do you recognize it?

17 A It's my body camera footage from that day and it has my
18 initials on it.

19 Q Have you reviewed it prior to trial?

20 A Yes.

21 Q Is it a true and accurate depiction of the events as
22 they occurred that day?

23 A Yes.

24 MR. PORTER: Your Honor, at this point, I ask to admit
25 this into evidence as State's 5.

1 MS. INZERILLO: Your Honor, our only objection would be
2 to the extent of prior motions.

3 THE COURT: I will allow it to be admitted as 5.

4 MR. PORTER: Thank you, Your Honor. Permission to
5 publish?

6 THE COURT: Yes.

7 (WHEREUPON, State's Exhibit No. 5 was admitted into
8 evidence.)

9 (WHEREUPON, State's Exhibit No. 5 was published for the
10 jury.)

11 MR. PORTER: Your Honor, may I have the witness step
12 down from the stand?

13 THE COURT: Yes, sir.

14 You will be stepping away from a microphone, so when
15 you speak, speak up louder so that both the court reporter
16 and all 13 members of the jury can hear you.

17 THE WITNESS: Yes, sir.

18 BY MR. PORTER:

19 Q Officer Logan, you can clearly see the screen here, can
20 you not?

21 A Yes.

22 Q What's that?

23 A Looks like a purse.

24 Q Thank you. You can retake the stand.

25 A (Witness complies.)

1 (WHEREUPON, State's Exhibit No. 5 is continued.)

2 MR. PORTER: Thank you, Officer Logan.

3 Your Honor, I have no further questions.

4 CROSS-EXAMINATION

5 BY MS. INZERILLO:

6 Q Good morning, Officer Logan.

7 A Good morning.

8 Q So your role in this case was, basically, the backup
9 officer?

10 A Yes.

11 Q And you indicated that at that time was a pretty
12 standard role with you because you were backup to Officer
13 Kunde?

14 A Yes.

15 Q So in this case, you came on scene after the car was
16 already stopped?

17 A Yes.

18 Q And I think we saw on the video, you only pulled the
19 front seat passenger out of the car?

20 A Yes.

21 Q And he's the owner of the car?

22 A Yes.

23 Q You didn't search Candace?

24 A No.

25 MS. INZERILLO: Your Honor, I have no further

1 questions.

2 THE COURT: Any redirect?

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

4 THE COURT: You may step down, sir. Please watch your
5 step.

6 MR. PORTER: Your Honor, at this point, the State
7 rests.

8 THE COURT: Ladies and gentlemen, this is one of those
9 times where I have to excuse you from the courtroom.
10 There's some matters that I now have to address with the
11 lawyers outside of your presence. I will remind you, do not
12 have any discussions among yourselves about anything
13 involved in the case. We'll get you back just shortly. If
14 you will, just retire with the bailiff.

15 (WHEREUPON, the jury exits the courtroom.)

16 MS. HOLT: Your Honor, at this time, the Defense would
17 like to renew all motions and objections for the record. We
18 also have a motion for a directed verdict at the appropriate
19 time.

20 THE COURT: All right. Before she does the directed
21 verdict, do you wish to respond to her renewing of motions?

22 MR. PORTER: Your Honor, I have no objection to her
23 renewing motions.

24 THE COURT: I'll hear the directed verdict.

25 MS. HOLT: Your Honor, we believe that there is enough

1 here for a directed verdict. Under the case that I have
2 here -- may I approach?

3 If you turn to Page 4, it states out in paragraph 2,
4 under proper circumstances, the statutory section quoted
5 above furnishes a classic example of when the burden of
6 proof would shift to the Defendant. If the Defendant had
7 alleged that he was legally entitled to the drug under a
8 valid medical prescription, he would have the burden of
9 proving the existence of the prescription. Here, we are not
10 alleging that there was any prescription, so we do not
11 believe that the burden shifts.

12 If you look at the indictment, the language in the
13 indictment says the defendant, Candace Marie Sinicrope, did
14 on or about July 3rd, 2018, in York County, South Carolina
15 knowingly and intentionally possess Etizolam, a schedule 4
16 controlled substance without obtaining it directly from or
17 pursuant to a valid prescription.

18 I would attest that we are not alleging that there was
19 a valid prescription. We are not putting on a case where we
20 are alleging that. This language specifically calls that in
21 that instance, the burden would shift. Not alleging that
22 means the burden hasn't shifted and they have not provided
23 any evidence whatsoever in their case in chief that there
24 was not a valid prescription.

25 We would also ask that you look at where it is an

1 affirmative defense. So, for instance, if you look at
2 alleging mentally ill or insane defendant, that is Chapter
3 24, Section 17-24-10, that is called out, first language
4 under that is affirmative defense. And I can pass this up
5 to you. The very first two words state that it is an
6 affirmative defense if you're alleging insanity. If the
7 legislature intended for us to have to prove that she did
8 not have a prescription and then shifting the burden, they
9 would have called it out as an affirmative defense, and they
10 did not.

11 So we would ask that since the State has not shown that
12 there is any evidence that there is a lack of prescription
13 and failed to meet what it states on the indictment, with
14 zero testimony related to a prescription at any point, any
15 question of prescription, any information where they asked
16 her if she had a prescription or if he found a prescription,
17 with the absence of that information, they have failed to
18 prove their case.

19 MR. PORTER: Your Honor, the State has shown by the
20 statements of the officers that there was not a prescription
21 found in her purse. The pill was not in a prescription
22 bottle, which is sufficient enough for the jury to find that
23 she did not have a prescription for the pill.

24 There's evidence in the record that -- Cynthia Mitchum
25 testified that this was not a Xanax pill. It appeared as

1 though it were a Xanax pill, but it's actually an Etizolam
2 pill. So you could not have had a prescription for this
3 anyway because it's a constructed pill. This isn't a
4 pharmaceutical, Your Honor. The point here is, this pill is
5 not a Xanax pill. It is not an Etizolam pill. It is
6 Etizolam powder pressed to look like a Xanax pill and that
7 evidence is in the record. And as a result, the jury can
8 find that she didn't have a valid prescription because she
9 can't be prescribed that. It is Etizolam. It is a
10 controlled substance. And the State has carried the burden
11 with respect to possession and knowledge.

12 And Your Honor, I would also point you to, and I
13 believe the Court can take judicial notice of this, Etizolam
14 is not federally controlled and is not regulated by the FDA.
15 So I think the Court can take judicial notice that
16 prescribing physicians most likely would not even prescribe
17 Etizolam since the federal government hasn't even ruled on
18 Etizolam.

19 In the light most favorable to the State, Your Honor,
20 with that evidence in the record, the State has carried its
21 burden and this case should go to the jury.

