

1 back out here. Then I'm going to let you go
2 ahead and call your first witness. I don't
3 want to bring them in and rest and then send
4 them back.

5 **MS. COOPER:** Right. And please let me
6 apologize, please. I think this is our third
7 day of trial. I'm just a little -- so let me
8 -- please accept my apology.

9 **THE COURT:** All right.

10 **MS. COOPER:** Your Honor, in that the
11 State of Mississippi has rested in this case,
12 the defense moves for a directed verdict. We
13 submit that the State of Mississippi has
14 failed to make out a prima facie case of
15 capital murder against Cory Maye in the
16 following regard.

17 Your Honor, a review of the Mississippi
18 case law indicates that capital murder
19 entails a deliberate design to cause death,
20 depraved heart, the commission of a felony,
21 and in this instance, the killing of a police
22 officer.

23 Your Honor, there has been no real proof
24 to support that the defendant, Cory Maye,
25 knew Ron Jones was a police officer on
26 Wednesday, December 26, 2001, as Ron Jones
27 attempted to execute a search warrant on the
28 apartment of Cory Maye.

29 Your Honor, we would also move that the

1 State of Mississippi has failed to make out a
2 case of simple murder against Cory Maye for
3 the same reasons, Your Honor, in that there
4 had been no showing by the State beyond a
5 reasonable doubt that there has been a
6 deliberate design to cause death, that there
7 was a depraved heart, and, as we stated
8 before, Cory Maye was not engaged in any
9 felonious activity at the time Ron Jones was
10 killed.

11 In support of our contention that the
12 State has failed to make out its elements of
13 a prima facie case of capital murder or
14 simple murder, Your Honor, we cite Brown v.
15 State of Mississippi, found at 781 So.2d 925.
16 It's a Mississippi Court of Appeals case,
17 Your Honor, having been decided in 2001.

18 Your Honor, I would also like to add
19 that in that there was no felonious activity
20 at the time that Ron Jones was shot by Cory
21 Maye, we would argue that the State of
22 Mississippi has also failed to make out a
23 case of manslaughter based on culpable
24 negligence. Culpable negligence is defined
25 by the statutes. 97-3-19(2)(e) and (f) and
26 97-3-27 indicate that there would have to
27 have been the act, procurement, or culpable
28 negligence of a defendant.

29 If we're going to argue, Your Honor,

1 manslaughter, then, again, there was no
2 commission of any felonious activity. And,
3 Your Honor, for the reasons that we've stated
4 heretofore, we would ask that this Court
5 enter an order directing a verdict in favor
6 of the defendant acquitting him of all
7 charges, capital murder, any lesser included
8 offenses, including, but not limited to,
9 simple murder, manslaughter, based on any
10 culpable negligence, and that this Court
11 enter an order exonerating Cory Maye of all
12 crimes stated heretofore. Thank you.

13 **THE COURT:** All right. Those motions
14 will be overruled. What is your desire about
15 putting your case on? You want a few more
16 minutes? Because what we're going to do is
17 bring the jury out and let them rest, and
18 then I'm going to ask you to go ahead then
19 with your case.

20 **MS. COOPER:** I'm ready, Your Honor.

21 **THE COURT:** Oh, you're ready now?

22 **MS. COOPER:** Yes, sir.

23 **THE COURT:** All right. Let's go ahead
24 and bring our jury out.

25 **[THE JURY WAS RETURNED TO THE OPEN**
26 **COURTROOM AT 10:52 A.M., AND THE PROCEEDINGS**
27 **CONTINUED IN THE PRESENCE OF THE JURY.]**

28 **THE COURT:** All right. The State may
29 proceed.

1 **MR. McDONALD:** If it please the Court,
2 the State rests at this time.

3 **[THE STATE OF MISSISSIPPI RESTS IN THE**
4 **PRESENCE OF THE JURY.]**

5 **THE COURT:** Okay. Defense ready to call
6 your first witness?

7 **MS. COOPER:** Yes, Your Honor, we are.
8 We call Sergeant Darryl Graves.

9 **[PAUSE IN THE PROCEEDINGS]**

10 **MR. McDONALD:** Could we approach the
11 bench?

