

IN THE SUPERIOR COURT OF HART COUNTY

STATE OF GEORGIA

STATE OF GEORGIA, :
VS. : CASE NO.: 19-HR-234M
NATHAN ROSS JOHNSON, : VOLUME 1
Defendant. :

TRIAL TRANSCRIPT

DATE: June 28-30, 2022
Hart County Courthouse
Hartwell, GA

BEFORE: HONORABLE JEFFERY S. MALCOM

APPEARANCES:

For the State:
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Northern Judicial Circuit
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For the Defendant:
Pro Se

Reported by:

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1 (Whereupon, the trial was convened on the afternoon of
2 6/28/22; voir dire examination was conducted and a jury was
3 duly selected and empaneled and released for the day)

4 (Whereupon, court was reconvened on 6/29/22 at 9:30 a.m.)

5 THE COURT: Alright, you can be seated. Thank you. All
6 right.

7 MR. WHITE: Your Honor, I know that we're right at the
8 time to get started.

9 THE COURT: Wait. Is Pam -- You on the record?

10 COURT REPORTER: (Nods affirmatively)

11 THE COURT: Okay. Yes?

12 MR. WHITE: I'm just waiting on one document that we
13 need to conduct a Jackson-Denno hearing. Mr. Johnson hasn't
14 filed a motion for Jackson-Denno hearing at all.

15 THE COURT: Okay.

16 MR. WHITE: But still, I think probably, it'd be
17 advisable to conduct it prior to opening.

18 THE COURT: Certainly. Okay.

19 MR. JOHNSON: Your Honor, I have a question.

20 THE COURT: Yes?

21 MR. JOHNSON: You was with us whenever, and you know the
22 things we agreed not to bring up. And I was just to address
23 the charges themselves as they were written. Now I'm told I
24 can't even present my, just the statutes, not no other stuff
25 way out somewhere. I'm just talking about just Georgia

1 statutes and the meaning of words. The language of the law.
2 If I did what they said I did, fine. But if I didn't do it
3 and they cramming me into something I didn't do, that's like
4 somebody that shoplift getting charged with grand theft auto
5 or something. The language of the law is what I'm being
6 charged with violating. The law should be able to stand up
7 to whatever the State has to present without trying to
8 suppress evidence just so they don't have to -- It's the
9 Georgia statute, it's even his own order, I mean the own
10 State orders.

11 THE COURT: I don't really understand. Hold on just a
12 moment if he --

13 MR. JOHNSON: Your Honor, he --

14 THE COURT: Hold on just a second, we can't have any
15 conversation until he's back in.

16 MR. WHITE: My point is, he's carrying a bunch of
17 documents and material that he's gonna attempt to present to
18 the jury.

19 MR. JOHNSON: Your Honor --

20 THE COURT: Wait, wait, wait. One at a time.

21 MR. WHITE: He can't lay the foundation for them. He
22 doesn't have a witness to lay the foundation. He's gonna
23 attempt to just offer documents that aren't business
24 records. They don't qualify under any exception to --

25 MR. JOHNSON: O.C.G.A. don't qualify in here?

1 MR. WHITE: You can argue the facts, you can argue the
2 law when it comes to the appropriate time. But my point is
3 that you can't just introduce documentary evidence without
4 having a witness to introduce it through.

5 THE COURT: And that is correct.

6 MR. JOHNSON: And I don't have a witness, because the
7 schedule got changed so quickly, I never got a chance to put
8 the subpoenas out. I asked for a date and nobody could give
9 me a date. They said, come here and we're going to see
10 what's going to happen. I thought I was going to get a date.
11 Instead, I got, oh, you ready for court, let's go to court.
12 And I'm like, y'all --

13 THE COURT: No, no. Well, let me just back up. We had --

14 MR. JOHNSON: No, I got doctors --

15 THE COURT: Hold up.

16 MR. JOHNSON: -- that ain't what I'm trying to present.

17 THE COURT: But, wait just a minute. First of all, any
18 kind of documentary evidence, if it is, and I'm using the
19 word business record; say if it was a business record; that
20 the law says there's got to be a type of foundation that
21 must be laid by the proper person, proper procedure before
22 it can be admissible. So, if that is the case and the person
23 does not have the proper foundation laid, then it cannot be
24 admissible. Now, as far --

25 MR. JOHNSON: Not even if it's Official Code of Georgia

1 Annotated and nothing else?

2 THE COURT: I -- I --

3 MR. JOHNSON: It's saying that the Code don't stand on
4 its own.

5 THE COURT: You can argue the law, yes. I don't
6 understand -- I mean, Mr. White was talking about business
7 records --

8 MR. JOHNSON: I'm not --

9 THE COURT: -- You're talking about the law --

10 MR. JOHNSON: I'm not talking about business records.
11 I'm just talking about O.C.G.A. He hasn't seen it. He thinks
12 I'm going to file something, put something up there like I
13 had before. That big thing. That's not it. I understood what
14 we agreed to. I am just to address the charges that I'm
15 charged with.

16 THE COURT: I don't think that's a problem. Mr. White,
17 but is -- With what he stated there, as far as just
18 addressing the charges, and what the statute he's charged
19 under, is that what you were objecting to, or was it more
20 just a general set of documents? And I don't even know what
21 they are.

22 MR. JOHNSON: I'm prepared to show you --

23 THE COURT: Wait just a minute.

24 MR. JOHNSON: Okay.

25 MR. WHITE: I'm asking that he be required to follow the

1 Rules of Evidence when it comes to admitting anything.

2 THE COURT: Well, that's --

3 MR. WHITE: Moreover -- And I understand he can argue
4 the law.

5 THE COURT: Yes.

6 MR. WHITE: In this case, this was a three-count
7 indictment. We are going to be offering count three for
8 nolle pros. We're proceeding on count one and count two,
9 manufacture of marijuana and possession with intent to
10 distribute marijuana.

11 THE COURT: Okay. All right, so --

12 MR. JOHNSON: I got it.

13 THE COURT: So, Mr. Johnson, the State is offering count
14 three for nolle pros. It means it will be dismissed. That is
15 the count of possession --

16 MR. JOHNSON: Count three, I just went through working
17 with that. Count three is saying that --

18 THE COURT: Wait, wait, wait. Wait just a moment. Just a
19 moment.

20 MR. JOHNSON: Go ahead. Go ahead, Your Honor.

21 THE COURT: It doesn't matter what you were working
22 through, they're saying they're dismissing it, so it's done.
23 They can dismiss. So, that is possession of a Schedule I
24 controlled substance with intent to distribute. Now, I have
25 read the indictment to the jury prior, you know, to their

1 selection. So, my -- what I'm going to do when they come
2 out, when I tell them I'm going to read the indictment, I'm
3 going to tell them count three is no longer to be
4 considered.

5 MR. JOHNSON: Okay.

6 THE COURT: That they heard about early. It's just count
7 one and two.

8 MR. JOHNSON: Count three was --

9 THE COURT: Possession of a Schedule I controlled
10 substance with intent to distribute.

11 MR. JOHNSON: That was the one with morphological
12 (phonetic) features.

13 MR. WHITE: That is --

14 THE COURT: So, it's being dismissed. But Count One is
15 manufacturing marijuana, Count Two is possession of
16 marijuana with intent to distribute. That's the two counts
17 that are going on. Okay?

18 MR. JOHNSON: Well, those -- I'll fight those, then.

19 THE COURT: Okay. Well, that's what we'll do.

20 MR. JOHNSON: I'll fight those.

21 THE COURT: Now, the Jackson-Denno hearing, the
22 officers, or whoever we need, and the document you need,
23 when do you expect it, Mr. White?

24 MR. WHITE: I have it, Your Honor.

25 THE COURT: Okay. So, we're ready?

1 MR. WHITE: Well, if I could just have just one moment.

2 THE COURT: Oh, yeah. But I meant, you've got what we
3 need?

4 MR. WHITE: Yes, Your Honor.

5 THE COURT: Okay. All right, you can just have a seat,
6 Mr. Johnson.

7 MR. JOHNSON: All right.

8 THE COURT: What we're doing is a Jackson-Denno hearing,
9 which is where the Court determines whether or not the
10 statement that you made while in custody, if there was one
11 made, if you were in custody; but, generally speaking,
12 whether a statement made in custody, whether you were
13 advised of your rights properly to give a statement. Okay?
14 In other words, whether Miranda was given, whether you knew
15 your right to remain silent, and then whether or not you
16 ever invoked your right to have an attorney, or to have
17 counsel present before you were making any more statements,
18 that's what we're looking at. Okay?

19 MR. JOHNSON: Alright.

20 MR. WHITE: Special Agent Skelton has stepped out. He's
21 on the phone. He'll be back in the room in just a moment.

22 THE COURT: Okay. And just ballpark idea, how long you
23 think this will take, Mr. White?

24 MR. WHITE: This won't take more than 20 minutes.

25 THE COURT: Okay.

1 MR. JOHNSON: Your Honor?

2 THE COURT: Yes.

3 MR. JOHNSON: If I'm allowed to just present just the
4 statute, we could be out of here today.

5 THE COURT: Well, we're going to see. I mean, I'm...

6 (Pause)

7 MR. JOHNSON: Excuse me, Your Honor?

8 THE COURT: Yes, sir?

9 MR. JOHNSON: I don't even know who I would have to go
10 get to introduce Official Code of Georgia Annotated for a
11 police officer.

12 THE COURT: I can't give you legal advice. I don't know
13 what --

14 MR. JOHNSON: (Crosstalk) I'm just saying. Who
15 introduces the O.G. -- Mr. White? You got to have an expert
16 to introduce it. Who's the expert on O.C.G.A.?

17 THE COURT: Not -- not --

18 MR. WHITE: Not an expert. A foundational witness.

19 MR. JOHNSON: Who's a foundational witness for O.C.G.A.?

20 THE COURT: You can argue the law.

21 MR. JOHNSON: No, I'm just asking a simple question.

22 THE COURT: I'm giving you a simple answer. You can
23 argue the law. You can argue the facts. But anything that's
24 sought to be introduced as a document into evidence, you
25 must have a proper foundation.

1 MR. JOHNSON: Everything is just O.C.G.A. code,
2 reinforced O.C.G.A. Code.

3 THE COURT: Okay.

4 MR. JOHNSON: Might be a definition in there for Miriam
5 and Welch (phonetic), just for clarity, but that's about it.

6 THE COURT: All right.

7 (Pause)

8 JACKSON-DENNO HEARING

9 THE COURT: All right. Mr. White, the State's ready?

10 MR. WHITE: Yes, Your Honor.

11 THE COURT: Okay. All right, you may proceed.

12 MR. WHITE: Thank you, Your Honor. State calls Special
13 Agent Jamie Skelton.

14 THE COURT: Agent Skelton, if you'll come up please.

15 WITNESS: (Complies)

16 WHEREUPON,

17 JAMIE SKELTON,

18 After having first been duly sworn testified as follows:

19 DIRECT EXAMINATION

20 BY MR. WHITE:

21 Q And can you please state your name and spell your first
22 and last name for the court reporter?

23 A Yes. It's Jamie Skeleton. First name's J-A-M-I-E; last
24 name is S-K-E-L-T-O-N.

25 Q And do you have a title?

1 A Yes. I'm a Special Agent with the Georgia Bureau of
2 Investigation.

3 Q And Special Agent Skelton, how long have you been
4 employed with the Georgia Bureau of Investigations?

5 A Since September of 2007.

6 Q Are you a POST certified law enforcement officer?

7 A Yes, I am.

8 Q And in what capacity are you currently employed by the
9 GBI?

10 A Still a Special Agent; I'm assigned to the Appalachian
11 Regional Drug Enforcement Office based out of White County,
12 Georgia. Basically, I just work narcotics cases, various
13 narcotics cases.

14 Q And the primary focus of the Regional Drug Task Force
15 is narcotics cases you indicated?

16 A Yes, it is.

17 Q And were you working in that capacity back in February
18 of 2019?

19 A Yes, I was.

20 Q Did you have occasion to become involved in an
21 investigation of a person who came known to you as Nathan
22 Johnson?

23 A Yes, I did.

24 Q And how did you first become involved in the
25 investigation of Mr. Nathan Johnson?

1 A Well, this case started, I was contacted by an
2 anonymous source that was concerned about somebody that they
3 believed was selling marijuana. They sent me screenshots of
4 pictures of messages that he had sent this person. In the
5 messages, there were pictures of him.

6 Q Of Mr. Johnson?

7 A Yes. He's sitting at the table right beside you, to
8 your left. But there were, I believe, two pictures of Mr.
9 Johnson. There was another picture of what my knowledge,
10 training, and experience led me to believe was marijuana on the
11 table. It had a date on it, I guess, where he had cultivated or
12 picked it. In the picture, you could see what's known as edibles
13 in the background. That's where people take marijuana and they
14 make just edible things. It could be brownies; it could be just
15 various cookies; anything like that that's got marijuana baked
16 into it. Some of the other messages spoke about what he called
17 selling flowers, things like that. That was his code word for
18 marijuana.

19 Q You made reference to selling the items in the
20 messages?

21 A Do you have those pictures?

22 Q Yes.

23 A Let me make sure you go over them.

24 MR. WHITE: May I approach?

25 THE COURT: Has Mr. Johnson seen it?

1 MR. JOHNSON: That's a pretty good picture of me, too.
2 Some drug man I am, using my real name and give all my real
3 information. Giving pictures. Most folks use code names.

4 MR. WHITE: (Indiscernible)

5 MR. JOHNSON: I'm looking at them. Oh, that could have
6 been easily photoshopped. I could do that right now. I could
7 cut that out and put another picture in that right there.
8 I'm good at PowerPoint.

9 THE COURT: Okay. Okay, he's saying -- All right.

10 CONTINUED DIRECT EXAMINATION

11 BY MR. WHITE:

12 Q Did he make references to not being a police officer in
13 his messages?

14 A Yes. Let's see, this was sent -- It doesn't have the
15 dates on here exactly. But it says, towards the bottom of this
16 message right here, he makes reference to taking somebody some
17 flowers in Greenville. (Reading) No, Ms. Tina, I'm not a cop nor
18 a police officer.

19 Q Do you have access to a GCIC terminal that's -- I'm
20 sorry -- a terminal that's lawfully connected to the Department
21 Driver's Services database?

22 A Yes, I do. It's our GBI intelligence unit. So, anytime
23 I need anything like that ran, I call them. It's like a 24-hour
24 line you can call. We have analyst on standby.

25 Q And it's lawfully connected to that database?

1 A Yes, it is.

2 Q And were you able to confirm that the number that was
3 sending these messages belonged to the defendant, Nathan Johnson?

4 A Yes, I was. One of these screenshots actually had his
5 number at the top. It's cut off on these. But I can tell you the
6 number was 404-454-3570. That was actually confirmed through GBI
7 Intelligence Unit One. The number was actually listed as his
8 contact number on his driver's license printout, seemed like. And
9 it's a printout like if I stopped you during a traffic stop, and
10 ran your license, it's a printout that would give me with all of
11 your information on it. The other one's actually ran this number
12 through a database, which shows who uses it and who owns it. This
13 number was listed to a Nathan Johnson.

14 Q And based upon the information, including the
15 photographs of the green leafy substance of the appearance of
16 marijuana, and the references to distribution of these
17 substances, did you have occasion to execute a search warrant of
18 the defendant's residence?

19 A Yes, I did.

20 Q And is that residence address confirmed through the
21 driver's license services?

22 A Yes, it was 137 -- Let me make sure. It's not Driver
23 Street -- It's 137 Lanier Drive, Hartwell, Georgia.

24 Q Okay. During the course of your execution of the search
25 warrant, did you locate Mr. Johnson at that residence?

1 A Yes, I did. Mr. Johnson was in the house with another,
2 it was a black female. I can't recall her name. I think it was
3 Ms. Roebuck.

4 Q Was there contraband located in the residence?

5 A Yes, there was. When you make entry into the residence,
6 there was a room off to the left in the back corner of the house,
7 where there was a hydroponic marijuana growth set up, a pretty
8 elaborate one. There were jars of marijuana in those, located in
9 a back bedroom, I believe. In the kitchen area, we located a,
10 when I made reference to the edibles, we found several of those.
11 There was also a price list written on a dry erase board that had
12 the different prices on there.

13 Q Of the edibles and other marijuana items in the
14 residence?

15 A Yes.

16 Q The search warrant gave you the authority to detain and
17 search individuals at the residence, as well?

18 A Yes, it did.

19 Q And was Mr. Johnson aware that that search warrant was
20 being executed as you executed the search warrant?

21 A Yes. Every search warrant we do, unless it's a no-knock
22 search warrant, you know, we go up and we knock on the door, we
23 announce our presence as police officers. We don't say GBI. We
24 say police, so it's clear who we are. We announce that we have a
25 search warrant.

1 Q So, Mr. Johnson would have been aware that after you
2 located the contraband that he was formally detained at the time?

3 A Yes. And of course, we're all marked in police uniforms
4 or our vest that identifies us as police officers.

5 Q Are you familiar with Miranda warnings and the
6 suspect's constitutional rights?

7 A Yes, I am.

8 Q Did you have occasion to speak with Mr. Johnson?

9 A Yes, I did. Myself and Agent Cunningham conducted an
10 in-custody interview with him at the residence while it was being
11 searched by the Hart County Sheriff's Office.

12 Q As he was in custody prior to interviewing and
13 questioning Mr. Johnson, did you have occasion to advise Mr.
14 Johnson of his Miranda rights during the course of that
15 investigation?

16 A Yes, I did.

17 Q How was he advised?

18 A I actually read this off of the GBI Miranda waiver
19 form; he acknowledges he understands by signing it.

20 MR. WHITE: May I approach the witness?

21 THE COURT: You may.

22 BY MR. WHITE:

23 Q I'm showing you what's marked for identification
24 purposes as State's Exhibit 1; and ask you if you recognize
25 State's Exhibit one?

1 A Yes, I do. This is a Miranda waiver form that was
2 signed by Mr. Johnson, and he also initialed. So, when I go over
3 this, I fill the top out, this will have the person's
4 information. It'll have the date, the time, the location we're
5 at. It'll have the grade they completed. And that's just to make
6 sure that they can comprehend reading and writing. And it'll have
7 my name. And then, I go through each Miranda right. And then, as
8 they understand each, I have on the initial --

9 Q Before you go there, if you could pause for just one
10 moment. Is that form in the same or substantial same condition as
11 you saw it on February 13th, 2019?

12 A Yeah. Well, I mean, this is a copy of the original. The
13 only thing that's been added is where you wrote State's Exhibit
14 1. It's got my case number here.

15 MR. WHITE: Your Honor, I tender State's Exhibit 1 into
16 evidence.

17 THE COURT: Any objection, Mr. Johnson, to the admission
18 of this form for the purpose of this hearing?

19 MR. JOHNSON: Well, I would like to speak to the
20 witness. Yes, that's fine.

21 THE COURT: You'll have a chance to cross-examine him.

22 MR. JOHNSON: Okay, okay.

23 THE COURT: But do you object to the form?

24 MR. JOHNSON: Oh, no. No.

25 THE COURT: Okay. So State's 1 is admitted without

1 objection.

2 (Whereupon, State's Exhibit No. 1
3 was tendered and admitted into
4 evidence)

5 BY MR. WHITE:

6 Q Can you demonstrate to the Court the manner which you
7 used State's Exhibit 1 to advise the defendant of his rights?

8 A Yes, like I said, I start at the top. And I'll tell
9 them it's this date and this time. Usually, when I fill this out,
10 before I read to them, I kind of turn it towards them so we can
11 read it together. But number one says (reading): I have the right
12 to remain silent; number two says: anything I say can be used
13 against me in a court of law; number three: I have the right to
14 talk to an attorney, have him present with me while I'm being
15 questioned; number four: If I cannot afford to hire a lawyer, one
16 will be appointed to represent me for any question, if I wish;
17 number five: I can decide at any time to exercise these rights,
18 then answer any questions or make any statements.

19 The bottom part says: I understand my rights. Having these
20 rights in mind, I'm now willing to talk to law enforcement
21 officer. I've not been threatened. I've not been promised
22 anything; not been forced in any way to answer any questions or
23 make any statements.

24 MR. WHITE: May I approach the witness?

25 THE COURT: You may.

1 BY MR. WHITE:

2 Q Did you pause after reading each of the rights to Mr.
3 Johnson?

4 A Yes. And that's when I actually get him to initial
5 those.

6 Q And so, next to each of his rights, the initials, those
7 are -- these markings were made by Mr. Johnson?

8 A Yes.

9 Q And is that his signature at the bottom?

10 A He signed it right there; so, yes.

11 Q In your presence?

12 A Yes.

13 Q Okay. And this is while you were at 137 Lanier Drive,
14 is that right?

15 A Yes, it was.

16 Q And he indicated he had completed 12th grade?

17 A Yes.

18 Q And did he have any questions about his rights?

19 A No. Not that he asked me.

20 Q Have you had dealt with people in your work who are
21 under the influence of alcohol or narcotics to the extent that
22 they maybe aren't aware of their surroundings?

23 A Yes. Many times.

24 Q And did Mr. Johnson appear to be under the influence to
25 the point that he didn't understand what you were saying?

1 A No. He was very talkative, very coherent, spoke very
2 intelligently about marijuana. He didn't seem like he was under
3 the influence at the time of anything that would inebriate him or
4 keep him from making any sound decisions.

5 Q And did the defendant appear to understand your
6 questions as you spoke to him?

7 A Yes, he did.

8 Q Did he respond when asked whether he wanted an
9 attorney?

10 A Yeah, that was asked and he never asked for one.

11 Q At any point, did he invoke his right to silence?

12 A No, he did not.

13 Q At any point, did he request an attorney or request
14 that he not be questioned until an attorney was present?

15 A No, sir.

16 Q Did you promise anything to the defendant in return for
17 making a statement?

18 A No, I did not.

19 Q Did you coerce the defendant in making a statement with
20 any threat or actions?

21 A No, I did not.

22 Q And to the best of your knowledge, was the defendant's
23 statement freely and voluntarily given?

24 A Yes, it was.

25 Q After being advised of his rights, did he agree to

1 speak with you about why you were there?

2 A Yes, he did.

3 Q And can you tell the Court what Mr. Johnson indicated
4 regarding the grow operation he had in his residence?

5 A Yes. So, when we just talked about -- you know, like I
6 said, this is just summation. It was a fairly lengthy interview.
7 We talked about him growing marijuana. He said he'd been, I
8 believe he made the statement, when I asked him how long he'd
9 been growing marijuana, he said, how long did it take me to get
10 it to grow? So, a lot of the questions, he would kind of try to
11 roundabout answer them, you know, it was an interrogation. But he
12 said he'd been growing it about a year to a year and a half.

13 Q He identified the substance in his residence as being
14 marijuana?

15 A Yes. He spoke very freely about marijuana and his use
16 of marijuana. Talked about how it got him off of other opioids or
17 something. We talked about the edibles. At first, when I asked
18 him how long he had been selling marijuana, he worded it as,
19 well, I give marijuana to people; I deliver it to various people,
20 but they showed me love for it. And that was kind of his code
21 word starting off with getting paid. Then toward the end, he said
22 he'd been making the edibles for about six months to a year and
23 he'd made, I believe, two to three hundred dollars off of it. So,
24 he did, you know, admit to actually selling the marijuana.

25 Q And the quantity of contraband located in the residence

1 was consistent with personal use or distribution?

2 A Distribution.

3 Q And were there other indicia of distribution located
4 throughout the residence?

5 A Yes. I mean, just the amounts alone, when I say a
6 marijuana grow operation, on average, a good marijuana plant
7 produces, if I remember right, at least a pound of marijuana. I
8 can't remember the exact numbers. You'll have to ask Deputy White
9 about that. I want to say there was at least 15 to 20 plants in
10 that room. But when I say an elaborate marijuana grow, I mean it
11 was more than just plants sitting in the corner. He had this
12 elaborate rail system set up to where the lights on timers would
13 actually simulate the sun, as if they would pass over a plant out
14 in the woods, you know, from sunrise to sundown. There was a lot
15 of different timers. It was a hydroponic grow, so he had
16 different filtration systems set up that was carrying water and
17 nutrients to the plant. So, no, this was not a -- in my opinion,
18 this was not just somebody growing marijuana for personal
19 consumption.

20 Q Okay. And at any point during the course of this
21 interview, did Mr. Johnson invoke his right to silence?

22 A No.

23 Q And how did the interview conclude?

24 A He -- I remember at some point, like I said, I felt I
25 had everything I needed during the interview. He would go off on

1 these tangents about what he called big pharma, and that was in
2 reference to the pharmacy companies. And, you know, when he
3 started just getting down things that really didn't have anything
4 to do with the case, myself and Agent Cunningham, we just
5 terminated the interview. So, we actually stopped it.

6 Q And was this interview with Mr. Johnson memorialized?

7 A Yes. There's actually a recording made of this
8 interview. So, we actually did it on a recording. It's attached
9 to the case file.

10 MR. WHITE: Your Honor, we'll preserve introducing the
11 recording for the actual trial. This is just for the
12 purposes of the Jackson-Denno hearing.

13 THE COURT: Okay.

14 MR. WHITE: Thank you. I don't have anything further.

15 THE COURT: Okay. Mr. Johnson, would you like to cross
16 examine Agent Skelton?

17 MR. JOHNSON: Sure would.

18 THE COURT: You can just, right there at the podium, if
19 you will.

20 MR. JOHNSON: Oh, okay.

21 THE COURT: Uh-huh.

22 MR. JOHNSON: Will you cut that off, Your Honor? My
23 voice travels.

24 THE COURT: Just pull the microphone down, just out of
25 the way, if you don't want it.

1 MR. JOHNSON: It won't break.

2 THE COURT: Just make sure Agent Skelton can hear you,
3 and the court reporter. Okay?

4 CROSS-EXAMINATION

5 BY DEFENDANT JOHNSON:

6 Q Okay. The first thing you said -- I'm just trying to
7 make sure this is what you're saying. When you was asked, how did
8 you find out about Mr. Johnson? you said, a screenshot. But you
9 was already saying Mr. Johnson was selling marijuana. Did the
10 screenshot say Mr. Johnson was selling marijuana, or did you say
11 it?

12 A Actually, if you'd show me those pictures, the pictures
13 speak for themselves.

14 Q No, no, no. Excuse me (crosstalk) --

15 A (crosstalk) this picture right here actually shows,
16 yes, in my opinion of 25-plus years working narcotics, that
17 picture with all the marijuana on it, that is --

18 Q That is not narcotics, sir.

19 A -- that is more than a user amount on that plate right
20 there. That's at least a felony amount. That looks to be two to
21 three ounces of marijuana on that table. So, yes, those pictures,
22 they would say -- Any narcotics agent would look at that picture
23 and say whoever sent that is selling marijuana.

24 Q Was Mr. Johnson selling marijuana?

25 A According to your interview, yes, you were.

1 Q Now, let me ask you a question.

2 A Yes.

3 Q Was Mr. Johnson in the house first before we went
4 outside?

5 A Yes, we actually got you inside the house.

6 Q Okay. So, I'd been in the house for quite a while.

7 A Uh-huh. Well, I don't know how long you had been there.

8 Q Well, you came through the door, you know he was in
9 there for quite a while with Ashlyn, and Zach, Officer Zach and
10 Officer Ashley. You remember?

11 A Uh-hum (affirmative).

12 Q We was there for quite a while (crosstalk) --

13 A You mean before or after we served the search warrant?

14 Q It was after you came in.

15 A Oh, yeah.

16 Q What happened -- And I'm just going to (crosstalk)--

17 MR. WHITE: Objection. Your Honor --

18 BY MR. JOHNSON:

19 Q I'm going to ask a question (crosstalk) --

20 THE COURT: Wait, wait, wait, wait. No, wait. The
21 procedure is going to have to be this, or we're going to be
22 stopping every other minute. No, listen to me. If he says, I
23 object -- We talked about this yesterday. If the State
24 objects, everybody stops talking. Just like if you object,
25 everybody stops talking. So, Mr. White objected. What's the

1 objection, Mr. White?

2 MR. WHITE: He can't testify. He can ask questions, but
3 he can't testify.

4 THE COURT: That is correct. Sustained. You cannot
5 testify if you're examining a witness. Okay?

6 BY MR. JOHNSON:

7 Q Let me ask you, Officer Skelton, is it customary for
8 your officers to wear, with their complete uniform, body cams?