22 MS. HOLT: They have attested that it is a schedule 4
23 drug. It is controlled by the State. She could have
24 obtained a prescription if she had gone to the doctor and
25 gotten one. It's not impossible to obtain a prescription

1 for Etizolam because it is a controlled drug and it is a
2 prescribable drug. It's not a Xanax, we're not disputing
3 that. The statute specifically calls out for this case, the
4 statute she's charged with says: It shall be unlawful for
5 any person knowingly or intentionally to possess a
6 controlled substance unless the substance was obtained
7 directly from or pursuant to a valid prescription.

8 Again, we are not alleging that she did or did not
9 because we are not putting on a case, so that burden should
10 not shift to us to show that she does not have one and they
11 did not elicit any testimony that says there was no
12 prescription. They did not elicit any testimony saying --
13 they didn't even elicit any testimony saying that it wasn't
14 federally controlled. There was a statement that there was
15 unsurety of whether or not it was federally regulated, but
16 that never came out in the State's case in chief. It didn't
17 come out directly in cross. It came out that she did not
18 know whether it was federally regulated.

19 So the jury has not heard that it is or isn't federally
20 regulated. The jury did not hear whether or not there was
21 any inquiry or any question about a prescription. And it
22 wasn't that the prescription bottle didn't exist, there was
23 no reference to that in the testimony. The testimony was
24 that the pill was found in the purse. There was no specific
25 reference as to whether or not there was a prescription

1 bottle in the purse or if a prescription had existed. The
2 word prescription never came up in their case in chief.

3 THE COURT: I'm going to deny the motion. If it is, in
4 fact, an affirmative defense analogous to the mental health
5 and insanity defense, I think that we would have heard that
6 she had a prescription before now. There have been numerous
7 conferences as well as throughout this trial. She's not
8 taking the position that she had a valid prescription. In
9 fact, she did not have a valid prescription I think I've
10 been told. So with her right to remain silent under the
11 Fifth Amendment and the State being prevented from being
12 able to ask her that specific question, I believe that the
13 circumstances surrounding the location of the pill and
14 proper inference can be had that it was not properly in her
15 possession.

16 MS. HOLT: Thank you, Your Honor.

17 MR. PORTER: Nothing further from the State, Your
18 Honor.

19 MS. HOLT: Nothing further from the Defense.

20 THE COURT: Do you need to speak with her about her
21 right to testify?

22 MS. HOLT: Your Honor, we have reviewed those rights
23 with her, but we would ask the Court to do the same on the
24 record.

25 THE COURT: Ma'am, if you would please stand and let

1 the clerk of court swear you in.

2 CANDACE SINICROPE, after being
3 duly sworn, testified as follows:

4 THE COURT: Ms. Sinicrope, at this time, I'm going to
5 explain to you certain of your rights. If you do not
6 understand anything that I say, please let me know. If you
7 want to explain anything in more detail, please let me know
8 that as well. Do you understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Ma'am, we have now reached the stage of the
11 trial where you may present your defense. You have the
12 right to claim the protections given to you by the Fifth
13 Amendment to the Constitution of the United States. Now,
14 this amendment provides, in part, that no person shall be
15 compelled in any criminal case to be a witness against
16 himself. Now, this means that you cannot be required to
17 testify in this case. You have the right to testify on your
18 own behalf. However, no one can make you testify. This is
19 a personal right and no one can waive this right except you.

20 If you decide to testify, you will be subject to the
21 same rules that govern other witnesses and you may be
22 examined and cross-examined on any relevant issue in this
23 case. In addition, if you have any convictions involving
24 dishonesty or false statement or for crimes punishable by
25 imprisonment for more than one year and this Court

1 determines that the probative value of admitting this
2 evidence outweighs its prejudicial effect to you, the
3 solicitor will be able to introduce your record to attack
4 your credibility.

5 Now, if you decide to testify, this decision on your
6 part must be freely, voluntarily and intentionally made with
7 knowledge of the protections given to you by the Fifth
8 Amendment and the consequences of your decision.

9 If you decide not to testify, I will instruct the
10 jurors that they cannot give the fact that you did not
11 testify any consideration whatsoever and that there is to be
12 absolutely no prejudice to you because you did not testify.
13 It is entirely up to you whether or not you testify. You
14 may talk with your attorneys, with your family, with your
15 friends or anyone else, but the final decision will be left
16 entirely to you.

17 Now, ma'am, do you understand what I have just
18 explained to you?

19 THE DEFENDANT: Yes, sir, I do.

20 THE COURT: Do you have any questions about anything
21 that I have just explained to you?

22 THE DEFENDANT: No, I do not.

23 THE COURT: Have you discussed with your lawyers
24 whether you should or should not testify?

25 THE DEFENDANT: Yes, I have.

1 THE COURT: And do you wish to speak any further with
2 your lawyers about the decision whether you testify or not?

3 THE DEFENDANT: No, Judge. I've decided I do not want
4 to testify.

5 THE COURT: All right. Ma'am, has anybody, perhaps,
6 come to you and threatened you in any way or have they
7 promised you anything in order to get you to make this
8 decision?

9 THE DEFENDANT: No, Judge.

10 THE COURT: Am I correct to conclude that your decision
11 to not testify, that it is a free and voluntary decision on
12 your part?

13 THE DEFENDANT: It is, yes, sir.

14 THE COURT: Are you satisfied with the work that your
15 lawyers have done?

16 THE DEFENDANT: Yes, I am. Thank you.

17 THE COURT: Thank you, ma'am.

18 Does the Defense intend to present any other witnesses?

19 MS. HOLT: We do not. We could rest on the record when
20 the jury comes back in.

21 THE COURT: Do y'all need a short break before we do
22 closing arguments?

23 MR. PORTER: We would appreciate a brief break?

24 MS. HOLT: Your Honor, we would ask for a brief recess.

25 THE COURT: Okay. We'll step down for a few minutes.

1 (WHEREUPON, a short break was taken.)

2 THE COURT: Let's bring them back in.

3 (WHEREUPON, the jury enters the courtroom.)

4 THE COURT: Lawyers approach.

5 (WHEREUPON, a bench conference was held.)

6 MS. HOLT: May it please the Court. The Defense rest.

7 THE COURT: Ladies and gentlemen, the parties have
8 presented their evidence to you in this case. It is now
9 time for the attorneys to make what is known as their
10 closing arguments to you. The arguments of the attorneys
11 are not evidence in the case. Their statements and
12 arguments are meant to help you understand the evidence and
13 apply the law to the evidence. You should disregard any
14 remark, statement or argument which is not supported by the
15 evidence that has been presented during this trial or the
16 law that I will explain to you after their argument.

