
1
2 **THE COURT:** And we'll let the jury take
3 a recess, then, at this time. The jury may
4 be excused to the jury room again with the
5 precaution about talking about the case.

6 **[THE JURY WAS EXCUSED AND COURT WAS**
7 **PLACED IN RECESS AT 11:05 A.M. COURT WAS**
8 **RECONVENED IN THE OPEN COURTROOM AT 11:28**
9 **A.M., THE JURY WAS RETURNED, AND THE**
10 **PROCEEDINGS CONTINUED AS FOLLOWS IN THE**
11 **PRESENCE OF THE JURY.]**

12 **THE COURT:** You may swear your next
13 witness in.

14
15 **TERRENCE COOLEY,**
16 called as a witness by the State of Mississippi,
17 after having been first duly sworn, testified as
18 follows:

19
20 **DIRECT EXAMINATION**

21
22 **BY MR. MILLER:**

23 Q. Would you state your name for us.

24 A. It's Officer Terrence Cooley.

25 Q. Terrence, are you also referred to as T. C.
26 Cooley?

27 A. Yes, sir.

28 Q. Okay. And where are you employed?

29 A. Prentiss Police Department and Bassfield

1 Police Department part-time.

2 Q. Okay. So now you work at Prentiss and
3 Bassfield.

4 A. Yes, sir.

5 Q. On December 26, 2001, where were you
6 employed?

7 A. Bassfield Police Department.

8 Q. Okay. At that time, did you work for
9 Prentiss?

10 A. No, sir.

11 Q. Just Bassfield.

12 A. Yes, sir.

13 Q. Did you go to Prentiss on that day or that
14 night?

15 A. Yes, sir.

16 Q. Why did you go there?

17 A. Officer Earl Bullock, chief of police at
18 Bassfield, advised that Prentiss was needing some
19 assistance in serving some warrants.

20 Q. Some warrants.

21 A. Yes, sir.

22 Q. What kind of warrants was it?

23 A. It was two search warrants to enter some
24 premises searching for some narcotics.

25 Q. Okay. So it was search warrants.

26 A. Yes, sir.

27 Q. It wasn't arrest warrants, it was search
28 warrants.

29 A. Search warrants.

1 Q. Okay. And Earl Bullock, that's your chief?

2 A. Yes, sir.

3 Q. And he's the one that first told you that
4 Prentiss needed some help.

5 A. Yes, sir.

6 Q. Okay. And then what did you do?

7 A. I went to Bassfield Police Department. I was
8 on duty that evening, and I just met up with Chief
9 Bullock there at the police department, and we rode
10 up to Prentiss together.

11 Q. Okay. Now, when you got to Prentiss, where
12 did you go?

13 A. We went to the Prentiss Police Department.

14 Q. Okay. Now, when you got to the Prentiss
15 Police Department, what happened?

16 A. We met with Officer Ron Jones, Darryl Graves,
17 Mike Brown, several other officers, Stephen Jones,
18 and discussed the layout of the houses and
19 everything, or the duplex that they was wanting to do
20 the search warrant on.

21 Q. And you said you had two search warrants?

22 A. Yes, sir.

23 Q. Was it for both sides of the duplex?

24 A. Yes, sir.

25 Q. Okay. And who was in charge of this
26 operation?

27 A. Officer Ron Jones.

28 Q. And who was Ron Jones?

29 A. He was a Prentiss police officer. He did

1 their search warrants on drugs and stuff, and he was
2 their K-9 unit.

3 Q. Okay. So Ron Jones was a Prentiss police
4 officer who did their search warrants for drugs and
5 K-9 unit. What's a K-9 unit?

6 A. The kennel. He had a K-9 dog.

7 Q. A dog.

8 A. Yes, sir.

9 Q. And what was the purpose of the dog?

10 A. Search. Just to help search vehicles and
11 stuff like that at the time.

12 Q. For what?

13 A. For narcotics.

14 Q. For narcotics. Okay. So Ron Jones was the
15 officer in Prentiss who did the search warrants,
16 searched for drugs, had the drug dog.

17 A. Yes, sir.

18 Q. He called y'all to assist on some search
19 warrants.

20 A. Yes, sir.

21 Q. When you got to the police department in
22 Prentiss, you said you went over the layout of the
23 duplex?

24 A. Yes, sir.

25 Q. And who did that with you?

26 A. Officer Darryl Graves and Ron Jones.

27 Q. Okay. And did y'all divide up into two
28 teams?

29 A. Yes, sir.

1 Q. And what was the purpose of dividing up into
2 two teams?

3 A. Because it was a duplex. There was two
4 separate families living at this duplex.

5 Q. Okay. What's a duplex?

6 A. It's two small apartments put in one.

7 Q. It's one building with two apartments.

8 A. Yes, sir.

9 Q. Okay. And after y'all divided up in teams,
10 did you talk about who was going into which side?

11 A. Yes, sir.

12 MS. COOPER: Your Honor, I'm going to
13 have to object to the continuous leading.

14 THE COURT: Okay. Overruled.

15 BY MR. MILLER:

16 Q. Okay. You broke up into teams. You talked
17 about who was going to go into each side. And then
18 what did y'all do?

19 A. At that time, we decided who was going to go
20 where. We went to the vehicles, and we proceeded to
21 the residence.

22 Q. Okay. And I want to show you what's been
23 marked Exhibit 5 and ask if you can identify that.

24 A. That's the front door of the apartments, one
25 side of the duplex.

26 Q. Okay. And which side of the duplex did you
27 go in initially?

28 A. Initially, I was supposed to be at the
29 left-side apartment on the backdoor.

1 Q. Okay. Let me see if I can get one of the --
2 this is the front. You recognize that?

3 A. Yes, sir.

4 Q. Okay. Now, when you say you were initially
5 going to go to the left side, you're referring to
6 this side over here.

7 A. Yes, sir.

8 Q. Okay. And who was in charge of that team?

9 A. Darryl Graves.

10 Q. Okay. And who was in charge of the team on
11 the right side over here?

12 A. Ron Jones.

13 Q. When you got there, what did you do?

14 A. We pulled up. I was riding with Darryl
15 Graves and Mike Brown. And when we got out of the
16 car, I made it around to the back of the house before
17 Officer Phillip Allday had made it back there. And
18 he come around the same way I did, so I went on over
19 to the next apartment door and was watching the
20 backdoor, and he stood at the first apartment door.

21 Q. Okay. So at that time, you would have been
22 on which side of the apartments?

23 A. I'd have been on the right side of the
24 apartment.

25 Q. The right side. That's this one over here
26 that Ron Jones was in charge of.

27 A. Yes, sir.

28 Q. Okay. And where were you at at these
29 apartments?

1 A. I was standing just to the right side of the
2 steps there.

3 Q. Okay. This is the steps, so the right side
4 would be over here? .

5 A. Yes, sir.

6 Q. Okay. And what was the purpose of going to
7 the duplex?

8 A. We had two search warrants to try and locate
9 some narcotics that was supposed to have been there.

10 Q. Okay. When you were standing at those
11 backsteps, who was at the front steps?

12 A. Officer Darrell Cooley, Officer Stephen
13 Jones, and Officer Ron Jones.

14 Q. Did you hear anything when you were at the
15 backsteps?

16 A. I could hear them hollering from the front,
17 saying, "police, we have a search warrant."

18 Q. Okay. And do you know who was hollering
19 that?

20 A. No, sir, I don't know which officer was
21 saying that.

22 Q. Do you know how many times -- or how many
23 times did you hear that?

24 A. About three times.

25 Q. Okay. Did you hear anything else?

26 A. At that time, it got quiet for a few minutes,
27 and Officer Ron Jones and Stephen Jones come around
28 to the back of the house and said that they couldn't
29 get the front door open and was going to try to do

1 the backdoor.

2 Q. Okay. And what happened then?

3 A. Officer Ron Jones looked at the steps, and
4 with his height, he was afraid if he tried to kick
5 the door, it might knock him back down the steps.
6 And Officer Ron Jones and Stephen Jones had started
7 back around to the front and Phillip Allday said,
8 "I'll kick it." And he come up the steps and kicked
9 the door. It broke free, but it didn't come
10 completely open.

11 Q. Okay. What happened then?

12 A. I told Officer Ron Jones that we had it broke
13 open, and Ron started back around where we was at.
14 And Phillip kicked the door again, and just as he
15 kicked the door, it came open. And Officer Ron Jones
16 was going into the house, "police, we", and then the
17 shots started ringing off from inside the house.

18 Q. You said Ron was going in the house and he
19 did what?

20 A. He stated "police, we have a" -- and he never
21 finished it from there. He just -- he went to trying
22 to find cover, I guess.

23 Q. Okay. Why didn't he finish it?

24 A. The shots started going off from inside the
25 house.

26 Q. Okay. And then what happened?

27 A. Officer Stephen Jones come back out the door.
28 Officer Ron Jones turned and he told me, he said,
29 "T. C., I'm hit." I told him, "Ron, get out of the

1 door." Ron come down the steps, come out in like a
2 circle and come back around to the other side of the
3 house.