12 **THE COURT:** All right.

13 **[BENCH CONFERENCE AS FOLLOWS]**

14 **MS. COOPER:** Your Honor, I have just
15 approached the prosecution about our desire
16 to introduce the affidavits for search
17 warrants for the two apartments. And, Your
18 Honor, there's been much testimony about the
19 search warrants, but they've yet to be
20 introduced.

21 Sergeant Graves executed the warrant on
22 Jamie Smith's apartment, and not only did he
23 execute, but he did do the return on the
24 inventory. There's no record. Your Honor,
25 when we discussed this earlier, you said that
26 they were in the court file as a part of our
27 motion in opposition to suppress the
28 marijuana.

29 But we're at trial now, Your Honor, and

1 the jury has not had the benefit of these
2 search warrants. And I think every witness,
3 with the exception of Dr. Hayne and perhaps
4 Agent Stone, has testified to that.

5 **MR. McDONALD:** I've been polite about
6 bringing it and not objecting to some of the
7 discussions that she's had about the search
8 warrants, but the fact of the matter is that
9 court case we showed you day before yesterday
10 plainly states that these warrants are not to
11 be entered into the trial, and also that
12 there's not to be a discussion, and that the
13 jury has no part in making any determination
14 with respect to the search warrants. And we
15 would object to the introduction of the
16 search warrants.

17 **MS. COOPER:** Your Honor, I'm not talking
18 or discussing with Sergeant Graves the
19 legality of the search warrants, how they
20 were procured, or any of that as the witness
21 has testified to them.

22 **THE COURT:** What's the probative value?
23 I mean, where are you trying to go with this?

24 **MS. COOPER:** I would like for them to be
25 in evidence, Your Honor, so that the jury can
26 see the very reason or the basis for Officer
27 Jones even being at 1728. I mean, without
28 these search warrants, why was he even there?
29 His only reason for being there was that he

1 had obtained search warrants for the
2 apartments.

3 **THE COURT:** That's right, yeah, but I
4 don't think the legality of it is in issue.

5 **MS. COOPER:** No. And the case speaks to
6 the legality. I'm not questioning that. I
7 just simply want to offer them into evidence.

8 **THE COURT:** But I don't understand the
9 probative value. It's been testified that
10 there were search -- I think there may be
11 more risk involved in doing that, more
12 prejudice as to the issue than there would be
13 to --

14 **MS. COOPER:** Well, Your Honor, there's
15 everything that's stated in the search
16 warrant, and then they have the marijuana
17 that was found. That's the only thing that
18 Sergeant Graves will speak to, and I don't
19 really have to give the one on Jamie Smith.
20 But we've had testimony, cross-exam, direct
21 exam about the search warrants. And they're
22 going to go back to deliberate, well, where's
23 the search warrant? What's wrong with the
24 search warrant? Why haven't we seen the
25 search warrant?

26 **MR. McDONALD:** The cases are clear that
27 the search warrants are not to go before the
28 jury, period. I have no objection to giving
29 an instruction to the jury saying that the

1 legality of the issuance of the search
2 warrants has already been determined by the
3 Court, if she's afraid they're going to be
4 concerned about that.

5 **MS. COOPER:** Well, yeah, I would think
6 they would have some concern about it.

7 **THE COURT:** What's your fear about it?

8 **MR. McDONALD:** Judge, my fear is it will
9 get reversed because there are two cases that
10 say you can't do that, and that's what I'm
11 talking about.

12 **MS. COOPER:** Well, can we --

13 **THE COURT:** You can offer them for
14 identification.

15 **MR. McDONALD:** Outside the presence of
16 the jury.

17 **MS. COOPER:** Well, I mean, you know,
18 Judge, and I don't mean to belabor the point,
19 but you did ask Mr. McDonald what was the
20 risk of either of them getting into evidence,
21 and he stated the cases -- I only read the
22 one that he presented to the Court on
23 Tuesday.

24 **MR. McDONALD:** It cites another case.