17 At this time, we will receive closing arguments.

18 MR. PORTER: Thank you, Your Honor. May it please the
19 Court.

20 CLOSING ARGUMENT BY THE STATE

21 MR. PORTER: Now, you've heard all the evidence in this
22 case. It's a very serious case, serious both to the State
23 and to the Defense. So I'm going to go through with you
24 over the next couple of minutes the charge, some of the law
25 and the facts as they apply to the law.

1 Ladies and gentlemen, the Defendant was charged with
2 possession of Etizolam. And as I went over in my opening
3 statement and the Judge will charge you in a few minutes,
4 that requires the State to prove that the Defendant
5 knowingly and intentionally possessed a controlled
6 substance, which was later found to be Etizolam, without a
7 valid prescription. We've got basically three things,
8 right?

9 Let's knock out the easy things first. You heard from
10 Cynthia Mitchum. You heard she's tested thousands and
11 thousands of drugs. She's imminently qualified. She's been
12 qualified as an expert over 250 times. You heard how she
13 took the substance in this case and did a spot test on it.
14 When she did that spot test, she got no result. So then she
15 went a step further, and she investigated by dissolving a
16 portion of the substance into a solution and testing it with
17 her instrument. And what came out in a peer review process,
18 another chemist qualified as well reviewed her report and
19 they both came to the conclusion that this substance is
20 Etizolam. And you heard that is a schedule 4 controlled
21 substance here in South Carolina. So right off the bat, we
22 can knock off controlled substance. We can knock off
23 Etizolam.

24 You heard also Officer Kunde testify and Paul Willey of
25 Rock Hill Police Department about how we know that pill got

1 from the Defendant's purse to the courtroom here today.
2 Officer Kunde found it in her purse. He secured it. He put
3 it in a bag, a tamper-proof bag. He secured it in evidence
4 and never saw it again until coming to trial here today. No
5 one else had access to it except the evidence techs and the
6 people it was checked out to, the drug chemists, who also
7 have their own internal policies about how to make sure the
8 substance is what it says it is.

9 State's 4 and State's 3 I'm showing you. Still doesn't
10 look like much, but it's important. This was in the
11 Defendant's purse and this is how we know what it is. These
12 items will be back with you in the jury room. You can look
13 at them. You can judge it is what it is.

14 Now, possession is going to come up. We'll talk about
15 that, but we have the Etizolam locked in. I think we're
16 safe on that one. So how do we know that the Defendant
17 possessed this drug. You heard Officer Kunde observe her
18 pass past the stop bar, stopped the car. Officer Logan
19 approached, located what he believed to be drug contraband
20 inside the vehicle. Based on that, they initiated a
21 probable cause search of the car.

22 And I pointed out to you, ladies and gentlemen, Officer
23 Logan testified, also, if you watch -- I tell you what,
24 let's just watch it again. Ladies and gentlemen, these will
25 be back in evidence with you in the jury room. There will

1 be a jury laptop. The Judge may elect for you to watch them
2 in here. He may elect -- and that would be his decision as
3 to whether you can view them in the jury room or in here,
4 but you can review the evidence again. The dash cams and
5 body cams in this case are significant. So any time you
6 need to watch these things again, please do. Make sure the
7 evidence lines up with what the officers testified to.

8 (WHEREUPON, State's Exhibit No. 5 was played for the
9 jury.)

10 MR. PORTER: Ladies and gentlemen, you recall this was
11 Officer Logan's body camera. Right there, the Defendant's
12 purse in front of the car, outside of the reach of the back
13 passenger. Within reach of the side passenger, but up at
14 the front. Now, watch the Defendant's behavior here.

15 (WHEREUPON, State's Exhibit No. 5 was continued.)

16 MR. PORTER: Thank you.

17 Where does that purse go? The officer is standing
18 right there and the Defendant has now moved it away from the
19 eyesight of the officer. The Defendant knew what was in her
20 purse. She knew that pill was in there, and she moved it
21 back so the officer couldn't see it. Why did she do that?
22 Because she knew the pill was in her purse. It's evasive
23 behavior. She's being questioned, discussing a traffic stop
24 with a law enforcement officer and her purse now needs to be
25 in the back seat? Use your common sense, ladies and

1 gentlemen. You are the judges of the facts. What makes
2 sense? That chain of facts right there goes to knowledge,
3 to dominion, control. You heard the officers testify. She
4 claimed that purse. She was the driver of that car. She
5 was responsible for what was in that car. And she knew that
6 pill was in the purse.

7 Now, the reason I keep going back to the body cameras
8 and dash cameras is these officers were outnumbered. It's
9 three on two. The officers had to make sure for the
10 Defendant's safety, the occupants' safety, the people
11 traveling in the car, as well as their own safety that
12 there's not any kind of suspicious movements, that there's
13 not any kind of hiding anything. While they're doing their
14 job, they're also keeping an eye on other people.

15 Officer Logan testified specifically as the backup
16 officer, that was his job. Officer Kunde and Officer Logan
17 testified about how that job passes off. That is crucial.
18 I'll address what I believe the Defense's argument will be,
19 but it is crucial if you think about it, the officers didn't
20 observe at any point anybody looking around trying to make
21 any movements because the pill was in her purse. The other
22 two people did not have anything.

23 We do have to prove that it was a controlled substance,
24 that the Defendant had knowledge it was a controlled
25 substance. You can infer, and the Judge will instruct you

1 on this, based on the circumstances if something is found in
2 property that's under the Defendant's control, you can infer
3 that she's in possession of that. You can infer that if she
4 is in possession -- because it's in her purse, you can infer
5 -- because think about your wallets. My credit card is in
6 my wallet. My driver's license is in my wallet. My money
7 is in my wallet. My wallet is in my custody and control.
8 If I suddenly started to say that's not my money, that's not
9 my credit card, it's got my name on it, but the point is you
10 can presume I claim the wallet, but all of a sudden, no,
11 that's not mine. Those circumstances are important.

12 I also want to get back to there's an additional thing,
13 she didn't have a prescription. That's a question in the
14 law, does the Defendant have a prescription? The State has
15 presented evidence that she did not have a prescription.
16 And that evidence is this, when Cynthia Mitchum testified,
17 she testified this is Etizolam, but there was markings on it
18 that made it look like a Xanax bar, and that they press
19 Etizolam into Xanax bars to sell them. Nobody knows what
20 Etizolam is, but people know what Xanax is. Officer Kunde
21 testified he saw markings that he believed it to be a Xanax
22 bar. The Defendant could not have been prescribed a pressed
23 Etizolam pill that looks like a Xanax pill. What
24 pharmaceutical company would make that? They're getting
25 sued all over the place. They're going to start making

1 pills that say one thing and they are another? It doesn't
2 make any sense. So we can knock that one out.