9 A No, that's not GBI policy. We don't have to do that.

10 Q Okay, so --

11 A I've seen some of us do it, but it's not a policy.

12 Q So, let me ask you, were any of your officers that day
13 that you brought wearing body cams?

14 A I can't answer that. I don't know. I don't wear one,
15 and that's not something I --

16 Q How many officers would you say came to Mr. Johnson's
17 house?

18 A I'd have to go back and look. I know it was me, Bobby
19 Cunningham, Ashley, Zach. And I don't know how many deputies. I'd
20 say --

21 Q Well, do you remember Sheriff Cleveland even came with
22 so many folks? Do you remember --

23 A Yeah. Later on, yes. After we secured the residence. It
24 was in the county, so we contacted Hart County to come out and --

25 Q Later on. How would I know -- Well, I'm not going to

1 ask you that. Rephrasing the question. Rephrasing the question.

2 If it was later on when Sheriff Cleveland came there, that
3 would mean Mr. Johnson was there for a sufficient amount of time.
4 And I have a question, also.

5 THE COURT: Well, that -- Wait. That is a statement.
6 That is not a question.

7 MR. JOHNSON: Oh. I'm sorry. I'm sorry.

8 BY MR. JOHNSON:

9 Q Question: Do you recall the condition of one Ms.
10 Melissa Roebuck at that time?

11 A Nothing really stands out.

12 Q Nothing stands out?

13 A But she was -- I mean, she seemed normal to me.

14 Q She seemed normal?

15 A Yeah.

16 Q Would it surprise you that both the Hart County Sheriff
17 Officer and the GBI requested EMS for her, and they did arrive.
18 They do have a form. Would that surprise you?

19 A I don't recall it, so I --

20 Q Let me make sure I got your answer right. You do not
21 recall EMS, emergency medical services --

22 MR. WHITE: Objection.

23 MR. JOHNSON: I'm just asking.

24 THE COURT: Wait. He's objecting. Okay.

25 MR. WHITE: What is the relevance of this to the issue

1 before us in this hearing, which is a termination of the
2 voluntariness of Mr. Johnson's statements?

3 THE COURT: That is correct, Mr. Johnson. What we're
4 here is about whether or not your statement was voluntarily
5 given, and whether or not you were advised properly of your
6 right to remain silent and right to counsel. Okay?

7 MR. JOHNSON: All right, I'm still following up.

8 BY MR. JOHNSON:

9 Q Agent Skelton?

10 A Uh-huh?

11 Q Question: I'm going to be just be as honest as I can,
12 because I don't know how to lie.

13 A Okay.

14 Q Did you ever tell the defendant that if I didn't want
15 Ms. Melissa Roebuck to go to jail, I need to come outside with
16 you and do a Miranda form?

17 A No. I don't remember saying that.

18 Q So, Mr. Johnson just voluntarily, he's been arrested
19 before, he's never signed a Miranda form. He knows his rights.
20 He's quite intelligent.

21 MR. WHITE: Objection.

22 THE COURT: I said --

23 MR. JOHNSON: No, I'm just asking.

24 THE COURT: But that's not a question.

25 MR. JOHNSON: Oh, okay. Well, he -- Okay.

1 BY MR. JOHNSON:

2 Q Did you once say that Mr. Johnson was talking very
3 intelligent, sir? Did you remember saying that Mr. Johnson talks
4 very --

5 A On the subject of marijuana, yes, sir, you were.

6 Q Okay. So, exactly how did you get Mr. Johnson to come
7 outside in his driveway, sign the Miranda form, agree to let you
8 record it?

9 A I asked you and you came outside.

10 Q You just, do I want to come outside? is that what
11 you're saying?

12 A I can't quote the exact words, but I had to have asked
13 you in some form or fashion. I didn't make you. I didn't drag you
14 outside.

15 Q Let's go to the board with the price.

16 A Okay.

17 Q You had Bobby Cunningham to go inside and get the
18 board, because you didn't want to believe me when I -- Well, I'm
19 not going to state that, because that's a testimony. Let me ask
20 you a question.

21 A Okay.

22 Q Do you recall Mr. Johnson saying that the 1 meant that
23 he used four ounces of cannabis to make that batch; the 2 meant
24 that it had double that amount; and that the extra zero was so if
25 anybody saw it, they would feel very appreciative of being given

1 so many free edibles? They thought it would have cost them
2 because -- I'm just asking do you recall. I'm going to let you
3 answer that before I go to the next question.

4 A Yes. I would have to listen to the recording to get a
5 word by word what you said. What I do remember, because I
6 remember speaking with you about the dry erase board, because at
7 first, you were not really admitting that you sold marijuana. And
8 when I asked you about the dry erase board, because in my
9 opinion, it looked like prices that you would charge for
10 marijuana. It was written in what looked to be dollar amounts, to
11 me. What you said was that was -- Like I said, this is not
12 verbatim, but I remember you saying that was the amount of either
13 marijuana or THC that you put inside your edible. So, yes, I do
14 recall that.

15 Q Okay. Question: Mr. Johnson was out in the front yard,
16 correct?

17 A Yes, you were.

18 Q Could Mr. Johnson see the middle bedroom from the
19 driveway?

20 A From where you were doing --

21 MR. WHITE: Objection. Speculation.

22 MR. JOHNSON: Speculation? He was there.

23 THE COURT: Yeah, but he doesn't know whether or not you
24 could see something or not.

25 By MR. JOHNSON:

1 Q Okay. Did you make a statement that Mr. Johnson, while
2 outside getting the interview, pointed to the middle bedroom
3 after saying it was his, and then suddenly changed it over and
4 said it was Ms. Roebuck's; do you remember that?

5 A Something to that effect. You said -- I remember you
6 saying, when the police came you stuffed a bunch of jars under
7 the bed; you said that Ms. Roebuck was a tenant there, but she
8 didn't pay rent, I don't believe. And then, but you also said
9 that you had access to the entire house; there was not any kind
10 of agreement where you had to stay out of that bedroom. And you
11 pointed toward the middle, where the bedroom would have been in
12 the general direction, I believe.

13 Q Okay. Let me ask you a question. Was Mr. Johnson
14 wearing handcuffs at the time?

15 A I don't remember.

16 Q Is it customary, I'm just asking, is it customary to
17 take a witness outside without his handcuffs?

18 A When you asked that -- With me -- Every police officer
19 is different. If I have somebody that's acting up, is not doing
20 what I say, he's not cooperating, maybe acting violent, no, I'm
21 going to take the cuffs off. If they're cooperating, sometimes I
22 will, sometimes I won't. It's all -- Everything's just, it's
23 situational dependent.

24 Q Question: Do you remember shutting that recorder off
25 several times when you didn't like the answer from Mr. Johnson?

1 A No. I don't remember doing that.

2 Q Do you remember, or do you recall, later stating within
3 that same section that was doing the voice recording, after
4 saying Mr. Johnson had pointed to it outside, then you turned
5 around and said -- Well, I'm not going to say that. Rephrase the
6 question. Stop, let me rephrase the question.

7 Do you recall that after you had said to Mr. Johnson that
8 Mr. Johnson pointed to the room outside, even though it's only
9 visible from the backside, that Mr. Johnson then said it was Mrs.
10 Roebuck's room, that middle room, with the jars?

11 A Again, if you're asking me what was said word for word,
12 there's no way I can remember that.

13 Q Not word for word.

14 A Well, but that's kind of what you're asking me. And so,
15 if we need to get the recording out and play it, we can do that.
16 But, I remember the interview, I remember speaking to you, I
17 remember a lot of what was talked about, but if we're going to go
18 word for word, step by step, there's no -- Stephen Hawking can't
19 remember all that from 2019, and I know I can't. So, I do
20 remember us talking about the bedroom. I remember you saying that
21 when we came in the door, you went in that room and hid the jars.
22 Exactly whose bedroom that was, I'd have to listen to that
23 recording, because I think it went back and forth. Because in my
24 opinion, I think when I -- And just when I interview any suspect,
25 I think the more you tell me, and then it gets to maybe I

1 shouldn't have said that, it sounds like you would change your
2 story here and there.

3 Q Question: You have testified that the conversation
4 ended by Mr. Johnson just talking about other things not material
5 to the case. Is that correct?

6 A Yes. I mean, once somebody -- you know, once I need
7 everything I need during an interview, when somebody starts
8 talking about other things, just, you know, I end it. There's no
9 sense in --

10 Q Well, let me ask you a question. Do you recall stating
11 to Mr. Johnson, You know Mr. Johnson deliver flowers to South
12 Carolina?

13 A Yes. You said that during the interview.

14 Q No. I mean, do you recall telling Mr. Johnson, you know
15 Mr. Johnson sell flowers, before Mr. Johnson stated it?

16 A Like I said, you're asking me something word for word.
17 I believe that was said during one of your text messages on these
18 screenshots, I believe. So, it's possible I did that. But, if
19 you're asking me word for word, I'm going to have to listen to
20 the recording.

21 Q Let me ask you this. Do you remember asking Mr. Johnson
22 how much in flowers did we take the people in South Carolina?

23 A No. I mean, I'm not saying it's impossible, because
24 that's a question that seems like I probably would ask.

25 Q I'm just going to ask it. Even though you may not

1 recall, I'm just going to ask the question. Do you recall the
2 conversation abruptly ending when you said after you got -- Well,
3 after Mr. Johnson had stated, which you may or may not recall,
4 when Mr. Johnson said, he said six to eight grams. And there was
5 a follow-up question. You may or may not remember. And that was,
6 how much do they pay you? And it abruptly ended, because Mr.
7 Johnson said, they don't pay, expletive, and anyone that told you
8 that is an expletive liar. And that's when Mr. Johnson walked
9 away. Does that sound kind of familiar to you?

10 A I don't know that I'd -- I don't think I'd just let you
11 walk away. I mean, I don't recall it happening like that. I do
12 remember, when we talked about that, you said something that you
13 give people marijuana, or you take people marijuana, and they
14 show you love. That's how you got around. And that -- I believe
15 when all that started is when I said, wait a minute, what about
16 your dry erase board? And I showed that to you. And you were
17 like, oh, okay, well, oh no, this is what this means.

18 Q Now, I'm looking here. You said you got information
19 about Mr. Johnson from his driver license?

20 A The driver's license printout from GCIC.

21 Q Okay. Do you recall saying or writing -- I mean I don't
22 want to trip on something I said I didn't do. I'm not going to do
23 it. I'm going to keep this as crisp and clear as I can. When you
24 saw Mr. Johnson's driver license, did you see that he was a
25 member of a select group who have better --

1 MR. WHITE: Objection. Relevance.

2 MR. JOHNSON: I'm just asking. Relevance --

3 MR. WHITE: Objection. Relevance.

4 THE COURT: Sustained. That's nothing to do with the
5 issue we're here about. Okay?

6 MR. JOHNSON: Okay.

7 BY MR. JOHNSON:

8 Q When Mr. Johnson -- let me get this -- I'm trying to
9 make sure I got this right. Mr. Johnson just walked out of his
10 home -- Well, let me just change that all the way up. Would you
11 be surprised to know that there's an EMS report that day that
12 coincides with the time Mr. Johnson was outside with you; exactly
13 coincides; would you be surprised to know that they came in at
14 the same time I was outside with you?

15 A No. I mean it -- I don't remember it happening, but,
16 no, I mean, I --

17 Q You would not recall if you had Mr. Johnson outside,
18 and paramedics like coming through that door to go see Ms.
19 Roebuck; you would not recall that?

20 A No. I mean, if they did, they did. If they didn't I
21 just -- I don't really come out and -- I was worried about you.
22 If somebody else called her --

23 Q (Indiscernible crosstalk)

24 A (Indiscernible)

25 Q Are police officers required to have some form of

1 memory to testify in court?

2 MR. WHITE: Objection. Argumentative.

3 MR. JOHNSON: Okay.

4 THE COURT: Sustained.

5 BY MR. JOHNSON:

6 Q Let me see what we got here.

7 (Pause)

8 Mr. Skelton?

9 A Uh-huh?

10 Q Just a question. Did you ever ask Mr. Johnson to give
11 you the name of the old folks that he was supplying flowers to?

12 A It's possible. Usually that's part of the narcotics
13 investigation, so it's possible I did.

14 Q Is it possible Mr. Johnson said he was not going to
15 turn any old folks in trying to help their own life?

16 A Yeah. A lot of drug dealers do that, so that's very
17 possible.

18 Q Okay. How much money did you find in Mr. Johnson's
19 house, sir?

20 A I didn't process the crime scene. You'd have to ask
21 Deputy White. I don't think I seized any money at all.

22 Q None at all. Is there a reason why you wouldn't process
23 the crime scene?

24 A We were in Hart County. I like to work with them. It's
25 their county; they came out. It was a nice marijuana grow, so I

1 let them help me with the case.

2 Q Okay. Did you find any firearms, sir, at Mr. Johnson's
3 home?

4 A Not that I recall.

5 MR. WHITE: Objection. Relevance.

6 THE COURT: Sustained. There's no charge of any firearms
7 in the case. And it doesn't have anything to do about
8 whether or not your statement was given freely and
9 voluntarily. Okay?

10 BY MR. JOHNSON:

11 Q If Mr. Johnson was to produce for your viewing an EMS
12 report that stated at the very time that you had Mr. Johnson
13 outside, that Ms. Roebuck had a blood pressure of 200 over 100
14 and a pulse of 113 --

15 A Let me cover the whole EMS thing. None of that's going
16 to surprise me. You, the DA, nobody's sitting out here, not even
17 the Judge, can remember tiny details from that long ago. I work
18 tons of cases. I get calls every day, ODs, marijuana cases,
19 methamphetamine cases, from here to Savannah, Georgia. That ain't
20 counting all the other side duties I have. I'm sorry, I don't
21 remember. I'm not saying it didn't happen. If you produce it and
22 you show it to me, I don't have a choice but to agree with it.
23 There's a thousand things that's going to happen right in front
24 of me today, and when I get home at five o'clock, I won't be able
25 to tell you that happened, because that's not where my mind was

1 at.

2 Q Question: What was your mind -- I'm just asking about
3 the way you stated it.

4 A Okay.

5 Q Was your mind foggy about two days after when you made
6 the report?

7 A No.

8 Q So --

9 A That EMS report has nothing to do with my marijuana
10 investigation at all. My investigation was who was selling
11 marijuana, where it's coming from, where it's going, how it's
12 being produced. That's why I was there. I'm not trying to sound
13 heartless. I don't care about Ms. Roebuck. That's the way it is.
14 I was focused on you.

15 Q You didn't care about Ms. Roebuck?

16 A No. That's not part of my investigation. That's not why
17 I'm there.

18 Q Did it appear to Mr. Johnson --

19 MR. WHITE: Objection. Relevance.

20 THE COURT: Sustained. Sustained. Mr. Johnson, this
21 hearing is about whether or not your statement was freely
22 and voluntarily given after being advised of your
23 constitutional rights; and whether or not after that, you
24 ever invoked your right to counsel or said, I want to stop.
25 That's what a Jackson-Denno is about.

1 BY MR. JOHNSON:

2 Q Well -- Excuse me. If the tape was played in court --

3 A Which tape?

4 Q The Miranda tape.

5 A Okay.

6 Q (Crosstalk)

7 A Well, you keep talking about a tape of EMS, so I don't
8 know. You have to ask me. I don't -- You're talking about the
9 Miranda tape, okay.

10 Q The Miranda tape.

11 A All right.

12 Q Will it show any suspicious clicks?

13 A I don't know. Those things malfunction. They have to be
14 started over again. That's why we take notes while that goes. So,
15 if you're asking me if I'm going to play that tape and there's
16 not going to be a click, or a pop, we were outside.

17 Q Another question.

18 A Okay.

19 Q Why was it so important to take Mr. Johnson outside
20 where you would have him all by yourself?

21 A We were not by ourselves. There was 10 other law
22 enforcement agents out there.

23 Q (Crosstalk)

24 A You just said the sheriff was there, Ashley was there,
25 Zach was there. That's your words, not mine. All those other law

1 enforcement, they were right there, a lot of times within arm's
2 length. Obviously, half the EMS squad showed up. So, we were not
3 alone.

4 Q Would it --

5 A When I like to interview people, I like to get you away
6 from other folks, other suspects, so that we can talk, we can
7 have a conversation. That's how those take place. You don't have
8 conversations like that amongst --

9 Q Would it --

10 A -- a lot of other people.

11 Q -- shock you to find out that Mr. Johnson said all
12 those people was inside his house, not outside?

13 A None of that would surprise me, because they were
14 coming in and out.

15 Q No -- Okay, then I'll stop right there.

16 A Okay.

17 Q Did you notice that Ms. Roebuck was wearing a heart
18 monitor at the time that you came --

19 MR. WHITE: Objection. Relevance.

20 THE COURT: Sustained. Has nothing to do with what this
21 hearing is about. This hearing is about whether or not your
22 statement was freely and voluntarily given after you were
23 advised of your Miranda warnings and whether, at any time
24 during a statement, if you were given it, you invoked your
25 right to silence or invoked your right to counsel. Okay?

1 MR. JOHNSON: Okay. Okay. So, I have a question.

2 BY MR. JOHNSON:

3 Q Mr. Johnson, did he appear to you to be an
4 uncooperative type of person?

5 A No. You were cooperative. But, you know, like I said,
6 during your interviews, instead of just coming out and just
7 answering the question, you would, what I call, dance around the
8 answer. Like when I asked you if you sold marijuana, well, people
9 showed me love. It's just a code word, you know, what --

10 Q I ask, but it's up to you, sir, your answer. Do you
11 recall Mr. Johnson saying he gives away free flowers, edibles,
12 and sometimes someone would want to give him something, because
13 they figured him on a fixed income needed to be recompensated; do
14 you recall that at all?

15 A Something to that effect. You said people would show
16 you love. And then there was one part of the interview where you
17 said you also made some money off the edibles.

18 Q Good point. Do you recall that, when the question was
19 originally asked, and Mr. Johnson told you he don't really make
20 money off of edibles, the recorder was stopped; and a statement
21 was made, if you don't want her to go to jail, you need to state
22 -- I know what you're doing, you need to --

23 MR. WHITE: Objection. Asked and answered.

24 MR. JOHNSON: Okay. I'm sorry, I didn't mean to answer
25 my own question.

1 BY MR. JOHNSON:

2 Q Do you recall --

3 A I don't recall that.

4 Q You don't recall.

5 Question: Did you swear an oath to the good Lord God before
6 you started testifying?

7 A Uh-huh (affirmative).

8 Q That's good enough for me.

9 A Okay.

10 MR. JOHNSON: I have no further questions.

11 THE COURT: Alright. Mr. White, any redirect?

12 REDIRECT EXAMINATION

13 BY MR. WHITE:

14 Q Special Agent Skelton, the recording that you made of
15 Mr. Johnson, that was a single recording during your interview
16 with him that day; is that right?

17 A Yes. To my knowledge, it's just one recording. I don't
18 remember cutting anything off, or -- I'd have to read the summary
19 again, but I don't believe there were any malfunctions where it
20 had to be restarted or there was any breaks in it.

21 Q And you have training in interviews and interrogations,
22 correct?

23 A Yes, I do.

24 Q You know that offering someone a hope of benefit is
25 improper?

1 A Yes.

2 Q And that includes offering to -- telling someone in
3 order to prevent someone else from going to jail, you need to
4 talk; isn't that right?

5 A Yes.

6 Q And do you do that or did you do that in this case?

7 A No. Not that I recall. I don't -- That's not something
8 I do. I've had people come up and say, hey, if I say that's mine,
9 do they go to jail? well, that's them saying it, and I'm like,
10 well, here, come talk to me. But I never -- I can't recall a time
11 I've ever said, hey, if you don't want this person going to jail,
12 you better tell me you did it; no, you can't do that.

13 Q And in the GBI, particularly in 2019, the policy of the
14 GBI -- Or, the GBI didn't have a policy regarding the wearing
15 body cams; correct?

16 A No.

17 Q And by and large, special agents with the GBI typically
18 don't wear body cams; is that right?

19 A No. No.

20 Q And also, during the course of your -- When you conduct
21 an interview, it's your practice and procedure to record the
22 entire interview, is that right?

23 A Yes.

24 Q Not to stop the interview, say something else to the
25 defendant, and then restart the interview?

1 A No.

2 Q That would actually cause more questions for a jury
3 than --

4 A Exactly.

5 Q -- conducting an interview all the way through, is that
6 right?

7 A Exactly. And like I said, I've had incidents in the
8 past where a recorder would malfunction, or maybe a battery, or
9 something. That's why we take notes. And I've actually went back
10 and restarted it, and said, hey, you know, around about this time
11 -- It'll actually say on the recording, hey, something
12 malfunctioned, and we would go back over everything we talked
13 about, back up to the point we stopped, and kind of start back
14 over. But I've never just stopped it, talked about something
15 else, or something like that.

16 Q Did the sheriff's office collect the marijuana grow and
17 the edibles that were located at Mr. Johnson's residence?

18 A Yes, they did.

19 MR. WHITE: That's all I have.

20 THE COURT: All right, Mr. Johnson, any other cross-
21 examination of Agent Skelton?

22 RE-CROSS-EXAMINATION

23 BY MR. JOHNSON:

24 Q I have a question for you, Officer Skelton, SA Skelton,
25 Special Agent Skelton, I have a question for you.

1 A Yes, sir.

2 Q Do you know Ashley -- I can look up her last name, but
3 do you know an Ashley?

4 A Yes.

5 Q Was she a member of your team?

6 A Yes.

7 Q Did you see her before you came into Mr. Johnson's
8 residence?

9 A Yes. We had had a briefing at some -- I don't know
10 where we briefed at. But they were kind of actually about a block
11 away waiting on us to knock on your door, and then they came up,
12 and, so, yes.

13 Q Would it shock you to find out that she did have a body
14 cam on?

15 A Yes. Because I've never known her to wear one. And if
16 she did --

17 Q Would it shock you that Mr. Johnson asked if it was on
18 and she said no?

19 A No. I mean, putting a device on doesn't mean you have
20 to turn it on. I mean, we don't have a policy that says I have to
21 wear one. So, I'm not saying that surprises me; it doesn't
22 surprise me. Again, that's something I -- I don't care. If she
23 did have it on, she would tell me, and that would be part of the
24 case file. Does that make sense? Like if I know somebody on my
25 team or if it -- Even one of the deputies, if they come on a

1 search warrant with us, and they have a body cam, well, I'm going
2 to ask everybody who had one if you made a recording, I need it
3 for the case file. But if they look at me and say, I didn't have
4 it on, okay, you didn't have it on.

5 Q You've already said your case before the Lord. I got no
6 further questions.

7 THE COURT: Okay. Mr. White, any other questions?

8 MR. WHITE: No, Your Honor.

9 THE COURT: You can come down, Agent Skelton.

10 WITNESS: Thank you, sir.

11 (Whereupon, the witness exited the stand)

12 THE COURT: All right. Next?

13 MR. WHITE: Your Honor, that's all I have. I think we've
14 established that Mr. Johnson, while in custody, was advised
15 fully of his Miranda warnings, including the right to remain
16 silent, his right to an attorney, and the fact that any
17 statements that he made can and would be used against him in
18 court of law, that he had the right to stop the interview at
19 any time, and that no promise or hope of benefit was made to
20 Mr. Johnson. For these reasons we're asking the Court to
21 rule that the statement was made freely, voluntarily,
22 knowingly and intelligently, without the slightest hope of
23 benefit or the remotest fear of injury.

24 THE COURT: All right. Mr. Johnson, do you have any
25 evidence that you wish to present?

1 MR. JOHNSON: I have the EMS. I can show the EMS. I did
2 not bring my books, but I do have it on the disc. I would
3 like to -- If I could, I'd like to introduce the slides of
4 the EMS clerk report.

5 MR. WHITE: He can't introduce that. And there's no
6 relevance to the issue at the Jackson-Denno hearing.

7 THE COURT: Okay. I'm going to sustain the objection,
8 because, again, a Jackson-Denno hearing is to establish
9 whether or not any statement allegedly made by the defendant
10 was freely and voluntarily given after being advised of
11 their rights to remain silent, the right to counsel, the
12 right to conclude or stop the interview at any time while
13 it's ongoing. That's what a Jackson-Denno hearing is about.
14 Whether or not the EMS was there or not is not relevant to a
15 Jackson-Denno hearing. Okay? So, that's why I'm sustaining
16 the objection.

17 Do you have any other evidence you wish to present
18 regarding this hearing and these issues?

19 MR. JOHNSON: Not for that. But what we talked about
20 earlier, I still want to do that, but --

21 THE COURT: I don't understand what we talked about
22 earlier?

23 MR. JOHNSON: Being able to present the case one and
24 two.

25 THE COURT: On counts one and two?

1 MR. JOHNSON: Yeah.

2 THE COURT: Well, this is just the Jackson-Denno here.
3 Do you have anything further concerning this Jackson-Denno
4 hearing?

5 MR. JOHNSON: Your Honor, I've said everything.

6 THE COURT: Okay.

7 MR. JOHNSON: (Indiscernible)

8 THE COURT: Okay. All right, thank you.

9 All right. Based on the evidence presented, I will find
10 from a preponderance of the evidence that the defendant was
11 advised of each of his Miranda rights, he understood them,
12 he voluntarily waived them, and that he thereafter gave his
13 statement freely and voluntarily without any hope of benefit
14 or fear of injury. So, I will make that finding, so the
15 statement will be admissible.

16 MR. WHITE: Thank you, Your Honor.

17 THE COURT: Mr. White, anything else from the State?

18 MR. WHITE: No, Your Honor.

19 THE COURT: Mr. Johnson, anything before we bring the
20 jury in?

21 MR. JOHNSON: No, Your Honor.

22 THE COURT: Okay. All right, now. We're going to bring
23 the jury in, and I'm going to give them a preliminary
24 charge. You will hear what the outline of the case is
25 procedurally. The State has the opportunity to make their

1 opening statement first, because they have the burden of
2 proof. When Mr. White gets through his opening statement, I
3 will call on you, and if you'd like to make an opening
4 statement, you can. And then once those are concluded, the
5 State will begin presenting their case. Okay? All right.
6 Let's bring the jury in.

7 (Whereupon, the jury was returned to the courtroom)

8 THE COURT: Alright, you may be seated.

9 Alright. Good morning, ladies and gentlemen. I guess I
10 will start off by saying I'm glad somebody said it's not a
11 TV show yesterday, because it's not. I appreciate you being
12 here on time, ready to go. Nobody was late. We were in here
13 taking care of some matters that we had to address before we
14 got started, but thank you again for your patience.

15 Now at this time, ladies and gentlemen, I'm going to
16 give you your trial oath. So if you'll please, raise your
17 right hand.

18 (Whereupon, the jurors complied and were administered the
19 trial oath by The Court)

20 THE COURT: Alright, ladies and gentlemen, thank you
21 very much. In just a moment, I'm going to start off by
22 giving you your preliminary instructions. What I'm going to
23 point out before we get started, I will reread the
24 indictment to you that you heard yesterday during jury
25 selection. But, what I will instruct you, you may recall

1 there were three counts yesterday. Count three is no longer
2 your concern. That has been resolved. And so, it's only
3 going to be two counts. So, if you -- I just want to go
4 ahead and address that in case some of you might think, wait
5 a minute, yesterday he read three, and today there's only
6 two. Okay?

7 PRELIMINARY JURY INSTRUCTIONS

8 Ladies and gentlemen, you have been selected and sworn
9 to try the criminal case of The State of Georgia versus
10 Nathan Ross Johnson. The Hart County Grand Jury has indicted
11 the defendant, Nathan Ross Johnson for the following crimes,
12 which I'll read to you now.

13 The grand jury in the name and behalf of the citizens
14 of Georgia charge and accuse Nathan Ross Johnson and Melissa
15 Renee Roebuck, individually and as parties concerning the
16 commission of a crime with the offense of manufacture
17 marijuana, for that the said accused in Hart County,
18 Georgia, on about the 13th day of February, 2019, did
19 unlawfully manufacture marijuana in violation of O.C.G.A.
20 16-13-30(j)(1), by growing marijuana plants, contrary to the
21 laws of said State, the good order, peace and dignity
22 thereof.

23 Count two, the grand jury does further charge and
24 accuse Nathan Ross Johnson and Melissa Renee Roebuck,
25 individually and as parties concerned in the commission of a

1 crime, with the offense of possession of marijuana with
2 intent to distribute, for that said accused in Hart County,
3 Georgia on about the 13th day of February, 2019, did
4 unlawfully possess with intent to distribute more than one
5 ounce of marijuana in violation of the Georgia Controlled
6 Substances Act, contrary to the laws of said State, the good
7 order, peace and dignity thereof.

