



THE GEORGE  
WASHINGTON  
UNIVERSITY  
LAW SCHOOL  
WASHINGTON DC

## MOCK TRIAL BOARD

A STUDENT-RUN HONORARY SOCIETY  
DEDICATED TO THE PURSUIT OF EXCELLENCE IN TRIAL ADVOCACY

# 2013 First Year Mock Trial Competition

Official Rules and Fact Pattern Packet



---

---

# THE STATE OF NEW COLUMBIA

V.

AVON BARKSDALE



---

---

\* This case was adapted from the 2005 High School Mock Trial Case written and developed by Laurie Chane and sponsored by The Florida Law Related Education Association, Inc. This is a strictly fictional problem. Any similarity or resemblance of any character to an actual person is strictly unintentional and coincidental



## **LOCAL RULES OF TRIAL PROCEDURE**

### **Rule 1: Nature of the Trial**

Teams will be required to prepare and argue one side of the case: plaintiff or defense. Each team must consist of two students. Each team member must argue one Motion in Limine and respond to one Motion in Limine offered by opposing counsel – it is NOT permissible for one team member to make both Motions or respond to both opposing Motions. Motions in Limine must be presented orally; no written Motions in Limine will be considered. One team member will be responsible for the Opening Statement and the other for the Closing Argument. Each team member will perform one direct examination and one cross-examination. If a team wishes to redirect their witness, the redirect must be done by the same attorney who conducted the direct examination upon that witness.

This is a partially closed problem – case law may only be used to support arguments made during Motions in Limine, and only if the case law deals with the Federal Rules of Evidence. The use of case law is not required. Only Supreme Court cases will be considered binding, though others may be considered persuasive or influential. A team may not argue any case law or precedent, even if from the Supreme Court. That said, such research may be helpful in formulating trial strategies, theories, etc.

### **Rule 2: Time Limits**

Each team (plaintiff and defense) has a total of 90 minutes within which to present its portion of the trial including its motions in limine, its opening statement, its direct examinations, its cross-examinations, its closing argument, and any objections that are made during those periods. Excessive time used during objection arguments will be charged against the team making the objection. Otherwise, the clock will run against the team performing the examination when an objection is made. Division of time within the 90 minutes is left to the discretion of each team.

### **Rule 3: Scope of Examination**

The scope of cross examination is not limited to the matters that the witness testified to during the witness's direct testimony. Any redirect examination, however, cannot go beyond the scope of the cross-examination. The opportunity for teams to conduct re-cross will be left to the discretion of each trial judge. If such an opportunity is requested and granted, the re-cross cannot go beyond the scope of the re-direct examination.

### **Rule 4: Objections**

Objections during the examination of a witness must be made only by the competitor who is responsible for the direct or cross-examination of that witness i.e. no “double-teaming.” For example, during the direct examination of a witness, the only competitor from the opposing team who may raise an objection is the competitor who will conduct the cross examination of that witness. Objections during the opening statement or closing argument must be made only by the competitor who is responsible for handling his or her team's opening or closing. This rule does not prohibit advocates from the same team from conferring with each other regarding any matter during the course of the trial, including whether to object.

### **Rule 5: Statements of Fact Outside the Affidavit of a Witness**

If a witness makes a statement of fact not contained in the witness's affidavit, the witness must admit to the fact that the statement made by the witness was not included in the witness's affidavit, if asked. In addition, if the witness testifies to a fact outside the record, the witness must admit that the fact is outside of the record as well if asked whether any information in the record supports that fact. The fact that the backgrounds of the witnesses are, in fact, fictitious is not to be used to impeach the lay or expert witnesses.

The witness will inevitably be asked questions whose answers go beyond the facts contained in the material distributed. This allows the contest to go beyond a stale rehashing of the given facts and ensures that there will be unexpected testimony. The practice of going beyond the facts provided, however, should be limited to facts that can be reasonably inferred from those contained within the record. For instance, in a murder case, if the defendant's affidavit says that it was raining, it would be a reasonable inference for the witness to testify that he was holding an umbrella. It would not be a reasonable inference for the witness to testify that because it was raining, he couldn't have possibly murdered those three people because he is hydrophobic and would have been in such crippling fear of the rain he couldn't bring himself to murder the victims.

The only remedy available to a team when they believe an opposing witness is making unreasonable inferences, or out-right lying, is impeachment on cross-examination – there is NO objection for “Outside the facts” or “Outside the case problem.” Cross-examination and closing argument provide adequate opportunity for counsel to show that a witness has strayed from the record.

If a competitor conducting cross examination of a witness asks the witness a question the answer to which is not contained within the witness's affidavit, the competitor must accept the answer that the witness provides and it constitutes an improper impeachment for the competitor to then attempt to impeach the witness by omission (for having given an answer outside the scope of the witness's affidavit).

The purpose of the competition is to develop and demonstrate trial skills. The actual merits of plaintiff's case and the defense presented are irrelevant to this purpose. The contest will not be decided on the merits of the plaintiff's or defendant's case. The fact that a witness may introduce information outside the record is not as important as the way competitors handle such information that is. Isolated instances of this are to be expected and dealt with by competitors within the trial fiction through impeachment and closing argument.