3 I've been discussing possession, how we know that the
4 pill was hers. I discussed her behavior. I discussed that
5 the officers did not observe anybody making any other
6 movements other than her, who did. We just saw that.

7 So I want to move on to what I believe -- believe I'm
8 not going to get another opportunity to speak to you, but I
9 want to move on to what I believe the Defense's arguments
10 are going to be. You heard the cross-examination about 51
11 seconds. Officer Logan steps back to the back of the
12 vehicle, goes and talks to Officer Kunde. They have a
13 discussion. They're not watching the vehicle. So the
14 Defense wants you to believe that at some point six months
15 ago, three months ago, 10 days ago, the day of, this pill is
16 placed into her purse. Maybe somebody in the car put it in
17 her purse. That's what the Defense wants you to believe.
18 Not that they put the clothing in her purse, that they put
19 the makeup in her purse, that they put the debit card in her
20 purse, but that this pill is the one thing that somebody has
21 magically placed in her purse. That's what they want you to
22 believe.

23 In order for that to be true, you've got to believe a
24 certain number of things. You have to believe that these
25 three individuals, one of them has the presence of mind to

1 not tip the officers off that they're doing something
2 suspicious, looking around trying to identify when the cops
3 are looking at them, when they're not. Then they've got to
4 seize their opportunity. They know they've got this
5 Etizolam pill that's burning a hole in their pocket and
6 they've got to get it out. And watch their demeanor on body
7 cam, nobody is nervous on that side. So they've got to
8 strike when the iron is hot. They've identified that the
9 officer is not looking at them and now they're going to
10 place it in Candace's purse. They're going to place in the
11 Defendant's purse.

12 Ladies and gentlemen, this all happened while the
13 officers are trying to make sure that they're safe, the
14 occupants are safe, that nobody runs. You either believe
15 that or you believe what makes sense in this case. That
16 pill was in her purse for the entire stop. It was her
17 purse. It's her pill.

18 Ladies and gentlemen, we ask you to find the Defendant
19 guilty of possession of Etizolam. Thank you.

20 MS. HOLT: Your Honor, may we approach before I begin?

21 (WHEREUPON, a bench conference was held.)

22 CLOSING ARGUMENT BY THE DEFENSE

23 MS. HOLT: May it please the Court.

24 Counsel.

25 Fifty-one seconds. The solicitor did tell you 51

1 seconds went by. What you didn't hear was there was a back
2 seat passenger and for 51 seconds, at what point Officer
3 Kunde was searching Candace Sinicrope, 51 seconds went by.

4 Now, I was thinking about this last night and I thought
5 to myself, how do you end up in a situation like this? And
6 I thought, you know, I've taken Brillo pads home from the
7 grocery store, but I've never been in a situation, I
8 wouldn't think, where I've had torn up baggies in my car.
9 But then I thought about it. And a couple of weeks ago, I
10 went hiking. I took for myself and my family sandwiches in
11 the car. I have three great big dogs. Very rambuncous big
12 dogs. And they were in the back seat.

13 And on the way back, because I did pick up all my trash
14 before I left the lake and put it back in the cooler, did
15 not click the cooler, that was a mistake. I had sandwich
16 baggies in the cooler. In those sandwich baggies, there was
17 mayonnaise and left over tomato. They then got into the
18 sandwich baggies and one of them, I'm guessing my lab, had
19 it torn up and strewn all over the car. I was not pulled
20 over. But I started thinking about it and I thought had I
21 been pulled over, would I have been in any kind of
22 situation? And I thought well, no, because I don't have
23 anything in my purse. I know everything that's in my purse.

24 So I dumped it last night. I dumped my purse and I
25 thought what do I not know that's in here? As I dumped it,

1 I kid you not, I saw a white pill and I started to panic.
2 Because I thought there's no way that I have a white pill
3 just randomly in my purse. I had two pill bottles, an
4 Excedrin Migraine bottle and I had a Zyrtec bottle. It was
5 a knock off. I buy them at Sam's in bulk. And at some
6 point, when my allergies kicked in, in the April/May time, I
7 must have opened that bottle and somehow one of the pills
8 fell out. I looked because seeing a white pill, I panicked
9 and I was like what is this white pill, this random white
10 pill with letters on it in my purse. I matched them up to
11 -- I knew Excedrin was green and white, so it wasn't
12 Excedrin. So I matched them up to the Zyrtec.

13 But I thought to myself, had I been pulled over that
14 day with the torn up baggies, no drug residue -- as you
15 heard in this case, there was no drug residue in the
16 baggies. No residue whatsoever, except maybe my dogs'
17 saliva on the baggies. Had I been pulled over and my purse
18 searched, would I have been able to explain that pill? I
19 can tell you unequivocally I would have said that's my
20 purse. I would have also said I don't have any drugs.

21 Now, if the drug had been tested, it would have come
22 back as an allergy pill. But would I have been arrested in
23 the interim? Would I have sat in a jail cell in the
24 interim? Would my freedom have been at liberty? That's
25 what is happening in this case.

1 We know at this point when the back seat passenger is
2 out of the vehicle, the purse is here. We can see it. It
3 comes straight from the video. You can even see the video
4 marks that I have on there. And we know when they're
5 originally stopped, the purse is here, where two people have
6 access to it. And now here. At the point that the search
7 is about to begin, the bottom of the purse you can see is up
8 against this bottle, which I assume is Pepsi or some kind of
9 soft drink and is facing the back seat. What purpose would
10 my client have had to move the purse farther away from her?
11 But would there have been a purpose for someone else to get
12 better access to that purse? We don't know.

13 What do we know? We know that there was no burnt
14 Brillo, no marks, no smell, just a Brillo pad. Again, I
15 have them in my house. No residue in the baggies. Again,
16 I've been in a situation where there's been torn up baggies
17 in the car. Where is the Brillo and the baggies? You heard
18 the officer say, Officer Kunde, when I asked, he said they
19 did not preserve it into evidence. You don't have the
20 evidence so that you can inspect it, so that you can
21 actually determine whether or not they actually had a
22 probable cause. There's no inquiry to a prescription. They
23 want you to make an inference, but there's no questions
24 asked by the officers at any point does she have a
25 prescription. He believes it's Xanax, he doesn't know. You

1 heard Cynthia testify that she couldn't read it. She didn't
2 say that she thought it was Xanax or didn't think it was a
3 Xanax. She said that she couldn't really read the lettering
4 on the pill and that's why she tested it.