8 The defendant has pled not guilty to this indictment
9 and he denies every charge in it. This indictment and the
10 defendant's plea of not guilty present the issues that you
11 have been selected and sworn to decide. The indictment is
12 the way the defendant is charged with committing crimes that
13 violate the laws of Georgia. The charges in the indictment
14 and the plea of not guilty are not evidence of guilt, and
15 you may not conclude that the defendant is guilty based on
16 the charges or the not guilty plea.

17 The defendant is presumed to be innocent until he is
18 proven guilty. The defendant begins the trial with a
19 presumption of innocence in his favor, and that presumption
20 stays with him until it is overcome by the State with
21 evidence that convinces you, beyond a reasonable doubt that
22 the defendant is guilty of the crimes charged.

23 You may not convict the defendant of any crime unless
24 each element of the crime is proven beyond a reasonable
25 doubt. The burden of proof is on the State to prove every

1 essential element of the crimes charged in the indictment
2 beyond a reasonable doubt.

3 The defendant has no burden of proof at all, and the
4 burden never shifts to the defendant to prove his innocence.
5 However, the State is not required to prove the guilt of the
6 defendant beyond all doubt or to a mathematical certainty.

7 A reasonable doubt means just what it says. It is a
8 doubt of a fair minded, impartial juror who is honestly
9 seeking the truth. It is a doubt based on common sense and
10 reason. It does not mean a vague or arbitrary doubt, but it
11 is a doubt for which you can give a reason based on a
12 consideration of the evidence, or a lack of evidence, a
13 conflict in the evidence, or any combination of these.

14 After considering all of the facts and circumstances of
15 this case, if your minds are wavering, unsettled or
16 unsatisfied, then that is a doubt of the law, and you must
17 find The defendant not guilty. But if no reasonable doubt
18 exists in your minds about the defendant's guilt, then you
19 may convict the defendant.

20 If the State does not prove the defendant's guilt
21 beyond a reasonable doubt, it would be your duty to convict
22 the defendant. I'm sorry. If the State does not prove the
23 defendant's guilt beyond a reasonable doubt, your duty would
24 be to find the defendant not guilty.

25 My role is to determine the law that applies to this

1 case, then I will instruct you on the law that you must
2 apply to the facts in reaching a verdict. I'm giving you
3 some of these instructions now. I will give you more
4 detailed instructions at the end of the trial.

5 The jury has a very important role. You must decide the
6 facts of the case from the evidence presented, and then
7 apply the law I give you to those facts.

8 Evidence is how a fact is proved or disproved. Evidence
9 can be either testimony or exhibits.

10 Testimony is what you hear from people who take the
11 witness stand and swear to tell the truth. However, the
12 questions the lawyers ask the witnesses are not evidence.

13 Exhibits are documents, photographs and other physical
14 items that are admitted during the trial.

15 The object of this trial is to discover the truth.
16 During the trial, I will admit evidence according to the
17 Rules of Evidence. Those rules are designed to aid in
18 discovering the truth by making sure you consider only the
19 best and highest evidence.

20 The lawyers, or Mr. Johnston is an advocate for
21 himself, are advocates for their clients, and they have a
22 duty to represent their clients to the best of their
23 ability. They must follow the rules of law, trial procedure
24 and evidence during the trial. They may make motions or
25 objections if they believe that any rule is not being

1 followed. What the lawyers say in making or responding to
2 objections is not evidence.

3 I will admit or exclude evidence according to the
4 rules. If an objection is made and I overrule it, that means
5 the evidence is admitted and you may consider it. On the
6 other hand, if I sustain an objection, this means the
7 evidence is excluded from the trial, and you may not
8 consider it. You should consider only that testimony and
9 only those exhibits that are admitted. You should not assume
10 or infer anything about evidence which I have excluded. If
11 you happen to hear or see evidence that I end up excluding
12 from the trial, you must disregard it entirely in your
13 deliberations and in arriving at your verdict.

14 None of my decisions and nothing I say during the trial
15 are evidence. My decisions and remarks do not mean that I
16 favor or lean to one side or another in the case. I'm only
17 interested in seeing this case is tried fairly, based on the
18 law and the Constitution of the State of Georgia and the
19 Constitution of the United States. Sometimes I may need to
20 deal with motions or objections without you being in the
21 courtroom. So I'll excuse you to the jury room. We'll try to
22 limit these interruptions, and we ask you to please be
23 patient when they happen.

24 The trial procedure is generally as follows. First, the
25 attorneys may give what are called opening statements. No

1 attorney is required to make an opening statement. Opening
2 statements are not evidence. They're simply an introduction
3 to the evidence, a preview, or an outline of the expected
4 evidence. The State goes first because they have the burden
5 to prove.

6 Second, the evidence will be presented.

7 Third, the attorneys may give a closing argument or a
8 summation. They may discuss the law that applies to this
9 case and how you should consider the law in light of the
10 evidence. They may also point out evidence they believe
11 supports their position. What the lawyers say in the closing
12 argument is not evidence. The goal of a closing argument is
13 to persuade you to decide the case in their favor.

14 Fourth, I'll explain to you the specific law that
15 applies to the case. I'll then ask you to go to the jury
16 room to deliberate and reach your verdict.

17 It is important you pay close attention during the
18 trial. If at any time you can't hear or see any evidence, or
19 if you have any discomfort that distracts you, please inform
20 me, and I will do what is needed to make sure you can hear
21 and see the evidence, and give it your undivided attention.
22 As we discussed yesterday before we adjourn, if you need a
23 break at any time, just raise your hand, I'll know that's
24 the signal. We'll take a break.

25 You should consider the evidence with an open mind, and

1 you should not reach any final conclusion until the trial is
2 over. Do not jump to conclusions before all the evidence is
3 presented.

4 I will remind you, you must decide this case based only
5 on the evidence admitted during the trial and the law I will
6 explain to you. You may not conduct any research on your own
7 about this case, or about any people or places mentioned
8 during the trial. You may not visit any places mentioned in
9 the evidence. And you may not refer to any books or
10 documents that were not admitted during the trial. You may
11 not use dictionaries or other reference materials. You may
12 not use Google, or otherwise search the internet, websites,
13 or blogs. And you may not use any other electronic media to
14 get information about the case. You should not use any of
15 these sources to get information about legal terms or about
16 the law.

17 Finally, you may not read or listen to any accounts of
18 this trial that might appear in the news media, whether
19 online, in print, or on the radio. Remember that you are the
20 ones who have been qualified as fair and as impartial jurors
21 deciding this case. No other influence should affect your
22 decision. For that reason, you may not discuss this case
23 with anyone, including family and friends, or let anyone
24 discuss the case with you or around you. This includes
25 discussing or sharing information by email, texting,

1 blogging, or any form of social media. Until actual
2 deliberations begin, that is, until after you have heard all
3 the evidence, the lawyers closing arguments, and the law
4 that applies to the case, you must not discuss the case even
5 amongst yourselves in the jury room, during breaks, or
6 anywhere else.

7 I'll ask you at this time, if you wish to take notes,
8 please raise your hand, and Mr. Cleveland will give you a
9 notepad and pens. Or, while he's going to get those, let me
10 explain something to you about note taking. You can take
11 notes, if you want to. But, if you take notes, please do not
12 let your note taking distract you from paying full attention
13 to the evidence and the witnesses. You may not share or
14 discuss your notes with anyone until you start your
15 deliberations at the end of the case. Remember, notes are
16 not evidence. They are only memory aids. They are not more
17 important than your own impression or memory of what the
18 evidence may have been. While you may consider another
19 jurors notes to refresh your memory, you should rely on your
20 own memory of the proceeding. Do not be influenced by the
21 notes of other jurors, unless their notes help you in
22 determining your own independent memory. You must leave your
23 notes in the jury room except when you are in the courtroom.
24 And they will be destroyed at the end of the trial. They do
25 not become part of the record. No one will ever see them.

1 So, if anyone would like to take notes, please raise
2 your hand.

3 Okay. What I would suggest, if you'll put your initials
4 on the front page, flip over, then you can take your notes.
5 So, when you go the jury room, you'll be able to close them
6 up, so nobody would see them except you.

7 (Whereupon, notepads and pens were given to jurors)

8 All right, now at this time, we're now ready for the
9 attorneys to give their opening statement. And under the
10 rules and procedure, the State goes first. So, at this time,
11 the Court will recognize Mr. White for the State's opening
12 statement.

13 MR. WHITE: Thank you, Your Honor. The lectern has been
14 removed from the courtroom.

15 THE COURT: Where is the lectern?

16 BAILIFF CLEVELAND: I'll get it.

17 THE COURT: Oh, okay.

18 (Whereupon, the lectern was returned to the courtroom)

19 (Whereupon, the State and Defense made opening statements to the
20 jury)

21 THE COURT: Alright. The State may call its first
22 witness.

23 MR. WHITE: Your Honor, I need some water. Can we have a
24 break? I'm sorry. The jury just heard (indiscernible) and
25 we've been going for quite some time.

1 THE COURT: Okay. That'll be fine. Let me, uh, let me
2 ask (indiscernible whispering to bailiff).

3 Before I ask you, I know, we actually have what we call
4 Courtroom Number 2, it's in the annex building. I'm just
5 going to ask about the jury room. It's -- I'm not going to
6 say it's huge and palatial; might be a little bit bigger
7 than the jury room. Would y'all like to use that for your
8 jury room, or is this room you're in okay? Is everybody
9 okay, comfortable enough?

10 (Nonverbal responses from jurors)

11 THE COURT: Okay. Alright, so, what I'm going to do, I'm
12 going to ask you to go back to the jury room. While you're
13 back there, you are not to discuss anything about the case
14 whatsoever among yourselves, with -- And I'm going to always
15 just give the same thing even though you're in the jury room
16 -- with anyone else, nor allow anyone to discuss anything
17 about the case with you. You're not to do any independent
18 research whatsoever, not through smart phones, tablets,
19 computers, Google, magazines, dictionaries, books of any
20 type. You're not to talk about the case, or speak to the
21 attorneys, the parties, the witnesses, members of the
22 audience, no one about the case whatsoever. Should there be
23 any media coverage, you don't listen, watch or read. Okay?
24 So, if you'll just go to the jury room, we're going to take
25 a short break. Thank you.

1 (Whereupon, the jury was escorted to the jury room)

2 THE COURT: Okay, we'll take a short break, and then
3 we'll be back, say, in about 10, 10 or 15 minutes.

4 (Whereupon, a short break was taken)

5 (Back on record)

6 THE COURT: All right. Mr. White, the State ready?

7 MR. WHITE: Yes, Your Honor.

8 THE COURT: Mr. Johnson, Defense ready?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: All right. You can bring the jury back in,
11 please.

12 (Whereupon, the jury was returned to the courtroom)

13 THE COURT: All right. Ladies and gentlemen, you may be
14 seated. By the time we take our first break, I always like
15 to see, is everybody running back to their same chair, and I
16 see some of you got beat out of your original seat; but it's
17 okay, you don't have to sit in the same one; but sometimes
18 I've heard jurors say it just feels more comfortable to get
19 back to where I was sitting. But, thank you for your
20 patience.

21 Mr. White, you may call your first witness.

22 MR. WHITE: Thank you, Your Honor. The State calls
23 Special Agent Jamie Skelton.

24 THE COURT: Agent Skelton, if you'll come up.

25 WITNESS: (Complies)

1 THE COURT: Mr. White, if you will, after you swear
2 your witness in, if you'll have him spell first and last
3 name for the record, please.

4 MR. WHITE: Yes, Your Honor.

5 Special Agent Skelton, could you please raise your
6 right hand?

7 WITNESS: (Complies)

8 WHEREUPON,

9 JAMIE SKELTON,

10 After having first been duly sworn testified as follows:

11 DIRECT EXAMINATION

12 BY MR. WHITE:

13 Q Can you please state your full name and spell your
14 first and last name for the court recorder?

15 A Yes, it's Jamie Skelton. First name is J-A-M-I-E. Last
16 name is S-K-E-L-T-O-N.

17 Q Special Agent Skelton, are you a POST-certified law
18 enforcement officer?

19 A Yes, I am.

20 Q How long have you been a POST-certified law enforcement
21 officer?

22 A Since '98, I believe.

23 Q What is POST?

24 A POST is just the agency that governs law enforcement
25 officials. They all have certification to be law enforcement

1 officers, and that's who governs. They make sure all your
2 training is up to date and go through the proper certifications
3 to be a law enforcement officer.

4 Q That's Peace Officer Standards and Training?

5 A Yes, sir.

6 Q Can you tell the jury what inspired you to become a
7 police officer?

8 A I grew up in a drug house. I didn't like it. I've seen
9 both sides of it. And I just wanted to do something about it, so
10 when I got out of the army I was doing this.

11 Q When you say you grew up in a drug house, who was the
12 drug dealer that was related to you?

13 A That was my father. He was probably one of the biggest
14 drug dealers in this area at one time.

15 Q Can you describe to the jury the law enforcement
16 training and experience to qualify you for your position as a
17 special agent?

18 A For GBI, you have to have a four-year degree, doesn't
19 matter what it's in. Once you're selected, you have to go to the
20 basic agent school for 16 weeks down at Forsyth. It's just a
21 basic school. They teach everything from homicides to narcotics.
22 Once you get out of there, there's a lot of other training you go
23 to, interviews and interrogations. You go to different drug
24 classes about search and seizure for drug cases, how to write
25 search warrants, different law updates, just a whole different

1 variety of training you go through.

2 Q You're a special agent for the Georgia Bureau of
3 Investigations?

4 A Yes, I am.

5 Q How long have you been with the Georgia Bureau of
6 Investigation?

7 A I've been a special agent since September of 2007.

8 Q Are you currently assigned to a task force?

9 A Yes. It's the Appalachian Regional Drug Enforcement
10 Office. GBI is just broke up in different regions, and that's
11 just the name of mine. We work narcotics cases for this area,
12 basically the whole north part of Georgia.

13 Q GBI agents, do they have statewide arrest powers?

14 A Yes, we do.

15 Q As a special agent at GBI, GBI in general is a request
16 agency, is that right?

17 A Yes. Generally, what that means is we just can't go out
18 and start investigations. We have to have original jurisdiction
19 concerning anything, like a homicide. And so we have to be
20 requested either by a chief, sheriff, judge, district attorney.
21 But the narcotics cases, we have what's called original
22 jurisdiction. For certain cases, we can just come in and initiate
23 those, like narcotics cases, corruption cases, things like that.

24 Q Do you have specialized training in narcotics?

25 A Yes, I do.

1 Q Can you describe to the jury what sort of training it
2 is?

3 A I've been through thousands of hours of narcotics
4 training, anything from search and seizure to drug cases, meth
5 labs, how to dismantle meth labs. I've been through different
6 levels of meth lab school, how to dismantle the labs and how to
7 work those kind of cases. I received training from GBI, FBI, Drug
8 Enforcement Administration, went through interviews,
9 interrogations, different classes on drug identification. I used
10 to be a certified marijuana examiner, where I could actually look
11 at marijuana, do the field test on it, and tell you that it was,
12 in fact, marijuana. So, like I said, just thousands of hours on
13 various topics of law enforcement.

14 Q And, apparently, you're assigned to the Appalachian
15 Regional Drug Task Enforcement Office?

16 A Yes, I am.

17 Q Were you assigned to that unit back in February of
18 2019?

19 A Yes, I was.

20 Q Back in February 2019, did you have occasion to begin
21 an investigation into a person who came to be known to you as
22 Nathan Johnson?

23 A Yes, I did.

24 Q I'm not going to ask you what anyone said, but were you
25 furnished with text messages?

1 A Yes, I was. I was, uh -- I was got in touch with from
2 an anonymous source. I was provided screenshots of text messages
3 that had been sent. The top of these had a phone number on top of
4 it. The phone number was 404-454-3570, so that's who I knew was
5 sending these messages to this person.

6 Q Okay. That number that you identified as being the
7 number that was sent with the messages, do you have access to a
8 lawfully connected to the Georgia Crime Information Center
9 terminal?

10 A Yes, I do.

11 Q Were you able to determine, using access to that
12 terminal and the Department of Driver Services, who that number
13 belonged to?

14 A Yes, I was. So, I need to explain GCIC. If I pull you
15 over and I run your license, or if a trooper or a deputy, GCIC,
16 that's who we either radio to or we can call, if you have a
17 computer, you can type into it. That has all your information on
18 it if you have a driver's license. So, GBI, we use an
19 intelligence unit, and that's all these guys do, they sit around
20 and go through data. So, if John Smith, if I'm working a case on
21 him, and I have his name and DOB, I can submit that to them and
22 I'll -- they'll have them work up what's called an intelligence
23 packet. And if your name's anywhere on water bills, cell phones,
24 whatever they have, they'll send it to me. So, I actually had two
25 different pieces of information from the intelligence unit. They

1 actually associated Mr. Nathan Johnson as being the owner of that
2 -- or the user of that telephone number. And then on the GCIC
3 printout, that was his contact telephone number, which also had
4 the address at 137 Lanier Street in Hartwell, Georgia.

5 Q This was from the Georgia Crime Information Center?

6 A Yes.

7 Q The messages you received, what were they indicative of
8 to you based upon your training in narcotics?

9 A It was somebody trying to sell marijuana, is what it
10 was. There was two different pictures of the defendant, I
11 believe. And that's how I was able to say, okay, this is Nathan
12 Johnson, because the same picture he sent was the same driver's
13 license photo that I was provided. It was easy to look at and
14 see, okay, it's the same guy. The other pictures actually had
15 pictures of marijuana. It was marijuana buds. And that's the
16 actual flower of marijuana. So when people smoke marijuana,
17 that's the good stuff that they want. It's not the leaves, it's
18 the bud that comes out.

19 Q Did you preserve those messages as part of your
20 investigation?

21 A Yes, I did. They were attached to my case file.

22 (Pause)

23 (Whereupon, there was off record discussion between Mr.
24 White and Mr. Johnson)

25 MR. WHITE: Your Honor, he has seen these messages.

1 THE COURT: Well, let him look at them.

2 (Pause)

3 THE COURT: He's done. Okay.

4 MR. WHITE: May I approach the witness?

5 THE COURT: You may.

6 BY MR. WHITE:

7 Q Special Agent Skelton, I'm showing you what has been
8 marked for identification purposes State's Exhibits 3 through 10,
9 and ask you if you recognize those?

10 (Pause)

11 A Yes, I do. These are printouts, copies of the text
12 messages that were provided to me.

13 Q Are those fair and accurate copies of the messages that
14 you were able to identify as originating from a phone belonging
15 to Nathan Johnson?

16 A Yes. This picture here, it's actually been cut off at
17 the top, but this is where the number would have been.

18 Q On your image, you have showing the number listed at
19 the top of the message; is that right?

20 A Yes. So you know how when you print stuff off sometimes
21 it cuts things off, but that's the number that's on there. That's
22 what's attached to the case file. So, yes.

23 MR. WHITE: Your Honor, at this time I tender States 3
24 through 10 into evidence.

25 THE COURT: Any objection, Mr. Johnson?

1 THE DEFENDANT: At this point, no.

2 THE COURT: Okay. States 3, 4, 5, 6, 7, 8, 9, and 10 are
3 all admitted without objection.

4 (Whereupon, State's Exhibit Nos. 3
5 through 10 were tendered and
6 admitted into evidence)

7 MR. WHITE: May I publish them?

8 THE COURT: You may.

9 (To jury) By publishing, ladies and gentlemen, what you
10 will do is once you look at the first one, just pass it down
11 until -- and it will go down to this end, go back up, and
12 come back to this one, then the bailiff can collect it.
13 Okay?

14 (To Mr. White) Alright, you may proceed.

15 (Whereupon, the exhibits were passed through the jury)

16 BY MR. WHITE:

17 Q The information in the text messages was recent; is
18 that right?

19 A Yes.

20 Q Are you able to identify the residence of Mr. Johnson
21 through GCIC system indicated was a part of his record on the
22 GCIC system; is that right?

23 A Yes.

24 Q What was the address that you identified as being Mr.
25 Johnson's residence?

1 A It's 137 Lanier Drive, Hartwell, Georgia.

2 Q 137 --

3 A Lanier Drive in Hartwell, Georgia.

4 Q Is that in Hart County?

5 A Yes.

6 Q Based upon the information you gathered through both
7 the text messages and the intelligence from GCIC, were you able
8 to obtain a search warrant for defendant's residence?

9 A Yes, I was. I met with the master judge. I was able to
10 show him everything that we had. And he reviewed and approved,
11 and signed a search warrant for the residence.

12 Q Did you coordinate with members of the Hart County
13 Sheriff's Office to execute that search warrant?

14 A Yes, I did. We had a briefing on the day we served the
15 search warrant. I believe it was Michael Davis, may have been
16 another couple of deputies went with us, and there were some
17 people from my office that went up, three or four GBI agents.

18 Q When you say other GBI agents, which GBI agents are you
19 referring to?

20 A Bobby Cunningham, Ashley Isaacson, Zach Emerson. I
21 think that was all.

22 Q Now before the execution of the search warrant, how do
23 you coordinate with other members of law enforcement prior to
24 executing a search warrant?

25 A We just reach out to them and call them and say, you

1 know, hey, we're going to be doing this operation, if you want to
2 come out and play with us, come on; if you want to assist with
3 it, you can. I usually, always, whether -- if I'm in a certain
4 county or city, even though we're GBI agents, and, you know,
5 we're watching everything, we like to take local law enforcement
6 with us when we're serving a search warrant. That way if a bad
7 guy looks out and he sees local law enforcement, he knows that's
8 the police there. There's no mistaking that. That way somebody
9 can't say, I thought it was other drug dealers trying to rob us,
10 or something.

11 Q Do you conduct a safety briefing prior to the execution
12 of a search warrant?

13 A Yes. We always do that. We do a complete operations
14 plan. Just kind of, basically, gives a breakdown of what we're
15 doing, what we're looking for, you know, contingency plan if
16 somebody gets hurt, or something like that.

17 Q And was that conducted in this case?

18 A Yes. It's conducted in every case we do. It's GBI
19 policy.

20 Q There's been a lot of talk about in the news about no-
21 knock warrants. Prior to executing this warrant, did you knock
22 and announce yourselves?

23 A Yes, we did.

24 Q Were you in uniform?

25 A Yes. Well, you know, GBI agents, we don't have to wear,

1 you know, we have a little blue and khaki uniform. As narcotics
2 agents, we don't usually wear that. We all have these big green
3 vests, and it says, as bright as day, police, GBI agent.

4 Q So everyone's identified as a member of law
5 enforcement?

6 A Yes.

7 Q So, approaching the residence, when you're knocking and
8 announcing, can you give the jury an idea of how that occurs?

9 A We approach the house, actually, we'll have a marked
10 unit with us. We never go alone. There'll be a whole team of us.
11 But we go up to the door. We knock on it real loud, yell, police,
12 search warrant, come to the door. And we'll do that anywhere from
13 30 to 45 seconds. It could be longer. It depends on the size of
14 the house. You know, I want to give whoever's in there enough
15 time to get to the door. You know, obviously, if it's a mansion,
16 they're living upstairs, I'm going to give them a little bit
17 longer. If it's a single wide trailer, it would only take
18 somebody a few seconds. And, you know, so we give them ample time
19 to open the door before we take the ram and actually make entry.
20 We just don't bust down doors. We're not allowed to do that,
21 unless it's a no-knock search warrant.

22 Q And can you tell the jury what happened as you executed
23 the search warrant?

24 A We're up there, we're knocking on the door. Nobody's
25 coming to the door. One of the agents, I can't believe -- it may

1 have been Agent Cunningham, but somebody could hear somebody on
2 the inside. And if you go around somebody's house, you can hear
3 people running around inside. So, after nobody came to the door,
4 I actually had to physically make entry, which I had to kick the
5 door in, basically. And it was, uh -- You ever seen one of those
6 door stops that's attached to the floor and it goes up to the
7 door, that's what he had the door braced open with. So we had to
8 bust through that barricade and actually get in the house.

9 Q What was the first thing you noticed upon entering the
10 defendant's residence?

11 A As soon as we got in there, I could smell marijuana.
12 And I know that just from being a cop for, you know, 25-plus
13 years now. But I was actually in the living room. You could tell
14 it looked like to be the living room that one of the pictures
15 actually came from that was marijuana.

16 Q And who did you first encounter upon making entry into
17 the residence?

18 A I can't remember if it was Mr. Nathan and Ms. Roebuck,
19 but it was one -- it was the only two people in the house at the
20 time. So they were both secured. I can't remember exactly who
21 handcuffed who, but the entire house was secured. The only two
22 people in there was Mr. Johnson and Ms. Roebuck.

23 Q Having determined that there's contraband present in
24 the residence, was Mr. Johnson free to leave at this time?

25 A No, he was not. Like I said, once we cleared the house,

1 we started finding evidence of the marijuana grow, which is the
2 actual grow itself. In the kitchen area, there was what we call
3 the edibles, the brownies, the little Rice Krispies Treats,
4 whatever you want to call them, different things, that I
5 recognize to be marijuana edibles. We actually started finding
6 jars of marijuana, things like that. So we called the local, I
7 believe it was Kevin White who came out, a deputy with the Hart
8 County Sheriff's Office, and actually turned the crime scene over
9 to those guys as far as collecting all the evidence and all that.

10 Q Mr. Johnson wasn't free to leave at this time, so it's
11 fair to say he was detained or under arrest. Is that right?

12 A Yes. He was not free to leave at that time.

13 Q And if a person is detained or under arrest, prior to
14 speaking with them, is there any procedure you're instructed, or
15 you have to follow?

16 A You know, so once you've been detained, that's when we
17 do an interview, it's what's called an in-custody interview. Once
18 I do that, I have to read you your Miranda rights. And that's
19 what you've heard on TV, you know, you have the right to remain
20 silent, anything you say can be used against you in a court of
21 law. I have to do -- I have to do it right when I arrest you, but
22 before I actually speak to you, I have to do that.

23 Q And did you proceed to advise Mr. Johnson of his
24 constitutional rights?

25 A Yes, I did.

1 Q Did you use anything to assist you?

2 A Yes. So we have a Miranda waiver form. It's a form we
3 fill out. It has each of your rights listed. And we'll actually
4 fill that out, and we'll read it to the defendant. And he gets to
5 read it and actually sign it saying he understands it.

6 (Pause)

7 MR. WHITE: May I approach the witness?

8 THE COURT: You may.

9 BY MR. WHITE:

10 Q I'm showing you what's been introduced into evidence at
11 State's Exhibit 1 and ask if you recognize State's Exhibit 1?

12 A Yes. This is the GBI Miranda form. It's a copy of the
13 one that I used for Mr. Johnson.

14 MR. WHITE: And this is already in evidence, Your Honor.

15 BY MR. WHITE:

16 Q That is an exact copy of the Miranda form you used for
17 Mr. Johnson?

18 A Yes, it is.

19 Q And prior to questioning Mr. Johnson, did you determine
20 his highest grade that he had completed?

21 A Yes. For the form, it asked all these questions. It'll
22 ask, you know, what's the last grade you completed in school. He
23 said the 12th. And that's to make sure that they actually
24 comprehend what you're saying; they can actually read and write
25 and actually answer the question.

1 Q And did you advise him his right to remain silent?

2 A Yes, I did.

3 Q And how did you have him acknowledge that he understood
4 that he had the right to remain silent?

5 A See, Miranda warnings, it comes in five different
6 parts. When you read each one, like I have the right to remain
7 silent, when he says, yes, I understand that, I actually get him
8 to initial; so, he not only signs it, but he initials by each
9 right that he's understood.

10 Q Did you advise him that he had the right to -- I'm
11 sorry -- that anything he said could and would be used against
12 him in a court of law?

13 A Yes, I did.

14 Q Did you advise him that he had the right to an
15 attorney?

16 A Yes, I did.

17 Q Did he acknowledge that right?

18 A Yes, he did.

19 Q Did you advise him that if he could not afford an
20 attorney, that one would be appointed to him?

21 A Yes, I did.

22 Q Did he acknowledge that right?

23 A Yes, he did.

24 Q Did you advise him that he could invoke his rights at
25 any time and end the interview?

1 A Yes, I did.

2 Q And did he acknowledge that right?

3 A Yes, he did.

4 Q Did he sign the form?

5 A Yes, sir, he did.

6 Q And what else did this form contain, in terms of
7 expressing whether or not anything had been offered to Mr.
8 Johnson?

9 A So at the bottom, it says (reading), I understand my
10 rights. Having these rights of mind, I'm willing now to talk to a
11 law enforcement officer. I've not been threatened. I've not been
12 promised anything. I've not been forced in any way to answer any
13 questions or make any statements.