4 Q. You're pointing. You're pointing coming down
5 the steps and go around this side of the house, like
6 that?

7 A. Yes, sir. Come back around to this side of
8 the house.

9 Q. Okay. Then what happened?

10 A. The door had done come back to, and I was
11 hollering into the house to, "Throw the weapon, throw
12 the weapon." And I was pushing the door open trying
13 to find where the suspect was laying or standing or
14 whatever. And he said, "I ain't got it, I ain't got
15 it." And I pushed the door on open and I got my
16 light to where I could see the suspect laying on the
17 floor close to the wall at the foot of the bed.

18 I told him, "Show me your hands." And he had
19 his hands, he brung his hands out in front of him
20 laying on the floor. And I pushed the door on open a
21 little further, keeping my weapon on the suspect,
22 pushing the door open with my light, and I seen where
23 the weapon was laying, approximately eight to ten
24 feet away from him.

25 Q. Okay. What did you do next?

26 A. Then I entered the house and I went over
27 there and got between Cory and the bed. And I put my
28 knee on his back, and at that time Officer Stephen
29 Jones had reentered the house. He did a brief check

1 of the house, and then he come back over there where
2 I was at and then went back towards the door.

3 Officer Earl Bullock come in the house.
4 Officer Bullock did a thorough check of the house,
5 making sure nobody else was in there. I was trying
6 to get Cory to give me his hands, get them behind his
7 back. Officer Bullock come over and put a knee, I
8 want to say it was on Cory's left shoulder, right in
9 the neck area, and helped me get his hands around
10 behind his back and get him handcuffed.

11 Q. Now, were you able to handcuff Cory by
12 yourself?

13 A. No, sir, Officer Bullock had to give me some
14 assistance.

15 Q. Why were you not able to handcuff him by
16 yourself?

17 A. We was in a confined area, and we was
18 struggling trying to get his hands to come back
19 behind his back. He pulled back on us sometimes.

20 Q. Was he resisting?

21 A. Yes, sir.

22 Q. And when Officer Bullock came, were you able
23 to both of you handcuff him?

24 A. Yes, sir.

25 Q. Then what did you do?

26 A. Officer Bullock got the baby off the bed.
27 Officer Allen Allday come in. Officer Bullock said,
28 "Y'all get him on out of here."

29 Q. And who was he referring to?

1 A. Referring to Cory Maye.

2 Q. Okay. Do you see Cory Maye in the courtroom?

3 A. Yes, sir.

4 Q. Would you point him out for the Court.

5 A. [Pointed to the defendant].

6 MR. MILLER: I'd like the record to
7 reflect he's identified the defendant as
8 being Cory Maye.

9 THE COURT: All right.

10 BY MR. MILLER:

11 Q. Then what did you do?

12 A. Me and Officer Allen Allday took him out to
13 the car, put him in the car. Then I went back and
14 helped Earl get the scene and all situated until we
15 could get the investigators there on the scene.

16 Q. Okay. When you say situated --

17 A. Get some tape put up to keep other people
18 from coming on into the crime scene area.

19 Q. Is that what's commonly referred to as
20 securing the scene?

21 A. Yes, sir.

22 Q. After you secured the scene, what did you do?

23 A. I rode with Officer Allen Allday to the
24 sheriff's department with Cory Maye, and we got him
25 secured at the jail. And then I came back to the
26 scene. Well, we rode by the hospital, and then we
27 came back to the scene. And I went to the house next
28 door, to the left of Cory Maye's apartment there from
29 the backside on the other side of the fence and stood

1 there with Officer Bullock while Officer Bullock
2 secured the scene.

3 Q. Okay. Now, who came to investigate?

4 A. CIB.

5 Q. Okay. CIB with the Highway Patrol?

6 A. Yes, sir.

7 Q. When you were at the backdoor -- can you see
8 this picture over here?

9 A. Yes, sir.

10 Q. And the backdoor steps right there?

11 A. Yes, sir.

12 Q. When you were going in there, you said you
13 saw Cory behind the bed?

14 A. Yes, sir, he was laying on the floor at the
15 foot of the bed there.

16 Q. Here?

17 A. Yes, sir, right there by that first closet
18 door there.

19 Q. Right in there?

20 A. Yes, sir.

21 Q. Okay. And was anything obstructing your view
22 from the door to where Cory was?

23 A. The bed had him partially obstructed. All I
24 could really see was from about his armpits up to
25 where he had his arms laying out in front of him.

26 Q. Okay. So you could see he had his arms
27 laying out here?

28 A. Yes, sir.

29 Q. Past the bed?

1 A. Yes, sir.

2 Q. You could see that. Okay. And where were
3 you at when you cuffed him?

4 A. He was still laying -- he was still right
5 there --

6 Q. Still right there.

7 A. Yes, sir, and I was right there in between
8 the bed and him, about midways to him, with my knee
9 on his back.

10 Q. Okay. How many shots did you hear?

11 A. I heard three to four shots.

12 Q. And before those shots, did anybody announce,
13 "police"?

14 A. Yes, sir.

15 Q. And was that loud?

16 A. Well, I was at the backdoor and heard them at
17 the front door saying, "police." And then, when Ron
18 was going through the backdoor, he said it again.

19 Q. Okay. How many times did you hear them
20 announce "police" at that apartment before they went
21 in?

22 A. At that apartment, about four times, at
23 least.

24 Q. And some of those you were on the back of the
25 apartment, and they were at the front of the
26 apartment.

27 A. Yes, sir.

28 MR. MILLER: Tender the witness, Your
29 Honor.

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THE COURT: Okay.

CROSS-EXAMINATION

BY MS. COOPER:

Q. Officer Cooley, I'm Rhonda Cooper. We've not met before, but I do have the benefit of a statement that you gave December 27th, the day after this incident.

A. Yes, ma'am.

Q. And then I have the benefit of your testimony this morning. Now, you said -- who was it that briefed you on the layout of these apartments?

A. It was Officer Ron Jones and Darryl Graves.

Q. And where did this take place?

A. At the Prentiss Police Department.

Q. And what did they say about it? I mean, had they been inside the apartments before?

A. I don't recall if they said anything about that. They showed what appeared to be the layout of the apartment on a chalkboard.

Q. You're talking about the exterior, the outside.

A. Yes, ma'am.

Q. Not the inside.

A. No, ma'am.

Q. Oh, okay. And you'd not ever been to these apartments before, had you?

A. No, ma'am.

1 Q. Now, which search warrant did you have to
2 execute?

3 A. I was with Officer Darryl Graves to begin
4 with. And we proceeded to the houses. Like I say, I
5 was the first one around to the back of the house. I
6 went to the second apartment, which was Cory Maye's
7 apartment.

8 Q. Okay. Hold that right there. I want the
9 jury to be clear so that they'll know what you're
10 talking about. Now, is it your testimony, Officer
11 Cooley, that you were going to the back of the
12 apartment? If you were facing the apartments, it
13 would've been the apartment on the left.

14 A. Yes, ma'am.

15 Q. Okay. And you came around on that side.

16 A. Yes, ma'am.

17 Q. And you just stood here?

18 A. No, ma'am, there was another officer coming
19 around in behind me.

20 Q. And that was?

21 A. Officer Phillip Allday.

22 Q. Okay.

23 A. And he was supposed to be on Cory Maye's
24 apartment, but I made it around there first. I went
25 on ahead and took Cory Maye's door, and Officer
26 Phillip Allday took the other apartment door.

27 Q. So you took Cory Maye's apartment, Officer
28 Allday took this apartment?

29 A. Took the first apartment, over there.

1 Q. Okay. What was going on over there? What
2 was going on in that apartment?

3 A. They were serving a search warrant on that
4 side, too.

5 Q. Okay. Do you know, had they gotten in? What
6 exactly was going on?

7 A. Yes, ma'am, I could hear the commotion going
8 on inside that apartment over there.

9 Q. Okay. Commotion such as?

10 A. Just them telling them to get down and stuff
11 like that. They had one come back towards the back
12 of the apartment there, and I don't know what they
13 was telling him, but I heard them saying something
14 about, "Get down, get down." And I was standing
15 right there at Cory Maye's door.

16 Q. Okay. And you didn't hear anything going on
17 inside Cory's apartment, did you?

18 A. Not on the inside, no, ma'am.

19 Q. Okay. Now, you all did not have this K-9 dog
20 that night, did you?

21 A. No, ma'am.

22 Q. And that was used for narcotics, correct?

23 A. To search vehicles.

24 Q. Okay. Not homes?

25 A. They used it on homes sometimes, but he'd
26 rather not use it on a home, I guess. I don't know.

27 Q. Okay. Now, where were you working at that
28 time? What city?

29 A. I was working for Bassfield Police

1 Department.

2 Q. Okay. And had you executed search warrants
3 with Ron Jones before?

4 A. Yes, ma'am.

5 Q. Okay. And do you have any training -- you,
6 Officer Allday -- any training on executing search
7 warrants?

8 A. I'm Officer Cooley.

9 Q. I'm sorry. Please forgive me. Please
10 forgive me.

11 A. Officer Allday --

12 Q. I guess I'm anticipating him. I'm sorry.
13 Officer Cooley, have you had any training on
14 executing search warrants?