25 **MS. COOPER:** Well, I didn't have the
26 benefit of that. And I was not aware, Judge,
27 that the search warrants couldn't come in.
28 We're not talking -- I mean, I'm not going to
29 ask him questions about how they were

1 obtained, what was the probable cause and all
2 of that, but I don't understand how we can
3 have a complete record without --

4 **THE COURT:** I'm going to let you get it
5 in for identification purposes only, but we
6 can do that outside the presence of the jury.
7 You can ask him about them, but not the
8 details of it.

9 **MS. COOPER:** Okay.

10 **MR. McDONALD:** Well, with respect to
11 that, she has already asked him about it when
12 she had him on cross-examination in our case
13 in chief.

14 **THE COURT:** Okay. All right.

15 **[BENCH CONFERENCE CONCLUDED]**

16
17 **DARRYL GRAVES,**
18 called as a witness by the Defendant, after having
19 been first duly sworn, testified as follows:

20
21 **DIRECT EXAMINATION**

22
23 **BY MS. COOPER:**

24 Q. Sergeant Graves, will you again state your
25 full name for the record, please.

26 A. Darryl Graves.

27 Q. And what is your position?

28 A. I'm a narcotics agent.

29 Q. Okay. And there's a title of sergeant? Is

1 that the title that you have?

2 A. Yes, that's correct.

3 Q. Can you tell the ladies and gentlemen of the
4 jury what a sergeant in the narcotics division does.

5 A. What my duties are as a sergeant is, I'm in
6 charge of field operations for the narcotics task
7 force.

8 Q. And how long have you had that position?

9 A. Little over a year. Probably about 14
10 months. Fourteen or 15 months.

11 Q. Okay. And what was your title? And I said
12 position, but what was your title in December 2001?

13 A. Agent.

14 MS. COOPER: Okay. Just one moment,
15 Your Honor, please.

16 THE COURT: Okay.

17 [PAUSE IN THE PROCEEDINGS]

18 BY MS. COOPER:

19 Q. Sergeant, could you please explain to the
20 ladies and gentlemen of this jury the normal
21 procedure that is followed in executing a search
22 warrant once a suspected dealer has been identified.

23 MR. McDONALD: I going to object to that
24 question, Judge, on the basis that she's
25 already had this same witness on
26 cross-examination, asked him questions with
27 respect to what the procedures are, and now
28 we're going back through it again.

29 Our position would be that that's

1 repetitive and redundant.

2 THE COURT: All right. I'll see where
3 she's going with it, then.

4 MS. COOPER: Thank you, Your Honor. Do
5 you need me to respond to that?

6 THE COURT: No.

7 MS. COOPER: Okay.

8 BY MS. COOPER:

9 Q. Sergeant Graves --

10 A. Could you repeat your question again?

11 Q. Could you please tell the ladies and
12 gentlemen of the jury the normal procedure that is
13 followed in executing a search warrant once a
14 suspected dealer has been identified.

15 A. You mean after we've done surveillance on him
16 or if we've done any buys or anything like that?

17 Q. Well, once you've first been told, then what
18 do you do? Once the suspect has been identified,
19 what do you do?

20 A. Normally, what we do is, we try to pull
21 surveillance on the location. We try and get a buy
22 out of the place if we can. We have informants that
23 may know these people real well. The informant may
24 go to the place and see the drugs there. And
25 usually, these informants are reliable sources that
26 we use, that we've used in the past, that are very
27 reliable. And if they say there's drugs there,
28 there's usually drugs there.

29 We put all that together. If we can put all

1 those together, we put all those together and get a
2 search warrant signed by a judge.

3 Q. Do you use, Sergeant Graves, the confidential
4 informant or, you know, the C.I., in using the buy?
5 Do you use the C.I. for the buy?

6 A. Yes, there's times we do use the C.I. for
7 buys.

8 Q. Okay. Well, we're now at the point where
9 you've obtained the search warrant and you're ready
10 now to serve it on your identified suspect. How do
11 you approach the suspect or suspect's home?

12 A. I'm sorry, I don't understand the question.

13 Q. Well, now that you're ready to serve the
14 warrant, do you have your men stationed or do you
15 shout as you enter the home? I mean, how do you
16 announce your presence to your identified suspect now
17 that you have your search warrant?