14 Not only does he sign it, but I have to sign it, and then I
15 have to get a witness to sign it, in this case it was another GBI
16 agent.

17 Q Did you offer Mr. Johnson anything in exchange for
18 making any statements?

19 A No, I did not.

20 Q By the way, his address on this waiver of rights form
21 is listed as 137 Lanier Drive. Is that right?

22 A Yes.

23 Q Did he acknowledge that was his address?

24 A Yes.

25 Q And to the best of your knowledge --

1 MR. WHITE: May I approach with State's Exhibit 1?

2 THE COURT: You may.

3 BY MR. WHITE:

4 Q To the best of your knowledge, was Mr. Johnson's waiver
5 of his rights made freely and voluntarily, knowingly and
6 intelligently?

7 A Yes, it was.

8 Q And did you offer him the slightest hope or benefit in
9 exchange for giving a statement?

10 A No, I did not.

11 Q Did you threaten to injure him?

12 A No, I did not.

13 Q Did you use anything to memorialize the statement that
14 Mr. Johnson gave?

15 A Yes. There was an audio recording made of the
16 interview. It was made -- We actually took him outside, myself
17 and Agent Cunningham, and we conducted it actually outside on the
18 hood of a car.

19 MR. WHITE: May I approach the witness?

20 THE COURT: You may.

21 BY MR. WHITE:

22 Q I'm showing this has been marked for identification as
23 State's Exhibit 2. Does State's Exhibit 2 contain a copy of the
24 recording that you made with Mr. Johnson?

25 A Yes. It should.

1 Q That recording that you made that day, it remains in
2 the same condition today?

3 A Yes.

4 Q Has it been altered in any way?

5 A No. The way we do it, it goes on a recording device,
6 it's downloaded from there straight to the case file as an
7 attachment, and then it goes to you guys.

8 MR. WHITE: Your Honor, at this time I tender State's
9 Exhibit 2.

10 THE COURT: Any objection, Mr. Johnson?

11 THE DEFENDANT: No objection. Go right ahead.

12 THE COURT: States 2 is admitted without objection.

13 (Whereupon, State's Exhibit No. 2
14 was tendered and admitted into
15 evidence)

16 MR. WHITE: May I publish it?

17 THE COURT: You may.

18 (Pause)

19 THE COURT: Members of the jury, once it starts, if
20 anyone can't hear it clearly, please raise your hand and
21 we'll adjust the volume.

22 (Whereupon, State's Exhibit 2 was played for the jury)

23 BY MR. WHITE:

24 Q Special Agent Skelton, did that conclude your interview
25 with Mr. Johnson?

1 A Yes, it did.

2 Q At any point during the course of the interview, did
3 you stop your recording or restart your recording?

4 A No, I did not.

5 Q To be clear, during the course of your interview with
6 Mr. Johnson, did he acknowledge that he was growing marijuana?

7 A Yes, he did.

8 Q Did he acknowledge that the green leafy substance in
9 his house was marijuana?

10 A Yes, he did.

11 Q Did he acknowledge that he was selling marijuana?

12 A Yes, he did.

13 Q Did he acknowledge that he was distributing marijuana?

14 A Yes, he did.

15 Q The grow operation that Mr. Johnson had set up in his
16 house was in two separate locations, is that right?

17 A Yes. It was broken up in two different rooms.

18 Q How many narcotics investigations have you been
19 involved with?

20 A I feel comfortable saying over 1,000 in my career.

21 Q And you've made many, many narcotics arrests, is that
22 right?

23 A Yes, sir, I have.

24 Q You have specialized training in the investigation of
25 narcotics and other contraband?

1 A Yes, I do.

2 Q And you've gone to classes for that purpose, is that
3 right?

4 A Yes, sir.

5 Q Is it fair to say that you have more knowledge than the
6 average person regarding narcotics and drug investigations?

7 A Yes, sir.

8 MR. WHITE: Your Honor, at this time I tender Special
9 Agent Skelton as an expert in the area of narcotics
10 investigations.

11 THE COURT: Mr. Johnson, would you wish to voir dire
12 question Agent Skelton about his expertise, his
13 qualification?

14 THE DEFENDANT: Is the State through?

15 THE COURT: Well, right now you would just, if you want
16 to challenge the State's tender of him as an expert in
17 narcotics investigation, you may question him on that issue.

18 THE DEFENDANT: (indicates affirmatively)

19 THE COURT: All right, Mr. White, he'd like to.

20 (To defendant) You can just at the podium, if you will.

21 VOIR DIRE

22 BY THE DEFENDANT:

23 Q Mr. Skelton?

24 A Yes, sir.

25 Q You said that you didn't talk to, uh -- I don't like

1 that; I talk too loud (pushes microphone away) -- the name of the
2 county (indiscernible) --

3 MR. WHITE: Objection.

4 THE COURT: You can't make statements.

5 THE DEFENDANT: Oh, I was just moving that out of the
6 way.

7 THE COURT: I understand, but you were making statements
8 while you were moving it out of the way.

9 BY THE DEFENDANT:

10 Q You said A-S (phonetic) came across Johnson on plenty
11 of fish?

12 MR. WHITE: Objection. This isn't relevant.

13 THE COURT: Mr. Johnson --

14 MR. WHITE: -- it's not (crosstalk) --

15 THE COURT: -- what this issue is solely about, is to
16 whether or not you object to the State tendering Agent
17 Skelton as an expert in the area of narcotics investigation.
18 Mr. White questioned him as to his background and training.
19 If you wish to object to him being allowed to testify as an
20 expert, you may question him on those issues, and then make
21 your objection. If you do not object to him being deemed --

22 THE DEFENDANT: I've got one question; it depends on his
23 answer.

24 BY THE DEFENDANT:

25 Q Is cannabis a narcotic or not?

1 A Yes, we consider it a narcotic.

2 Q It's not a narcotic.

3 A Well, we can argue that till the sun goes down. The
4 State says it is.

5 Q It's not a narcotic.

6 THE COURT: You can't argue with him. You can ask a
7 question and he answers. Do you have any other questions?

8 BY THE DEFENDANT:

9 Q Let me ask you something. With narcotics, do you build
10 up a tolerance?

11 A You can. You also build up a huge dependency.

12 Q The O.C.G.A. only has stated, I'm just asking, if you
13 know, they only have stated as narcotics heroin, cocaine --

14 MR. WHITE: This is not correct. He's making -- he's
15 testifying.

16 THE COURT: Mr. Johnson, you cannot testify. And the
17 jury will disregard any statements he made as to, just
18 statements that were not questions that were admitted, or
19 allowed to be asked, but you may ask him about his training
20 and expertise as being deemed an expert, if you wish.

21 THE DEFENDANT: If he believes cannabis --

22 THE COURT: You can't make a statement.

23 THE DEFENDANT: No, I don't.

24 THE COURT: Okay. So you have no other questions?

25 THE DEFENDANT: I don't take him as an expert on

1 narcotics based on his statement.

2 THE COURT: Okay. All right, I'm going to overrule the
3 objection. And I will deem and allow Agent Skelton to
4 testify as an expert in this trial as to narcotics
5 investigation.

6 You may be seated. Thank you, Mr. Johnson.

7 THE DEFENDANT: (Complies)

8 THE COURT: Mr. White, you may proceed.

9 MR. WHITE: Thank you, Your Honor.

10 CONTINUED DIRECT EXAMINATION

11 BY MR. WHITE:

12 Q Have you had the occasion to come across more than just
13 this marijuana grow operation?

14 A Yes. I have.

15 Q How many marijuana grow operations would you say you've
16 encountered?

17 A I mean, not, you know, when I talk about numbers, it's
18 just not my individual cases, and I take other agents, too. So,
19 I've probably seen two or three hundred grows in my time.

20 Q Was this a sophisticated grow?

21 A Yes, it was. I mean, it was, to be in a smaller house,
22 it was very elaborate.

23 Q Can you describe for the jury what made it so
24 sophisticated?

25 A So, you know, you can take marijuana and grow it in

1 your backyard. You can plant it, you can go out there and water
2 it here and there, and it will grow, and it will produce
3 marijuana. But then you have what we call hydroponic grows, and
4 it's more of an elaborate system. With him, he had a bucket set
5 up that was connected with one another, set on timers that were
6 constantly watering these plants, feeding them nutrients. He also
7 had a railing system set up. Marijuana, it does, it needs a light
8 source to really get through, you know. You can tell the
9 difference between somebody that's just growing it out in the
10 field versus somebody who's really loving the plant. It needs a
11 lot of light to grow. And he had the lights set up on the rails
12 where it was slowly moving, almost like a little train set. And
13 it would simulate how the sun would rise on one side of the plant
14 and how the sun would set. That's what it was simulating, just so
15 every one of those plants would get an equal amount of the light
16 and stuff. So, yeah, it was very -- I was impressed by it to be
17 in such a small area.

18 Q How much marijuana can each plant produce per year?

19 A At least a pound. At least. It all depends. I mean, it
20 could be more. Like I said, with marijuana growers, you know, you
21 can smoke the leaves. A lot of people who are really into it and
22 trying to get the biggest bang for the buck, they only sell the
23 buds, and that's that little flower that comes out. It almost
24 looks like green popcorn. You can sell the leaves. It all
25 depends. If you're just counting the buds, you know, a pound, it

1 could be up to five, if you're counting the buds and the leaves,
2 too.

3 Q Was this hydroponic grow intended to produce high-resin
4 THC plants?

5 A Yes. I mean, you could -- Literally, when we stepped on
6 the property, you could smell the marijuana.

7 MR. WHITE: Your Honor, may I approach the witness?

8 THE COURT: You may.

9 BY MR. WHITE:

10 Q Showing you what's marked for identification purposes
11 as State's Exhibit 11. I'm going to introduce more photos through
12 Deputy White. Do you recognize State's Exhibit 11?

13 A Yes, I do.

14 Q Is State's Exhibit 11 a fair and accurate depiction of
15 the marijuana grow that you discovered in Mr. Johnson's residence
16 on February 13th, 2019?

17 A Yes, it is.

18 MR. WHITE: Your Honor, at this time I tender State's
19 Exhibit 11 into evidence.

20 THE COURT: Any objection, Mr. Johnson?

21 THE DEFENDANT: Nope.

22 THE COURT: States 11 is admitted without objection.

23 (Whereupon, State's Exhibit No. 11
24 was tendered and admitted into
25 evidence)

1 MR. WHITE: May I publish it?

2 THE COURT: You may.

3 (Whereupon, State's Exhibit 11 was passed to the jury)

4 BY MR. WHITE:

5 Q You described a board that you observed in Mr.
6 Johnson's residence depicting edibles. Is that right?

7 A Yes.

8 Q Or listing edibles.

9 A Uh-huh (affirmative).

10 Q And in the interview you questioned Mr. Johnson about
11 those edibles, and he acknowledged that those were the prices for
12 those edibles. Is that right?

13 A Yes. Eventually.

14 (Pause)

15 MR. WHITE: Approach the witness?

16 THE COURT: You may.

17 BY MR. WHITE:

18 Q I'm showing you what has been marked for identification
19 State's Exhibit 12, and ask if you recognize State's Exhibit 12?

20 A Yes, I do. This is the picture of the white board. And
21 here, you know, he's got like --

22 Q Is that a fair and accurate depiction of the white
23 board that you located in Mr. Johnson's residence on February
24 13th, 2019?

25 A Yes, it is.

1 MR. WHITE: Your Honor, at this time I tender State's
2 Exhibit 12 into evidence.

3 THE COURT: Any objection, Mr. Johnson?

4 THE DEFENDANT: No, Your Honor.

5 THE COURT: State's 12 is admitted without objection.

6 (Whereupon, State's Exhibit No. 12
7 was tendered and admitted into
8 evidence)

9 BY MR. WHITE:

10 Q Would you mind stepping down from the witness stand and
11 step in front of the jury, and explain to the jury what's
12 depicted in State's Exhibit 12?

13 A (Complies) All right. So, this is just a basic white
14 board you write on and dry erase, and that's it. But, like, for
15 instance, this is a Fruity Pebbles treats. Drug dealers, they
16 use, you know, a special marijuana to make this stuff. Well, not
17 just marijuana. I mean, it's cocaine, and they do it with
18 methamphetamine. Sometimes they'll name their product. I've seen
19 them put food coloring in it and say, hey, that pink meth is
20 mine. But, they'll name it different things. And names, just, I
21 don't know, that's their imagination. I've seen it called
22 everything from cartoon characters, you know, or like here, it's
23 cereal, Fruity Pebbles.

24 Then under here (indicating), you see he's got CB, OG, BG,
25 NYC. A lot of these are just different names for different

1 strands of marijuana, different, you know, also, different
2 plants. It's kind of, everybody's different. They mix these
3 plants and come up with plants that create higher and higher THC.
4 So, you know, the stuff you see them smoking now is nothing like
5 what they smoke (indiscernible). I mean, the THC in it is through
6 the roof.

7 You see out here, so that's what he named it, Fruity
8 Pebbles, the different kinds of marijuana, and he's got it in
9 that treat. And then out to the side you can see he's got the ten
10 dollars. I think that's how we all write ten dollars. It's not a
11 milligram. Same thing here (indicating). Popcorn, and out to the
12 side the kind of marijuana that's in it, the GG Number 4 and K
13 Kush. Kush is just another name for marijuana. Ten dollars. And
14 right here, Rice Krispies Treat, and he lists the kind of
15 marijuana he puts it in it, ten dollars. Fudge brownies, CD4,
16 CD4X, AK47, AK47X. That's like their named for a weapon. And then
17 he's got twenty dollars out to the side. That's not how you would
18 write milligrams. That's how you write money. That's how we all
19 write money. That's what that is.

20 Q Okay.

21 A (Witness returns to the stand)

22 MR. WHITE: May I publish?

23 THE COURT: You may.

24 BY MR. WHITE:

25 Q I'm showing you what's marked for identification

1 purposes as State's Exhibit 13. Do you recognize State's Exhibit
2 13?

3 A Yes. It's the edibles we took out of the residence.

4 Q Is that a fair and accurate depiction of some of the
5 edibles you located at Mr. Johnson's residence?

6 A Yes. This is the popcorn and --

7 MR. WHITE: Your Honor, at this time I tender State's
8 13 into evidence.

9 THE COURT: Any objection, Mr. Johnson?

10 THE DEFENDANT: No, Your Honor.

11 THE COURT: Admitted without objection.

12 (Whereupon, State's Exhibit No. 13
13 was tendered and admitted into
14 evidence)

15 BY MR. WHITE:

16 Q Describe to the jury what's depicted in State's 13.

17 A You can see here, he's just got a plastic bag that's
18 filled with a popcorn-looking treat. It's got marijuana in it,
19 and it's actually even got popcorn in a little box like you get
20 at the fair. And if you look over here, there's a little tag, and
21 he's got CB, OG, BG, NYCD. That could mean all kinds of different
22 things; but that's just kind of the different kind of marijuana
23 he's got in that and he's got a little sticker on there so the
24 buyer can know which brand of marijuana he's buying.

25 Q In the recording you indicated there's at least 20 bags

1 of that popcorn located at Mr. Johnson's residence?

2 A Yes. The whole kitchen was just set up to make edibles.
3 To me, it didn't look like you could even really cook a decent
4 meal in there. It was just set up to make marijuana edibles and
5 treats.

6 Q How many different plants were located in the
7 residence?

8 A I'm going to have to check with Hart County's evidence
9 receipt on that. I feel safe in saying at least 20. It was
10 probably more.

11 Q Okay.

12 MR. WHITE: May I approach the witness?

13 THE COURT: You may.

14 BY MR. WHITE:

15 Q I'm showing you a property receipt to refresh your
16 recollection.

17 THE COURT: Mr. Johnson needs to see it.

18 MR. WHITE: I'm not introducing this. It's just --

19 THE COURT: Well, it's what you're showing to him.

20 (Pause as document is shown to Defendant)

21 THE COURT: Okay.

22 BY MR. WHITE:

23 Q (Hands document to witness for review)

24 (Pause)

25 A Okay. So this is a Hart County Sheriff's Office, you

1 know, we called them out, we turned the crime scene over to them
2 and they'll process the evidence. They took all the evidence with
3 them. This is the Hart County Sheriff's Office property receipt -
4 -

5 Q I'm not asking you to show that. I'm asking you to
6 refresh your recollection as to how many plants there were
7 present.

8 A 21 marijuana plants taken out of the house.

9 Q A lot of equipment?

10 A Uh-huh (affirmative).

11 Q A lot of edibles?

12 A Yes.

13 You want to go through all that?

14 Q No.

15 A Okay.

16 Q I mean, what I'm getting at is, based upon your
17 training and experience, was this quantity of marijuana and
18 edibles consistent with personal use or distribution?

19 A No, this was distribution. I mean, I -- Personal use
20 would be, I don't know, somebody with like five plants in a
21 closet, you know, something you see a high school kid with. This
22 was two bedrooms converted into two grow rooms. Lots of water,
23 lots of -- there was a lot of equipment in here. This was made
24 for somebody actually trying to make money.

25 Q And, Mr. Johnson referred to in his recording to

1 patients. Was Mr. Johnson a pharmacist or a doctor legally
2 authorized to prescribe or distribute controlled substances or
3 marijuana?

4 A No, sir. Not that I'm aware of.

5 Q And, essentially, during the course of your interview
6 with Mr. Johnson he acknowledged each and every essential element
7 of both manufacture of marijuana and possession with intent. Is
8 that right?

9 A Yes, he did.

10 MR. WHITE: Your Honor, I have no further questions at
11 this time.

12 THE COURT: All right.

13 Ladies and gentlemen, it's about 12:20. What we're
14 going to do, we're going to take our lunch break, and then
15 we'll come back, and Mr. Johnson will have his opportunity
16 to cross-examine Agent Skelton. So, while you're on lunch
17 break, you probably already know what I'm fixing to tell
18 you, but I'm going to tell you again. You do not speak with
19 anyone concerning the case. That includes among yourselves.
20 You don't allow anyone to talk with you about the case or
21 within your hearing. You don't visit any locations that you
22 have heard about. You don't do any independent research
23 whatsoever, including the use of smartphones, tablets,
24 computers, Google, any books, dictionaries, any type of
25 research whatsoever you do not do. You don't speak with the

1 attorneys, the defendant, the witnesses, members of the
2 audience. You do not talk with them. Should there be any
3 media coverage, you don't listen, you don't read, you don't
4 watch it.

5 So, it is about 12:20. Let's everyone be back in the
6 jury room, say, at 1:30, and we'll be ready to restart.
7 Okay? All right. Leave your notepads in the jury room, or
8 just give it to Mr. Cleveland and he'll secure it.

9 (Whereupon, the jury was excused for lunch)

10 THE COURT: All right. Court will be in recess until
11 1:30.

12 (Whereupon, court was in recess for a lunch break)

13 (Off record)

14 (On record)

15 THE COURT: Mr. White, State ready?

16 MR. WHITE: Yes, Your Honor.

17 THE COURT: Mr. Johnson, Defense ready?

18 MR. JOHNSON: Defense is ready.

19 THE COURT: Okay. You can bring them in, Mr. Cleveland.

20 (Whereupon, the jury was returned to the courtroom)

21 THE COURT: Alright, you may be seated.

22 (To jury) Alright, ladies and gentlemen, thank you for
23 being back and being on time. Hope everyone had a good lunch
24 break. And, if you recall, when we ended, Mr. White had
25 ended his direct examination of Agent Skelton.

1 And now, Mr. Johnson, you may cross-examine.

2 MR. JOHNSON: All right, Your Honor.

3 (To Clerk of Court) Mr. Gray?

4 CLERK: Yes, sir?

5 MR. JOHNSON: Can you turn that on (indicating to ELMO
6 system)?

7 The expert witness testified --

8 MR. WHITE: Your Honor, I object to him introducing an
9 exhibit that he can't lay a foundation for.

10 THE COURT: So --

11 MR. JOHNSON: The foundation is the witness said
12 cannabis was not -- Well, was a narcotic.

13 THE COURT: Mr. Johnson --

14 MR. JOHNSON: The D.A. said it's not.

15 THE COURT: Mr. Johnson --

16 MR. JOHNSON: I just wanted to show it.

17 THE COURT: Well, you can't show something to the jury
18 until it is properly admitted. And you have to go through
19 the proper procedure to have it admitted. And that's just
20 the rules. Both sides have to be compliant with the rules.
21 Okay? But you may cross-examine.

22 CROSS-EXAMINATION

23 BY MR. JOHNSON:

24 Q Agent Skelton, how big would you, to the best of your
25 ability to presume would you say the size of that kitchen is?

1 A The size of your kitchen at your house?

2 Q (Nonverbal response)

3 A It's a ranch-style house. I mean, like a regular-sized
4 kitchen.

5 Q A real small house. Anyway, you said there was more, or
6 did you say, cooking gear to make edibles. Could it have also
7 been the cooking gear of an Cordon Bleu Chef?

8 A I don't know. I've never met one of those chefs. I've
9 never cooked with them. Never ate --

10 Q Well, a chef owned all that cooking equipment.

11 THE COURT: Mr. Johnson, you can't make a statement.

12 MR. JOHNSON: Oh.

13 THE COURT: You have to ask a question. Okay?

14 BY MR. JOHNSON:

15 Q Now, you say that you came about this information from
16 an anonymous source that sent you screen shots?

17 A Yes.

18 Q That led to your investigation?

19 A Yes.

20 Q An A-S that said Mr. Johnson want to give free flowers,
21 that you took to mean marijuana; correct?

22 A No. I believe one of them actually talked about -- I
23 don't really recall. The information that I got from that
24 anonymous source said that you were talking about marijuana. Then
25 when you add that up with the other messages, then, yes, that's

1 how I took it.

2 Q That the defendant was talking about marijuana, that
3 would be hearsay. But, okay.

4 Question: Had the A-S ever been in Mr. Johnson's home?

5 A Not that I was aware.

6 Q Okay. And did the A-S say it seemed or appeared to the
7 A-S that Mr. Johnson was bugging her? I'm looking at the
8 investigative summary.

9 A Yes. It was something to the effect that that person
10 didn't want to have any more contact with you because of the
11 marijuana use.

12 Q So, the person met Mr. Johnson, I'm asking, on Plenty
13 of Fish, with interest of being with Mr. Johnson, and had no idea
14 that he was -- that Mr. Johnson used cannabis?

15

16 A Yes --

17 MR. WHITE: Objection. Speculation and --

18 THE COURT: That's sustained. I mean, he can't know what
19 the other person was suspecting of knowing.

20 BY MR. JOHNSON:

21 Q Question: In all your police experience, with a suspect
22 that's in a hurry to give somebody some free flowers, why didn't
23 you and the A-S just set up a bust for the defendant for him to
24 bring it?

25 A They wanted to remain anonymous.

1 Q Well, let me ask a question. Could not the police, the
2 GBI, have used a cell phone to set up a meeting at a grocery
3 store somewhere, and when he showed up, arrest him like they did
4 child predators?

5 A There's a lot of things we can do, but I didn't need to
6 do that. Just for what you provided, that anonymous source was
7 enough for me to get a search warrant to come to your house.

8 Q Please describe your investigative summary. What did
9 you investigate when you went to Mr. Johnson's home?

10 A You mean when I first got there with the search
11 warrant, or do you --

12 Q No. I mean, in your investigative summary you said you
13 did some investigations of Mr. Johnson's home. Is there anything
14 in particular that you found strange, suspicious?

15 A You're gonna have to show me the summary you're about.
16 What summary number are you talking about?

17 Q Well, if the Judge will let me pull it up, I'll show
18 you the summary. It's your summary.

19 A If you tell me the number I can look it up.

20 THE COURT: If you give him -- He said if you give him
21 the summary number he can --

22 MR. JOHNSON: I have to look it up to give it to him.

23 THE COURT: Okay.

24 BY MR. JOHNSON:

25 Q Well, let me ask you --

1 MR. JOHNSON: Can I look it up?

2 THE COURT: Sure.

3 MR. JOHNSON: Okay.

4 (Pause)

5 BY MR. JOHNSON:

6 Q It's going to be investigative summary, at least part
7 of it, 88-0190-21-19.

8 (Pause)

9 A What was the summary number again?

10 Q 88-0190-21-19.

11 A Okay, that's the case number. That's not the summary
12 number. If you'll look out to the left, it'll say "Report," and
13 then it'll say "Summary ID Number." Or, do you have a date for
14 it?

15 Q Yes, I've got a date.

16 (Pause)

17 Now you say it's located, this number, I have that number at
18 the top on the left-hand side. At the bottom, it say page 1 of 2.
19 This is what they gave me for discovery. I only see that
20 particular number at the top.

21 A Give me the date. I should be able to look it up by the
22 date.

23 Q Alright. Let's see.

24 (Pause)

25 It say -- Well, let me see...

1 (Pause)

2 This particular sheet doesn't have a date, but it's at the
3 end of 2 of 2. (Indiscernible) it does have --

4 A If you look at the top of that summary, every summary
5 starts off with, "On this day, this time, this year."

6 Q Oh, yeah, I can do it that way. Yeah, I'm gonna -- I
7 can tell you that.

8 A Give me that date.

9 (Pause)

10 Q On February 9th, 2019, at approximately 1:00 PM.

11 A Okay.

12 Q Alright. You state in here that you traveled to 137
13 Hartwell Drive?

14 A No. 137 Lanier Drive in Hartwell, Georgia.

15 Q Well, Lanier Drive, Hartwell, Georgia. That sound
16 familiar; in an attempt to gather information about the
17 residence?

18 A Yes.

19 Q (Reading) The residence was hard to see because of the
20 large wooden fence which surrounded the property.

21 A Yes.

22 Q (Reading) The driveway to the residence had a wooden
23 gate, which was open, allowing S.A. Skelton to see the front
24 porch of the residence.

25 A Yes.

1 Q S.A. Skelton did not see any vehicles parked at the
2 residence, nor did any come and go for the hour he watched
3 the residence.

4 That's pretty good, right?

5 A Let me read it.

6 (Pause)

7 Okay. That's what I wrote.

8 Q Alright. Then it states on the next page, S.A. Skelton
9 did notice a couple of things about the residence, which he
10 thought was strange. The fence was constructed to keep
11 anyone from seeing most of the house, or what could be going
12 on in the yar; while this is not illegal, it would aid in
13 masking illegal activity.

14 MR. WHITE: Your Honor, I --

15 MR. JOHNSON: I'm just -- This is the last part right
16 here. This is the last part. This is the part I want to ask
17 about.

18

19 BY MR. JOHNSON:

20 Q The second thing S.A. Skelton noticed as a bright green
21 porch light, which was on. This is in S.A. Skelton's opinion, a
22 strange color porch light to have on a residence. In S.A.
23 Skelton's past --

24 MR. WHITE: These are still not questions.

25 THE COURT: Okay. You've got to ask a question.

1 MR. JOHNSON: Okay. I'm going to ask a question.

2 THE COURT: Okay.

3 BY MR. JOHNSON:

4 Q Now that we got that established. Why was it strange to
5 see a green porch light on Mr. Johnson's porch that was always
6 on?

7 A Well, it all depends on what you do for a living and
8 what experience you have. In my experience, all I know is drug
9 dealers. That's what I do. Alright? In my past experience, I've
10 seen drug dealers, uh, worked a case in Atlanta where they were
11 selling a lot of heroin. They had a red porch light. When the
12 porch light was on, that meant business was open. If it wasn't
13 on, don't come by, don't come knock on the door. As to where,
14 it's not illegal. You can have whatever color porch light you
15 want to. But, in my experience, a lot of drug dealers use that as
16 a sign, hey, I'm open for business, or don't come by right now.
17 And I just thought it was strange that this case centered around
18 marijuana; marijuana's green; you got a green porch light. So,
19 where it's not illegal, it's just something that I noted because,
20 you know.

21 Q Are you a vet?

22 A A vet? Yes, I am. You mean veteran or (crosstalk) --

23 Q You ever heard of the Green Light a Vet program?

24 A Huh?

25 Q Have you not heard of the Green Light a Vet Program?

1 A No, I haven't.

2 Q It's a program started --

3 MR. WHITE: Objection.

4 THE COURT: That's not a question.

5 BY MR. JOHNSON:

6 Q Could there have been any other use for a green light
7 besides advertising marijuana or any drug?

8 A You're asking me possibilities now. We can go around
9 and around and add about anything that's possible. Yes, that
10 green light can mean anything that you want it to.

11 Q Well, in --

12 A In my experience, I've seen that to be associated with
13 drug dealers. Because, you can drive around most neighborhoods
14 and you don't see colored porch lights.