15 A. Yes, ma'am.

16 Q. Okay. Did you see the search warrant?

17 A. Yes, ma'am.

18 Q. You saw it?

19 A. [Nods head affirmatively.]

20 Q. Where?

21 A. At the police department, and when Ron went
22 through Cory Maye's door, it was in his cargo pocket.
23 It was sticking out the pocket.

24 Q. Okay. Now, in your training, what, if
25 anything, are you supposed to do with the search
26 warrant? I mean, do you enter the premises with or
27 without it?

28 A. You enter the premises with it.

29 Q. Okay. And do you know what happened to it

1 subsequent to Ron Jones being shot?

2 A. No, ma'am, I do not.

3 Q. Okay. Now, at any point, did you yell you
4 had the search warrant or, "search warrant, police,
5 search warrant"?

6 A. No, ma'am, I did not.

7 Q. Okay. But you were at the back of Cory's
8 apartment.

9 A. Yes, ma'am.

10 Q. Okay. Did you have on a vest?

11 A. Yes, ma'am.

12 Q. Now, let's talk a bit about after you were
13 inside the apartment, and I understood you to say
14 Cory was lying flat.

15 A. Yes, ma'am.

16 Q. The gun was eight to ten feet away from him.

17 A. Yes, ma'am.

18 Q. Have you changed in your weight? Have you
19 gained any weight or lost any weight since December
20 2001?

21 A. Neither one.

22 Q. You're about the same size.

23 A. Yes, ma'am.

24 Q. And I understood you to say that as Cory lay
25 on his stomach, you put what part of your body on
26 his?

27 A. I put my knee on the right side of his back.

28 Q. The right side of his -- which of your knees?

29 A. My left knee.

1 Q. Okay. On the right side of his back. And if
2 you had your knee on the right side of his back, then
3 where was the remainder of your leg?

4 A. My toe was on the floor, my knee was on his
5 back.

6 Q. Okay. So a good bit of your leg was across
7 his back, correct? A good bit of your -- did you say
8 left?

9 A. No, ma'am. My knee was on the right side of
10 his back. My toe was on the floor.

11 Q. Your left knee.

12 A. Yes, ma'am.

13 Q. Was on the right side of his back. So does
14 that not put a part of your body across his back?
15 You care to demonstrate for the jury?

16 MS. COOPER: Your Honor, is he allowed
17 to do that?

18 THE COURT: Well, you're going to have
19 to have somebody else.

20 MR. McDONALD: We have no objection to
21 him showing, as long as you're the one he
22 puts his knee on.

23 MS. COOPER: Excuse me?

24 THE COURT: That will be fine. You need
25 two people.

26 MS. COOPER: We're going to use my
27 investigator.

28 THE COURT: Yeah, he can do that.

29 [THE WITNESS LEFT THE WITNESS STAND.]

1 **MR. DARRELL CAREY PARTICIPATED IN THE**
2 **DEMONSTRATION.]**

3 **THE WITNESS:** Had him down like this,
4 and here like this.

5 **BY MS. COOPER:**

6 Q. Okay. And what arm were you attempting to
7 get behind him?

8 A. This one over here.

9 Q. Okay. Can you show the jury -- no, show the
10 jury exactly what happened.

11 A. I'm like this right here with his arm, trying
12 to bring his arm back using pressure points. He's
13 trying to keep his arm pulled up that way from me --

14 **MR. DARRELL CAREY:** It's another officer
15 on my neck, too, right?

16 A. That's where the other officer come down and
17 he puts his knee right here, on a pressure point
18 here, and helps get his arm around back here where I
19 can get the cuff on him.

20 Q. Prior to Officer Bullock putting his -- what
21 knee did he use?

22 A. Right knee.

23 Q. Okay. So he uses his right knee, and he's
24 behind Cory just as you are?

25 A. That's going to put his left knee up here.

26 Q. His right knee was where?

27 A. His right knee is here, his left knee is
28 here.

29 Q. Okay. So his bottom or back part is to the

1 jury, correct?

2 A. Was back this way.

3 Q. And where was Cory's left arm at that time?

4 A. It was still stretched out across there.

5 Q. Okay. Would not Officer Bullock's pressure
6 have prevented that from coming back if he's got his
7 right knee on the left side of his neck? How then
8 are you going to accomplish that?

9 A. With his head pushed here, he grabbed his
10 hand. I had him here on pressure points pulling
11 back, and his arm come back then.

12 Q. Okay. And this is as much weight --

13 A. I grabbed his wrists --

14 Q. I'm sorry.

15 A. I grabbed his wrists and handcuffed him.

16 Q. Okay. And after having his left hand, did
17 you release your knee from his back?

18 A. Yes, ma'am, because I had to bring his arms
19 around here.

20 Q. Okay. And the pressure that was applied by
21 the two officers, did that not in any way prohibit
22 Cory from bringing his left arm back?

23 A. No, ma'am. If he'd wanted to bring his left
24 arm back, he'd have brought it back before the other
25 officer got there.

26 Q. Is Officer Bullock bigger or smaller than
27 you?

28 A. He's taller than I am.

29 [THE WITNESS RETURNED TO THE WITNESS

1 **STAND.]**

2 **BY MS. COOPER:**

3 Q. Taller than you are?

4 A. Yes, ma'am.

5 Q. But not as heavy as you are?

6 A. No, ma'am.

7 Q. And at what point in your handcuffing him did
8 you then start striking him?

9 A. I never struck Cory Maye.

10 Q. And what about Officer Bullock?

11 A. Not that I seen.

12 Q. Okay. Not inside of his apartment after he
13 was handcuffed.

14 A. No, ma'am.

15 Q. Okay. Now, you said Officer Jones announced
16 "police" as he was entering the door once it had been
17 kicked open?

18 A. Yes, ma'am.

19 Q. Now, as you all discussed, as you stood back
20 there, how you were going to do it, you said you
21 kicked it and it only opened a little bit, right?

22 A. Yes, ma'am.

23 Q. And who kicked it at that time?

24 A. Officer Phillip Allday.

25 Q. And then he kicked it again, which caused it
26 to open more fully?

27 A. Yes, ma'am. There was a chain -- I want to
28 say he had a chain on the door.

29 Q. Okay. How long were you all back there

1 discussing, you know, how you were going to enter it?

2 A. We never really discussed how we was going to
3 enter it.

4 Q. Well, who made the decision to kick the door
5 in?

6 A. Officer Ron Jones said that it was too much
7 for him to do, and Officer Phillip Allday said, "I
8 can do it." And he said, "If you can, do it." And
9 then that's when Officer Ron started around to see if
10 he could go into a window.

11 Q. So while y'all were talking, nobody was
12 yelling "police," right? While y'all were talking
13 about how to gain entry, nobody was yelling "police."

14 A. No, ma'am. The "police" had done been said
15 three previous times before that.

16 Q. On the front, so you say.

17 A. Yes, ma'am.

18 Q. Okay. But on the back, y'all were just
19 trying to figure out how to get in, right?

20 A. At that point, yes, ma'am.

21 Q. Okay. Now, did you know whether or not
22 anybody was even inside?

23 A. No, ma'am, did not.

24 Q. So assuming for the purposes of your
25 testimony that these officers did announce "police"
26 on the front, then, Officer Cooley, there was no more
27 announcement of "police" until Ron Jones was entering
28 the house. Is that correct?

29 A. Yes, ma'am.

1 MS. COOPER: Okay. Thank you.

2 THE COURT: Any redirect?

3 *****

4 REDIRECT EXAMINATION

5
6 BY MR. MILLER:

7 Q. You talked about hearing some commotion from
8 the other apartment.

9 A. Yes, sir.

10 Q. Was that before the search warrant was done
11 on the other side? Was that before you tried to get
12 in the backdoor?

13 A. Yes, sir.

14 Q. You clearly hear -- was the commotion over at
15 the time you got the backdoor kicked?

16 A. Yes, sir.

17 Q. Could you clearly hear "police, search
18 warrant" from the front door of Cory Maye's
19 apartment?

20 A. Yes, sir.

21 Q. Did you hear any commotion from the inside of
22 Cory Maye's apartment?

23 A. Not from the inside, no, sir.

24 Q. Did anybody call out and say, "Who's there?"

25 A. I didn't hear nobody say.

26 Q. Did anybody open the door and let you in?

27 A. No, sir.

28 Q. At the time you said y'all took -- tried to
29 discuss how to get in the backdoor -- y'all were

1 discussing that. Is that correct?

2 A. Yes, sir.

3 Q. Did anybody come to open the door and ask who
4 was there?

5 A. No, sir.

6 Q. Did Ron Jones say "search warrant" before he
7 went in the apartment?

8 A. Ron Jones said, "police, we have," and then
9 the shots started firing.

10 MR. MILLER: No further questions, Your
11 Honor.

12 THE COURT: All right. Can this witness
13 be excused?

14 MR. MILLER: Yes, sir. Still kept under
15 the rule.

16 THE COURT: All right.

17 (WITNESS EXCUSED)

18 *****

19 THE COURT: Pretty good timing, then.
20 It's 12:02, so we'll take our lunch break.
21 We'll excuse the jury for lunch. If you need
22 any extra time or something, just whenever
23 y'all get through, you can just come on back.
24 You've got your bus out there now? Let's let
25 everybody remain seated until the jury clears
26 the courtroom.