18 A. Normally, the way we do it is, if we're in a
19 vehicle, everybody exit the vehicle. Once we
20 approach the house -- what we try and do is get a
21 marked unit to go to the house first. Once we pull
22 up to the residence, we all get out. We usually
23 knock and respond with "police, search warrant." And
24 that's the norm. Every time we go to a location we
25 do announce "police, search warrant," and the reason
26 we do that is for our safety and for the safety of
27 the people that inside the house.

28 We want them to know that we are out there
29 and we are getting ready to execute a search warrant,

1 and hopefully it runs as smoothly as possible.

2 Q. Well, now, as you approach the house to
3 execute the search warrant, do you wait until your
4 team is set up and ready to make the entry or do you
5 shout as you run up to the house?

6 A. Well, the way we do it is, the entry team is
7 usually in one vehicle. It's usually at least four
8 of us that's going to make the entry. We try and get
9 all four in the vehicle, in one vehicle, and the team
10 that's going to pull the security outside is usually
11 in another vehicle. Once we get up to the house,
12 once we pull in, soon as we get up to the door is
13 when we say "police, search warrant."

14 Q. Okay. When you get to the doors.

15 A. [Nods head affirmatively.]

16 Q. Now, as you approach the house or the place
17 where the identified suspect is and you're preparing
18 yourself to serve your warrant, do you have your
19 weapons drawn?

20 A. Our norm is, we have our weapons drawn, yes.
21 Yes, my weapon is drawn.

22 Q. And you would continue to have your weapon
23 drawn as you enter the dwelling.

24 A. Yes. There is one person that usually don't
25 have his weapon drawn sometimes, and he could be the
26 person with -- if we're using a ram -- and the ram is
27 a -- it's used like -- it's a metal bar that we use
28 to open a door sometimes because normally they won't
29 open the door. So we have to break the door down.

1 And we have a ram. And that person won't have his
2 weapon drawn.

3 Q. Is the object that you use to open the door
4 or the person that has that object called the ram?

5 A. The person that has -- the object itself is
6 the ram.

7 Q. Okay. And then that person will not have a
8 gun. Is that correct?

9 A. He has one, but he doesn't draw it until he
10 puts the ram down. Once he gets the door open, then
11 he drops the ram, and he should usually draw his gun
12 by then.

13 Q. Now, the officer, Sergeant, who obtains the
14 search warrant, isn't that the primary officer to
15 execute the search warrant?

16 A. Correct. The way our procedure is, the
17 person that's running the search warrant, the officer
18 that has the search warrant, he's the last one that's
19 going to come in, usually. And that's the way the
20 task force does that. This is the task force I'm
21 talking about.

22 Task force -- we let that person that
23 actually -- the team leader, he's going to be the
24 last one in. And the reason why we start doing that
25 is because of what happened that night in December.
26 We start having that person come in first, I mean
27 come in last, just in case something goes wrong. At
28 least he's there with the search warrant.

29 Q. Okay. But prior to December 26, 2001, are

1 you telling the ladies and gentlemen that it was the
2 practice to have the team leader, or that officer
3 who's obtained the warrant, to be the first person to
4 go in?

5 A. No, that was -- on that night, that was
6 Officer Jones. That was his -- he was running the
7 search warrant, it was his show, he was doing it the
8 way that their procedure showed.

9 Q. Okay. I guess I was just trying -- I thought
10 you said that after that, since that incident, you
11 all have changed your practice.

12 A. Correct. Since that, the task force has
13 changed theirs.

14 Q. Okay.

15 A. Before, it didn't matter who went in first.
16 But since then, we do -- the person that's actually
17 serving the warrant, he's going to be the last one
18 in.

19 Q. Okay. Now, based on what you've shared with
20 the ladies and gentlemen of the jury about your
21 normal process or your normal procedure being
22 followed to execute a search warrant once you've
23 identified your suspected dealer, in the execution of
24 the search warrant on the apartment that Cory Maye
25 lived in, was that followed by Ron Jones and that
26 team?