15 Q Well, would it shock you -- It's a question -- Would it
16 shock you if you found out that the defendant was a veteran?

17 MR. WHITE: Objection. Relevance?

18 MR. JOHNSON: Relevance is this.

19 THE COURT: What's the relevance?

20 MR. JOHNSON: The relevance is -- And I got to ask him a
21 question.

22 MR. WHITE: (Indiscernible crosstalk)

23 THE COURT: (Indiscernible crosstalk)

24 MR. JOHNSON: Well, I'll just tell him. I'll just tell
25 him.

1 MR. WHITE: I ask that we take this up out of the
2 presence of the jury, Your Honor. I don't understand where
3 he's going. He can't seem to ask questions of the witnesses.

4 THE COURT: Okay. Hold on just a second.

5 I'm going to ask the members of the jury to go back to
6 the jury room for a few minutes. While you're back there,
7 don't discuss anything you've heard about the case so far
8 among yourselves, or with anyone else.

9 (Whereupon, jurors begin to exiting)

10 THE COURT: Hold up. Sorry. You've got to listen. You
11 can't do any independent research whatsoever, including
12 magazines, books, smartphones, any type of research
13 material. Don't speak to anyone about the case. Don't let
14 anyone speak to you or within your hearing. If there should
15 be any media availability, you don't listen, you don't
16 watch, you don't read. So, if you'll just go to the jury
17 room, please. Thank you.

18 (Whereupon, the jury was escorted to the jury room)

19 THE COURT: You may be seated. Let's wait until the door
20 is closed.

21 (Pause)

22 THE COURT: Alright. Mr. White?

23 MR. WHITE: Your Honor, I have no issue with Mr.
24 Johnson asking any question he wants about the investigation
25 into his activity that resulted in the discovery of this

1 marijuana. But what he continues to do is to testify about
2 matters that are irrelevant. He cuts off the witness as the
3 witness is responding. Special Agent Skelton was responding
4 about being a veteran and Mr. Johnson cut him off. And I'm
5 asking the Court that he be instructed that he must follow
6 the rules when it comes to even cross-examination. It's not
7 unfettered. He can't just sit up here and testify, and offer
8 evidence through cross-examination. He has to ask questions
9 of the witness.

10 THE COURT: Okay. Mr. Johnson, I'll allow you to reply,
11 and then we'll decide.

12 MR. JOHNSON: Ask Agent Skelton?

13 THE COURT: Well, no. Not ask him a question. What Mr.
14 White objected to; he is objecting that he feels like what
15 you're doing is offering information instead of asking
16 questions. And so, what I will say is, you must ask a
17 question. Even though you're representing yourself, we're
18 not at the stage where you have, if you decided to, taken
19 the stand to testify. You are acting as your advocate. And
20 so, you have to ask questions. The questions must be
21 relevant to the case. And so, he says the questions, some of
22 which you have asked, were not relevant. Now, do you wish to
23 address outside the presence of the jury, the issue about
24 the green light bulb or the green porch light? What is the
25 relevance of the green light?

1 MR. JOHNSON: If the light bulb had not been green, and
2 if Mr. Johnson didn't have a privacy thing, would that have
3 changed how S.A. Skelton felt about his investigative
4 summary where he saw no cars come or go?

5 THE COURT: Okay. That's a legitimate question. There's
6 nothing wrong with that question. But, that is -- I think if
7 you'll look at it objectively, that's different than where
8 you were going. So, if you want to ask him that question,
9 first of all, I don't feel like there'd be an objection from
10 the State, but if it was, I'd overrule it, because I think
11 that's a fair question, and it's a relevant question, and
12 you're entitled to ask that question. Okay? But, just, the
13 thing is, you can't offer evidence, you can't offer
14 testimony by just standing there making statements. Okay?
15 Great.

16 (To bailiff) Alright, let's bring the jury back in.

17 (Whereupon, the jury was returned to the courtroom)

18 THE COURT: All right, you may be seated, ladies and
19 gentlemen.

20 Alright, Mr. Johnson, you may continue.

21 CONTINUED CROSS-EXAMINATION

22 Q S.A. Skelton, you mentioned the privacy fence and the
23 green porch light. If Mr. Johnson did not have a privacy fence
24 and a green light on his porch, would that have effected your
25 decision that Mr. Johnson must be a drug dealer?

1 A No. Because, by that time, I already had pictures that
2 you had sent from your phone that was shown by GBI Intelligence
3 to be used by you at that address, sending pictures of marijuana
4 and edibles. So, that just kind of aided me, to be honest with
5 you. But I still, even without those factors, I still had plenty
6 of probable cause to have a search warrant for your house.

7 Q I'll let you -- Are you finished?

8 A Yes, sir.

9 Q Okay. Was any analysis done, even, to see if it was a
10 Photoshop photo or a real photo?

11 A No. And it wasn't just the photos. It was the text.
12 There's info in those texts, talking about flowers, I mean, you
13 know, kind of adds to it, and I think that's -- it'd be pretty
14 hard for somebody to do that.

15 Q So, by you saying flowers, the defendant never once
16 said, would you say he never once said marijuana?

17 A I'd have to look at those pictures again. But, I mean,
18 it's very rare that drug dealers use the word "cocaine,"
19 "methamphetamine," "marijuana." I worked undercover, did it for
20 three years. I don't think I ever used those words unless I was
21 writing a report. They have code names for different stuff. And,
22 as you say you've said, what is marijuana? It's flower. So you
23 just used a few more words for marijuana, so.

24 Q Are you through with your answer?

25 A Yes.

1 Q With your three years of undercover, what they call it,
2 law enforcement, and you say they use code; I believe you say the
3 drug dealers use coded?

4 A Uh-huh, code names.

5 Q Do they usually give their real name?

6 A Some do, some don't. I'd say the smart ones don't.

7 Q Do they -- If you're through. Do they usually give a
8 photo of themselves that's the true photo?

9 A I'd have to say I never worked a narcotics case, or
10 marijuana case, drug case, where I was flirting back and forth
11 with somebody to be sent pictures like that. So, I -- You would
12 think that they wouldn't. But, like I said, I don't think a smart
13 one would; but in this case, they did.

14 Q You said the A-S contacted Mr. Johnson from P-O-F. Did
15 Mr. Johnson -- Is that what you -- Let me make a question first
16 and let you answer it.

17 A I don't recall that summary. I know that that's how the
18 contacts were made. I'm not sure who initiated it, you or that
19 person.

20 Q Well -- Excuse me. If Mr. Johnson was contact by the A-
21 S -- Well, I've got to make it where it's not a hearsay question.
22 Let me ask. Would you say the A-S had some interest in Mr.
23 Johnson? Wo

24 MR. WHITE: Objection. Speculation.

25 MR. JOHNSON: Okay.

1 THE COURT: Sustained.

2 BY MR. JOHNSON:

3 Q Did the A-S tell you any reason why she contacted Mr.
4 Johnson?

5 A No. And I didn't ask, because I don't care about the
6 relationship. I don't care why it started. I don't -- That's not
7 my concern. My concern is getting drugs off the street. When I
8 present them with evidence, I get a fact, or I get whatever, a
9 lead, whatever you want to call it, I check it out and I verify
10 it, then I go to the next one, then I go to the next one until I
11 develop probable cause to arrest somebody. Just keep chasing. So,
12 to answer your question, no, and that's because it wasn't my
13 concern. I don't -- Again, I don't care about who contacted who
14 first.

15 Q So, you never verified. Is that what you're saying? You
16 never verified anything about A-S?

17 A As far as what? That they --

18 Q Could have been jilted.

19 A Do what?

20 Q Could have been jilted.

21 A Jilted. What do you mean?

22 Q Spurned because Mr. Johnson may not have wished to have
23 any relations of a sexual nature?

24 A I don't see how that would have anything to do with the
25 fact that you sent pictures of marijuana to this person.

1 Q Would you say --

2 A The conversations could have stopped for whatever
3 reason. I don't care. I mean, we could sit here and talk about
4 that all day long. That's not relevant to me. I don't care why it
5 stopped. The only thing I care about is your phone sent pictures
6 of marijuana to somebody.

7 Q Okay.

8 A That's what started this.

9 Q So, for three years -- I don't know how much experience
10 you really have, sir. I really don't. I'm just going with the
11 three years you was undercover.

12 MR. WHITE: Your Honor --

13 MR. JOHNSON: I'm going to ask a question.

14 BY MR. JOHNSON:

15 Q The question is, as truthful as possible, do drug
16 dealers that you've run into, usually use their real name, their
17 real phone number, and send their real photo?

18 A Sometimes they do, yes. I've had them give me their
19 names. I've had them give me their phone numbers. That's how I
20 get in touch with them. They may not right away. Some do right
21 away. Some are careful. Try to be careful. There's no such thing
22 as a careful drug dealer, because to make money you've got to
23 sell to people, and that's how you get locked up. But, yeah, I
24 mean --

25 Q You just stated that if a drug dealer wants to make

1 money, then they can't give it away; correct?

2 A That's not what I said.

3 Q Well, repeat.

4 A I said, if they want to make money, they have to sell
5 their stuff to people, and that's how they end up getting caught.

6 Q So, in reverse, if Mr. Johnson isn't trying to sell it,
7 Mr. Johnson isn't trying to make money; just reversing what you
8 just said.

9 MR. WHITE: Your Honor, that's speculation. It requires
10 the investigator to go into Mr. Johnson's head.

11 THE COURT: Sustained.

12 MR. JOHNSON: Okay.

13 BY MR. JOHNSON:

14 Q Okay. Let me ask you, S.A. Skelton, did you find large
15 sums of money at Mr. Johnson's home when you came in?

16 A No.

17 Q Why not?

18 MR. WHITE: Objection. Speculation.

19 THE COURT: Sustained.

20 BY MR. JOHNSON:

21 Q Well, let me ask a question. Did you look for money in
22 Mr. Johnson's home?

23 A I searched your home initially, and then I was tied up
24 interviewing you. I think most of the searching was done by the
25 Hart County Sheriff's Office. So, yes, at the time I searched,

1 yeah, I'm searching for all kinds of contraband or anything
2 linked to it. I didn't find any money.

3 Q Question: When you was going through Mr. Johnson's
4 home, did you happen to notice a large supply of prescription
5 drugs unused?

6 A I think I recall seeing one of the photos where there
7 were some prescription drugs in it, but I don't know what they
8 were or who they belonged to.

9 Q I mean, when you was in the middle bedroom, did you
10 notice a vast amount of prescription drug bottles full of drugs?

11 A Sir, I just answered that. Recalling off my memory, no.
12 You're talking about something that happened in 2019. I do
13 remember seeing one of the pictures in the evidence where there
14 were prescription pill bottles out, and I believe it was in that
15 middle room.

16 Q Question: If you believe, no matter what Mr. Johnson
17 stated, Mr. Johnson was a drug dealer, why didn't you look for
18 money?

19 A I didn't say I didn't. I said I didn't find any.

20 Q You didn't find any. So you're admitting that you
21 looked?

22 A Yes. When I say I looked for contraband or anything
23 linked to drug dealing, that could be the drugs themselves; it
24 could be the proceeds, which is money; it could be surveillance
25 equipment; it could be guns; it could be -- I don't know, ski

1 masks, just, whatever; anything associated with it. So, yes, when
2 I say contraband, it's everything.

3 Q You just brought up firearms.

4 A Yes.

5 Q Was there any firearm acquired from --

6 A We didn't find any firearms, no,

7 Q From you, no?

8 A No.

9 Q Did anyone find firearms in Mr. Johnson's home?

10 A I know I didn't. I'm not aware of anybody else who did.

11 Q Okay. So, is that what you would expect when you come
12 to a drug dealer's house that got two rooms growing marijuana
13 with edibles ready to go, would you expect money? Yes or no?

14 A You don't ever expect anything. And what I mean by that
15 is I've been in houses where I've gotten kilos, I mean, a hundred
16 kilos before; there's no money. And, I mean, you're not always
17 going to find it. But then I've went in a house where there was
18 only two pounds of marijuana and seized \$80,000. Sometimes I
19 seize bank accounts. Sometimes -- it just all depends. I never
20 start an investigation hoping I'm going to get to seize money. I
21 don't chase assets. I chase the drugs and the criminal. I'm not
22 out here to, oh, look, I seized a million. I don't care. If I get
23 it, great for us. I'm worried about putting people in prison, so.

24 Q But with your experience, would you say that most of
25 the drug dealers you run into have firearms?

1 A No. They don't always have firearms. Am I always
2 prepared for one to have a firearm? Well, yeah. But they don't
3 always. Matter of fact, when I was a tech at the DEA for eight
4 years; and you want to talk about real drug dealers, that's
5 people moving pounds, you know, metric tons of stuff. I think the
6 whole time I was there I only seized three firearms, because it's
7 more of a business to them. They're not out here shooting each
8 other. So, no, you can't make that generalization. It all
9 depends. It depends on what level of drugs. It all depends on the
10 person. Some drug dealers will, some won't.

11 Q You stated that you could get one pound of marijuana
12 off a single plant indoors. Is that correct?

13 A I think I said one to five. It depends.

14 Q One to five. Indoor grow or outdoor grow, sir?

15 A I don't know. I don't think it matters. When they give
16 us their standardized drug values, they're just talking about a
17 plant.

18 Q You testified earlier that Mr. Johnson had elaborate
19 systems with water being pumped with nutrients into the buckets.

20 A That's what it looked like to me, yeah.

21 Q Did you help at any point them to dismantle those
22 buckets?

23 A I don't think I did.

24 Q I was just wondering. Just wondering.

25 A I think by the time I got done interviewing you, they

1 were done with most of that.

2 Q They were done with most of it?

3 A I think so.

4 Q So, how did you base your conclusion that there was a
5 water-fed system?

6 A I've seen it. I went in. I was there. I cleared your
7 house. I found the rooms. I looked at it.

8 Q Would you be surprised, sir, to find out there was
9 pneumatic air going into hydroponic water, the nutrient water I
10 have to -- Well, let me make a question. Would you be surprised
11 to know that that line was an airline tube and going to an air
12 stone that was supplying bubbles to keep the roots from dying
13 from drowning? Would that surprise you, sir?

14 A No, I'm not surprised you were pumping nutrients, which
15 is oxygen, into your plants.

16 Q That's not what I said.

17 A That is what you just said.

18 Q No. I said was pumping air into the nutrient solution
19 that's in the bucket that doesn't move unless they drink it up.

20 A Okay.

21 Q Would you be surprised that it was an air stone, and
22 your vast knowledge was wrong about it being something like a
23 recirculatory system?

24 MR. WHITE: Objection. Your Honor, this is
25 argumentative. He's answered the question, and now all he's

1 doing is arguing with the witness.

2 MR. JOHNSON: I'm establishing what has been stated by
3 the expert witness, who states -- their expert -- he speaks
4 as if he knows about growing cannabis from his experience.
5 So, I'm just asking questions to see just how much of an
6 expert he really is. I never said that he was an expert.

7 THE COURT: Okay. Ask the question -- I'll allow you to
8 ask the question one more time, even though the State feels
9 it's been answered. Ask it one more time. He can answer.
10 Then we'll move on.

11 BY MR. JOHNSON:

12 Q S.A. Skelton, have you ever made a statement that
13 marijuana growers cut a few of their buds off at a time so that
14 the plant will keep producing more buds?

15 A I don't know. I've made a lot of statements in my time.
16 I'm sure, yes, I'm sure I've said that.

17 Q Would you be surprised to know that the cannabis plant
18 is an annual plant? May I -- I don't want to be argumentative.
19 Are you aware of what an annual is? Because, I don't want you to
20 think I'm putting something on you. Do you know what an annual
21 plant is?

22 A No. But, when we talk about my expertise, this is me as
23 far as dealing with marijuana, the growers, its transportation,
24 its manufacturing. I'm not a botanist. No, I don't have a degree
25 in botany. I don't know how to splice plants. I -- No. So, if you

1 want to -- I can just answer all that no now, if you'd like to.

2 Q Alright.

3 A But I can look at a hydroponic grow and know that
4 that's a plant in that bucket that's being fed by this water
5 source. It's getting nutrients from here. These things on these
6 rails with these light bulbs in it, that's your light source.
7 Now, do I know how those lights work; do I know the amperage; do
8 I know the volts? No.

9 Q Did you -- Question: Were they in individual five
10 gallon buckets?

11 A From what I remember, yes, and I think there may have
12 been some in the planting cells. I'd have to look back at the
13 pictures, but I know there were a lot in five gallon buckets,
14 yes.

15 Q You testified earlier that it was interconnected.

16 A Yes, the water system, from what I remember, looked to
17 be connected.

18 Q Excuse me. Question. Since you called it a water
19 system; where was the water coming from?

20 A I don't know. I didn't follow the tube. I don't know.
21 City of Hartwell. I don't know.

22 Q So, you never saw the source, like a big well of water,
23 sir?

24 A No. It could have been coming from a spring out back, I
25 wouldn't know. I didn't follow it. I did not follow the tube to

1 the source.

2 Q But you spoke affirmatively about that you did know.

3 A I don't think I ever said where the water source came
4 from.

5 Q But you -- I'm asking a question now. Without knowing
6 where any water was coming from as an expert witness, did you
7 conclude out of thin air that we'll say it's the water's a
8 feeding system?

9 A I don't even understand that question. They were
10 getting water. A plant's got to have it or it dies. To where that
11 water came from, I do not know. I wished I would have looked now.

12 Q Would it shock you if it came from me walking five
13 gallons of buckets back there, sir?

14 A I would -- yes, it would surprise me that you did that
15 work.

16 Q Would it shock you if I had to do that every day? Seven
17 days a week, 365 days a year?

18 A As much as you complained about how you were about to
19 die, yes, that would surprise me that you hauled that much water
20 for that many plants in your house.

21 Q Would it surprise you, sir, that you brought up me
22 saying I'm about to die, that Mr. Johnson's health improved?

23 MR. WHITE: Objection. Relevance.

24 MR. JOHNSON: Well, he brought up that Mr. -- Well, we
25 don't have to, we don't have to. I can (indiscernible)

1 another question.

2 THE COURT: Sustained. We don't have any expertise in
3 any medical diagnosis, or --

4 BY MR. JOHNSON:

5 Q You state that Mr. Johnson had a privacy fence
6 surrounding his yard that could be, even though legal, you stated
7 to high illegal activity?

8 A Could be.

9 Q Could?

10 A Could.

11 Q Could. Would it surprise you that Mr. Johnson was to
12 tell you that his granddaughters, he shut the gates when they'd
13 come to visit him so they can run around without -- Let me make
14 it a better one. Could there have been any other reason Mr.
15 Johnson could have a fence with a gate?

16 A Mr. Johnson, yes, there's a thousand different reasons
17 a person could have a gate and a large fence surrounding their
18 property. There could be. It could be for your grandbabies. It
19 could be for whatever reason. It could be the fact that you had
20 marijuana growing in your house that I found, and you didn't want
21 people to know what was going on at your house. Could be that,
22 could it not? Anything's possible.

23 Q You didn't know that at the time, sir? (Crosstalk)--

24 A Let's look at the pictures again, if you'd like to. I
25 had a pretty good idea.

1 Q At the time that you were doing your investigative
2 summary, did you know Mr. Johnson had a grow operation, or were
3 you looking for edibles and loose marijuana?

4 A No. I was looking for marijuana.

5 Q So, you did not know about a grow operation?

6 A No. I had a pretty good idea there was illegal activity
7 going on your property at the time.

8 Q What is -- You acquired a photo of Mr. Johnson from the
9 A-S?

10 A Uh-huh (affirmative).

11 Q Is there anything particular about that photo that made
12 you believe Mr. Johnson might be a drug dealer?

13 A Well, what does a drug dealer look like?

14 Q That's what I'm asking.

15 A They can look like anybody. I've locked up white
16 people, black people, hispanic people. I've locked up a 90-year-
17 old woman that was selling Oxycontin. I've locked up juveniles.
18 I've locked up rich kids, poor kids. I mean races, religions,
19 pick it, I've done it. I've been doing this over 20 years, so --

20 Q I have one more question.

21 A Okay.

22 Q How did the A-S contact you? How did the A-S get your
23 number to call you directly?

24 A I don't know.

25 Q You didn't ask?

1 A No, I didn't. I don't. If somebody's going to call and
2 give me information about how to get a drug dealer off the
3 streets, I don't ask why. I just look at the information, take
4 what I got, and I try to corroborate. If I can't corroborate it,
5 I stop right there.

6 Q Okay.

7 A I'm not hard to get a hold of, I promise you. My phone
8 goes off all the time.

9 Q So, if you did an investigation following up on an
10 anonymous source you don't know, and you don't know how they
11 contacted you, and you decide to do an investigative summary, you
12 go out to somebody's home, you see no cars coming and going, I'm
13 asking, would you think that might not be a drug dealer place if
14 there ain't no cars coming and going?

15 A We've already talked about this once, remember, when
16 you first started questioning. I already had pictures. When I
17 talked to that anonymous source and they told me what they told
18 me, and they sent me screenshots -- You want to review the
19 screenshots again? You took pictures of marijuana. That's why.
20 Had I never got those, and somebody just called and said, hey,
21 Nathan Johnson's selling weed, I'd have been like, well, him and
22 everybody else. Got any proof? No. Well, when you do, call me,
23 because that just ain't enough for me to go on. Click. I would
24 never have drove past your house. Wouldn't have had a reason. I
25 just don't go off people saying, hey, so-and-so's selling drugs.

1 Okay, well, I need a little bit more than that. Which, they
2 provided.

3 Q So, you're saying that you went to see if there was
4 suspicious -- Would you say that you was checking to see if there
5 was suspicious activity to go along and collaborate with the
6 photo?

7 A Yes. I was conducting surveillance on your property to
8 see what I could see.

9 Q And was that it that you saw?

10 A The high fence and the green porch light?

11 Q Yes.

12 A That's all I saw at the time.

13 Q And that was enough.

14 A (Indiscernible) that -- That was not all that went in
15 the search warrant for your residence. If that was all I had, the
16 Judge never would have signed it. He would have laughed me out of
17 that office.

18 Q Did you see Mr. Johnson's GCIC?

19 A Which GCIC? Your criminal history, or --

20 Q Yes.

21 A Oh, yeah, I saw your criminal history.

22 Q Did you notice anything strange about it?

23 WITNESS: (To Mr. White) Can we go into that?

24 BY MR. JOHNSON:

25 Q I give you permission to talk about my history on

1 there.

2 WITNESS: (To Mr. White) Do you have it there? I don't
3 know. Hold on, I'll pull it up.

4 (Pause)

5 THE COURT: Well, the State had a copy of it, rather
6 than him pulling it up. Have you seen it, Mr. Johnson?

7 MR. JOHNSON: (Indiscernible) before he pulls it up.

8 THE COURT: I think it was just going to be, it was
9 easier just to have it handed to him.

10 MR. JOHNSON: Your Honor, we had a situation earlier,
11 you know, and I just wanted to see what his looked like.

12 THE COURT: Okay. Well, pull it up (crosstalk) --

13 MR. JOHNSON: (Crosstalk)

14 (Pause as witness searches on laptop computer)

15 WITNESS: Okay, this is your criminal history. So, when
16 I requested the intelligence package from GBI, this is
17 something else they sent me. I get a copy of your criminal
18 history, your driver's history, and all that stuff.

19 And you want to know what's in your criminal history? All
20 right.

21 BY MR. JOHNSON:

22 Q Let the jury know. In fact, I wouldn't mind even
23 letting them see it.

24 A Okay. Arrest one, 11/05/1978; purchase, possession,
25 manufacture, distribution, sale of marijuana. I don't know --

1 That's number two.

2 Q Before you go to number two, can I ask a quick
3 question?

4 A Sure.

5 Q Did you ever look into that rap sheet on that one to
6 see what it was about?

7 A No.

8 Q Because the rap sheet never goes, even if you're not
9 convicted. You never looked any further?

10 MR. WHITE: That's not true.

11 THE COURT: Mr. Johnson, you can't make a statement.

12 MR. JOHNSON: Okay. I was asking a question.

13 THE COURT: Well, first, you said something, you made a
14 statement, then tried to make it a question, which it was
15 not. Okay.

16 MR. JOHNSON: I agree, Your Honor.

17 BY MR. JOHNSON:

18 Q Okay, would you continue on, then?

19 A Yes. Just get back to where I was at. Sorry. All right,
20 so, arrest number two, public indecency, indecent exposure.

21 Q Well, I can ask the same question, but you can say the
22 same thing. Would you be surprised to find out that case was
23 dismissed?

24 A Yes. I would.

25 Q Would you be surprised to know Mr. Johnson don't have

1 any criminal record of a conviction?

2 A Well --

3 Q Rap sheets --

4 A -- hopefully, we'll change that today.

5 Q All right. Continue on. Continue on. I'm not going to
6 interrupt. I'm going to let you get all the way to the end. Tell
7 me everything you see on Mr. Johnson's --

8 A Arrest number three is on, simple battery, criminal
9 trespass. Arrest number four --

10 Q That last one, would you be surprised to find out that
11 that too was dismissed? Mr. Johnson just happened to fit the
12 description. Mr. Johnson was never convicted for that. It was
13 dismissed.

14 A Arrest number four was purchase, possession,
15 manufacture, distribution, or selling marijuana.

16 Q Would you be surprised to find out, sir, that was a
17 0.04 piece of paper with a little resin on it? Would you be
18 surprised?

19 MR. WHITE: Your Honor, this is all not relevant. I
20 don't understand -- He's opened the door to 404 evidence,
21 but it's still not relevant.

22 BY MR. JOHNSON:

23 Q I'll let you finish uninterrupted. I'm not going to
24 interrupt you no more. I'll let you finish. Go ahead.

25 A Where was I? I think at number four. Arrest number five

1 is DUI, driving on a license suspended. I didn't really pay
2 attention to that stuff. Usually when I look at these, I just
3 look at the drug stuff. I'm not really concerned with DUIs. And
4 that was it.

5 Q There was nothing there from the Hart County Sheriff's
6 Office?

7 A No.

8 Q In yours there was nothing?

9 A My arrest wouldn't be on here, because I ran this when
10 I started your investigation. We had not yet arrested you.

11 Q So, you wouldn't have codified it?

12 A No.

13 Q Would you be surprised that there was an explosive
14 device?

15 MR. WHITE: Objection. Relevance.

16 THE COURT: What's the relevance?

17 MR. JOHNSON: The relevance was to see what you gave to
18 a sitting judge --

19 MR. WHITE: No, it's not relevant. If he's going into
20 anything that has to do with the search warrant, we've
21 already established that that's excluded by the Court's
22 order.

23 THE COURT: You can't --

24 MR. JOHNSON: I'm not going into that.

25 THE COURT: Well, you said what you gave to a sitting

1 Judge, we've already ruled on that.

2 MR. JOHNSON: Oh, I'm sorry. I'm sorry. You're right --

3 THE COURT: Okay?

4 MR. JOHNSON: -- Judge, you're right.

5 THE COURT: And this is --

6 MR. JOHNSON: Strike.

7 THE COURT: So, this is not relevant. Okay?

8 MR. JOHNSON: Okay.

9 THE COURT: You may ask something else.

10 BY MR. JOHNSON:

11 Q You mentioned that you noticed that Mr. Johnson was
12 elderly in your report.

13 A Is that a statement or a question?

14 Q I'm asking. Did you --

15 A I don't remember doing that. Did I?

16 Q I can show it to you.

17 A Well, I mean, if you could show me, then I agree with
18 you. I wouldn't call you old, but you're elderly.

19 Q Do you recall mentioning that the other party was
20 disabled?

21 A No, I don't.

22 Q Well, you can take the word, if you want to.

23 MR. WHITE: Objection. That is improper.

24 THE COURT: That's -- You'll disregard that.

25 BY MR. JOHNSON:

1 Q The question was going to be, how did you know the
2 other party was disabled, but you didn't know Mr. Johnson was
3 disabled?

4 MR. WHITE: Objection. Relevance.

5 THE COURT: Sustained.

6 BY MR. JOHNSON:

7 Q The relevance was, and this is the answer to the
8 question everybody has brought up, including you.

9 THE COURT: You can't answer a question. You're asking
10 questions.

11 BY MR. JOHNSON:

12 Q Mr. Skelton, were there any -- Well, you can't -- I
13 can't say it like that, because I'll get speculative. Let me say,
14 when you beat on Mr. Johnson's door, did Mr. Johnson come to the
15 door?