5 More importantly, knowledge. I'm going to read to you
6 straight from the indictment what it says. Knowingly or
7 intentionally possess Etizolam, a schedule 4 controlled
8 substance without obtaining it directly from or pursuant to
9 a valid prescription. Knowledge. At no point, have they
10 proven to you beyond a reasonable doubt that she had
11 knowledge of this pill. She claimed it was her purse, just
12 like I would have. It was her purse. I think that's a
13 reasonable inference. She's the only female in the car with
14 three people and has a pink purse. I don't know too many
15 guys that carry a pink purse.

16 But the State failed to prove to you knowledge of the
17 pill. She says she doesn't know what the pill is. You
18 heard Officer Kunde say he asked if it was her purse, she
19 said it was her purse. She said she didn't know what was in
20 it. She said, What did you find? There's no drugs in my
21 purse. Same thing I would have said. So we had that on the
22 video. We had that in testimony.

23 Etizolam. I'm going to be honest with you, I had never
24 heard of Etizolam until I had this case. I know a whole lot
25 about it now. I know that as Cynthia told us, it is smaller

1 than a tic-tac, at least, what was tested in this case was
2 smaller than a tic-tac. She told you she did not know if it
3 was federally regulated, and that it's a sister drug to
4 Xanax. Now, when I asked Officer Kunde had he ever heard of
5 smoking a pill, he said, I don't know what people do with
6 drugs. If he wants you to believe that somebody would smoke
7 an anxiety pill, what else would he say that he wants you to
8 believe? It's so outrageous, I really didn't even know how
9 to address it, to smoke an anxiety pill. Because they made
10 such a big deal about Brillo and torn up baggies. Not burnt
11 Brillo, just Brillo, again, which I have, that they wanted
12 you to believe that she would potentially smoke a pill.

13 There is so much reasonable doubt in this case, I just
14 don't how you could come to any other conclusion that
15 Candace Sinicrope is not guilty of possessing a controlled
16 substance.

17 CHARGE ON THE LAW

18 THE COURT: Ladies and gentlemen, the indictment
19 charges the Defendant with possession of a controlled
20 substance. I remind you the fact that the Defendant was
21 arrested, charged and indicted in this case is not evidence
22 in this case and cannot be considered by you as evidence of
23 guilt in this case, nor does it create any presumption or
24 inference of guilt. The indictment is simply the formal
25 written instrument which contains the charges made against

1 the Defendant. It is the formal document by which this case
2 is brought into court.

3 The Defendant has pled not guilty to the indictment,
4 and that plea puts the burden on the State to prove the
5 Defendant guilty. A person charged with committing a
6 criminal offense in South Carolina is never required to
7 prove himself innocent. I charge you that it is an
8 important rule of law that the Defendant in a criminal trial
9 no matter what the seriousness of the charge may be will
10 always be presumed to be innocent of the charge for which
11 the indictment was issued unless guilt has been proven by
12 evidence satisfying you of that guilt beyond a reasonable
13 doubt.

14 This presumption of innocence does not end when you
15 begin your deliberations, but it accompanies the Defendant
16 throughout the trial until you reach a verdict of guilt
17 based on evidence satisfying you of that guilt beyond a
18 reasonable doubt.

19 The presumption of innocence is like a robe of
20 righteousness placed about the shoulders of the Defendant,
21 which remain with the Defendant until it has been stripped
22 from the Defendant by evidence satisfying you of the
23 Defendant's guilt beyond a reasonable doubt. The
24 presumption of innocence is not mere legal theory. It is
25 not just a legal phrase. It is a substantial right to which

1 every defendant is entitled unless you, the jury, are
2 satisfied from the evidence of the Defendant's guilt beyond
3 a reasonable doubt.

4 What is a reasonable doubt in the law? A reasonable
5 doubt is the kind of doubt that would cause a reasonable
6 person to hesitate to act. The State has the burden of
7 proving the Defendant guilty beyond a reasonable doubt.
8 Some of you may have served as jurors in a civil case where
9 you were told it is only necessary to prove a fact more
10 likely true than not true, such as by the greater weight or
11 the preponderance of the evidence. In a criminal case, the
12 State's proof must be more powerful than that. It must be
13 beyond a reasonable doubt.

14 Proof beyond a reasonable doubt is proof that leaves
15 you firmly convinced of the Defendant's guilt. There are
16 very few things in this world that we know with absolute
17 certainty, and in criminal cases, the law does not require
18 proof that overcomes every possible doubt. If, based on
19 your consideration of the evidence, you are firmly convinced
20 that the Defendant is guilty of the crime charged, you must
21 find the Defendant guilty. If, on the other hand, you think
22 there is a real possibility that the Defendant is not
23 guilty, you must give the Defendant the benefit of the doubt
24 and find her not guilty.

25 I remind you that during this trial, you and I have had

1 certain duties to perform. As the trial judge, it has been
2 my responsibility to preside over the trial of this case.
3 I've also had the duty to rule on the admissibility of
4 evidence offered during this trial. You are to consider
5 only the competent evidence before you. You are to consider
6 only the testimony which has been presented from the witness
7 stand and any exhibits which have been made part of the
8 record of this case.

9 I have the additional duty to charge you the law
10 applicable to this case. And as the presiding judge, I am
11 the sole judge of the law of this case, and it is your duty
12 as jurors to accept the law and apply the law as I now state
13 it to you. If you already have any ideas as to what the law
14 is or what the law ought to be that does not agree to what I
15 now tell you the law is, you must abandon this idea because
16 you were sworn to accept the law and apply the law exactly
17 as I state it to you.

18 In every case tried in this court before a jury, the
19 jury becomes the sole and exclusive judge of the facts in a
20 case. The trial cannot intimate, state, comment on, or make
21 any statement to a trial jury about the facts in a case.
22 Since you, the jury, are the sole judge of the facts in this
23 case, you are not to infer from what I have said during the
24 progress of this trial in ruling on the admissibility of
25 evidence or otherwise or anything that I say during the

1 course of this instruction to you that I have an opinion
2 about the facts in this case. The law does not allow me to
3 have an opinion about the facts in this case. This is a
4 matter solely for you, the jury, to determine. As jurors,
5 it is your duty to determine the effect, the value, the
6 weight and the truth of the evidence presented during this
7 trial.

8 There are two types of evidence generally that are
9 presented during a trial: Direct evidence and
10 circumstantial evidence. Direct evidence is testimony of a
11 person who claims to have actual knowledge of a fact, such
12 as an eyewitness. Circumstantial evidence is proof of a
13 chain of facts and circumstances indicating the existence of
14 a fact. The law makes absolutely no distinction between the
15 weight or value given to either direct or circumstantial
16 evidence. Nor is a greater degree of certainty required of
17 circumstantial evidence than of direct evidence.