27 A. They said, "police search warrant." Whether
28 their guns or anything like that was drawn, I'm not
29 sure if they do have guns. We did. My team did. We

1 had our guns drawn.

2 Q. Okay. But, I mean, the things that you
3 shared earlier about the surveillance and the buy and
4 those things, those were not done in this case, were
5 they?

6 A. I don't know. That was his search warrant.

7 Q. Okay. And you said when you all were on your
8 side, the left side, your team did follow the
9 procedures that you shared with the jury.

10 A. As far as drawing the guns, correct.

11 MS. COOPER: Court's indulgence, please,
12 Your Honor?

13 THE COURT: All right.

14 [PAUSE IN THE PROCEEDINGS]

15 BY MS. COOPER:

16 Q. Sergeant Graves, when serving a search
17 warrant, what is more important, seizing the
18 narcotics or officer safety?

19 A. I would say safety would be. And that's why
20 we announce "police, search warrant," is for safety
21 reasons. Because we don't want to get anyone hurt,
22 officers or suspect.

23 Q. So the officer safety is more important than
24 actually obtaining the narcotics or whatever it is
25 you're searching for.

26 A. Yes, everyone's safety is more important.

27 MS. COOPER: Nothing further, Your
28 Honor.

29 THE COURT: Okay.

CROSS-EXAMINATION

BY MR. McDONALD:

Q. My understanding was that there were at least three agencies operating out there in the service of these search warrants. There was you from the Pearl River Basin Narcotics Task Force.

A. Correct.

Q. And y'all got y'all's policies and procedures.

A. Correct.

Q. There was the Bassfield Police Department had officers out there. Is that correct?

A. That's correct.

Q. Prentiss P.D. had officers out there. Is that correct?

A. That's correct.

Q. All right. The individual that was in charge of the operation that night overall was who?

A. That was Officer Ron Jones.

Q. And was the reason for that because it was his informant that he'd gotten the information with respect to the issuance of the warrants? Is that correct?

A. That's correct.

Q. Now, Ms. Cooper has asked you several questions about different ways search warrants can be issued. Isn't it a fact that search warrants can be

1 issued based on reliable informants and that's it?

2 A. Yes.

3 Q. If the judge thinks it's sufficient to issue
4 the warrant.

5 A. Yes, that's correct.

6 Q. All right. And have you done search warrants
7 like that yourself?

8 A. Yes, I have.

9 Q. Many search warrants.

10 A. That's correct, yes.

11 Q. Matter of fact, isn't it the case that
12 probably the bulk of search warrants are issued like
13 that?

14 A. Yes.

15 Q. And probably fewer issued based on C.I. buys
16 inside a place.

17 A. That's correct.

18 Q. Now, isn't it true sometimes with the use of
19 nicknames or street names or other things that, when
20 you serve a search warrant on a place, you're not
21 actually certain what the name of the person is that
22 may be in the premises?

23 A. Yes, that's correct.

24 Q. And there's not anything unusual or wrong or
25 incorrect about that, is there?

26 A. No.

27 Q. As a matter of fact, it's often that you
28 issue a search -- or not often, but many times you
29 issue a search warrant that may be directed to

1 unknown persons in control of the property.

2 A. That's correct.

3 Q. Or one known person and other unknown
4 persons.

5 A. That's correct.

6 Q. Okay. Now, it's also not -- isn't it also
7 true that a lot of times you go on search warrants
8 and you don't find anything?

9 A. Yes, that's correct.

10 Q. Okay. And isn't it the case -- I would
11 assume that's because sometimes it takes a while to
12 get a search warrant, doesn't it?

13 A. Yes.

14 Q. And you have to get your information
15 together, you have to go to the judge, you have to
16 meet with the judge, you have to present your stuff
17 to him, the judge has to decide whether to give you
18 the search warrant, you've got to get the search
19 warrant, then you've got to go round people up to go
20 on the search warrant, and then you've got to
21 actually go over there and do it, right?

22 A. That's right.

23 Q. So sometimes -- many times there are periods
24 of hours in between the time the information is
25 obtained and the time the warrant is served. Is that
26 correct?