16 A No.

17 Q Well, let me ask a question. What part of the house did
18 you find Mr. Johnson and the other party?

19 A I don't remember.

20 Q Okay. You don't remember. Would the kitchen be it?

21 A I don't remember.

22 Q You don't remember. When you came in, did Mr. Johnson
23 have any weapons or anything like that?

24 MR. WHITE: Objection. Asked and answered.

25 THE COURT: Sustained. He's already said there was no

1 guns found.

2 BY MR. JOHNSON:

3 Q Did you notice any Chinese walls right behind the door
4 where you -- Where the entrance door, Chinese walls, making the
5 foyer, very small?

6 A No. When I'm make entry into a house, I'm looking for
7 two things. I'm looking for people and open doorways, because
8 that's the two things that can hurt me.

9 Q You say hurt you?

10 A Yes. People can hurt you. People coming out of doorways
11 that you don't see can hurt you. I'm not looking for Chinese art,
12 or walls, or foyers.

13 Q At the point that we was at, where you done knocked on
14 the door and Mr. Johnson had to come to the door, how would you
15 secure the area if Mr. Johnson had to open the door?

16 A It's all dependent on you. How you acted upon opening
17 the door. If you acted violent, if it was enough violence, we
18 would have secured you and we would have finished clearing the
19 house. If you'd have been cooperative -- My plan was to knock on
20 the door to get you guys to the door, ask you to come outside,
21 and show you the search warrant without having to bust your door
22 down. But when we knocked, and we knocked, and we knocked, and
23 nobody came to the door, you guys running around inside, I could
24 smell the pungent odor of what I know to be marijuana. The only
25 thing I could guess at the time, from my knowledge, training, and

1 experience is you're probably trying to hide evidence or destroy
2 evidence, so that's why we decided to go ahead and kick your door
3 in.

4 Q When the team goes in, if any other activity occurred,
5 not saying that you know, but if another -- but if any other
6 activity, EMS or anything like that was sent, even if you didn't
7 notice it yourself, would someone have made a record of it?

8 A I'm sure EMS keeps a record of everything they do.

9 Q Do you read the follow-up?

10 A No. Had nothing to do with my investigation.

11 Q Have you ever called someone's house for the search
12 warrant and it was wrong?

13 A I have not. I've never been to the wrong house.

14 Q Never?

15 A No. Never.

16 Q Not once?

17 A Not once.

18 MR. WHITE: Asked and answered.

19 THE COURT: Sustained.

20 MR. JOHNSON: Okay. I'm sorry.

21 (Pause)

22 I'm through with you, Mr. Skelton.

23 MR. WHITE: Your Honor, he's being very disrespectful
24 and it is not permissible to --

25 THE COURT: Alright. Do you have any more questions?

1 MR. JOHNSON: No questions.

2 THE COURT: You may be seated.

3 Mr. White, you have redirect?

4 MR. WHITE: Yes, Your Honor. Thank you, Your Honor. May
5 I approach the witness?

6 THE COURT: You may.

7 REDIRECT EXAMINATION

8 BY MR. WHITE:

9 Q I'm showing what's marked for identification purposes
10 State's Exhibit 31. Do you recognize State's 31?

11 A Yes. It's the -- Should be the middle bedroom where the
12 jars of marijuana were found.

13 Q And is it a fair and accurate depiction of that
14 bedroom?

15 A Yes.

16 MR. WHITE: Your Honor, at this time I tender State's
17 31.

18 THE COURT: Has Mr. Johnson, seen 31?

19 (Pause as exhibit is shown to Mr. Johnson)

20 THE COURT: Any objection, Mr. Johnson?

21 MR. JOHNSON: No objection, Your Honor.

22 THE COURT: 31 is admitted without objection.

23 (Whereupon, State's Exhibit
24 No. 31 was tendered and
25 admitted into evidence)

1 (Pause as Mr. White attempts to publish exhibit on
2 projector)

3 MR. WHITE: Anyway, okay. I'll publish by passing, Your
4 Honor.

5 CONTINUED REDIRECT EXAMINATION

6 BY MR. WHITE:

7 Q There are, next to the bed, there are three
8 prescription bottles. Is that right?

9 A Yes, there are.

10 Q Okay. Do you know the last time the defendant went to
11 bank and made a deposit?

12 A No, I do not.

13 Q Is there a reason drug dealers make frequent deposits
14 into their account rather than large deposits, in your
15 experience?

16 A Yeah. So, the banking system, if you, I believe the
17 cutoff is around \$9,000. If you deposit more than that, a SAR
18 report is generated, suspicious activity report. So, it can be
19 you -- everybody; if you make one big deposit, legitimate or
20 illegal, there's a report made, and we can get a hold of that.
21 So, a lot of times what you'll see is drug dealers, if they have
22 an account, a lot of them don't, they just hide cash money, but
23 the ones that do, they'll make a small increment in accounts,
24 because they know that those reports get generated. So, they'll
25 do small deposits to kind of stay under the radar.

1 Q And that's a requirement of banks in order to maintain
2 compliance with the FDIC system?

3 A Yes, it is.

4 Q And they report that information to the federal
5 government?

6 A Yes, they do.

7 Q Which could trigger an investigation?

8 A Yes, it can.

9 Q In your experience, is it dangerous for drug dealers to
10 keep large amounts of cash on hand or in their homes?

11 A Yes, it is. Drug dealers, they're criminals. I mean,
12 they prey on everybody, that's what they do. Not just by selling
13 the drugs. They go rob each other. And, trust me, you know, it
14 could be your best buddy you went to high school with, if he
15 knows you've got two or three hundred thousand dollars in your
16 house, he's going to come get it from you. I've seen that happen
17 a million times.

18 Q In the particular, if you don't have a firearm in your
19 home, it's smarter to keep the cash in another location, correct?

20 A Yes. Drug dealers, they know the law. They know that,
21 not only have the drugs is illegal, but they keep drugs and money
22 together, well, then that money is subject to being seized. If
23 you got a gun with you while you're selling drugs or in
24 possession of drugs, that's an extra charge. They know all that,
25 too, so.

1 Q You indicated that one hydroponic plant can produce
2 between one and five pounds of marijuana (indiscernible); is that
3 right?

4 A Yes.

5 Q What's the street value of a pound of hydroponic
6 marijuana?

7 A Right now, the street value, we get these values, this
8 is our standardized drug values, and that just -- Every year it
9 changes. They just take a general information from DEA and the
10 stuff we get on the streets. But, it's around five thousand
11 dollars a pound for hydroponic marijuana.

12 Q Five thousand dollars a pound. Mr. Johnson had 21
13 plants. A hundred thousand dollars worth of just marijuana
14 plants. Is that right?

15 A Yes.

16 Q And that doesn't include the cultivated marijuana that
17 was located in the jars under the bed?

18 A That was just the plants. Not counting the edibles, not
19 counting the jars of marijuana, the oils we found, any of that
20 stuff.

21 Q Doesn't include the brownies or the fruit -- I'm sorry
22 -- was it Fruity Pebbles, any of that?

23 A Not the brownies, or the Fruity Pebbles, or --

24 Q The popcorn?

25 A The popcorn.

1 Q Are you aware that Title 43 provides a program in which
2 cancer and glaucoma patients can receive treatment for marijuana?

3 A No, I did not know that.

4 Q But to your knowledge, Mr. Johnson wasn't enrolled in
5 that program?

6 A If he was, he did not tell me and I'm sure he would
7 have.

8 Q Thank you.

9 A Thank you.

10 THE COURT: Mr. Johnson, any re-cross?

11 RE-CROSS-EXAMINATION

12 BY MR. JOHNSON:

13 Q You stated -- Excuse me -- You stated that the banking
14 system must report anything over \$9,999.00; correct?

15 A Somewhere around in there. It's a little over nine.
16 It's right under ten thousand, somewhere in there.

17 Q Did you check with Mr. Johnson's bank account?

18 A No.

19 Q How do you come -- I'm asking a question -- How do you
20 come up with this figure of five thousand dollars a pound?

21 A It comes off of GBI every year, they send us a sheet
22 that's got standardized drug values on it. It's got everything
23 from marijuana to pills. And they say, this pill's worth this
24 much, this amount of meth's worth this much. And it's just taken
25 from information from DEA, FBI, our stats, as well, what we're

1 paying for this stuff on the streets.

2 Q So, you're very familiar with what the DEA has stated
3 as facts for the agents; correct?

4 A You mean every policy and procedure and everything they
5 do? No.

6 Q That would pertain to you as being a drug agent?

7 A It would, but this is what I tell people. No offense to
8 any of the attorneys or judges. You know how like attorneys, they
9 practice certain parts of the law? It's because nobody's smart
10 enough to memorize the whole law library. And I'm not, certainly,
11 I'm not smart enough to know everything in the world about
12 narcotics. So, when I'm not sure about something, I go find it
13 out. And I have a pretty good general broad knowledge of it. But,
14 if you're asking me if I know everything that DEA puts out, and
15 if I keep up with every current trend, no. I feel like I -- If we
16 were talking about designer drugs right now, I'd have to kind of
17 bow out. I don't work enough in those cases. I don't see it
18 enough.

19 Q But for what you deal with, for me, like with
20 marijuana.

21 A Marijuana, meth, cocaine, yes, heroin.

22 Q And I'm just asking. Do you still state that marijuana
23 is a narcotic drug?

24 A That all depends on who you ask. I think Georgia law, I
25 think it's a Schedule I drug. I think at one time DEA classified

1 it as a narcotic. I don't know. I'd have to see the latest. It
2 all depends on who you're arguing with about it. Some people call
3 it a depressant. Some people call it a hallucinogen. Some people
4 call it a stimulant. I've seen articles where they call it a
5 stimulant. I don't know. I don't smoke the stuff. I don't know
6 how it makes you feel.

7 Q Would it surprise you, then -- I know you don't know
8 everything that the DEA puts out. But, would it surprise you to
9 find out that the DEA has stated and has listed that marijuana is
10 not a narcotic?

11 MR. WHITE: Objection. Relevance. The DEA is a federal
12 agency. This is a state law case.

13 THE COURT: Sustained. We're here concerning the Georgia
14 law. Okay?

15 BY MR. JOHNSON:

16 Q Georgia law does not state marijuana -- Would you say
17 that Georgia law states that marijuana is a narcotic?

18 A I just told you. I think it's listed as a Schedule I
19 drug, dangerous drug.

20 Q Excuse me. Did you say think?

21 A Think. I'd have to read it. But I'm pretty sure that's
22 what it says.

23 Q (Indiscernible crosstalk)

24 A I'm not sure if it says marijuana, or THC, or
25 tetrahydrocannabinol. It's one or the other.

1 Q You're an expert on cannabis marijuana. Is that
2 correct?

3 A That's what they said.

4 Q I'm just asking. I'm not (indiscernible) -- I'm just
5 asking. As an expert, should an expert be affirmative in their
6 knowledge, and that's what makes them an expert?

7 A Yeah. But they're not going to know every little single
8 word of everything ever written. There's no way. We can do this
9 all day long. I mean --

10 Q (Crosstalk)

11 A -- I interviewed you for an hour, what color shirt did
12 I wear?

13 Q No, I'm just asking.

14 THE COURT: No. You answer the question; he asks them.
15 Okay?

16 WITNESS: Yes, sir.

17 BY MR. JOHNSON:

18 Q I'm just asking. As the expert, a layman, I'm just
19 asking, would you say that an expert should know more about the
20 subject than a layman, a regular human being, a regular person
21 that doesn't know anything?

22 A Yes. I may not know more than an actual marijuana
23 cultivator, because that's not what I do for a living. That's
24 what they do for a living. So, they're probably going to know
25 just a little bit more about it than me. That's possible. It's

1 quite possible.

2 Q (Indiscernible) said it. As an expert who uses, I would
3 think, arresting people -- I'm asking. Are you used to arresting
4 people more than talking to them about cannabis?

5 MR. WHITE: Objection. That is irrelevant.

6 THE COURT: Sustained. It's not relevant to the case.

7 MR. JOHNSON: No further questions.

8 THE COURT: Okay. Mr. White, any redirect?

9 MR. WHITE: No, Your Honor.

10 THE COURT: You may come down, Agent Skelton.

11 WITNESS: Thank you, sir.

12 (Whereupon, the witness exited the stand)

13 THE COURT: All right. Mr. White, you may call your next
14 witness.

15 MR. WHITE: Your Honor, we've been going for an hour
16 and fifteen minutes. Can we take a fifteen minute break?

17 THE COURT: Okay. All right, ladies and gentlemen, we'll
18 take our afternoon break. When you go into the jury room,
19 okay, don't repeat after me. Just listen. Do not discuss the
20 case with anyone, including yourselves. Do not allow anyone
21 to discuss anything about the case in your presence or
22 hearing. Don't do any independent research whatsoever
23 through the use of any means whatsoever, including smart
24 phones all the way through computers, laptops, and books and
25 dictionaries. You do not speak to the attorneys, their

1 staff, the members of the audience, the defendant, anyone.
2 You don't allow them to speak with you. Should there be any
3 media, you don't read, you don't watch, you don't listen.
4 So, we'll be taking our break.

5 (To bailiff) Mr. Cleveland, if anyone would just like
6 to stretch their legs, get some fresh air, just have one of
7 the bailiffs; you have to stay right around out here. Of
8 course, the same restrictions apply outside as they do
9 inside. But, just you can get some fresh air if you want it.
10 Okay? Thank you. We'll be in recess for about fifteen
11 minutes.

12 (Whereupon, the jury was escorted to the jury room)

13 THE COURT: Okay. Court will be in recess till about
14 three o'clock.

15 (Whereupon, a short break was taken)

16 (Off record)

17 (On record)

18 THE COURT: Alright. Mr. White, the State ready?

19 MR. WHITE: Yes, Your Honor.

20 THE COURT: Mr. Johnson, Defense ready?

21 THE DEFENDANT: Defense is ready, Your Honor.

22 THE COURT: Alright. You can bring the jury back in,
23 please.

24 (Whereupon, the jury was returned to the courtroom)

25 THE COURT: All right, ladies and gentlemen, you can be

1 seated.

2 All right, Mr. White, you may call your next witness.

3 MR. WHITE: Thank you, Your Honor. The State calls Kevin
4 White to the stand.

5 THE COURT: Kevin White.

6 (Pause as witness is summoned to take the stand)

7 MR. WHITE: Please raise your right hand.

8 WITNESS: (Complies)

9 WHEREUPON,

10 KEVIN WHITE,

11 After having first been duly sworn testified as follows:

12 DIRECT EXAMINATION

13 BY MR. WHITE:

14 Q Can you please state your full name and spell your name
15 for the court reporter?

16 A Yes. Kevin White, K-E-V-I-N W-H-I-T-E.

17 Q No relation between us, is there?

18 A No.

19 Q Okay. Back in 2019, where did you work?

20 A I worked for the Hart County Sheriff's Office.

21 Q In what capacity?

22 A I was the captain over the narcotics.

23 Q Where are you currently working?

24 A I work for Fox Factory now.

25 Q I'm sorry, where?

1 A Fox Factory.

2 Q Fox Factory?

3 A Yeah, moving trucks.

4 Q How much more money are you making?

5 A A lot.

6 Q Satisfying work?

7 A Yes.

8 Q Okay. Back in 2019, you were working at the sheriff's
9 office as an investigator, is that right?

10 A That's right.

11 Q What sort of qualifications did you have for that
12 position?

13 A I went through Police Academy. Then I went -- I've had
14 a bunch of training. And I handled drug dogs all my career
15 almost. I had a bunch of training with it. I've been to
16 undercover investigation school in Forsyth; drugs, impaired
17 driving, anything drug related, I would take.

18 Q So, your primary focus was drug investigations?

19 A It was.

20 Q Were you often required to work late into the night?

21 A All the time.

22 Q Was it a demanding position?

23 A Very demanding.

24 Q And in February 13th of 2019, were you working in that
25 capacity?

1 A I was.

2 Q And did you have occasion to assist members of the
3 Appalachian Regional Drug Task Force with the execution of a
4 search warrant in Hart County?

5 A I did.

6 Q And do you recall what address that search warrant was
7 executed on?

8 A 137 Lanier Street, Hartwell, Georgia.

9 Q Is that in Lanier Drive?

10 A Lanier Drive, yes.

11 Q And had the owner of that address been confirmed prior
12 to the execution of that search warrant?

13 A He had.

14 Q And do you see that person in the courtroom?

15 A I do.

16 Q Can you please point to him and describe what he's
17 wearing?

18 A Mr. Johnson with a purple and black tie, white shirt,
19 navy jacket.

20 Q Thank you.

21 MR. WHITE: Let the records reflect that the witness has
22 identified the defendant.

23 THE COURT: So noted.

24 BY MR. WHITE:

25 Q What was the sheriff's office role in the execution of

1 that search warrant?

2 A I came after everything was -- the search warrant was
3 executed. We collected and gathered evidence, took it and logged
4 it into evidence, and got it tested.

5 Q And so you documented the scene?

6 A I did.

7 Q And you assisted -- you collected the contraband that
8 was located at the residence?

9 A I did.

10 Q And is there a procedure that you use when you collect
11 that kind of contraband?

12 A Yes. We photograph the scene first, and then we put
13 everything collected on property receipts, and transport it back
14 to the sheriff's office where it's bagged and tagged and kept in
15 the evidence locker.

16 Q Is it maintained so you're able to identify that as
17 being the items that you collected?

18 A Yes. It's labeled on there, the item number with the
19 property receipt and everything, and then the chain of custody,
20 as well, is on the bag.

21 Q Okay. That's to maintain the chain of custody?

22 A Yes, sir.

23 Q So you're able to, later when testing is performed,
24 tell if that was the same item that was collected. Is that right?

25 A That's correct.

1 Q And you've indicated that you took photographs of the
2 scene. Is that right?

3 A Yes, sir. I did.

4 (Pause)

5 Q Do you recall how many people were in the residence
6 when the search warrant was executed?

7 A Two defendants and several deputies and --

8 Q I'm talking about people who were in the residence, not
9 the law enforcement officers.

10 A Oh, yeah. Just the two defendants, Melissa Roebuck and
11 Mr. Johnson.

12 Q Nathan Johnson and Melissa Roebuck?

13 A Yes. That's correct.

14 (Pause)

15 MR. WHITE: He had this in discovery, Your Honor.

16 THE COURT: Okay.

17 MR. WHITE: May I approach witness?

18 THE COURT: You may.

19 BY MR. WHITE:

20 Q Mr. White, I'm showing you what's been marked for
21 identification as State's Exhibits 17 through 30. And can I ask
22 you to take a look at these, and let me know if you recognize
23 them?

24 (Pause as witness complies)

25 A Yes, sir, I do.

1 Q And do State's 17 through 30 fairly and accurately
2 memorialize the residence of the defendant on February 13th of
3 2019?

4 A Yes, sir.

5 MR. WHITE: Your Honor, at this time I tender State's 17
6 through 30 into evidence.

7 THE COURT: Any objection, Mr. Johnson?

8 MR. JOHNSON: No, Your Honor.

9 THE COURT: All right. State's 17 through 30 are all
10 admitted without objection.

11 (Whereupon, State's Exhibit Nos.
12 17 through 30 were tendered and
13 admitted into evidence)

14 (Pause)

15 MR. WHITE: I'll pass them through the jury.

16 THE COURT: Okay.

17 (Pause)

18 BY MR. WHITE:

19 Q In State's 17 through 30, I'm going to -- First, can
20 you tell us what's depicted in State's 17?

21 A That's just pictures of grow lights, the way they were
22 mounted to the ceilings, the lights that are hanging down close
23 to the plants, and also the, I guess, like, the plastic that he
24 had up in the room.

25 Q And State's 18?

1 A More of the lighting system; the rope above it to keep
2 the plants from breaking over.

3 Q State's 19?

4 A Some marijuana plants with a light above it, and it
5 shows some, the cords going between each plant, or shoots.

6 Q And in State's 20, there are two different grows. Is
7 that right?

8 A Yes. They were -- I guess it was, to me, it looked like
9 the more mature plants were in one and the starter plants were in
10 another room.

11 Q Okay. And is State's 21, 22, 23, and 24, all some of
12 those other plants were collected?

13 A Yeah, the -- Yes, sir.

14 Q Okay. In addition to the plants and the grow that was
15 collected, was there actual cultivated marijuana located?

16 A There were jars of marijuana that were found, glass
17 jars.

18 Q And I'm going to show you what's been introduced as 25,
19 26, 27, 28. And can you tell the jury what's depicted in each one
20 of those?

21 A Yeah. Alright, these are boxes that he had that had
22 some marijuana in them; jars, mason jars of marijuana that were
23 full.

24 Q Were those all -- You indicated they're full. So,
25 that's marijuana that's already been --

1 A Cultivated.

2 Q -- cultivated and prepared, ready for sale?

3 A Yes.

4 (Pause)

5 Q And I'm showing you what's been introduced as State's
6 29 and 30. Ask if you recognize those?

7 A I do. These are some packaged, like, popcorn and
8 candies, edibles that he had packaged.

9 Q Those are just some of the edibles you located and
10 collected?

11 A Yes.

12 Q And can you describe for the jury all of the contraband
13 items that you collected; I'm talking about marijuana and the
14 edibles; how much of each? I mean, you have the property receipts
15 there, right?

16 A Yes. We found 12 jars of marijuana under the bed. One
17 jar was found in front of the TV with marijuana on it. 19 jars
18 were found in front of the TV with marijuana inside of them. Uh,
19 let me go through here (reviews document). We found 16 bags of
20 edible brownies, 16 bags of popcorn, 3 bags of Rice Krispies
21 Treats. Another box in a separate location, found another 12
22 brownies, some Fruity Pebbles Rice Krispies Treat-looking things,
23 and then another bag with 14 Rice Krispies Treats in it.

24 Q And the plants, growing plants?

25 A Yeah. 21 marijuana plants, 21.

1 Q And were all of the items that were collected
2 identified with the same case number?

3 A Yes, sir, they were. It was a Hart County case number.

4 Q What was that case number?

5 A It was 19020115.

6 Q Were those items maintained for chain of custody
7 purposes until testing could be performed on the plants?

8 A That's correct.

9 Q And was testing performed at your request?

10 A It was.

11 Q And, the testing, was it performed by Sherman Payne?

12 A It was.

13 Q And he has passed away, is that right?

14 A He is deceased.

15 Q But he was qualified to perform the test on marijuana?

16 A He was.

17 Q And you're familiar with the test that he used in this
18 case, is that right?

19 A I was. I was with him when he died.

20 Q And at the time, he had maintained the certification to
21 perform these tests, is that right?

22 A He did.

23 Q And have you had occasion to chemically analyze
24 substances to determine whether it is or not, or contains
25 marijuana?

1 A Just some field tests stuff. Never been certified.

2 Q Okay. But Chief Deputy Payne was, is that right?

3 A He is -- Yeah, he was.

4 Q And what test did he -- or, how did the analysis
5 (indiscernible word)?

6 A He looked at it under the microscope, then he done a
7 chemical test on it.

8 Q First, under the microscope, did the substance have the
9 physical characteristics of marijuana?

10 A It did.

11 Q Including the hairs?

12 A Yes, sir.

13 Q Then were reagent tests performed on the substance as
14 well?

15 A It was.

16 Q What were those reagent tests?

17 A Tested positive. It turned blue.

18 Q The Duclon-Levine reagent test is one of the two tests,
19 is that right?

20 A Yes, sir.

21 Q Was that positive for the presence of marijuana?

22 A It was.

23 Q Then the Fast Blue B salt chemical test, what was the
24 reaction, or what was the outcome of that test?

25 A It was positive as well.

1 Q As these tests were performed, were they memorialized?

2 Were the results placed on a --

3 A Yeah, on a document, yeah.

4 Q An evaluation form?

5 A That's correct.

6 Q And was that entered close in time to the actual test
7 being performed?

8 A It was done right when it was done, as he was doing it.

9 Q And it was signed off on by the examining officer?

10 A Yes, sir.

11 Q And you were the arresting officer, is that right?

12 A That's correct.

13 (Pause)

14 Q And so all three of these tests were conclusive for the
15 presence of marijuana, is that right?

16 A That's right. That's correct.

17 MR. WHITE: Your Honor, may I approach the witness?

18 THE COURT: You may.

19 BY MR. WHITE:

20 Q I'm showing you what's marked for identification
21 purposes as State's 32. Do you recognize State's 32?

22 A I do.

23 Q And how do you recognize State's 32?

24 A It was the form that Captain Payne filled out for me
25 for the case file.

1 Q Okay. You mean, it's referring to the testing performed
2 in this case, is that right?

3 A Yes, sir.

4 Q On those items that you collected?

5 A Yes, sir.

6 Q Was it maintained under the chain of custody of the
7 Hart County Sheriff's Office until they were tested, is that
8 correct?

9 A That's correct.

10 Q And was that maintained as a business record of the
11 Hart County Sheriff's Office?

12 A Yes, sir.

13 Q Is that an exact copy of the form as included by
14 Captain Payne?

15 A Yes, sir.

16 MR. WHITE: Your Honor, at this time I tender State's 32
17 into evidence.

18 THE COURT: Any objection, Mr. Johnson?

19 MR. JOHNSON: No, Your Honor.

20 THE COURT: Admitted without objection, 32.

21 (Whereupon, State's Exhibit
22 No. 32 was tendered and
23 admitted into evidence)

24 BY MR. WHITE:

25 Q In your training experience in narcotics

1 investigations, was the quantity of contraband located consistent
2 with personal use or something else?

3 A Something else. It was, what I would say, distribution.

4 Q This would be too much for actually one person to
5 consume, is that right?

6 A That's correct.

7 Q Okay.

8 (Pause)

9 Did all this take place in Hart County?

10 A It did.

11 MR. WHITE: That's all I have.

12 THE COURT: Mr. Johnson, cross-examination of the
13 witness?

14 MR. JOHNSON: No, Your Honor.

15 THE COURT: All right. May this witness be excused. Any
16 objection?

17 MR. WHITE: Yes, Your Honor.

18 THE COURT: All right. You may be excused, Mr. White.

19 (Whereupon, the witness exited the stand)

20 THE COURT: Mr. Kevin White may be excused, not Mr.
21 Parks White. Just forgot we had two Mr. Whites in here.

22 All right. Mr. White?

23 MR. WHITE: Your Honor, at this time, the State rests.

24 THE COURT: All right. Ladies and gentlemen, the State
25 has rested, so there's a matter I need to take up outside of

1 your presence. So, at this time I'm going to ask you to go
2 back to the jury room. But before you go, remember, do not
3 discuss anything about the case whatsoever, not among
4 yourselves, with anyone else, allow anyone to discuss
5 anything about the case in your presence. You don't do any
6 independent research whatsoever through the use of books,
7 magazines, smartphones, any other electronic device or
8 computer. Should there be any media, you don't listen, you
9 don't watch, you don't read it. You don't speak to anyone
10 involved in the case, defendant, attorney, staff, or members
11 of the audience.

12 And so, let's wait until the final members get to view
13 the last exhibit before we exit.

14 (Pause)

15 THE COURT: Okay. All right, Mr. Cleveland, if you
16 will take them to the jury room, please.

17 (Whereupon, the jury was escorted to the jury room)

18 THE COURT: All right, you may be seated.

19 All right, Mr. --

20 MR. WHITE: Your Honor, at this time I move for a
21 directed verdict of conviction (indiscernible).

22 THE COURT: (indiscernible).

23 Mr. Johnson, any motions at this time?

24 MR. JOHNSON: Just what we talked about earlier this
25 morning. Basically, addressing the charges themselves

1 (indiscernible).

2 THE COURT: Well, we've already addressed that, and the
3 rule --

4 MR. JOHNSON: I don't get a chance to present it to the
5 jury now.

6 THE COURT: Well, what the ruling was is, you can argue
7 the law, you can argue the statutes, you can present
8 evidence if a proper foundation is laid. If the proper, uh,
9 if needed, if the proper foundation witness, or if the
10 proper witnesses, or whatever, of course, I can't tell you
11 how to try the case. I mean, I can't. We have been over this
12 for years when I was telling you about whether or not to
13 have an attorney or not. But, if you present it, whatever
14 you want to present, if it's properly done, and it's
15 admissible, then yes; if it is not, then no. Okay?

16 But I want to go over this information with you. Now, I
17 understand you're representing yourself, but there's some
18 questions that I need to talk with you, and if you had an
19 attorney here with you, your attorney would confer with you
20 when we get through, but of course, you're representing
21 yourself. Do you -- Sir?

22 MR. JOHNSON: I'll wait till you finish.

23 THE COURT: Well, no, if you have a question, go ahead.

24 MR. JOHNSON: Your Honor, I'm the only expert in here.
25 Can I call myself as a witness?

1 THE COURT: Well, I'm fixing to go over some information
2 with you about that.

3 Mr. Johnson, do you understand that you have a right to
4 testify; and if you want to testify, then no one can prevent
5 you from doing that?