18 After weighing all the evidence, if you are not
19 convinced of the guilt of the Defendant beyond a reasonable
20 doubt, you must find the Defendant not guilty.

21 Necessarily, ladies and gentlemen, you must determine
22 the credibility of witnesses who have testified in this
23 case. Credibility simply means believability. It becomes
24 your duty as jurors to analyze and to evaluate the evidence
25 and determine which evidence convinces you of its truth. In

1 determining the believability of witnesses who have
2 testified in this case, you may believe one witness over
3 several witnesses or several witnesses over one. You may
4 believe a part of the testimony of a witness and reject the
5 remaining part of the testimony of that same witness. You
6 may believe the testimony of a witness in its entirety or
7 reject the testimony of the witness in its entirety. You
8 may consider whether any witness has exhibited to you any
9 interest, bias, prejudice or other motive in the case. You
10 may also consider the appearance and the manner of the
11 witness while on the witness stand.

12 Ladies and gentlemen, during the presentation of this
13 case, you have noticed that certain sections of the videos
14 that were presented in this case were redacted. This is due
15 to the rules of court and that was a decision made by me.
16 Please do not speculate as to what may or may not have been
17 contained in those portions and you are not to hold these
18 portions for or against any party.

19 The rules of evidence ordinarily do not permit
20 witnesses to testify to opinions or conclusions. Exceptions
21 to this rule exist where witnesses are called expert
22 witnesses. A witness who by education or experience has
23 become expert in some art, science, profession or calling
24 may state an opinion as to relevant and material matter in
25 which the witness claims to be an expert and may also state

1 the reason for that opinion.

2 You should consider any expert opinion received in
3 evidence in this case and, like any other evidence, give it
4 the weight you think it deserves. If you decide the opinion
5 of an expert is not based upon sufficient education and
6 experience, or if you conclude that the reasons given in
7 support of the opinion are not sound or that the opinion is
8 outweighed by other evidence, you may disregard the opinion
9 in its entirety. An expert witness's opinion is to be given
10 no greater weight than that of other witnesses simply
11 because the witness is an expert. Further, you are not
12 required to accept an expert's opinion even though it is not
13 contradicted.

14 Ladies and gentlemen, I instruct you and emphasize that
15 the fact that the Defendant did not testify is not a factor
16 to be considered by you in any way in your deliberations and
17 in your consideration on the question of the guilt or the
18 innocence of the Defendant. It must not be considered by
19 you in any manner whatsoever. A defendant has the
20 constitutional right to remain silent. And the assertion of
21 the right must not be construed by you in your
22 deliberations. I repeat, under your oath, you are to draw
23 no conclusion whatsoever from the fact the Defendant in this
24 case did not testify. The fact that this Defendant did not
25 testify should not even be discussed in the jury room. The

1 burden of proof as I have stated to you is on the State.
2 The Defendant is not required to prove her innocence. The
3 burden of proof remains on the State to prove guilt beyond a
4 reasonable doubt.

5 The Defendant is charged with possession of a
6 controlled substance. The State must prove beyond a
7 reasonable doubt that the Defendant knowingly or
8 intentionally possessed a controlled substance. Knowingly
9 means with knowledge, consciously, not accidentally.

10 Intentional means willfully, intending the result which
11 actually occurs, not accidentally or involuntarily. Intent
12 may be shown by acts and conduct of the Defendant and other
13 circumstances from which you may naturally and reasonably
14 infer intent.

15 To prove possession, the State must prove beyond a
16 reasonable doubt the Defendant had both the power and the
17 intent to control the disposition or use of the controlled
18 substance. Possession may be either actual or constructive.
19 Actual possession means that the controlled substance was in
20 the actual physical custody of the Defendant. Constructive
21 possession means that the Defendant had dominion and control
22 or the right to exercise dominion and control over either
23 the controlled substance itself or the property on which the
24 controlled substance was found. Mere presence at the scene
25 where the drug was found is not enough to prove possession.

1 The Defendant's knowledge and possession may be inferred
2 when a substance is found on the property under the
3 Defendant's control; however, this inference is simply an
4 evidentiary fact to be taken into consideration by you along
5 with the other evidence in the case and to be given the
6 weight that you decide it should have.

7 Two or more persons may have joint possession of a
8 drug. Possession of a controlled substance is a crime
9 unless the controlled substance was obtained directly from
10 or through a valid prescription or order of a practitioner
11 acting in the course of professional practice. A
12 practitioner is a physician, dentist, veterinarian,
13 podiatrist, scientific investigator, pharmacy, hospital or
14 other person or institution licensed, registered or
15 otherwise permitted to distribute, dispense, conduct
16 research with respect to or administer a controlled
17 substance in the course of professional practice of research
18 in this state.

19 Mr. Foreman, ladies and gentlemen, there are two
20 possible verdicts that you may find in this case, either
21 guilty or not guilty. And there is no significance
22 whatsoever in the order in which I state these possible
23 verdicts. It's simply that I have to state one before the
24 other.

25 Mr. Foreman, I have prepared a verdict form for your

1 use in the jury room to where once the jury makes their
2 decision, you will indicate what the decision it, you will
3 sign and you will date it. Mr. Foreman, the decision by the
4 jury has to be unanimous. All 12 must agree.

5 Your verdict must be based solely on the evidence that
6 is presented during this trial. Your verdict cannot be
7 arbitrary or capricious or based on passion or prejudice.

8 Mr. Foreman, you are to conduct the jury deliberations
9 only when all 12 members of the jury are present. In the
10 event somebody has to leave to go to the restroom or make a
11 telephone call, for whatever reason, the deliberations need
12 to stop and then resume only when all 12 are present.

13 Now, Mr. Foreman, one more very important thing. Once
14 the jury has reached their verdict and you've filled out the
15 form, you need to knock on the door and let us know you're
16 finished. One time I had a jury back there for hours and
17 hours and hours. We didn't know why, so I sent the jury
18 back there. The jury foreman said well, you didn't tell us
19 what to do once we made the decision. So please knock on
20 the door and let us know.

21 Now, Mr. Foreman, ladies and gentlemen, I'm going to
22 let you retire back to your jury deliberation room. Do not
23 begin your deliberations, though, until the bailiff brings
24 you the evidence and tells you to begin. But you may retire
25 back to the jury room.

1 (WHEREUPON, the jury exits the courtroom.)

2 THE COURT: Any exceptions from the State?

3 MR. PORTER: No, Your Honor.

4 THE COURT: Any from the Defense?

5 MS. HOLT: No objections.

6 THE COURT: Okay. Y'all just be sure the evidence is
7 all right and nothing else goes back there.

8 MR. PORTER: And Your Honor, I have a jury laptop. I
9 don't know how you want to proceed about leaving a laptop
10 with the jurors.