27 [THE JURY WAS EXCUSED AND COURT WAS
28 PLACED IN RECESS AT 12:02 P.M.]

29 THE COURT: We'll stand in recess until

1 A. Yes, I have.

2 Q. On December 26, 2001, did you get a call to
3 go to Prentiss?

4 A. Yes.

5 Q. And what was that for?

6 A. Got a call that possible drug search warrant
7 was going to be executed.

8 Q. Who contacted you?

9 A. Officer Ronald Jones.

10 Q. And when he called you, what did he tell you?

11 A. He asked me if I could come back to Prentiss.
12 He had a search warrant that he wanted to run, asked
13 if I could assist him.

14 Q. Okay. And did you do that?

15 A. Yes.

16 Q. When you got to Prentiss, where did you first
17 go?

18 A. I went to the Prentiss P.D.

19 Q. And did you meet with anyone there?

20 A. Yes, I met with Officer Jones.

21 Q. Okay. And what did you and Officer Jones do?

22 A. We went in his office. He briefly briefed me
23 about what he had. And at the time, he was getting
24 ready to go and get a search warrant signed.

25 Q. Okay. And did he go get a search warrant
26 signed?

27 A. Yes.

28 Q. How many?

29 A. Two.

1 Q. What were the search warrants for?

2 A. It was for a duplex apartment, and we was
3 supposed to execute the search warrants on both
4 apartments at the same time. And it was supposed to
5 be for drugs and -- well, actually, marijuana and
6 crack cocaine.

7 Q. Okay. And do you know who was in the
8 apartments?

9 A. I knew who was in the left apartment.

10 Q. And who was that?

11 A. That was Jamie Smith.

12 Q. And did the search warrant -- was it issued
13 for Jamie Smith?

14 A. Yes, it was.

15 Q. Okay. And was there another search warrant
16 issued?

17 A. Yes.

18 Q. And who was it issued for?

19 A. It had unknown occupant.

20 Q. And where was the -- was this for the duplex,
21 also?

22 A. Yes.

23 Q. Which side was it for?

24 A. It was for the right side.

25 Q. Okay. And did other officers come to assist?

26 A. Yes.

27 Q. When the other officers got there, did y'all
28 go over what you were going to do?

29 A. Yes, we did.

1 Q. And what did you -- how did you do that?

2 A. Ron did the briefing. He broke us down into
3 two teams. He put me in charge of one of the teams
4 that was going to go to the left apartment, and he
5 was going to be the team leader for the apartment on
6 the right. And he briefed us over what our duties
7 would be.

8 Q. Okay. After you finished the briefing, did
9 you leave and go to the apartments?

10 A. Yes.

11 Q. Where were the apartments located at?

12 A. On Mary Street in Prentiss.

13 Q. And what county is that in?

14 A. Jeff Davis County.

15 Q. What state?

16 A. Mississippi.

17 Q. And when you went to the apartments, did you
18 have a search warrant?

19 A. Yes, I did.

20 Q. How many did you have in your hands?

21 A. I had one in my hand.

22 Q. And which one was that for?

23 A. That was for Jamie Smith, the apartment on
24 the left.

25 Q. Okay. There's a picture up on the board
26 there. Do you recognize that?

27 A. Yes.

28 Q. What is that?

29 A. That's the duplex we did the search warrant

1 at.

2 Q. Okay. And you say you had one for the left.
3 I'm assuming that's this one right here?

4 A. Correct.

5 Q. And who had the search warrant for this one?

6 A. Ron had that one.

7 Q. Okay. When you got there, what did you do?

8 A. When we got there, we were in I believe the
9 second vehicle going in. The first vehicle parked
10 kind of in front of the apartment on the right. We
11 exited out the vehicle and went to the apartment on
12 the left.

13 Q. Okay. Did you see who went to the apartment
14 on the right?

15 A. Yes.

16 Q. Who was that?

17 A. That was Ron and his team.

18 Q. Okay. And when you got to the apartment on
19 the left, what did you do?

20 A. There was another agent, well, officer, that
21 was in front of me. He knocked on the door, said
22 "police, search warrant," and they came to the door.

23 Q. Okay. You say they came to the door. Did
24 they open the door?

25 A. Yes.

26 Q. When they opened the door, what did you do?

27 A. We walked in, we put them all on the ground.
28 We told them we had a search warrant. We secured
29 everybody and began our search.

1 Q. Okay. And did you find anything at that
2 time?

3 A. Yes, I did.

4 Q. What did you find?

5 A. I found marijuana.

6 Q. Okay. And then what happened?

7 A. While we was doing our search, we got
8 information that there was an officer down. And at
9 that time we stopped our search and went over to find
10 out what was going on.

11 Q. Okay. Did everybody leave apartment one?

12 A. No.

13 Q. Okay. Who stayed there?

14 A. I left one deputy there.

15 Q. And why was that deputy left there?

16 A. To keep the area secure.

17 Q. Okay. When you went over to the other
18 apartment, what did you find?

19 A. When I got around -- I never made it inside
20 the apartment. I saw Officer Ron Jones laying on the
21 ground and one of the other officers kneeling next to
22 him.

23 Q. Okay. And then what did you do?

24 A. I assisted the officer that was with Jones,
25 and we got him into a car and they took off with him
26 to the hospital.

27 Q. Okay. And after they took Ron to the
28 hospital for treatment, what did you do?

29 A. We taped off the area and we secured the

1 area, taped it off with caution tape so we couldn't
2 let anybody -- we stopped our search and didn't
3 search anymore and just staked the area off and
4 secured it and then we called the Mississippi Bureau
5 of Investigators.

6 Q. Okay. And when you say you taped off and
7 secured the area and stopped your search, which
8 apartment are you talking about?

9 A. We stopped the search on both apartments.

10 Q. Okay. Well, when you secured the area and
11 secured the scene and taped it off, what did you tape
12 off?

13 A. We taped off the entire area.

14 Q. Okay., Did you ever enter back into -- well,
15 did you do anything other than secure the scene
16 before the Highway Patrol arrived?

17 A. No.

18 MS. COOPER: Objection to leading, Your
19 Honor.

20 THE COURT: Sustained.

21 BY MR. MILLER:

22 Q. When the investigators arrived, who came?

23 A. I believe it was Johnson, Eric Johnson. I
24 believe that was the first one I talked to.

25 Q. Okay. And what did you do with the scene
26 when Eric Johnson arrived?

27 A. The scene was turned over to him when he got
28 there.

29 Q. Okay. After you did that, what did you do?

1 A. I just stepped back out of the way and just
2 watched. I did assist him a couple of times on
3 taking pictures, taking photographs. But unless they
4 needed anything, we stepped back out of the way.

5 Q. Did you ever go back into apartment one?

6 A. That's which apartment?

7 Q. The apartment on the left where you initially
8 started your search.

9 A. No, we -- once they got there, we did go back
10 in and continued our search, finished up.

11 Q. Okay. When the investigators got there,
12 y'all went back to the apartment on the left you
13 initially started searching.

14 A. Correct.

15 Q. And did you find anything else there?

16 A. We found cocaine, scales with cocaine
17 residue.

18 Q. Okay. Anything else?

19 A. And I believe there was a tin can that also
20 had cocaine residue in it, also.

21 Q. Okay. So you found cocaine residue in a tin
22 can, on scales, and marijuana.

23 A. Correct.

24 Q. Okay. And after you completed that search,
25 what did you do?

26 A. After we completed that search, we -- we
27 didn't have much more to do on that search, and once
28 we got it completed, we did a return on that.

29 Q. Let me stop you for a minute. When you say

1 did a return on it, what do you mean?

2 A. I mean we jot down everything that we found
3 and that we was going to take from that apartment.
4 Any drugs or paraphernalia that was found in the
5 apartment, we put it down on what's called a return
6 for the search warrant return. And we leave that
7 copy with -- someone's going to still be there at the
8 house, we usually leave a copy right there with them.

9 Q. And did you do that on that apartment?

10 A. Yes, we did.

11 Q. Okay. Now, did that complete your search on
12 the apartment on the left?

13 A. Yes, that completed our search.

14 Q. After that, what did you do?

15 A. After that, we waited till the state was
16 finished their investigation. Once they finished
17 theirs, they told us that we could come on in and go
18 ahead and start our search.

19 Q. Okay. And when the state finished their
20 investigation, talking about the apartment on the
21 right? Over here?

22 A. Yes, apartment on the right.

23 Q. Who went in and did the search then?

24 A. Myself and Deputy Mike Brown. He's Agent
25 Mike Brown now, but deputy at the time.

26 Q. Okay. And that's the apartment where Cory
27 Maye was.

28 A. Correct.

29 Q. Did you find anything in that apartment?

1 A. Yes, I did.

2 Q. What did you find?

3 A. Found marijuana.

4 Q. And where did you find marijuana at?

5 A. There was two locations. The first location
6 we found was in between -- it was on a shelf on the
7 wall in between the kitchen and the living room.
8 Kind of a small hallway. And the second location was
9 in the kitchen in an ashtray on a shelf in the
10 kitchen.