6 MR. JOHNSON: (Nonverbal response)

7 THE COURT: You have to answer verbally.

8 MR. JOHNSON: Yes, Your Honor.

9 THE COURT: Okay. Do you understand that no one can make
10 or compel you to testify; that is, do you understand that
11 you have a right to not testify if you don't want to?

12 MR. JOHNSON: Yes, Your Honor.

13 THE COURT: Do you understand you are the one who
14 personally decides whether you will or will not testify?

15 MR. JOHNSON: Yes, Your Honor.

16 THE COURT: Do you understand that if you do not
17 testify, then upon proper request by you, I will instruct
18 the jury that your decision to not testify cannot be used
19 against you? You understand, if you decide, I don't want to
20 testify, I will give -- and you want me to tell them, I will
21 instruct the jury that your decision to not testify, they
22 can't use that against you in reaching their verdict; do you
23 understand that?

24 MR. JOHNSON: Yes, Your Honor.

25 THE COURT: Okay. Do you understand that if you decide

1 to testify, of course, you don't have an attorney here, I
2 will allow you to testify in what I'm just going to call a
3 narrative form, but it must be within the rules of evidence
4 and within the rules of procedure? In other words, when I
5 say I'd let you testify as a narrative, I can't just let you
6 think that I mean you can say whatever you want to say. It
7 must fall within the rules of admissible evidence and within
8 the criminal procedure rules. So, you don't have anybody to
9 -- I'm not going to sit here and question you. You know, I'm
10 not -- you don't have anybody; normally, you know, a
11 defendant, if they testify, their lawyer is asking them
12 questions, just like you've seen done. But since you don't,
13 you would be doing it by narrative. But if Mr. White feels
14 that whatever you're saying is not admissible or is not
15 permissible, then he may object. You would stop talking. We
16 would hear the objection. Once he makes the objection, of
17 course, then you're going to have to respond to it, since
18 you're representing yourself. Then it depends on what the
19 ruling is, but either way, we move on. You understand that?

20 MR. JOHNSON: Yes, Your Honor.

21 THE COURT: Okay.

22 MR. JOHNSON: (Indiscernible)

23 THE COURT: Well, wait a minute. Let me get through in a
24 minute. But, do you understand if you testify --

25 MR. JOHNSON: He gets to cross.

1 THE COURT: -- you're going to be subject to cross-
2 examination by the district attorney? Not just, you don't
3 just get to say what you want to say and they don't get to
4 ask you questions. They get to cross-examine you. Do you
5 understand that?

6 MR. JOHNSON: Right.

7 THE COURT: Right means yes, you do?

8 MR. JOHNSON: Yes, Your Honor. I'm sorry.

9 THE COURT: Okay. Do you personally want to testify or
10 not testify?

11 MR. JOHNSON: I would like to testify, and I would like
12 to show the actual charges as read.

13 MR. WHITE: (Indiscernible)

14 THE COURT: Sir?

15 MR. WHITE: I don't understand what that means.

16 MR. JOHNSON: It means, manufactured means raw material
17 used to make a finished product of a different form,
18 cramming me in there. I grew it, yes. I admit I grew it.
19 That's cultivation production, but it does not fit the
20 definition of manufacturing in any kind of way, and you're
21 squeezing it in there by write -- by growing on the charge.

22 MR. WHITE: It's in 16-13-21; it specifically says --

23 MR. JOHNSON: (Crosstalk)

24 MR. WHITE: -- it says the words manufacturer includes -
25 - Right here.

1 (Pause)

2 Manufacture means the production, preparation,
3 propagation, which refers to breeding of plants. And also it
4 says production; manufacture means production. Further down,
5 the definition of production says, it includes the
6 manufacture, planting, cultivation, growing, or harvesting
7 of a controlled substance.

8 THE COURT: Alright.

9 MR. JOHNSON: Now, if I respond back, production
10 including manufacture, cultivation, growing and propagation
11 is correct. Every dictionary and thesaurus will tell you
12 that's correct. But if you use a quick example of production
13 in the United States, and manufacture being Georgia, Georgia
14 can't just flip it around and say Georgia means United
15 States and the rest, and that's what they did. That state
16 done a long time ago in 1960.

17 THE COURT: That's Georgia law.

18 MR. JOHNSON: They're defining something that's
19 irrational and arbitrary, because that is not the meaning of
20 the word.

21 THE COURT: But they use the word "growing." They, being
22 the legislature. Let's just look --

23 MR. JOHNSON: No, it's not (crosstalk) --

24 THE COURT: That's just what he -- No, that's just what
25 he read you. Have you read the statute?

1 MR. JOHNSON: It says production, propagation.

2 MR. WHITE: Propagation is the breeding of plants.
3 Manufacturing is production. Further down in the same
4 statute, the definition of production specifically says,
5 includes the manufacture, planting, cultivation, growing, or
6 harvesting of a controlled --

7 MR. JOHNSON: I can show that just because the assembly
8 wants to change the meaning words, they don't have that
9 right. That belongs to the (indiscernible) --

10 THE COURT: But, see, we're going back. You're arguing
11 about the constitutionality and the drafting --

12 MR. JOHNSON: It's not constitution --

13 THE COURT: Well, I mean, I don't understand, if that's
14 not -- I was trying to, I guess, give you the benefit of the
15 doubt of arguing that. How can you argue that it is not
16 right when the word "growing" is used?

17 MR. JOHNSON: Yes, if you use it -- production, I could
18 have been charged with production, I could have been charged
19 with cultivation, but Georgia law they define it as grow.
20 They've got a separate statute that I wanted to show that
21 does cover growing. It does cover cultivation. Trying to
22 cram what Georgia has already defined into manufacturing --

23 THE COURT: No. No. No. No. I tell you, the statute,
24 Georgia statute that you're charged under defines that
25 within the context of what the statute says, that what you

1 are charged with includes growing and production.

2 MR. JOHNSON: Your Honor, I'm not the good Lord God.
3 That's the only one that can manufacture a plant.

4 THE COURT: You're not manufacturing a plant. You were
5 growing them according to the indictment.

6 MR. JOHNSON: I wasn't growing --

7 THE COURT: That's what it says. It defines --

8 MR. JOHNSON: It says manufacture.

9 THE COURT: Okay, we're not going to debate it. I
10 understand your objection, or I understand -- I'm sorry -- I
11 understand your request. You can't argue that it's not there
12 when it is.

13 MR. JOHNSON: There's farmers in this area, Your Honor.
14 They don't say, I'm going to manufacture a garden; I'm going
15 to manufacture a crop. They say, we're going to produce, and
16 if we want vegetables, we go to the produce section of the
17 store. It's called production, produce, propagation, and
18 cultivation, all of them include growing a plant.

19 THE COURT: Manufacturing includes propagation. So,
20 anyway, I've noted your --

21 MR. JOHNSON: Production includes all of them.

22 THE COURT: Well, it's included in the statute.

23 MR. JOHNSON: The United States includes all the states.
24 You can't say one state is the United States.

25 THE COURT: We're not. We're saying Georgia -- You're

1 not charged under a federal statute. You're charged under
2 Georgia law. And we're not going to continue this argument.

3 MR. JOHNSON: (Indiscernible crosstalk)

4 THE COURT: Your request is noted. It's denied.

5 So, now, the question is, do you want to testify or not
6 testify?

7 MR. JOHNSON: Let's go on and get it over with, Your
8 Honor. I'm ready to die. (Indiscernible) if it'll get it
9 over with. Everybody's got something better to do, including
10 me.

11 THE COURT: I've got nothing else to do. This is what I
12 do. And you wanted a trial. You've been given a trial.

13 MR. JOHNSON: I never got sleep. I've been three days
14 without sleep, because the schedule shifted. We were going
15 to do it Thursday, Friday if possible, but then it shifted.

16 THE COURT: The schedule was everybody be here at 9 a.m.
17 on the 27th ready to go to trial. The cases can be changed.
18 When somebody wants a trial, they've got a trial week. They
19 know they've got to be ready. I suggested for the years
20 going on with this case, you should get an attorney. You
21 qualified to represent yourself. That's what you wanted to
22 do. I even told you as late as yesterday. Sometimes people
23 can know one area and know a subject very well and not know
24 the other, and that does not mean they're not intelligent.
25 It just means we do different things. And that's all I can

1 say.

2 So, now, I do not want it to be that you say, let's
3 just go on and get it over with, like I am saying that. I
4 have not. You can testify if you want to. You cannot testify
5 if you want to. Which do you want to do?

6 MR. JOHNSON: All the evidence is suppressed. I don't
7 want to testify. I just really don't.

8 THE COURT: You do not. Okay. I'm going to find the
9 defendant's decided to not testify with a complete
10 understanding of his rights.

11 MR. JOHNSON: Your Honor, can I get my USB stick out of
12 --

13 THE COURT: In just one second.

14 Mr. White, did you have something else?

15 MR. WHITE: Mr. Johnson hasn't submitted any request to
16 charge, Your Honor. And my concern is several. One, I
17 believe that what he's injected into this case is an attempt
18 to -- May I approach?

19 THE COURT: Yes.

20 MR. WHITE: I already provided it -- I think I provided
21 a copy to you.

22 THE COURT: Request to charge? I've got it; or, they're
23 up here, I'm sorry.

24 MR. WHITE: He's attempted to inject into this case a
25 justification defense, essentially, by saying that he had to

1 consume marijuana because of his medical condition. That is
2 not permitted by Georgia law. As I mentioned, there's, under
3 Title 43, a program that allows cancer and glaucoma patients
4 to undergo treatment with marijuana if they participate in a
5 certain state-authorized program, which is called the
6 Controlled Substance Therapeutic Research Program. Under
7 that Code Section, it grants immunity of the program
8 participants from state prosecution for possession or
9 authorized use of marijuana. But this defendant did not
10 participate in that program, as (indiscernible) he has. In
11 *Carlson v. The State*, which is a 1999 Georgia Court of
12 Appeals case, says that you cannot raise justification as a
13 defense to possession of marijuana based upon medical
14 necessity. It doesn't fall within the definition of what
15 justification is, which includes defense of self, defense of
16 others. There are other forms of justification, such as
17 reasonable corporal discipline or performing an act as part
18 of one's official duties. All of those can be grounds to
19 claim justification. But there is no provision under Georgia
20 law that says there's a medical necessity justification. And
21 our appellate courts have said that it's improper for the
22 trial court to charge on justification as a defense, even
23 though that appears to be its sole defense, understanding
24 that failure to give the charge on the defendant's sole
25 defense is usually based on reversal. But it's clear that

1 Georgia law doesn't allow this to be raised as a defense to
2 this charge.

3 Moreover, even if he could raise it somehow to
4 possession of marijuana, that is not what he's charged with.
5 It wouldn't be a defense to the manufacturer of marijuana.
6 There's no legal necessity for that. And he's charged with
7 possession with intent to distribute. So, he can't claim
8 that his medical necessity requires him to distribute
9 marijuana to others. So, for that reason, we're asking the
10 Court not to give any sort of charge on justification.

11 THE COURT: Mr. Johnson?

12 MR. JOHNSON: The Court is honorable. The Prosecutor is
13 honorable. But, whether they accept it or not, it cleared my
14 lungs of pulmonary embolism, whether it's a statute or not.
15 And I will always thank the good Lord God for creating an
16 alternative medicine. The plants was always first. They
17 stole it. They made a synthetic to sell it to them. Now
18 people don't have money to afford to go to a doctor visit to
19 get a pain pill and a medicine. What other choice they got?
20 No wonder all these crimes are based on drugs. It takes two
21 hundred to three hundred dollars to do a doctor's visit,
22 just to see if you can get some drugs.

23 THE COURT: But, what's the response to the legal
24 argument? That's what I have to hear.

25 MR. JOHNSON: Your Honor, all I can do is say the truth.

1 I cannot deny my good Lord God and His plants for the
2 wonderful work it did for me. If I do, I'm a hypocrite,
3 accused of hypocrisy, forget -- you know, losing my faith. I
4 put all my faith in what the good Lord God gave us, because
5 He didn't give us a pharmaceutical companies for profit that
6 put all their medicine on TV; and then say, overlook all
7 these side effects that might kill you.

8 THE COURT: But what, I mean, the other thing that we
9 really haven't addressed. I don't have any evidence in the
10 case of any medical condition that marijuana would or would
11 not benefit from, or what different results are there versus
12 what was.

13 MR. JOHNSON: (Indiscernible crosstalk)

14 THE COURT: No. You've got to have an expert. You've got
15 to have medical experts to do that.

16 MR. JOHNSON: I wanted to have them, and I said that I
17 wanted to subpoena my folks. I needed to know the court date
18 I was going to have so I can --

19 THE COURT: You did know the court date. You knew this
20 trial week was coming up when we had the status hearing.
21 That's what attorneys do when they represent people.

22 MR. JOHNSON: Well, I didn't know I could make a doctor
23 just leave their practice in the city.

24 THE COURT: Well, that's what attorneys know to do
25 procedurally to issue subpoenas where they can require

1 people to be here, or there are other avenues that can be
2 used to get the information. But, there again, I informed
3 you that representing yourself is not always the best idea.

4 MR. JOHNSON: It's all right, Your Honor. The Lord's
5 going to be merciful. I can feel it coming.

6 THE COURT: Okay.

7 MR. WHITE: Again, just for the purposes of the record,
8 Mr. Johnson said his evidence was suppressed. The State
9 can't suppress the defendant's evidence. That is not the
10 case. In addition, based upon what he's saying, I suspect
11 that he's going to attempt to argue facts not in evidence.
12 He has not testified regarding any medical condition or his
13 necessity, or this need -- He would have to testify in order
14 to -- If you could just remind him that anything he argues
15 must have been based upon the evidence that was presented
16 during the course of the trial, the facts that were
17 presented in the law.

18 THE COURT: That's --

19 MR. JOHNSON: I can do that. I can do that.

20 THE COURT: That's correct. So, if --

21 MR. JOHNSON: Whatever was brought up in this court --

22 THE COURT: Whatever was admitted into evidence can be
23 argued. Other than that, it can't.

24 MR. JOHNSON: I got enough, Your Honor.

25 THE COURT: Okay. Are we, uh, you know, it's fifteen

1 till four; do we want to come back in the morning?

2 MR. WHITE: If we could let the jury come back in the
3 morning, but then we'll continue (crosstalk)--

4 THE COURT: Yeah, yeah, but that's what I mean; just let
5 them come back in the morning and we'll --

6 MR. JOHNSON: Can we just do it today so I can either go
7 to bed, or go to jail and go to bed; either way, I'm just
8 tired. I don't have my medicine no more. It's been years,
9 and I look like an old man. I'm 61. When I was 58, I looked
10 like I was 48. Now I look like I'm about to die. But what
11 (indiscernible crosstalk) --

12 THE COURT: Well --

13 MR. JOHNSON: -- do what y'all going to do and let's do
14 it. I'm a man. I can stand it. I'm tired of waiting.

15 THE COURT: Well, what we're looking at, though, is we
16 have to go over these requests to charge; and then, when I
17 bring them back in, they are closing arguments; and then I
18 have to charge them with the law; and then they have to
19 start deliberating. That's going to be after five o'clock,
20 and I just think that's going to be -- and I'll say -- You
21 said you're tired. This will give you an opportunity to go
22 home and get some rest before your closing arguments, after
23 we get through with the charge conference. So, I just think
24 the timing is, we're just going to bring them in the
25 morning.

1 MR. JOHNSON: The Lord is merciful. I will not be
2 (indiscernible).

3 THE COURT: (To bailiff) We're going to bring them back
4 in.

5 Mr. Johnson, I'm going to ask you in front of the jury,
6 we're ready for you to call your first witness; if you don't
7 want to have anybody testify, you say, "I rest." If you do,
8 you can go.

9 MR. JOHNSON: I can call a witness?

10 THE COURT: Yes. If they're --

11 MR. JOHNSON: Can I call Ms. (indiscernible name)?

12 THE COURT: I -- Yes.

13 MR. JOHNSON: Well, then I can call a witness?

14 THE COURT: Yes.

15 MR. JOHNSON: All right.

16 (Whereupon, the jury was returned to the courtroom)

17 THE COURT: You may be seated.

18 Let me see counsel and Mr. Johnson up here one second.

19 (Whereupon, a conference was held at the bench)

20 THE COURT: What I was going to say, Mr. Johnson, we
21 went over about you testifying. I did not know; do you have
22 any witnesses that you intend to call, other than yourself?

23 MR. JOHNSON: You just said if I had a witness to call -

24 -

25 THE COURT: I just -- But, procedurally, I mean, have

1 y'all exchanged witness lists? Have y'all --

2 MR. WHITE: Who does he intend to call?

3 THE COURT: Who is the witness?

4 MR. JOHNSON: (Indiscernible)

5 MR. WHITE: What was her name, sir?

6 MR. JOHNSON: Her name is Ms. Sharone (phonetic).

7 THE COURT: Ms. Sharone?

8

9 MR. WHITE: That's not a name. What's her first name?

10 MR. JOHNSON: Oh, that is her first name.

11 THE COURT: What's her last name?

12 MR. JOHNSON: I do not know. I don't know. I can ask.

13 MR. WHITE: Well, what's the relevance?

14 THE COURT: Do you want me to send the jury back out,
15 Mr. White? Do you want to have an opportunity to speak with
16 her? You think that's --

17 MR. WHITE: Yes, sir.

18 THE COURT: Okay. Hold on.

19 (Whereupon, the bench conference was concluded)

20 Ladies and gentlemen, I'm going to have to ask you to
21 go right back out. Same instructions. I think you understand
22 what to do and not to do. Just same instructions. Don't
23 discuss anything.

24 (Whereupon, the jury was escorted to the jury room)

25 THE COURT: Okay, you may be seated.

1 All right, Mr. Johnson, let me just follow up on the
2 conversation we were having. Do you -- When I was discussing
3 about your decision to testify or not to testify. Do you
4 have any witnesses you wish to call, other than yourself?

5 MR. JOHNSON: I would like to call Ms. Sharone.

6 THE COURT: Ms. Sharone. Now, what's her full name?

7 FEMALE VOICE: Sharon Jones.

8 THE COURT: Sharon Jones, okay.

9 And, Mr. White, were you aware of this potential
10 witness?

11 MR. WHITE: No, Your Honor.

12 THE COURT: Okay. What -- Can you give us a summary of
13 what information she is going to be testifying to, Mr.
14 Johnson?

15 MR. JOHNSON: Yes, Your Honor.

16 THE COURT: Okay.

17 MR. JOHNSON: The ability to come off of 15 milligram
18 and 30 milligram (indiscernible words).

19 MR. WHITE: It's not relevant.

20 THE COURT: Okay. That's -- And let me just ask. Is she
21 a medical doctor? Does she have medical training?

22 MR. JOHNSON: No.

23 THE COURT: She does not? Does she have -- Would you
24 tend to offer her as an expert in this field based on some
25 other degree she may have or some other --

1 MR. JOHNSON: In her own particular case, yes.

2 THE COURT: Okay. In her own experience, but not such as
3 a chemist, or a doctor, or something of that nature.

4 Correct? Am I --

5 MR. JOHNSON: As I said, I'm the only expert in here on
6 the chemical THC, as well as (indiscernible).

7 THE COURT: Okay.

8 MR. WHITE: If she's going to testify as to his ability
9 to come off of prescription narcotics because of THC --
10 First of all, he's already stated through the course of his
11 cross-examination of other witnesses that he was using
12 marijuana while taking prescription narcotics from the VA,
13 which is why they were stopped. Two, it's not relevant.
14 There's no medical necessity exception unless you're a
15 participant in the Title 43 program.

16 THE COURT: Were you a participant in the --

17 MR. JOHNSON: I have pulmonary embolism blood clot. It
18 don't meet the same require-- I don't have what they got.

19 THE COURT: Okay, but --

20 MR. JOHNSON: If I wait till (indiscernible) I will be
21 dead by then.

22 THE COURT: But you did not participate in the program
23 as authorized under the Code Section; correct?

24 MR. JOHNSON: No. It started in 1980.

25 THE COURT: Okay --

1 MR. JOHNSON: No one did. They never had one patient. It
2 started because of Jimmy Carter, and then as soon as he
3 lost, it was axed.

4 MR. WHITE: He was the President, not the Governor. It's
5 a state law.

6 THE COURT: Okay. Well, if that is the basis, or the
7 foundation of what she's going to testify to, it's not going
8 to be relevant as to the charge--

9 MR. JOHNSON: I just got to say, the Good Lord just put
10 it in my mouth, everyone thinks the 10th Amendment is only
11 state rights. It also states it's for the people, the states
12 or the people. They just leave the people out. We're just
13 here to do whatever they tell us to. It says, rights not
14 reserved to the federal government belong to the state or
15 the people. But people -- not the people, it's always state
16 rights. What about our rights? To live without having to
17 take synthetic drugs and not live in pain if we don't want
18 to. That's what y'all do, the government. You make us have
19 to choose between their synthetic or pain. There is no in
20 between. You try to use something other than that, you're a
21 criminal. The good Lord God never makes us criminals. Once
22 upon a time, it was celebrated, and now everything's got to
23 be something that comes in some form, you don't know what it
24 is until it kills you.

25 MR. WHITE: And Hemlock's (indiscernible) too.

1 THE COURT: Alright --

2 MR. JOHNSON: It's not illegal. Hemlock is not illegal.

3 THE COURT: Hold up.

4 MR. JOHNSON: You can grow hemlock in your yard.

5 THE COURT: First, let me just tell you, when you say
6 what y'all do, and I'm just going to clarify. You know, the
7 legislature makes the laws. Okay? I don't make the laws. I
8 abide by, and go by, and enforce the laws. Okay? The rules,
9 not -- That's this Court's responsibility. I can't just on a
10 whim decide, you know what, I really think today I like this
11 better, so I'm going to make everybody do it this way, or
12 tomorrow I don't like that, so we're going to do it the
13 other way. That's not how it works. I have to go by what the
14 law is. Now --

15 MR. JOHNSON: I agree (crosstalk) --

16 THE COURT: -- okay, so that -- No. This is it. We're
17 not going to have that debate anymore. We're done.

18 So, other than Ms. Jones, did you have any other
19 witness you wish to call that would be able to offer
20 admissible evidence?

21 MR. JOHNSON: My other thing is getting a subpoena
22 today.

23 THE COURT: It's --

24 MR. WHITE: That's fine.

25 THE COURT: I mean --

1 MR. JOHNSON: Is that possible? I need a subpoena for a
2 vascular surgeon in South Carolina. I need a subpoena for a
3 home there, a specialist in Athens.

4 (Indiscernible crosstalk)

5 MR. WHITE: (crosstalk) -- the relevance of the
6 witness's testimony?

7 MR. JOHNSON: Because they're going to show that my lung
8 was affected. They're going to show --

9 THE COURT: But it's the medical necessity exception.

10 MR. JOHNSON: Well, that's a civil hearing right there.

11 THE COURT: Well, your --

12 MR. JOHNSON: Even if it's not itself, the civil hearing
13 says that you can still give it to at least (indiscernible),
14 even if Georgia does not recognize the medical necessity of
15 it.

16 THE COURT: Okay. Well, your --

17 MR. WHITE: (Crosstalk)

18 MR. JOHNSON: That was the year 1978 --

19 THE COURT: Your --

20 MR. JOHNSON: -- (crosstalk) versus State of Georgia. It
21 was found on appeal that the state's area, they should have
22 allowed Phillips to have it. Background, Phillips was caught
23 growing some cannabis, marijuana, you want to call it, out
24 in the back in the woods. When the police arrested him, he
25 told them he had a severe case of arthritis that he had

1 since he was a young boy of 13. It was the only thing that
2 helped him. And he asked for a medical necessity hearing,
3 and the state said, just like Mr. Parks says, Georgia don't
4 have a medical necessity hearing. He was convicted. And on
5 appeal the Georgia court found it should have been allowed,
6 and he was found innocent and let go.

7 MR. WHITE: A citation is needed.

8 THE COURT: What case number is that?

9 MR. JOHNSON: Oh, I didn't pick it up for you. But,
10 usually, you can pull it under Phillips v. State of Georgia
11 Court of Appeals. I can get the number for you. This was
12 something I had planned to give it to you today. 1978. I
13 gave it in my medical necessity hearing, and it was just
14 ignored, with the case numbers, with everything. Everything
15 --

16 MR. WHITE: (Indiscernible) 1999. We now have a medical
17 exception for necessity under Title 43. He did not qualify
18 for it because he wasn't in the program.

19 THE COURT: Okay. So, that's why --

20 MR. JOHNSON: Your Honor, the people that are making
21 these laws are not doctors --

22 THE COURT: Okay. Well, that -- I have to go by what the
23 statutes say.

24 MR. JOHNSON: I thought we had three branches of
25 government. We had --

1 THE COURT: (To a member of gallery) Ma'am, is that
2 light on your phone?

3 FEMALE VOICE: Sir?

4 THE COURT: I said, it looks like there's a light on
5 your phone. Are you recording this?

6 FEMALE VOICE: No, sir.

7 THE COURT: Okay. Your flashlight must be on, because
8 when you held it up I --

9 FEMALE VOICE: (Indiscernible crosstalk)

10 THE COURT: Okay. That's okay. I just --

11 MR. JOHNSON: I thought we had three branches of
12 government, even in state. We have the executive, the
13 governor --

14 THE COURT: All of them are (crosstalk) --

15 MR. JOHNSON: -- (crosstalk) and then we got the general
16 assembly, and then we got the judicial that makes sure those
17 other two play by the rules or strike. But if you're going
18 to just do whatever they say, we don't have the two branches
19 of government. Your branch is the most important part. You
20 represent the people, Your Honor. You represent me --

21 THE COURT: You want --

22 MR. JOHNSON: -- and all these, or otherwise, we at the
23 mercy of the general assembly and whatever they write
24 without the judicial --

25 THE COURT: Well. Okay. Let's bring them back in.

1 They're going to go home for the evening, and then we'll
2 have our charge conference.

3 MR. JOHNSON: Can I get the subpoenas? (Indiscernible)

4 THE COURT: There's nobody -- They're not coming in the
5 morning.

6 I'll tell you -- Wait. I tell you what. Hold on just a
7 second. No, no, let them come on in. Let them come on in.

8 MR. JOHNSON: I'm not going to let these people come
9 back, Your Honor. Let's just -- let's just (indiscernible).

10 (Whereupon, the jury was returned to the courtroom)

11 THE COURT: All right, you may be seated. All right,
12 ladies and gentlemen, there's some matters that I'm going to
13 need to take up, and it's going to take a little longer
14 outside your presence. So, rather than having you all come
15 back and forth, back and forth, in just a moment, I'm going
16 to excuse you for the afternoon. You'll be back in the jury
17 room at 9:20 in the morning. We'll be ready to reconvene at
18 9:30 in the morning. And it's everyone's expectation, as
19 they stated to you yesterday, that the case will finish up
20 tomorrow. Okay? While you're gone, please remember, do not
21 discuss the case with anybody. Don't allow anybody to
22 discuss it with you or in your presence. Media coverage, you
23 don't read, you don't listen, you don't watch. You don't
24 speak with the attorneys, the defendant, members of the
25 audience, witnesses. They should not speak with you. You

1 don't do any independent research whatsoever concerning
2 words, locations, places, people, no kind at all. No Google
3 Earth, no Google Map, no computers, no phones, no laptops,
4 no iPads or books, and those of us who are old enough,
5 encyclopedias, but some don't even know what those are, but
6 some of us old folks do.

7 So, with that, have a good evening. Leave your notepads
8 with Mr. Cleveland. See everybody at 9:20 in the jury room.
9 Thank you.

10 (Whereupon, the jury was excused for the day)

11 THE COURT: All right, you may be seated.

12 All right, what we're going to do --

13 MR. WHITE: I have Filler.

14 THE COURT: Okay.

15 MR. WHITE: He's misrepresented the holding in the case,
16 once again. It didn't deal with a medical necessity
17 exception. The case was reversed because the court refused
18 to grant a continuance and said it was an abuse of
19 discretion to require the defendant to go forward on that
20 date of trial. It did not say the medical necessity evidence
21 was admissible, nor did it say it was the defense to
22 possession marijuana or manufacture of marijuana.