11 THE COURT: Does the Defense have a preference about
12 them having a laptop or making them watch it out here?

13 MS. HOLT: I'm okay with them having a laptop as long
14 as we get to inspect it.

15 MR. PORTER: That's fine.

16 THE COURT: What about the alternate?

17 MR. PORTER: Your Honor, it's in your discretion. I
18 think this should be a fairly short deliberation.

19 THE COURT: I would tend to think so.

20 In the event something happens, is the Defense
21 agreeable to go with less than 12 if we have an emergency
22 with one of the 12?

23 MS. HOLT: I would keep the alternate. If it is going
24 to be fairly quick as anticipated, then it doesn't hurt to
25 keep the alternate a little longer.

1 THE COURT: You may take that stuff and tell them to
2 begin.

3 (WHEREUPON, the jury begins deliberations at 11:48
4 a.m.)

5 (WHEREUPON, court was in recess awaiting a verdict.)

6 THE COURT: Mr. Foreman, I'm told the ladies and
7 gentlemen of the jury have reached a verdict; is that
8 correct?

9 THE FOREMAN: That's correct.

10 THE COURT: Please give the verdict form to the
11 bailiff.

12 Madam Clerk, please publish the verdict.

13 THE CLERK: Indictment 2018-GS-46-5560, the State vs.
14 Candace Marie Sinicrope. As to the charge of possession of
15 a controlled substance, we, the jury, unanimously find
16 Candace Marie Sinicrope. Signed by the foreperson, dated
17 today's date.

18 Ladies and gentlemen, if that be your verdict so say
19 you all by raising your right hand.

20 Let the record show all jurors affirm the verdict.

21 THE COURT: Anything from the State or Defense before
22 we release the jury?

23 MR. PORTER: No, sir, Your Honor.

24 MS. HOLT: Nothing, Your Honor.

25 THE COURT: Ladies and gentlemen, thank you for your

1 service as part of this jury. I've frequently been told
2 that the hardest thing that a citizen will do for their
3 country outside of active military service is service on a
4 jury like you've done in this case. I've been doing this
5 job now going on 17 years and I'm more of a believer in that
6 statement being true today than it ever has been.

7 Citizens across every county and all 50 states are
8 being asked to serve on jury duty like you have done the
9 last couple of days. And they're asked to do a very
10 difficult task, put 12 strangers into a room, have them
11 listen to evidence in an atmosphere that sometimes can be
12 imposing or not quite understanding what's going on in the
13 process through the system to come up with what we call the
14 truth.

15 I paid close attention to you. All of y'all have paid
16 close attention to the lawyers and to me and we appreciate
17 that very much. I believe that I can tell you that,
18 unfortunately, we will not have any more jury trials for you
19 this week so your service has now come to a conclusion and
20 you're protected for three years. You do not have to serve
21 on another jury in circuit court. As a small token of our
22 appreciation, we actually are having pizza delivered. We
23 don't have to stay if you don't want it, but it will be in
24 the jury room probably in about 15 minutes. The county has
25 picked up the tab. So you're more than welcome to stay

1 around for that; if not, you're more than welcome to go.

2 I've told you not to have any discussions with anyone,
3 now you can talk to anybody as much as you want. If by
4 chance anybody does approach you and you feel like that
5 they're talking to you has become -- you feel harassed by
6 that, simply reach out to the sheriff's office or clerk of
7 court and we will see that that type of communication with
8 you stop.

9 Again, thank you very much for your service. You may
10 go with the bailiff.

11 Mr. Foreman, we need to get you to sign one document.

12 (WHEREUPON, the jury was released.)

13 THE COURT: Thank you, Mr. Foreman.

14 THE FOREMAN: Thank you, sir.

15 MS. HOLT: Your Honor, at this time, the Defense would
16 like to renew all objections and motions and move for a new
17 trial.

18 MR. PORTER: Your Honor, the State believes the jury's
19 verdict was appropriate based upon the evidence. The State
20 presented evidence the pill was in the Defendant's purse and
21 this was a controlled substance, that there is no way she
22 could have had a prescription for this item and her behavior
23 on the scene indicated that she was in possession of a
24 controlled substance.

25 THE COURT: I will deny the motion, but you've made

1 them on the record.

2 Ready to proceed with sentencing?

3 MR. PORTER: The State is prepared, Your Honor.

4 Your Honor, if I may -- and I don't know how the Court
5 would like to proceed. I have a certified conviction from
6 2011 of the Defendant's prior drug record. It is a
7 conviction for possession of a schedule 4 controlled
8 substance. I believe it is Alprazolam. That conviction
9 occurred on July 12th of 2011, which is within the 10-year
10 period for enhancement, so this is a valid second offense.
11 I believe it is appropriate to make it a Court's Exhibit. I
12 believe this will be Court's 3.

13 (WHEREUPON, Court's Exhibit No. 3 was marked for
14 identification.)

15 MR. PORTER: Your Honor, Court's 3 contains the
16 sentencing sheet, the indictment, the warrant, and also a
17 successful completion of probation on the fourth page where
18 she completed probation. She received six months suspended
19 on six months probation sentence and she successfully
20 completed in 2011.

21 Your Honor, in 2012, she was convicted of shoplifting.
22 In 2013, she was convicted of shoplifting. She also had her
23 license suspended for ADSAP, which was the reason her
24 license was suspended on this stop. Your Honor, I also have
25 a certified conviction where she pled to the driving under

1 suspension I believe in April of this year.

2 The State believes that some jail time is appropriate
3 in this case based on this being her second offense and
4 based upon her prior record. Thank you, Your Honor.

5 THE COURT: Ms. Sinicrope, how old are you?

6 THE DEFENDANT: I will be 34 this month.

7 THE COURT: How far did you go in school?

8 THE DEFENDANT: I have a Bachelor's Degree in early
9 elementary education.

10 THE COURT: Married, single, divorced, widowed?

11 THE DEFENDANT: In the middle of separation to divorce,
12 yes, sir.

13 THE COURT: Do you have children?

14 THE DEFENDANT: Yes, sir, I do.

15 THE COURT: How many?

16 THE DEFENDANT: One.

17 THE COURT: How old?

18 THE DEFENDANT: She's seven.

19 THE COURT: And presently, do you have a job outside of
20 the home?

21 THE DEFENDANT: I'm currently about to start. I
22 actually moved to West Virginia --

23 THE COURT: If you would, answer my questions. I'll
24 give you an opportunity to give me anything in mitigation.
25 Do you have a job currently?