11 Q. Okay. And what did you do with the marijuana
12 you found?

13 A. I secured it, put it in a evidence bag and
14 secured it.

15 Q. Okay. Then what did you do with it?

16 A. Brought it back to the office, put it in our
17 safe, then transported it to the crime lab.

18 Q. Okay. Have you got that marijuana with you?

19 A. Yes.

20 MR. MILLER: Your Honor, we'd like to
21 introduce these as the next two exhibits in
22 evidence without objection.

23 THE COURT: All right. They may be
24 entered and marked.

25 [PLASTIC BAG CONTAINING BITS OF CIGAR
26 WAS MARKED EXHIBIT NUMBER 20 AND RECEIVED IN
27 EVIDENCE. PLASTIC BAG CONTAINING MARIJUANA
28 WAS MARKED EXHIBIT NUMBER 21 AND RECEIVED IN
29 EVIDENCE.]

1 BY MR. MILLER:

2 Q. I hand you what's been marked Exhibit 20, ask
3 you if you can tell me what that is.

4 A. It's like cigars. It's part of a cigar that
5 you put marijuana leaves in and smoke it. And it's
6 the butts or the ends of it. Once it gets so small
7 you can't smoke any more of it, and that was the end
8 of it. This is what was found in the ashtray.

9 Q. That was found in the ashtray?

10 A. Yes.

11 Q. And that was the ashtray that was in Cory
12 Maye's apartment?

13 A. Correct.

14 Q. Did you send that to the crime lab?

15 A. Yes, I did.

16 Q. Did you get a result back from the crime lab?

17 A. Yes, I did.

18 Q. And what was that?

19 A. Evidence -- the results shows that it was
20 marijuana.

21 Q. Okay. I hand you what's been marked Exhibit
22 21 and ask if you recognize that.

23 A. Yes, I do.

24 Q. And what is that?

25 A. It's marijuana.

26 Q. And where was that marijuana found?

27 A. This was found in the hallway on a shelf.

28 Q. Okay. In which apartment?

29 A. In Cory Maye's apartment.

1 Q. Okay. And did you send that to the crime
2 lab?

3 A. Yes, I did.

4 Q. And what was it identified as?

5 A. Marijuana.

6 MR. MILLER: Your Honor, we'd move to
7 introduce the report from the crime lab
8 without objection.

9 THE COURT: All right.

10 THE REPORTER: It's already marked
11 number 19. It's one page.

12 MR. MILLER: Your Honor, I need to put
13 the second page with it.

14 THE COURT: Okay.

15 BY MR. MILLER:

16 Q. I hand you what's been marked as Exhibit 19.
17 Do you recognize that?

18 A. Yes.

19 Q. What is that?

20 A. It's the crime lab results from the
21 Mississippi Crime Laboratory.

22 Q. Okay. And does that show where those two
23 submissions were submitted to the crime lab?

24 A. Yes.

25 Q. Okay. And which one was submission one?

26 A. Submission one would be, I believe it's the
27 -- I'd have to look at it again, but I believe it's
28 the one that was in the hallway. Yes, this would be
29 submission one, the marijuana that was found in the

1 hallway.

2 Q. And does that give a weight of just the
3 marijuana?

4 A. Yes, it does.

5 Q. And what was that?

6 A. 1.1 gram.

7 Q. Okay. And submission two, I assume that
8 would be the one that was in the ashtray there?

9 A. Yes.

10 Q. And does it show a weight of that?

11 A. Yes.

12 Q. And what is it?

13 A. 0.1 gram.

14 Q. After you collected the marijuana into
15 evidence, what did you do?

16 A. We locked up all the doors, did a return on
17 all the evidence that we was going to take, left a
18 copy there on the couch.

19 Q. Okay. You say make a return on the evidence
20 you were going to take. What is that?

21 A. That's the return on the search warrant, and
22 that was, I believe, on the return we had wrote down
23 the two items that we have here. The marijuana.

24 Q. Two things of marijuana.

25 A. Right. Correct.

26 Q. Okay. And you left a copy of that where?

27 A. Left it there at the house.

28 Q. Okay. And you didn't initially start the
29 search on that apartment.

1 A. No, I didn't.

2 Q. Why did you complete the search?

3 A. Because an officer had been -- the officer
4 that was going to do it had been shot and killed.

5 Q. Okay. And did you get the search warrant?

6 A. Yes.

7 Q. And did you leave a copy at the house?

8 A. Yes, left a copy.

9 MS. COOPER: Objection, Your Honor.

10 Continuous leading.

11 THE COURT: He'd already testified.

12 Overruled.

13 BY MR. MILLER:

14 Q. Now, when you were at the front door going in
15 the apartment on the left-hand side, could you see
16 anything of what was happening on the apartment on
17 the right-hand side?

18 A. Yes.

19 Q. Did you hear anyone announce "police"?

20 A. Yes.

21 Q. What did you hear?

22 A. I heard him say, "police, search warrant."

23 They had -- because they got to their door before we
24 could. We had parked right in front of that door,
25 and I could see them going up to their door as we was
26 going to ours. And they were already yelling,
27 "police, search warrant."

28 Q. Okay. And you heard that at the apartment on
29 the other side.

1 A. Yes.

2 MR. MILLER: I tender the witness, Your
3 Honor.

4 THE COURT: Okay.

5 MS. COOPER: May I proceed, Your Honor?

6 THE COURT: You may.

7 *****

8 CROSS-EXAMINATION

9

10 BY MS. COOPER:

11 Q. Now, Agent Graves -- is that correct?

12 A. Yes, ma'am.

13 Q. Prior to working with the task force, you
14 worked with the sheriff's department in Jefferson
15 Davis County. Correct?

16 A. Correct.

17 Q. Did you have an occasion to make arrests or
18 to search properties?

19 A. Yes.

20 Q. Now, Agent Graves, it's not very likely that
21 a suspect that has surrendered himself will then
22 resist arrest, is it?

23 A. We've had them do it before.

24 Q. Do what?

25 A. We've had -- on search warrants, you go on
26 search warrants, you never know what's going to
27 happen. And there's times when they resist,
28 sometimes they don't. It all depends. It's just
29 like if I was out on a traffic stop, they turn on you

1 at any time.

2 Q. Now, I was talking about a suspect who has
3 surrendered. Is it likely that he's then going to
4 resist?

5 A. I can't speak for any one person.

6 Q. Okay. Have you had that in your experiences?

7 A. Yes, I have.

8 Q. A person who's surrendered himself.

9 A. Right. We've had people -- we've had them on
10 the ground, and when we get ready to try to cuff
11 them, they want to fight or want to resist.

12 Q. Okay. And could these people have had a
13 weapon?

14 A. I have to think. I don't think any of them
15 has ever had weapons. There's times we've found
16 knives and stuff like that in their pockets.

17 Q. But not a gun.

18 A. No.

19 Q. Okay. Now, I understood you to just say that
20 you got the search warrant from Officer Jones that he
21 had for Cory Maye? Is that what you said? Was that
22 your testimony?

23 A. No, I didn't get it from him. It was -- I
24 picked it up off the ground.

25 Q. Okay. And what did you do with it?

26 A. I secured it. I kept it with me.

27 Q. Okay. Now, when did you first see Cory Maye?

28 A. I think when they was bringing him out of the
29 house.

1 Q. Okay. Why didn't you give him the search
2 warrant then?

3 A. We hadn't conducted the search warrant. We
4 had secured the area. We hadn't conducted the search
5 warrant at all at that time.

6 Q. Okay. So you keep the search warrant until
7 you conduct the search?

8 A. Right.

9 Q. Is that what you did on the apartment on the
10 left? You withheld the search warrant until you
11 conducted it?

12 A. Right.

13 Q. So you didn't give it to Jamie Smith or
14 anybody in his apartment to let them know that --

15 A. We --

16 Q. Wait. I have to finish my question for Ms.
17 Fillingane.

18 A. Sorry.

19 Q. -- so that they would know why you were
20 there.

21 A. Yes, we did. We presented it to them at that
22 time. We didn't give it to them at the time because
23 we wanted to do a return. And after we finish the
24 return, we give it to them to keep.

25 Q. Now, I might've missed -- I missed that, and
26 I don't want the ladies and gentlemen of this jury to
27 have missed that.

28 A. What we do is, when we do a search warrant,
29 we will show them a copy of the search warrant so

1 they'll know that we are there legally. Once they
2 get through reading it, we get it back from them so
3 once I finish my search up, I can put down everything
4 that's on there that we're going to take, showing
5 that we're not stealing anything. Everything that we
6 taken out of there, that's what we found in the
7 house, we put onto the search warrant.

8 Q. So you do make it available to the suspect.

9 A. Correct. Yes.

10 Q. So they can see exactly what you're doing and
11 why you're doing it, right?

12 A. Yes.

13 Q. And I'm asking in this instance, as it
14 relates to Cory Maye, why did you not do that?

15 A. There was an officer had been shot. We had
16 to secure that area. There was a lot of things going
17 on at that time, and all we wanted to do was secure
18 the area and get the state investigators down. And
19 we was going to go from there.