27 A. That's correct.

28 Q. Sometimes what was there when the informant
29 was there has ceased to be there by the time you get

1 there with a warrant.

2 A. That's correct.

3 Q. Matter of fact, isn't it common for you to
4 hear or find out later from your informants when you
5 go to a place and there's no dope or very little
6 dope, you just missed the dope?

7 A. Yes.

8 Q. Now, did you particularly find anything
9 strange about the fact that there was supposed to be
10 marijuana or cocaine in an apartment and you went out
11 there and there might be just a small amount of
12 marijuana left in the apartment?

13 A. No, that wasn't strange at all.

14 Q. Did you think Officer Ron Jones was
15 incompetent or stupid out there?

16 A. No, I'd done many warrants with him, a few
17 warrants with him before, and he was prepared.

18 Q. Did you think it was unprofessional?

19 A. No.

20 Q. I believe there was a pre-search warrant
21 service meeting, was there not, with respect to this
22 case?

23 A. Yes, there was.

24 Q. Were you advised at that meeting that Officer
25 Jones did not believe there would be any weapons at
26 the apartments?

27 A. Yes.

28 Q. Do you think that might've been the reason he
29 didn't have his -- some of his people didn't have

1 their weapons drawn?

2 A. That could've been the reason.

3 Q. Ron Jones was a police officer of the City of
4 Prentiss, right?

5 A. Yes.

6 Q. And he was on duty that night carrying out
7 his duties and functions as a police officer.

8 A. Yes.

9 Q. And he did get shot and killed.

10 A. Yes.

11 MR. McDONALD: That's all, Your Honor.

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

14 MS. COOPER: May we have redirect?

15 THE COURT: Yes.

16 *****

17 REDIRECT EXAMINATION

18

19 BY MS. COOPER:

20 Q. Sergeant Graves, will you tell the ladies and
21 gentlemen what confidential and reliable mean as it
22 relates to a confidential informant.

23 A. Confidential and reliable means that we've
24 used him in the past, he's confident, we're confident
25 enough that the information he gives us is good
26 information. Reliable means that we've used him in
27 the past, that everything he tells us is usually
28 true, and we are confident enough to know that, if he
29 tells us something is there, it's usually going to be

1 there.

2 Q. In this case, December 26, 2001, had you
3 spoken with that confidential informant?

4 A. No, I didn't.

5 Q. Had you used that confidential informant
6 before?

7 A. I don't know who his informant was.

8 Q. Okay. So your basis for believing that this
9 confidential informant was confident and reliable,
10 was credible and reliable, was based on what Ron
11 Jones said.

12 A. Correct.

13 Q. And you don't know who he was?

14 A. No, I don't.

15 Q. When did Ron tell you he had last spoken with
16 the C.I.

17 A. I'm not for sure when he spoke with him. I
18 can't remember exactly if he had told me, if he told
19 me. He may have. I don't remember.

20 Q. Excuse me?

21 A. I said I don't remember if he told me when he
22 had spoken to him. He called me at a little after
23 nine, and I'm sure he spoke to him sometime before
24 then.

25 Q. Okay. What would be the reason to effect a
26 search warrant, Sergeant Graves, without -- how would
27 you -- just give me a moment, I'm trying to phrase
28 this in just the right way.

29 What circumstances would you get a search

1 warrant on hearsay alone?

2 A. You can get it from -- from hearsay from an
3 informant?

4 Q. Yes, I guess.

5 A. If he's confident and reliable and you have
6 worked with him in the past, that informant is going
7 to normally give you straight information.

8 Q. Okay. But what in this case -- when you all
9 did your investigation, when you all effected your
10 search warrant, what evidence was there that
11 supported what the C.I. supposedly had told Ron
12 Jones?

13 A. I'm not for sure; I didn't talk to the
14 informant.

15 Q. No, the evidence that you found. What was it
16 that gave validity to what the confidential informant
17 had said?

18 A. I don't understand what you're asking.

19 Q. You were sharing with the ladies and
20 gentlemen of the jury about being confidential and
21 reliable -- I think you even said very, very
22 truthful. So I'm just trying to find, based on your
23 investigation, what evidence was there that gave
24 support to what the C.I. supposedly had told Ron
25 Jones as he attempted and did obtain a search
26 warrant.