1 THE DEFENDANT: Not currently, sir.

2 THE COURT: When you work, what type of work do you do?

3 THE DEFENDANT: She's actually working with me to get
4 me into something more appropriate -- I've worked with
5 vocational rehabilitation and they said my education
6 surpasses --

7 THE COURT: Ever served in the military?

8 THE DEFENDANT: No, sir, I haven't.

9 THE COURT: And on this charge where you got arrested
10 originally, how long of a time were you in jail before you
11 made bond?

12 THE DEFENDANT: Two and a half weeks.

13 MR. PORTER: Your Honor, we will check that. I should
14 have her bond documents here.

15 THE COURT: All right.

16 MR. PORTER: July 13th, Your Honor, I have from my file
17 her bond was posted, so that would have been --

18 THE COURT: I just need some days, okay? Let's get
19 this going. All right. Ten days.

20 And then you've been in two days now?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Twelve days worth of credit?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Any other input from the State on
25 sentencing?

1 MR. PORTER: Your Honor, I would only note that the
2 possession of schedule 1 to 5 controlled substance was pled
3 down from a trafficking oxycodone.

4 THE COURT: Officer wish to have any comment?

5 THE OFFICER: No, Your Honor.

6 THE COURT: Yes, ma'am.

7 MS. HOLT: May it please the Court, Your Honor. I'll
8 keep it brief since you have sat through the trial. I would
9 ask that given that she has successfully completed probation
10 when she got a six-month sentence suspended on six months
11 probation and successfully completed that that she is a
12 candidate for probation.

13 She is currently trying to get a job in West Virginia.
14 She has family there that she can stay with until she gets
15 her feet on the ground. So we would ask that if you are so
16 inclined to give her probation that she have that
17 transferred to West Virginia so that she's actually in West
18 Virginia completing that probation since she does have the
19 opportunity to get a job there.

20 She has gone through a divorce, as she mentioned, and
21 because of that has struggled with maintaining custody and
22 having a more in-depth relationship with her child. She
23 sometimes is able to spend time with her child. The child
24 is with her mother, so the grandmother. I believe she's
25 actually with her now. So she lives with her right now full

1 time as she doesn't have a place to stay.

2 She does suffer from bipolar disorder, manic depression
3 and borderline personality disorder and has asked that Your
4 Honor just take that into consideration. She really
5 believes that some type of probation that would get her some
6 counseling and supervision in that sense to help her work
7 through her diagnosed issues with bipolar, manic depression
8 and borderline personality disorder would be in her best
9 interest and would potentially help her move forward and
10 past this and not be in a position to have this kind of
11 thing happen to her again.

12 THE COURT: Do you agree with the statements just made
13 by your lawyer?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Ma'am, previously, have you ever received
16 any type of substance abuse treatment?

17 THE DEFENDANT: I attempted it in Keystone, but I've
18 moved to Princeton, West Virginia, but I did find it
19 beneficial at Keystone.

20 THE COURT: Ma'am, is there anything else that you
21 would like to say or want me to know or consider?

22 THE DEFENDANT: Yes, sir. Ever since 2011, things have
23 been very, very difficult for me. The marriage was a
24 failure. You know, certain things -- my main focus is my
25 daughter right now. I've got back with her and I'm back in

1 Princeton and being in the house with my mom and dad and
2 back with her. This has just been another stress thing
3 that's been on my mind. I go weekly to -- I see a doctor
4 and I'm seeing somebody a little bit for counseling that
5 they've recommended this past week. It's more intensive
6 counseling. I told Amber about it and she told me I needed
7 -- that she didn't want to speak to you about that until --
8 she wanted to wait until the trial.

9 But other than that, they've wanted me to get my
10 medications correct is what they're telling me. They want
11 me to go in, maybe get the medications that -- what they
12 think I should be on, altered or changed. That's the only
13 concern they brought up with me. Other than that, my goal
14 is to work and be self-sufficient. It's been so difficult.
15 You know, I wouldn't wish it on anybody. It was just a lot
16 of that -- that college education that I had, but it was,
17 you know, change for me, you know, took on a different path.
18 It's been hell.

19 THE COURT: Thank you, ma'am.

20 I don't have to accept the plea on this case. I
21 mistakenly wrote on the Court's Exhibit the credit of 12
22 days. I've stricken that and put my initials beside it, so
23 that's the reason that's been altered.

24 On this sentencing sheet, it will be a 12-month
25 sentence at the State Department of Corrections. That will

1 be suspended upon the service of six months, followed by 18
2 months of supervision. She gets credit for 18 [sic] days.

3 I've indicated on the sentencing sheet you'll need to
4 stay clean of illegal substances. They will be doing random
5 drug testing on you. They'll do an evaluation to determine
6 what type of treatment plan and you will need to comply with
7 that treatment plan. I've also indicated that I wish for
8 the Department of Probation to do a mental health referral
9 and you need to be in full mental health compliance. So if
10 there's any type of medication that needs to be taken, you
11 have to take it. Violating any mental health orders would
12 be a violation of this Court's order as well.

13 Good luck to you, ma'am.
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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

I, PENNY M. JOHNSON, Official Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in Court of General Sessions for York County, South Carolina, on the 12th and 13th days of June, 2019.

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

September 12, 2019

Penny M. Johnson
Penny M. Johnson
Official Court Reporter

WITNESSES

RHPD

Witnessing Officer: *Quate*

ARREST WARRANT NUMBER

2018A4620301557

ACTION OF GRAND JURY

Sarah Nives
Foreperson of Grand Jury
Date: *3-7-19*

VERDICT

Guilty

[Signature]
Foreperson of Petit Jury
Date: *6/13/19*

DOCKET NO. 2018-GS-46-05560

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MARCH 7, TERM 2019

THE STATE

VS.

CANDACE MARIE SINICROPE

INDICTMENT FOR

POSSESSION OF A CONTROLLED
SUBSTANCE

SC Code: § 44-53-370
CDR Code: 0180

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

170

Defendant

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA
COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on March 7, 2019, the Grand Jurors of York County present upon their oath:

POSSESSION OF A CONTROLLED SUBSTANCE

The defendant, Candace Marie Sinicrope, did on or about July 3, 2018, in York County, South Carolina knowingly or intentionally possess Etizolam, a schedule IV controlled substance, without obtaining it directly from or pursuant to a valid prescription or order of a practitioner, all in violation of Section 44-53-370, *Code of Laws of South Carolina* (1976, as amended).

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



DANIEL K. PORTER
ASSISTANT SOLICITOR

RECEIVED

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Jul 10 2020

SC Court of Appeals

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

s/Taylor D. Gilliam
Taylor D Gilliam
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 10th day of July, 2020.