20 Q. Well, how would Cory Maye and his family have
21 known that you had a right to be in his apartment
22 when you left the search warrant on a couch after
23 taking him away? Who then was going to see the
24 search warrant or know why you all were even there?

25 A. Well, we were told that it wasn't his
26 apartment and his girlfriend was living there. And
27 we was assuming that she would come in and get the
28 search warrant.

29 Q. Assuming.

1 A. Right.

2 Q. Okay. And on that search warrant that you
3 claim you left there, it did not have Cory Maye's
4 name on it, did it?

5 A. No, it didn't. It had -- no, it didn't.

6 Q. Didn't have anybody's name on it, did it?

7 A. No.

8 Q. And at what point did you find that it was
9 not his apartment or that the apartment was in the
10 name of his girlfriend?

11 A. I don't recall exactly when it was.

12 Q. Would that have been before you all went out?

13 A. No, we didn't know -- I didn't know who was
14 at that apartment at that time.

15 Q. So you didn't know if anybody was going to
16 come and see the search warrant, did you?

17 A. We found out from the neighbors next door
18 that there was someone else that lived there and they
19 were at work, and they would be coming home.

20 Q. But this was when you were there, or after
21 the fact, right?

22 A. Right, that's when we was at the apartment.

23 Q. Okay. But you'd already gotten the search
24 warrant.

25 A. Correct.

26 Q. Now, when you spoke with Ron Jones about
27 executing the search warrant, were you told how much
28 marijuana was in these apartments?

29 A. He didn't give me an exact amount.

1 Q. Y'all didn't discuss any amounts?

2 A. He just said there was a large amount, that
3 there was a possibility there was a large amount of
4 marijuana there.

5 Q. A large amount in which apartment?

6 A. I'm assuming he was meaning both apartments.

7 Q. Okay. Again, you were --

8 A. I'm not for sure. I don't know which
9 apartment, but he did say there was drugs in both
10 apartments.

11 Q. And a large amount.

12 A. Right.

13 Q. Sir?

14 A. Correct.

15 Q. And you did find marijuana and cocaine in
16 Jamie Smith's apartment.

17 A. Yes.

18 Q. Now, Jamie Smith, I understand, you knew him
19 before December 26, 2001, correct?

20 A. That's correct.

21 Q. And you were the narcotics agent as a part of
22 this search warrant execution that night, correct?

23 A. Yes, I was.

24 Q. And it was you, the narcotics agent, who was
25 given the search warrant for Jamie Smith, who you
26 knew as having dealt drugs before. Is that correct?

27 A. Yes.

28 Q. Okay. Now, you've just given some testimony
29 about this marijuana that you found in Cory Maye's

1 apartment, correct?

2 A. Yes..

3 MS. COOPER: May I approach, Your Honor?

4 THE COURT: You may.

5 BY MS. COOPER:

6 Q. Now, the results and the conclusions, if you
7 will, Mr. Graves, we've got some weights that are
8 assigned here and some weights that are assigned
9 there. Will you please let the ladies and gentlemen
10 of the jury know the differences in those weights and
11 why they're stated as such?

12 A. The weight that I gave earlier, the 1.1 gram,
13 that's the actual weight of the substance. The bag
14 says TPW, which mean total package weight. That's
15 the weight of this entire bag. And on this bag here,
16 it's 6.9 grams. That's the entire weight of the bag.

17 Q. Thank you. So the weight that's stated on
18 the bag is not the weight of the marijuana.

19 A. That's included.

20 Q. Okay. But it's not the weight of the actual
21 marijuana.

22 A. Correct.

23 Q. Not the bags.

24 A. Right.

25 MS. COOPER: Your Honor, may I show this
26 to the jury, please?

27 THE COURT: You may.

28 [PAUSE IN THE PROCEEDINGS]

29 BY MS. COOPER:

1 Q. Now, Mr. Graves, how do you know the
2 substance, not the bag that has the marijuana, but
3 the little brown items, how do you know what
4 substance that is?

5 A. What was -- you mean what was in the --

6 Q. No, what it is. How do you --

7 A. From the crime lab report.

8 Q. Okay. But the brown item, you said something
9 about butts of cigar?

10 A. It's parts of it, it's the hull of the cigar.

11 Q. It's the hull of the cigar?

12 A. The hull of the cigar. The cigar's been
13 hollowed out.

14 Q. Okay. But that's not tested, is it?

15 A. No, that's not -- that's part of the test,
16 but they don't -- I guess they don't put it on their
17 results.

18 Q. Okay. Now, I understood you to say you all
19 decided who would go to Jamie Smith's apartment and
20 who would go to Cory Maye's apartment.

21 A. [Nods head affirmatively.]

22 Q. And how is it that Ron Jones and those
23 officers got to the unknown apartment first?

24 A. They were in the vehicle in front of us.

25 Q. Okay. And you were in the second vehicle.

26 A. Correct.

27 Q. And they actually approached the property
28 first?

29 A. Correct.

1 Q. And then you all went --

2 A. We pulled in right behind them.

3 Q. Okay. And then you all went to the apartment
4 on the left, Jamie Smith's apartment.

5 A. Correct.

6 Q. Did you have to announce "police" or was the
7 door already open?

8 A. We announced "police."

9 Q. And they just opened the door?

10 A. Correct. We knocked on the door, announced
11 "police," and they came to the door. They was coming
12 -- it was pretty much simultaneous. They opened the
13 door pretty much a few seconds after we got there.

14 Q. So they saw you when they opened the door.

15 A. I'm not sure if they saw us or not.

16 Q. Okay. But if the door was opening and you
17 were approaching, could we safely say they saw you?

18 A. I'm saying -- what I'm saying is, one of the
19 guys knocked on the door, and as he was knocking on
20 the door, the door was opening.

21 Q. Okay.

22 A. Whether they were on their way out, I'm not
23 for sure.

24 Q. No, I wasn't saying on their way out. I said
25 they saw you all to know who you were. Right?

26 A. I'm not -- I can't speak for them. They
27 heard who we were.

28 Q. Were you dressed officially?

29 A. Yes, we were. They heard who we were because

1 we said, "police, search warrant."

2 Q. Who said it?

3 A. The agent in front of me.

4 Q. Who was that?

5 A. Mike Brown.

6 Q. Okay. And you were behind Mr. Brown.

7 A. Yes.

8 Q. And you had the search warrant, though.

9 A. Correct.

10 Q. Okay. Did you read both of the -- did you
11 read either of the search warrants?

12 A. I looked over the search warrants.

13 Q. Okay. At what point?

14 A. When we was there at the police department.

15 Q. Okay. Did you have any questions or concerns
16 about the one that said persons unknown?

17 A. No, I didn't.

18 Q. Now, I understood you to say once before, I
19 think when we met last May, that when you execute a
20 search warrant, you know to whom it's going and
21 whether or not they live there. Isn't that correct?

22 A. Sometimes I do.

23 Q. Okay. I think you said, No, usually, when I
24 execute a search warrant, we know who lives there.

25 A. I said usually. There are times we don't
26 know who lives there.

27 Q. Okay. And on this occasion, you all didn't
28 know who, if anybody, was next door. Isn't that
29 correct?

1 A. This was Ronald Jones' search warrant, so I'm
2 not for sure what all he knew about that. All I
3 knew is what he told me.

4 Q. Okay. And what I understood you to just say
5 what you saw, right? Which is that he had a search
6 warrant for persons unknown.

7 A. Correct.

8 Q. Okay. And you did not give Cory a copy of
9 that search warrant that night. Is that correct?

10 A. No.

11 Q. Now, did you ever -- you did at some point, I
12 guess, return from inside the apartment on the left,
13 right? When you and Mr. Brown went inside, you had
14 to come out, right?

15 A. Right.

16 Q. Did you come out with those suspects?

17 A. You mean after we went back in to do the
18 search?

19 Q. No. When you first got there, the reason for
20 which you were there.

21 A. Right.

22 Q. To execute a search warrant on Jamie Smith's
23 apartment?

24 A. Correct.

25 Q. Now, you went inside. Did you all make an
26 arrest or did you subdue the people?

27 A. We secured everybody in the house at that
28 point.

29 Q. Okay. And then you came out.

1 A. I came out.

2 Q. Okay. To do what?

3 A. I came out when I found out that someone, one
4 of the officers had been shot.

5 Q. Okay. But before coming out, Agent Graves,
6 did you hear Darrell Cooley, Stephen Jones, or Ron
7 Jones announce "police"?

8 A. Yes, I did. Someone yelled, "police." We
9 could -- I could see them and hear them before I got
10 to my apartment, the apartment we was going to. They
11 got to theirs before we did.

12 Q. I understood that. But, now, as you
13 continued on with your business, the reason that you
14 were there, did you hear them yell, "police"?

15 A. Once I got inside the apartment?

16 Q. Uh-huh [affirmative].

17 A. No, I couldn't hear.

18 Q. You couldn't hear?

19 A. Once we got inside our apartment, I didn't
20 hear what they were doing.

21 Q. Okay. And that's what you told me in May.
22 Do you recall that?

23 A. Right.

24 Q. You said, "I couldn't" -- I said, "Did you
25 hear -- as you were in the apartment on the left,
26 did you hear any of the things that were going on in
27 the apartment on the right?"