27 A. We did find crack scales and marijuana at
28 both locations.

29 Q. You found scales in Cory Maye's apartment?

1 A. No, not Cory Maye's apartment, the other
2 apartment.

3 Q. Okay. So let's be truthful here.

4 A. Right.

5 Q. What did you find that supported what the
6 confidential informant had said?

7 A. We found crack in one apartment, found
8 marijuana in the other apartment.

9 Q. Okay. You found that small amount of
10 marijuana in Cory Maye's apartment.

11 A.. Correct.

12 Q. And were you aware -- well, you tell the
13 ladies and gentlemen what your understanding about
14 the marijuana was, the amount, if any.

15 A. Well, we was told that there was a large
16 amount of marijuana and crack cocaine at both
17 locations.

18 Q. And tell the ladies and gentlemen of the jury
19 whether or not that was true.

20 A. No. Once we got there, there wasn't a large
21 amount there.

22 Q. Sergeant Graves, was there a thorough
23 investigation prior to the attempt to execute the
24 search warrant?

25 A. I'm not for sure. I wasn't there.

26 Q. You weren't where?

27 A. I wasn't there doing, when he was doing his
28 investigation of this.

29 Q. Okay. What discussions did you all have

1 about the investigation?

2 MR. McDONALD: Judge, at this point, she
3 has gone over this on cross when we had him
4 on direct and now on her direct when she had
5 him on direct.

6 THE COURT: I think we've covered that.

7 MS. COOPER: Okay. Just one moment,
8 please, Your Honor.

9 THE COURT: Okay.

10 [PAUSE IN THE PROCEEDINGS]

11 BY MS. COOPER:

12 Q. What record, if any, do you have, Sergeant
13 Graves, about the confidentiality or reliability of
14 the C.I.? Do you have to record the use of the C.I.?

15 A. Our policy, we have not so much of a record,
16 we have somewhat of a profile of that person. We
17 have him what we call coded, and that's how we keep
18 track of him.

19 Q. Was the C.I. or the supposed C.I. in this
20 case recorded?

21 A. I'm not for sure. I don't know who he was.
22 He wasn't my C.I.

23 MS. COOPER: Thank you, Your Honor.
24 Thank you, Sergeant Graves.

25 THE COURT: All right. You have a
26 question?

27 MR. McDONALD: I've got a couple of
28 things following up on that.

29 *****

RECROSS-EXAMINATION

BY MR. McDONALD:

Q. When you talk about the reliability of what Ron Jones -- all you knew is what Ron Jones told you. Had Ron Jones ever lied to you before?

A. No, he haven't.

Q. All right. Did you find him to be a reliable person?

A. Yes, I did.

Q. Professional law enforcement officer?

A. Yes.

Q. Knowing what he was doing in narcotics raids?

A. Yes.

Q. And you have one policy. As a matter of fact, the Bureau of Narcotics has another policy. Small agencies don't normally code their C.I.s, do they?

A. To the best of my knowledge, no.

MR. McDONALD: Thank you. Well, just a second.

[PAUSE IN THE PROCEEDINGS]

MR. McDONALD: Thank you.

THE COURT: All right. You may step down. Can he be discharged now?

MS. COOPER: Yes, Your Honor.

THE COURT: Okay.

[WITNESS EXCUSED]

1 **MS. COOPER:** Your Honor, may we
2 approach, please?

3 **THE COURT:** You may.

4 **[BENCH CONFERENCE AS FOLLOWS]**

5 **MS. COOPER:** Judge, next two witnesses
6 are Ms. Funchess and Cory. And I'm not
7 making any suggestions as to how the Court
8 handles this, but I really would like some
9 time to -- my objective this morning was to
10 spend some time with Cory, but the jail would
11 not allow that. So I really would like some
12 time.

13 **THE COURT:** Can we take her before we
14 break tonight?

15 **MS. COOPER:** Oh, I think we can.

16 **THE COURT:** And then break and take Cory
17 after that?