23 THE COURT: Thank you.

24 MR. JOHNSON: It said that they should have allowed him
25 to make a defense. So, they did not prepare his --

1 (indiscernible) --

2 THE COURT: Okay. Here's what we're going to do. If you
3 -- Since the State rested, what the next procedural position
4 would be, if the jury was in here, I'd say, "Mr. Johnson,
5 you may call your first witness." If you want to call a
6 witness, then you call that person up. If you're not going
7 to put up any evidence, then you would say, "Your Honor, we
8 rest." Okay? That's the procedure.

9 Now, just so there won't be any indication that I did
10 not allow you to call a witness, if you have one that can
11 testify to proper or admissible evidence. It is four
12 o'clock. If you can get a subpoena, which you can from Mr.
13 Gray's office, they're open till five. If you can get a
14 subpoena, and you can get it to your witness, and you can
15 get them here in the morning, and Mr. White has a chance, an
16 opportunity to speak with them, if they will speak with him,
17 then if you want to call a witness, you bring them. But if
18 you don't have them, there's not -- we're not going to
19 continue the case.

20 MR. JOHNSON: I don't want to continue.

21 THE COURT: Okay. But this way, when you say, can you
22 get a subpoena? Yes, you can. Now, it'll be up to you to use
23 the proper process to get it to the people. Okay? So, but
24 with that, let's just go ahead, and we could --

25 MR. JOHNSON: So, the Court doesn't serve for the

1 defendant?

2 THE COURT: No, sir. I don't serve anybody. That's what
3 the lawyers --

4 MR. JOHNSON: I heard that the Court incurred the whole
5 expense of the defendant and he paid back when he went to
6 prison, if he was convicted because the State brought the
7 charge.

8 THE COURT: No, sir. I don't serve subpoenas. And the
9 clerk's got the --

10 MR. JOHNSON: (Crosstalk) that's from the defendants
11 department goes broke all the time, because they have to pay
12 for --

13 THE COURT: That's when you have a public defender, and
14 you have an attorney. And if you had a public defender, they
15 would be representing you at no charge --

16 MR. JOHNSON: (Indiscernible crosstalk)

17 THE COURT: -- and they would know the procedure, and
18 they would know, and you would not be incurring any expense
19 whatsoever. But, let's go over these --

20 MR. JOHNSON: I would be in jail.

21 THE COURT: All right. Let's go over these --

22 MR. JOHNSON: (Indiscernible crosstalk)

23 THE COURT: Mr. Johnson.

24 MR. JOHNSON: Okay.

25 CHARGE CONFERENCE

1 THE COURT: Thank you, sir. With all due respect. Now
2 I've listened to you. Now here's the procedure. Do you have
3 a copy of the State's request to charge?

4 Mr. White, did he get --

5 MR. WHITE: Yes.

6 CHARGE CONFERENCE

7 THE COURT: Okay. We're going to go over the State's
8 requests to charge. Okay? So, we're going to start with
9 number 1, 1.20.30, Jury; Judges of Law and Facts.

10 Mr. Johnson, do you have any objection to that charge?

11 MR. JOHNSON: What page are we on, Your Honor? I have
12 two or three (indiscernible) of pages, Your Honor.

13 THE COURT: Okay. State's Request -- Do you have this
14 document? State's Req--

15 MR. JOHNSON: (nonverbal response)

16 THE COURT: Okay. Turn -- turn over to --

17 MR. JOHNSON: What page?

18 THE COURT: The first page, turn over. At the top you'll
19 see they've got them numbered individually. State's Request
20 to Charge Number 1, and it is titled, 1.20.30, Jury; Judges
21 of Law and Facts. Do you have any objection to the Court
22 giving that charge?

23 (Pause)

24 MR. JOHNSON: Well, I told you, I can't -- I can't talk
25 about the Georgia Constitution because it's supposed to be

1 the jury's duty, not someone else's duty. The Constitution
2 say the jury is the judge of the law and facts, and not
3 somebody else arbitrarily is gonna judge the law. But that's
4 if we follow the Constitution of Georgia instead of just
5 following whatever the general assembly puts out. State
6 Constitution's got to mean something.

7 THE COURT: So, do you object to this charge being given
8 or not, Mr. Johnson?

9 MR. JOHNSON: If I say --

10 THE COURT: Okay. What will happen, as we talked about,
11 when you and Mr. White finish your closing argument, if you
12 choose to give one, then I'm going to charge the jury with
13 what the law is that they have to use to determine the
14 verdict along with the facts that they have found them to be
15 from the trial. This is the law that they would use. It's
16 called a charge. I'm the one who reads it to them.

17 MR. JOHNSON: Oh.

18 THE COURT: Okay. So, do you object to the Court giving
19 this charge to the jury?

20 (Pause)

21 MR. JOHNSON: (Indiscernible)

22 THE COURT: Sir?

23 MR. JOHNSON: No, I don't object.

24 THE COURT: No objection?

25 MR. JOHNSON: (Indiscernible)

1 THE COURT: Okay. Alright, Request Number 2, Single
2 Witness Corroboration. Do you object to this charge?

3 (Pause)

4 MR. JOHNSON: (Indiscernible) it's okay, Your Honor.

5 THE COURT: No objection?

6 MR. JOHNSON: No objection.

7 THE COURT: Okay. 3, Credibility of Witness.

8 MR. WHITE: There was no proof of felony conviction for
9 crimes involving dishonesty.

10 THE COURT: Uh...

11 (Pause)

12 I'm looking at Number 3, Cred--

13 MR. WHITE: I was looking at 4. I apologize.

14 THE COURT: Oh, it's okay.

15 MR. WHITE: (crosstalk)

16 THE COURT: I'm going to take out "their intelligence."

17 MR. WHITE: Yes, Your Honor.

18 THE COURT: I'm removing that bracket. But, Mr. Johnson,
19 do you object to the State's Request to Charge Number 3?
20 Except I do not include "their intelligence."

21 (Pause)

22 MR. JOHNSON: (Indiscernible) Your Honor.

23 THE COURT: Sir?

24 MR. JOHNSON: Say that again.

25 THE COURT: If you read the charge, it says including

1 the witness's manner of testifying; then in brackets says,
2 their intelligence, their means and opportunity of knowing
3 the facts, etcetera.

4 MR. JOHNSON: I object. I want their intelligence to
5 stay in there.

6 MR. WHITE: That's fine. I don't have a problem with
7 that.

8 THE COURT: So, you don't object to that, Mr. Johnson?

9 MR. JOHNSON: I just said.

10 THE COURT: Okay.

11 MR. JOHNSON: If the -- I need their intelligence to
12 stay in there. So that would be my objection if it's coming
13 out.

14 THE COURT: Okay, so "their intelligence" will be given.
15 (Pause)

16 MR. JOHNSON: Wait a minute. I didn't say I didn't want
17 the intelligence, I said I do want it.

18 THE COURT: You do, okay. Okay, so what it will read is,
19 the witness's manner of testifying, their intelligence,
20 their means and opportunity, etcetera.

21 MR. JOHNSON: Right.

22 THE COURT: Okay.

23 MR. JOHNSON: Especially their intelligence.

24 THE COURT: Okay.

25 MR. WHITE: I withdraw 4.

1 THE COURT: Alright, 4 is withdrawn. Alright, State's 5,
2 Mr. Johnson, Prior Statements?

3 (Pause)

4 THE COURT: Any objection?

5 MR. JOHNSON: No objection, Your Honor.

6 THE COURT: Alright. It'll be given. State's 6, Witness
7 Supported.

8 (Pause)

9 MR. WHITE: I don't think it's relevant. I'll withdraw
10 it.

11 THE COURT: I don't -- I was looking down through there.
12 I don't think we've had -- So, that's withdrawn.

13 State's 7, Definition of a Crime.

14 (Pause)

15 Are we -- the criminal negligence, I don't think that's
16 an issue in this, is it?

17 MR. WHITE: No, Your Honor.

18 THE COURT: Okay. So it would just be, (reading) in
19 which there is a joint operation of an act or omission to
20 act and intention?

21 MR. WHITE: Yes, Your Honor.

22 THE COURT: Alright.

23 MR. JOHNSON: (Indiscernible)

24 THE COURT: But we're not -- we don't have any --

25 MR. WHITE: Either crime is criminal (indiscernible).

1 THE COURT: Right. We don't have any evidence of any
2 crime of --

3 MR. JOHNSON: No, but I'm talking about the negligence
4 can go and just leave it with intent.

5 THE COURT: Okay. Alright, that's in. Alright, State's
6 8, Intent. I think the full charge is applicable here.

7 MR. WHITE: It's Pattern. I don't think an objection
8 would even matter. He could still make an objection
9 (indiscernible).

10 THE COURT: Well, I'm still going on the record to get
11 it.

12 MR. JOHNSON: (Indiscernible)

13 THE COURT: Mr. Johnson, do you have any objection to
14 the State's Number 8?

15 (Pause)

16 THE COURT: Mr. Johnson?

17 MR. JOHNSON: No objection.

18 THE COURT: No objection to 8, okay. Alright, State's
19 Number 9, No Presumption of Criminal Intent. Pattern.

20 (Pause)

21 MR. JOHNSON: That's was one of the O.C.G.A. Codes I was
22 gonna show.

23 THE COURT: So, any objection?

24 MR. JOHNSON: No.

25 THE COURT: Okay. State's 10, Presumption and Inference.

1 Pattern. Any objection?

2 (Pause)

3 THE COURT: Any objection?

4 MR. JOHNSON: No objection, Your Honor.

5 THE COURT: Okay. Alright, Number 11, Venue, the case
6 must be tried in the county the crime was committed. We can
7 take out the part about if the prosecution can't determine
8 the county. That doesn't apply here. There was no evidence
9 it was committed anywhere but Hart County. So, the second --
10 I mean, the third line, I guess that's probably the second
11 full sentence of the first paragraph, we can take that out.

12 MR. JOHNSON: I agree. Go ahead.

13 THE COURT: And I'm just going to use the word "tried,"
14 (reading) the law provides the criminal act shall be tried
15 in the county in which the crime was committed; I'm going to
16 take out except as provided by law, because there's no need
17 in throwing that confusion here. Okay?

18 State's 12, Evidence General. We can take out about
19 depositions and stipulations, because we haven't had that;
20 and I haven't taken judicial notice of anything; so we can
21 delete those phrases that are in the parentheses.

22 With those redactions, Mr. Johnson, any objection to
23 State's 12?

24 MR. JOHNSON: No, Your Honor.

25 THE COURT: Okay. Alright, State's 13, Direct and

1 Circumstantial Evidence. I like the short version right
2 here.

3 MR. WHITE: That's fine.

4 THE COURT: And that would -- And I've always taken the
5 opinion that where it says, "11th Circuit with slight
6 alteration," that would be a sep-- that would be one or the
7 other. I don't give both unless -- I mean, I just would give
8 what says the short version.

9 MR. WHITE: Well, below the short version I think that
10 needs to be given. That, (reading) you would authorized to
11 convict only if the evidence whether direct, circumstantial,
12 or both excludes all reasonable theories of innocence and
13 proves the guilt of the accused.

14 THE COURT: Okay. Okay. Alright. Mr. Johnson, giving
15 both, any objection?

16 (Pause)

17 MR. JOHNSON: No objection.

18 THE COURT: Okay. Alright, so I will not be giving the
19 long version.

20 Okay, State's 14.

21 (Pause)

22 MR. WHITE: The first parenthetical section underneath
23 the heading should be struck through, but then manufacture
24 and possession with intent to distribute should be given
25 below that.

1 THE COURT: Alright. So, take -- you're saying take out
2 to purchase, possess or have under control?

3 MR. WHITE: Yes, Your Honor.

4 THE COURT: Take -- That would come out. And so it would
5 be --

6 MR. WHITE: (Indiscernible)

7 THE COURT: I would agree, okay.

8 MR. JOHNSON: I'll object to manufacture. I didn't
9 create the cannabis.

10 MR. WHITE: It's the definition in the statute and it is
11 (indiscernible) --

12 MR. JOHNSON: I still object to it.

13 THE COURT: You can object, but it's overruled, and it's
14 noted on the record. So, any quantity of --

15 MR. WHITE: You can say marijuana.

16 THE COURT: -- just marijuana.

17 MR. JOHNSON: Why not just rewrite it and just make a
18 new charge. It'll still be the same thing (indiscernible).

19 THE COURT: When it says, which is a controlled
20 substance, we don't have any, I mean, which is, except as
21 authorized in this law.

22 MR. WHITE: As prescribed by -- yeah, that's any
23 quantity of marijuana --

24 THE COURT: Right.

25 MR. WHITE: -- and just move back. That's where it

1 should end.

2 THE COURT: Right.

3 MR. WHITE: Any quantity of marijuana --

4 THE COURT: Which is a controlled substance, period.

5 MR. WHITE: It's not a controlled substance.

6 (Indiscernible) the Code describes the possession of
7 marijuana, but it doesn't classify as a controlled
8 substance.

9 THE COURT: Okay. So, it'll just be, so it'll say, that
10 it is unlawful for any person to purchase, possess, or have
11 under one's control manufacture, sell, or deliver, possess
12 with intent to distribute, distribute, administer, dispense
13 any quantity of marijuana, period.

14 MR. WHITE: Except as authorized in this law, you could
15 say that, but --

16 THE COURT: Marijuana...

17 MR. WHITE: But the term (indiscernible) because there's
18 no issue as to things prescribed or legally possessed, just
19 any part of the marijuana (indiscernible).

20 THE COURT: Period.

21 MR. JOHNSON: They don't have my condition here, but I
22 have the proof that it took care of it.

23 THE COURT: Alright. And then --

24 MR. JOHNSON: (Crosstalk)

25 THE COURT: -- and so, then, the definitions, going

1 down --

2 MR. WHITE: Deliver can be taken out. Manufacture should
3 remain. Distribute should remain; intent to distribute. Sell
4 should be removed. Marijuana to be, uh, remain. And then --

5 THE COURT: Wait a minute. Manufacture is in. Deliver is
6 out?

7 MR. WHITE: Yes, Your Honor.

8 THE COURT: Distribute is in.

9 MR. WHITE: Intent to distribute.

10 THE COURT: Distribute and intent to distribute, both.
11 Sell is out. And marijuana is in.

12 MR. WHITE: I believe that is how it should be provided
13 to the jury.

14 THE COURT: From the evidence we have.

15 MR. WHITE: And I think Mr. Johnson's specific objection
16 is to the definition of manufacture.

17 MR. JOHNSON: That's because this country has never used
18 manufacture to describe a plant (indiscernible) in 1970 when
19 they messed up and Georgia just took the mess up.

20 THE COURT: Okay.

21 MR. JOHNSON: Georgia didn't pass that --

22 THE COURT: Alright --

23 MR. JOHNSON: -- Congress did.

24 THE COURT: Alright, your objection is noted, but it's a
25 Pattern Charge, and I'm going to give it.

1 (Pause)

2 THE COURT: The, on the last page, as far as the
3 statement in parentheses, Mr. White, should that be given?

4 MR. JOHNSON: Last page?

5 THE COURT: Second page.

6 MR. WHITE: I don't think it's necessary, because we
7 removed Count 3. We're going to redact the indictment for
8 them.

9 THE COURT: Okay.

10 MR. JOHNSON: (Indiscernible words)

11 THE COURT: So, do you have any objection to this charge
12 as with the changes that were made, Mr. Johnson?

13 MR. JOHNSON: You talking about the last page?

14 THE COURT: State's 14.

15 (Pause)

16 MR. JOHNSON: You already know my objection, but I know
17 it's overruled, but I object to manufacture.

18 THE COURT: Okay. It's overruled.

19 MR. JOHNSON: I didn't make no chemical flower.

20 THE COURT: Okay. Alright, on State's 15, Possession of
21 Drugs, Narcotics, Joint, Several, Actual and Constructive.

22 MR. JOHNSON: I didn't hear you, Your Honor.

23 THE COURT: State's 15. State's number 15, I was just
24 using the heading.

25 (Pause)

1 MR. JOHNSON: (Indiscernible)

2 THE COURT: I won't be reading the heading. It's just,
3 that just covers several different --

4 MR. JOHNSON: (Indiscernible) It was mine. The Lord
5 won't let me lie. It was mine.

6 MR. WHITE: No objection, is that what you're saying,
7 Mr. Johnson?

8 MR. JOHNSON: No objection.

9 THE COURT: Okay. Alright, State's 16, Premises;
10 Inference of Possession.

11 (Pause)

12 MR. JOHNSON: I object to lessee. You can blame the
13 person that owns (indiscernible). I don't like the lessee
14 being charged.

15 THE COURT: Well, it just says who either owns the house
16 or --

17 MR. JOHNSON: Owns the house, well (indiscernible) owns
18 the house.

19 THE COURT: Well, but sometimes you might just be
20 leasing a house, but you're not the actual owner.

21 MR. JOHNSON: (Crosstalk)

22 THE COURT: Okay.

23 MR. JOHNSON: (indiscernible)

24 THE COURT: Alright. I'm going to give it over
25 objection.

1 State's 17, Parties to a Crime.

2 (Pause)

3 MR. JOHNSON: (Indiscernible)

4 MR. WHITE: That's not (indiscernible) of the law. It
5 doesn't relate to this charge.

6 THE COURT: I'm going to give it over objection.

7 State's 18, Knowledge.

8 MR. WHITE: His objection was Schedule I Controlled --

9 THE COURT: Right.

10 MR. WHITE: -- (crosstalk) with intent to distribute.

11 MR. JOHNSON: I looked at it like the knowledge is not
12 (indiscernible) like if I had a firearm (indiscernible).

13 That would not have been called unjustifiable

14 (indiscernible) you can't save yourself for a plant.

15 Something's wrong (indiscernible).

16 THE COURT: Down in the second, or the bottom, about
17 four lines up, we'll take out possession of a Schedule I
18 with intent to distribute, just like we did at the top.

19 MR. JOHNSON: Here's another thing that (indiscernible)
20 How can a state be more arbitrary than saying they don't
21 recognize medical use if Georgia recognizes it as such?

22 MR. WHITE: It's not in Schedule I. And it's not charged
23 now in this other count.

24 THE COURT: Right. I mean, see, that was dismissed. So,
25 I'm giving 18 over objection.

1 MR. WHITE: (Indiscernible) pretty clear from the State.

2 THE COURT: Okay.

3 MR. JOHNSON: (Indiscernible)

4 THE COURT: State's 19 is being withdrawn. We're not --
5 It's not even being requested.

6 Okay. State's 20, Multiple defendants.

7 (Pause)

8 MR. WHITE: They're not all in trial, so at least I'll
9 withdraw this one but still request 21.

10 THE COURT: Okay. So, 20 is withdrawn. 21 --

11 MR. JOHNSON: So, 21 is withdrawn?

12 THE COURT: No. 20 is withdrawn. It's not going to be
13 given. So, 21...any objection, Mr. Johnson?

14 (Pause)

15 MR. JOHNSON: There wasn't nobody else but me
16 (indiscernible).

17 THE COURT: Sir?

18 MR. JOHNSON: (Indiscernible muttering)

19 THE COURT: So, 21 I will give over objection. 22,
20 Selling or Dispensing.

21 MR. JOHNSON: That's the same charge they used in
22 1936 --

23 THE COURT: So, any objection, Mr. Johnson?

24 MR. JOHNSON: Yeah, I object to that. I'm not a
25 pharmacist.

1 THE COURT: Sir?

2 MR. JOHNSON: I'm not a pharmacist.

3 MR. WHITE: Exactly.

4 THE COURT: Well, it says only physicians, dentists,
5 veterinarians, and pharmacists are authorized to --

6 MR. JOHNSON: (Crosstalk) to give out marijuana before
7 they was made to stop. That's how (crosstalk) --

8 THE COURT: Right. But what it is only those people can,
9 not just general citizens.

10 MR. JOHNSON: What's going to change it?

11 THE COURT: Well, it's being given. Okay. 23.

12 MR. JOHNSON: (Indiscernible muttering)

13 MR. WHITE: This is not Pattern, but it is an accurate
14 statement of the law.

15 MR. JOHNSON: Which is it? Number 23?

16 THE COURT: 23. Yes. And that is the law. Mr. Johnson,
17 any objection?

18 MR. JOHNSON: I would object to that.

19 THE COURT: Okay. It's given over objection. 24, we have
20 one expert witness that was qualified.

21 MR. JOHNSON: We're going to object to the expert
22 witness.

23 THE COURT: Okay. I'm going to give it over objection.

24 MR. JOHNSON: (Indiscernible muttering)

25 THE COURT: Mr. White, if, now I believe that one says,

1 "or substitute," you can give the -- You're requesting the
2 first one or the second one?

3 MR. WHITE: Doesn't matter. Either one.

4 THE COURT: Alright.

5 MR. WHITE: The first one.

6 THE COURT: The first one, okay. Any objection to that?
7 You've already objected to the expert, so it's noted; but,
8 I'm going to give it over objection.

9 MR. JOHNSON: Because he wasn't no expert.

10 (Indiscernible) pain expert don't even know what he's
11 talking about --

12 MR. WHITE: Your Honor, if you could direct Mr. Johnson
13 to remain focused on the jury charges.

14 THE COURT: Right. Right. Okay, Mr. Johnson.

15 Mr. Johnson, State's 25, Sentencing; Responsibility
16 for, that is a Pattern charge. That is a correct statement
17 of the law. Any objection, Mr. Johnson?

18 MR. JOHNSON: No objection.

19 THE COURT: Alright, it'll be given with no objection.
20 State's 27 --

21 MR. WHITE: We don't have a 26. I thought I did, though.

22 THE COURT: Okay, so we didn't miss it, just
23 misnumbered. It doesn't matter about the numbering, I just
24 wanted to make sure we didn't miss a number that you thought
25 was being given. So, okay. So, there's no 26. 27, any

1 objection, Mr. Johnson?

2 (Pause)

3 MR. JOHNSON: I object.

4 THE COURT: Sir?

5 MR. JOHNSON: Only the ways that it was described, not
6 anything that could be inferred.

7 THE COURT: Okay. It's given over objection.

8 MR. WHITE: I withdraw 28 unless the defendant
9 testifies.

10 THE COURT: Alright. I'm going -- And what I'm going to
11 do, we'll hold this one till in the morning, and we'll see.
12 If you do not testify, Mr. Johnson, I will give the charge
13 where the jury cannot hold that against you; if you do, then
14 if you change your mind, then that one, the State can elect
15 to have that one given.

16 Alright. 29, Verdict General.

17 MR. WHITE: (Indiscernible) possession of a Schedule I
18 controlled substance with intent to distribute be removed
19 from the middle of the paragraph.

20 THE COURT: Right. Okay, take that out. And you'll have
21 a proposed verdict form for us, Mr. White?

22 MR. WHITE: Yes, sir.

23 THE COURT: So, you'll see that, Mr. Johnson, the
24 verdict form. Okay? That will be given.

25 30, Court has no interest in the case. That's Pattern.

1 Mr. Johnson, any objection?

2 MR. JOHNSON: I'm looking at it right now, Your Honor.

3 THE COURT: Okay.

4 (Pause)

5 MR. JOHNSON: The Court did real good, Judge. I ain't
6 going to object to that.

7 THE COURT: Alright. 31, Deliberations. This tells the
8 jurors --

9 MR. JOHNSON: (Indiscernible)

10 (Pause)

11 THE COURT: Any objection, Mr. Johnson?

12 MR. JOHNSON: No objection.

13 THE COURT: Alright. And 32, Unanimous Verdict. Tells
14 them they have to -- has to be all 12.

15 MR. WHITE: Your Honor, I'm sorry, I overlooked this,
16 but I thought I included a request for sympathy or
17 prejudice.

18 THE COURT: I was going -- There's a couple. One, the
19 charge -- I mean, the charge on the indictment and the plea
20 of not guilty; the Pattern ones would need to do that. And
21 also, the burden -- Did we have burden of proof? I'm not
22 sure --

23 MR. WHITE: (Indiscernible crosstalk)

24 THE COURT: State's -- I don't why I had a note here --

25 MR. WHITE: Your Honor, I guess I didn't include that.

1 I'm sorry.

2 THE COURT: Alright. Would you be able to print those
3 three before in the morning?

4 MR. WHITE: Yes, Your Honor.

5 THE COURT: The plea of not guilty, the indictment, and
6 then the burden of proof. Okay, and then suggested verdict
7 form.

8 Now, Mr. Johnson, and we will revisit the issue about
9 whether the defendant testifies or not testify. It is 4:35.
10 You still have the availability of going to the clerk's
11 office, is you wish. Mr. Gray's already got you a subpoena
12 right here. If you're able to have your subpoena served, and
13 you have a witness come in in the morning, then we will
14 address that at that time. If you do not, then the only
15 choice would be will you testify or will you not. But,
16 either way, just procedurally, if nobody -- when the jury
17 comes back in, since the State has rested, I will tell them
18 the State has rested, now we're ready for the Defense case.
19 Mr. Johnson, you may call your first witness. If you have a
20 witness, we proceed. If you do not, you would say, I rest.
21 And then, that's procedurally what we have to do. We have
22 already had the charge conference --

23 MR. WHITE: Could the Court just inquire of Defense for
24 the record if Mr. Johnson has any request to charge?

25 THE COURT: Yeah, I was going to ask. (To Mr. Johnson)

1 And if you -- Do you have any request to charge other than
2 what we've talked about? Like, what we've talked -- these
3 request to charge.

4 MR. JOHNSON: I always thought you had to have criminal
5 mind.

6 THE COURT: Well, I tell you what I will do. I will also
7 give you the opportunity, if you wish to have any request to
8 charge, you have them ready in the morning. And I want us to
9 be here at nine o'clock. They're going to come in at 9:20.
10 That way we can address any issues, we can finish this up,
11 and if we're ready, then we can go straight into closing
12 arguments as soon as the evidence is closed and be ready to
13 go. Okay?

14 Anything else, Mr. White?

15 MR. WHITE: No, Your Honor.

16 THE COURT: Mr. Johnson, anything else?

17 MR. JOHNSON: A good night's sleep, Your Honor, that's
18 all I want.

19 THE COURT: Alright. Hope you get it.

20 Alright, thank you. We'll see everybody, remember, at
21 nine o'clock in the morning, nine --

22 MR. JOHNSON: Your Honor (indiscernible).

23 THE COURT: Well, I'm doing it because you may have a
24 witness here that we need to talk about, or your charges.
25 Okay?

1 (Off record)

2 (On record)

3 THE COURT: I forgot about, uh, you're going to do the
4 redacted indictment?

5 MR. WHITE: Yes, Your Honor, we already printed that.

6 THE COURT: Okay.

7 MR. WHITE: Your Honor, you might ought to let the
8 defendant know that in the event of a guilty verdict his
9 return on his bond will no longer be valid and the State
10 will be moving to take him into custody immediately in that
11 situation.

12 THE COURT: Okay. And due to scheduling -- And let me
13 just -- And, Mr. Johnson, if you had an attorney I would be
14 speaking to them about this. I have no idea what the jury is
15 going to do with the case. But, again, I think you are
16 aware, I have another trial that is to start Friday morning.
17 In the event the jury should return a verdict of guilty,
18 then I would propose we have sentencing starting at 1:30, if
19 they did. If they return -- if they finish before lunch,
20 fine; if they're not, then everybody just go ahead and be
21 prepared, because I've got another case that I've got to
22 start Friday morning. Okay?

23 Mr. Johnson, would that be -- give you sufficient time
24 to get anyone here should the verdict be guilty to testify
25 if you wish for them at sentencing -- at a sentencing

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hearing?

MR. JOHNSON: You said tomorrow at one?

THE COURT: If -- Let me just make sure we understand. I'm only discussing this with you because you don't have a lawyer here, and you're the lawyer. If the jury should return a guilty verdict, my intention, unless someone objects, and for good grounds, is to have the sentencing tomorrow, because I have another jury already selected coming in Friday morning to try a case, and I have trial -- court all next week, except Monday, and the week after, and the week after. Is that acceptable to you, Mr. Johnson?

MR. JOHNSON: That's acceptable.

THE COURT: Thank you. Mr. White, will that be acceptable to the State?

MR. WHITE: Yes, Your Honor.

THE COURT: Alright, thank you. See y'all in the morning at nine.

(Whereupon, court was in recess for the day)


* * *

REPORTER'S CERTIFICATE

I, Pamela H. Cobb, do hereby certify that I reported the proceedings as stated in the caption and that the foregoing pages are true and correct to the best of my skill and knowledge of the proceedings. Any exhibits attached hereto are the original or copies of the exhibits admitted during the foregoing proceeding.

I also certify further that I am neither kin nor counsel to any party at interest, nor do I have any financial interest in this matter whatsoever.

This 30th day of January, 2026.


Pamela H. Cobb
Certified Court Reporter No. D-1726