28 You said, "No, I didn't hear anything."

29 And I asked again, "You didn't hear

1 anything?"

2 You said, "We could hear what sounded like a
3 commotion. I wasn't sure, I thought maybe it was
4 just a drug raid. I couldn't tell exactly what the
5 sounds were."

6 A. Right. That's after I got inside the
7 apartment.

8 Q. Did you know that there was anybody even in
9 that apartment?

10 A. No. Once I got inside my apartment, no, I
11 didn't know. I didn't know what was over there.

12 Q. Okay. And you went over there after Ron
13 Jones had been shot?

14 A. Yes.

15 Q. Now, you said that Ron Jones told you there
16 was a large amount of marijuana in both apartments?

17 A. Correct.

18 Q. Okay. And you've just testified that this
19 marijuana was -- would you call that a small amount?

20 A. Yeah, that's a small amount.

21 Q. Very small amount.

22 A. That's a small amount.

23 Q. Okay. And this small amount of marijuana,
24 that's why Ron Jones got shot or lost his life,
25 because of this small amount of marijuana?

26 A. Prior to that, to us getting there, I don't
27 know how much marijuana was there. I'm not sure how
28 much marijuana was there other than what I found.

29 Q. Okay. Now, where was Cory Maye when you

1 first saw him?

2 A. When I first saw him, I believe they was
3 bringing him out of the house, the first time I saw
4 him.

5 Q. Did you have any conversations with any of
6 the officers there about what was going on?

7 A. I don't recall any of them. There was a lot
8 going on. I don't remember any of that.

9 Q. And you went in and did your search on
10 December 27?

11 A. I believe it was the 27th. It was after
12 midnight.

13 Q. Okay. Was there anything about your
14 investigation to indicate that there had been some
15 marijuana that had been disposed of or gotten rid of?

16 A. I can't answer that. If there was any
17 disposed -- from the time we first got there to the
18 time I was in my apartment and by the time they got
19 into the other apartment, I don't know what could've
20 happened over there. I wasn't there.

21 Q. And you really don't know because you
22 couldn't make out the sounds. You really don't know
23 what was going on, do you?

24 A. No. Like I said, I was in the other
25 apartment. I heard a commotion. And I don't know
26 what was going on when I was in that other apartment.
27 The walls are so close together you can hear
28 something. I could hear a little bit, but not much.

29 Q. Did you hear muffled voices?

1 A. I didn't know what it was. It just sounded
2 like something was banging on the wall or something.

3 Q. Banging?

4 A. Like banging. And I don't know what it was.

5 Q. Is there a difference in a banging sound and
6 a toilet flushing?

7 A. Like I said, I couldn't hear that. I don't
8 know.

9 Q. There was a bathroom in Jamie Smith's
10 apartment.

11 A. Correct. Well, I'm just telling you what I
12 could hear. I'm not for sure what it was. It
13 sounded more like banging to me.

14 Q. Okay. Well, I'm going to ask you this. Did
15 you hear a toilet flush?

16 A. No. In the other apartment, correct?

17 Q. Excuse me?

18 A. You mean in the other apartment?

19 Q. No. You said you could hear what was like a
20 banging.

21 **MR. McDONALD:** I'm confused about what
22 apartment we're talking about.

23 **MS. COOPER:** Excuse me?

24 **MR. McDONALD:** I'm confused what
25 apartment we're talking about now.

26 **BY MS. COOPER:**

27 Q. As you were in Jamie Smith's apartment, am I
28 correct, Agent Graves, that you said it sounded like
29 a bang in Cory Maye's apartment?

1 A. Right.

2 Q. You could distinguish a bang?

3 A. It was banging. It was more like something
4 hitting up against the wall.

5 Q. Okay.

6 A. That's what I mean when I say banging.

7 Q. But did you hear what might have sounded like
8 a toilet flushing?

9 A. No.

10 MS. COOPER: The Court's indulgence,
11 Your Honor, please.

12 THE COURT: All right.

13 [PAUSE IN THE PROCEEDINGS]

14 BY MS. COOPER:

15 Q. Agent Graves, you did say you looked at both
16 warrants or you read both warrants? Did you say
17 that? When you first met with Mr. Jones, Officer
18 Jones, Ron Jones?

19 A. I briefly looked at the warrants.

20 Q. Okay. Was the information on the warrant for
21 Jamie Smith's apartment the same as the information
22 on the warrant for the apartment on the right?

23 A. The -- the only thing I believe was the
24 difference was the apartment number and the names.

25 Q. You've got those with you, don't you?

26 A. Yes.

27 Q. Okay. Well, help yourself.

28 A. I have one with me, I don't have both of
29 them.

1 Q. You have one with you?

2 A. [Nods head affirmatively.]

3 Q. Okay. And which one are you referring to?

4 A. This is the one -- this is the one at Cory
5 Maye's apartment.

6 Q. Okay. But it doesn't say Cory Maye's name,
7 does it?

8 A. No.

9 Q. Okay. And it doesn't have an address on it,
10 does it?

11 A. No, it just gives the directions to the
12 apartments.

13 Q. Okay. And I guess what I was trying to find,
14 is that the same information that you saw on the
15 search warrant for Jamie Smith's apartment?

16 A. Yes.

17 Q. And when you spoke with Ron Jones, did he say
18 large amount of marijuana and cocaine or just one,
19 the marijuana?

20 A. I believe he said both. It was large amounts
21 of -- he said marijuana and crack cocaine.

22 Q. Okay. And you did not find any amount of
23 crack cocaine in Cory Maye's apartment, did you?

24 A. No.

25 Q. And did you find a large amount of crack
26 cocaine in Jamie Smith's apartment?

27 A. No.

28 Q. Where is Jamie Smith today?

29 A. I'm not for sure.

1 Q. Do you know if he's in custody?

2 A. I'm not for sure of that. I know he's been
3 indicted, but I'm not sure where he's at.

4 Q. Now, in that you have experience -- you are a
5 narcotics agent, and you have worked for the
6 sheriff's office in Jefferson Davis County.

7 A. Yes.

8 Q. In your experience as a narcotics agent,
9 isn't there usually a drug buy or some surveillance
10 that would come before the execution of a search
11 warrant?

12 A. At some points, yes. You can. You can do
13 buys or you can do surveillance, as long as you do
14 your homework on it. What Ron had done that day I
15 don't know. I have no idea.

16 Q. I understand. But you know there had not
17 been any buy.

18 A. No, I don't know that.

19 Q. You don't know that?

20 A. No, I don't know that.

21 Q. Did y'all discuss whether or not there had
22 been a buy?

23 A. No.

24 Q. Did y'all discuss --

25 A. There had been buys at the apartment on the
26 left.

27 Q. Jamie Smith's apartment.

28 A. Correct.

29 Q. Had there been --

1 A. And I'd done those. He wasn't the one who
2 done those. What he did that day I'm not for sure,
3 or days prior, I'm not for sure.

4 Q. Okay. Was there any surveillance of Jamie
5 Smith's apartment?

6 A. I didn't do it.

7 Q. Any surveillance of the apartment on the
8 right?

9 A. I didn't do any of them.

10 Q. Okay. Do you just get a warrant and execute
11 a warrant based on just what somebody said they saw?

12 A. No.

13 Q. Now, I understood you to tell these ladies
14 and these gentlemen that you couldn't hear what was
15 going on inside the apartment on the right that we
16 now know was Cory Maye's apartment, right?

17 A. Right. Once I got inside the apartment, I
18 couldn't hear.

19 Q. So, if you couldn't hear these men yell
20 "police," how could Cory have heard them?

21 A. I can't speak for him.

22 Q. Okay. Well, you're inside an apartment,
23 he's inside an apartment, you didn't hear it.
24 Supposedly, they're trying to get in his apartment.
25 How could he have heard more than what you heard?

26 A. I'm not for sure, but the people in the other
27 apartment heard us when we said, "police."

28 Q. Okay. But we're only talking about Cory
29 Maye.

1 A. Right.

2 Q. And the people in the other apartment let you
3 in.

4 A. [Nods head affirmatively.]

5 Q. So you're already in there. So your saying,
6 "police," we're not talking about that. We're
7 talking about what you heard and what Cory heard.
8 And you're saying you didn't hear any announcement of
9 "police" inside that apartment.

10 A. Once I got inside -- I heard it before we got
11 to the apartment.

12 Q. Yeah, I understand that.

13 A. Once I got inside, no, I couldn't hear.

14 Q. Okay. And if you're inside and Cory's
15 inside, how could he have heard more or different
16 than you?

17 A. I'm not for sure. I can't speak for him.

18 Q. At what point did you know which apartment
19 you were going to be going to?

20 A. I knew while we was there at the P.D. When
21 we did the briefing, I knew which one I was going to.

22 Q. Because you were the narcotics agent?

23 A. No, that's what he briefed.

24 Q. That's what he told you?

25 A. That's right.

26 Q. And he gave you the warrant for the place
27 where marijuana and a small amount of cocaine was
28 found.

29 A. Right, correct.

1 MS. COOPER: Nothing further, Your
2 Honor.

3 THE COURT: Okay.

4 *****

5 REDIRECT EXAMINATION

6

7 BY MR. MILLER:

8 Q. Officer Graves, can you read that report from
9 where you are?

10 A. Yes, I can.

11 Q. Okay. I want to clarify this and make sure
12 there's no confusion over the different weights and
13 all this.

14 A. Okay.

15 Q. What's this right here say?

16 A. That's evidence submission.

17 Q. And what's this say beside it over there?

18 A. "One heated sealed plastic evidence bag
19 containing a plastic bag which contains a green" -- I
20 can't see what that word -- "brownish leafy-type
21 substance."