18 **MS. COOPER:** Okay, that will be fine.

19 **THE COURT:** That will be all right?

20 **MS. COOPER:** That will be fine.

21 **MR. McDONALD:** I do have one question,
22 Your Honor. When we were advised that she
23 was a potential witness, Mr. Rawls contacted
24 her and she said she didn't want to talk to
25 Mr. Rawls. And, of course, that's her right.

26 But we know she was not present at the
27 time of this incident. Therefore, my
28 question, is she just going to get up there
29 as his mother and talk about what his

1 childhood was like and all that? That's not
2 relevant at this point in the trial.

3 **THE COURT:** That would be in the other
4 phase. That would be relevant in that if we
5 reach that phase.

6 **MS. COOPER:** Well, I guess I was --
7 yeah, I thought about that last night. I
8 guess what I -- Cory can talk about some
9 things that I thought might better come from
10 his mother. But he can explain why he was in
11 Prentiss, how long he'd been there. I just
12 kind of wanted it to be a little buffer for
13 Cory.

14 **MR. McDONALD:** If you want to take an
15 early lunch, we have no objection to her
16 having some additional time to talk with him
17 over lunch.

18 **MS. COOPER:** Yeah, we definitely need to
19 do that.

20 **THE COURT:** Just see what you need from
21 her, then, and we'll just take a break, then,
22 until one o'clock.

23 **MS. COOPER:** Thank you.

24 **THE COURT:** Okay.

25 **[BENCH CONFERENCE CONCLUDED]**

26 **THE COURT:** For the jury, because of the
27 time, we want to just -- the next witness,
28 just keep it where we don't have to break it
29 during the lunch hour, we're going to let you

1 take a little early lunch. We'll go ahead
2 and excuse you for lunch, and just come on
3 back. We probably will start back at one, so
4 it's going to give them about an hour and a
5 half for lunch. All right. Y'all may be
6 excused for lunch.

7 [THE JURY WAS EXCUSED AT 11:23 A.M., AND
8 THE PROCEEDINGS CONTINUED AS FOLLOWS OUTSIDE
9 THE PRESENCE OF THE JURY.]

10 THE COURT: All right. We'll stand in
11 recess till one o'clock.

12 MS. COOPER: Excuse me, Your Honor. Can
13 I just take this opportunity to have these
14 marked?

15 THE COURT: Yes, let's do that. Let
16 those be introduced into evidence for
17 identification purposes. And you got that in
18 that she was trying to bring it out through
19 that witness.

20 MR. McDONALD: Now, that's already --
21 those warrants and affidavits are already a
22 part of the record, the originals. Do you
23 want to make them the ones --

24 THE COURT: No, this will be fine right
25 here. This is what she was trying to
26 introduce to the jury, so she needs that now
27 in the record.

28 MS. COOPER: Right.

29 MR. McDONALD: I'm just saying the

1 originals are already in the court file and
2 have been introduced already.

3 THE COURT: All right. At the motion
4 hearing, but not at this.

5 MR. McDONALD: We have no objection to
6 those exhibits being reintroduced in this
7 hearing.

8 THE COURT: Well, I'm going to let her
9 do it the way she wants to do it, not the way
10 Mr. McDonald wants to do it.

11 [AFFIDAVITS FOR SEARCH WARRANT WERE
12 MARKED EXHIBIT NUMBERS 45 AND 46 FOR
13 IDENTIFICATION PURPOSES ONLY.]

14 [COURT WAS PLACED IN RECESS AT 11:25
15 A.M. COURT WAS RECONVENED IN THE OPEN
16 COURTROOM AT 1:10 P.M., THE JURY WAS
17 RETURNED, AND THE PROCEEDINGS CONTINUED AS
18 FOLLOWS IN THE PRESENCE OF THE JURY.]

19 THE COURT: Who will defense call next?

20 MS. COOPER: Your Honor, the defense
21 calls Cory Maye.

22 THE COURT: All right. He'll need to be
23 sworn in.

24
25 CORY JERMAINE MAYE,
26 the Defendant, called as a witness in his own behalf,
27 after having been first duly sworn, testified as
28 follows:
29