22 Q. Okay. Just come down and come over so you
23 can see.

24 [THE WITNESS LEFT THE WITNESS STAND]

25 A. Which one? Where we at now? Okay. "One
26 heated sealed plastic evidence bag containing a
27 plastic bag which contains a greenish-brownish
28 leafy-type substance. TPW," which stands for total
29 package weight, "equals 6.9 grams."

1 Q. Now, that's what's written on the outside of
2 the bag.

3 A. Correct.

4 Q. Okay. And evidence submission two, what does
5 that say?

6 A. "One heated sealed plastic evidence bag
7 containing numerous partially burnt cigars, each
8 containing a burnt leafy material. TPW equals 4.8
9 grams."

10 Q. And that 4.8 is the number that's written on
11 the outside of the bag that we're talking about.

12 A. Right, yes.

13 Q. And both of those are the total weight of the
14 bags and the drugs.

15 A. Correct.

16 Q. Okay. And then it's got tests performed and
17 the results. What's the results of submission one?

18 A. Results of submission one is marijuana,
19 amount 1.1 gram.

20 Q. And what does that 1.1 gram mean?

21 A. That's the amount of substance that was
22 found.

23 Q. Okay. And the substance is?

24 A. Marijuana.

25 Q. And submission two.

26 A. Marijuana, amount 0.1 gram.

27 Q. And that's 0.1 grams of what?

28 A. Of marijuana.

29 Q. Okay.

1 [THE WITNESS RETURNED TO THE WITNESS
2 STAND]

3 BY MR. MILLER:

4 Q. There's a picture of the duplex up there
5 again. Where was Ron Jones and the other officers
6 when you heard them announce "search warrant"?

7 A. They were stepping up on the steps there on
8 the right side of the apartment.

9 Q. Over here.

10 A. The right apartment, correct.

11 Q. And where were you going in the apartment at?

12 A. I was -- we parked in front of the right
13 apartment. I was headed towards the left apartment.

14 Q. Over here.

15 A. Correct.

16 Q. Okay. And after you went inside -- let me
17 ask you this. You went inside both apartments
18 throughout the night, didn't you?

19 A. Yes.

20 Q. Are they both the same on the inside?

21 A. Yes.

22 MS. COOPER: Objection, Your Honor, to
23 leading.

24 THE COURT: Overruled.

25 BY MR. MILLER:

26 Q. Were they both --

27 A. I believe they're fairly the same.

28 Q. Okay. And you were in this apartment over
29 here on the left at first.

1 A. Yes.

2 Q. Did you hear -- I think you testified you
3 could not hear what was going on in the other
4 apartment.

5 A. Correct.

6 Q. Are those -- was there an opening between the
7 apartments?

8 A. No, there's no opening. There's a wall.

9 Q. A wall between the apartments?

10 A. Yes.

11 Q. You couldn't hear what was going on on the
12 other side.

13 A. I couldn't make out what it was. All I could
14 hear was what sounded like a commotion.

15 Q. Okay. When you approached the door, you
16 said, I think, Agent Mike Brown knocked on the door?

17 A. Yes.

18 Q. When he knocked on the door, did they open
19 the door?

20 A. Yes. After he yelled "police," they opened
21 the door as he was knocking.

22 Q. Why do you think they opened the door?

23 A. They heard "police," they saw who we were.

24 Q. Okay. So you're assuming the ones on the
25 inside heard it when the door was knocked on.

26 A. Correct.

27 **MS. COOPER:** Objection, Your Honor.

28 He's leading his witness.

29 **THE COURT:** Okay. Sustained.

1 BY MR. MILLER:

2 Q. When you went in that apartment, you said you
3 didn't hear a commode flush?

4 A. No, I didn't hear.

5 Q. Would you expect to hear a commode flush in
6 the other apartment?

7 A. No.

8 Q. Would you expect to hear what was going on in
9 the other apartment?

10 A. No.

11 Q. If you knocked on the door, would you expect
12 whoever was in the apartment to hear?

13 A. Yes.

14 Q. Would you expect them to hear when they
15 announced "police"?

16 A. Yes.

17 Q. On search warrants, how much time -- do you
18 know how much time passed between when Ron received
19 the information and y'all executed the search
20 warrant?

21 A. No, I don't.

22 Q. What time were you first called that day and
23 informed about a search warrant?

24 A. I believe it was a little after nine.

25 Q. Nine o'clock?

26 A. Right.

27 Q. And did Officer Jones already have the
28 information for the search warrant at that time?

29 A. Yes.

1 Q. Do you know what happened in those apartments
2 between then and when y'all executed the warrant?

3 A. No, I don't.

4 Q. Do you know who went in those apartments
5 between the time Ron got the information and executed
6 the warrants?

7 A. No, I don't.

8 Q. On a search warrant, do you ever run a search
9 warrant on a house and no one was there?

10 A. Yes.

11 Q. And when that happens, what do you do with
12 the return?

13 A. We leave a copy there at the house.

14 Q. Have you ever received information that there
15 was some drug activity at a house and not know the
16 person's name who was there?

17 A. Yes.

18 Q. Did you ever run a search warrant, other than
19 this, on persons unknown?

20 A. Yes, I have.

21 MS. COOPER: Objection, Your Honor. I
22 mean, if he has a story to tell, the witness
23 ought to be able to tell it without him
24 leading him. And we're -- I mean, I don't
25 know what else to do other than to object.

26 MR. McDONALD: I don't think that's
27 leading.

28 MR. MILLER: Your Honor, it's all in
29 response to what she talked about.

1 **THE COURT:** Okay. I'll let him answer.

2 **BY MR. MILLER:**

3 Q. And on this search warrant, it was made out
4 to who?

5 A. One of the search warrants was made out to
6 Jamie Smith, the other one was made out to persons
7 unknown.

8 Q. Okay. You ever run search warrants with Ron
9 Jones before?

10 A. Yes, I have.

11 Q. What were Ron Jones' duties at the police
12 department?

13 A. He was a narcotics officer for the city and
14 the K-9 officer.

15 Q. What's a K-9 officer?

16 A. He's a dog handler.

17 Q. What does the dog do?

18 A. He is a narcotics-sniffing dog that assists
19 in finding drugs in vehicles and buildings.

20 **MR. MILLER:** No further questions, Your
21 Honor.

22 **MS. COOPER:** Your Honor, may I approach,
23 please?

24 **THE COURT:** Yes, you may.

25 **[BENCH CONFERENCE AS FOLLOWS]**

26 **MS. COOPER:** Your Honor, might I ask a
27 question about this K-9 business since they
28 got into that? I mean, I really would like
29 to know, if he's a narcotics agent with a K-9

1 dog, why didn't he bring it with him that
2 night?

3 THE COURT: All right.

4 MS. COOPER: Thank you.

5 [BENCH CONFERENCE CONCLUDED]

6 *****

7 RE CROSS - EXAMINATION

8
9 BY MS. COOPER:

10 Q. Agent Graves, you just testified that Ron
11 Jones had a K-9 dog?

12 A. Yes.

13 Q. And he had told you that there were large
14 amounts of marijuana in these two apartments?

15 A. Yes.

16 Q. But he didn't have the K-9 dog with him that
17 night.

18 A. No.

19 Q. And you use the K-9 dog for narcotic
20 purposes, correct?

21 A. Yes.

22 Q. Mike Brown, when y'all approached this
23 apartment on the left, did he say "police" as he
24 knocked, or did he shout it?

25 A. Usually, when you're running up, when you're
26 going up to a house, you shout. You pretty much
27 shout.

28 Q. No, in this instance on December 26, 2001.

29 A. It was -- yes, he shouted it. It was loud

1 enough. It was like a shout.

2 Q. And the people were opening the door, you
3 said, as y'all approached.

4 A. Right. When he was knocking on the door. He
5 actually knocked on the door and said "police." He
6 banged, actually banged on the door, not knocked.

7 Q. Okay. And when you went back to Cory Maye's
8 apartment, you didn't see anything in your
9 investigation that would have indicated any of these
10 large amounts of marijuana had been disposed of, did
11 you?

12 A. No.

13 MS. COOPER: Thank you.

14 THE COURT: You may be excused.

15 [WITNESS EXCUSED]

16 *****

17 THE COURT: Who will you call next?

18 MR. McDONALD: Jim Stone, Your Honor.

19

20 JIM STONE,
21 called as a witness by the State of Mississippi,
22 after having been first duly sworn, testified as
23 follows:

24

25 DIRECT EXAMINATION

26

27 BY MR. McDONALD:

28 Q. State your name, please.

29 A. Jim Stone.