### **Rule 6: Demonstratives**

Teams are permitted to create demonstrative exhibits at their discretion. However, the only pre-made demonstratives permitted are enlargements of exhibits within the case packet. When enlarging exhibits, competitors should not alter the exhibits in any way other than its size. All exhibits should be blown up exactly to the scale of the original. Teams may not create posters or other visual aids not contained within the case packet. However, teams may draw on blank poster board or dry erase boards during trial.

## **Rule 7: Presiding Judge to Rule on Motions in Limine, Motions, and Objections**

The arguments and objections are strictly matters for the presiding judge to rule on during the course of the trial. The Federal Rules of Evidence and Criminal Procedure apply. Jurisdiction and venue are proper, so no objections will be entertained on these grounds.

## **Rule 8: Exhibits and Witnesses**

When asked, the appropriate witness must admit that all exhibits are fair and accurate representations of what which they purport to represent. All exhibits are authentic, but admissibility and foundation for admissibility (as dictated by the Federal Rules of Evidence) must still be established by the proffering competitor and may be challenged by the opposing team. Despite the fact that the exhibits are authentic, the opposing side may still question the witness's ability to lay the proper foundation for the exhibit, and may still seek to exclude the piece of evidence as inadmissible under the Federal Rules of Evidence.

The parties stipulate that, as to any item of information and exhibit within this record, each party has had notice sufficiently in advance of trial so that the opponent can be said to have had a fair opportunity to prepare to meet it. The parties may not bring in any additional evidence purportedly obtained after the time indicated on the materials in the file.

The parties have received full and proper notice of any witness being called at trial.

The witnesses shall, to the greatest extent possible, testify in a manner consistent with the trial materials. If a witness makes a statement inconsistent with a statement the witness has constructively signed, the witness must admit that the document in the case file is authentic, that he or she read the statement before signing it, and that the signature is that of the witness.

Where the trial materials may be inconsistent, the witness must make a choice as to which scenario to follow. In some instances, the choice will expose the witness to the possibility of being impeached. Otherwise, the witness is free to make reasonable inferences about the background and personality of the character the witness is portraying.

The parties agree that all affidavits were prepared under oath and subject to penalty of perjury at trial, hearing or other proceeding per Federal Rule of Evidence 801(d)(1)(A). The parties agree that the affiants swore that all statements made within their affidavit were truthful and complete, and that they included any and all information that they possess that is relevant to the matter at hand. The parties agree that statements made to police officers were **not** made under oath and were **not** made in the presence of counsel or the parties unless otherwise stipulated in the materials.

## **Rule 9: Stipulations**

The parties must agree to all stipulations contained in the case packet. Further, any statements made by the Co-Chairs of the competition on the TWEN forum, be they answers to questions or otherwise, are considered binding stipulations upon all parties. Competitors will be responsible for printing and bringing any stipulations posted on the TWEN Forum with them to trial for presentation to the judge as needed.

### **Rule 10: Expert Witnesses**

The respective parties may choose to try to qualify witnesses as experts (pursuant to Federal Rule of Evidence 702). Ruling on the qualification of each witness (as an expert or not) is left to the individual trial judge.

### **Rule 11: Witness Genders**

All witnesses may be played by either male or female portrayers. Where affidavits, statements, or other evidence refer to the witnesses as a specific gender, the parties should ignore such references and be prepared to treat those witnesses as either gender depending on the witnesses provided by opposing counsel.

### **Rule 12: Preparation of Witnesses**

It is the responsibility of each team to prepare their witnesses in accordance with the materials contained herein. The witnesses should be familiar with their prior affidavits and the general facts of the case. Additionally, witnesses should be prepared to answer questions related to the case but not specifically answered by materials in the record. Witnesses will not be permitted to bring any materials with them to the witness stand. Competitors are permitted to properly “refresh” the recollection of a witness during the trial if such motion is granted by the judge.

Witnesses must play their role in a reasonable and realistic manner based on information provided in the record. It is a violation of the spirit of this competition to prepare a witness to be unrealistically hostile to opposing counsel, to invent one-sided facts not contained in the record, or to be dishonest about the character’s background. Discretion for resolving such issues will be left to the judges and Tournament Director; parties should not “object” to a witness’s inappropriate conduct, but instead, should seek to impeach the witness based on the record.

Each team is responsible for providing its own witnesses. **Witnesses may not be other competitors, nor may they be current Mock Trial Board members.** Failure to provide a witness at trial may result in the disqualification of a team.

### **Rule 13: Sequestration of Witnesses**

Actual sequestration of witnesses is permitted. However, teams may, but are not required, to move for the constructive sequestration of the witnesses under Federal Rule of Evidence 615.

### **Rule 14: Summation**

The order of summation is first plaintiff then the defendant. The plaintiff will be permitted to make a rebuttal summation, assuming the plaintiff has reserved time to do so prior to their initial summation. If the plaintiff does not explicitly reserve time for rebuttal, rebuttal is waived.

### **Rule 15: Disputes Within Rounds**

If during trial, a team believes that an opposing team is breaking the Local Rules, the team should attempt to address the situation with the Presiding Judge without breaking the trial fiction by citing to the Local Rules in an Objection. If this is ineffective or it is impossible to raise the issue without breaking the trial fiction, the team must report the issue to the Tournament Directors either during a break or sending a witness who is not currently involved in the trial to explain the situation.

The decision of the Co-Chairs of the competition as to how to handle the issue at that time is final for the purposes of the ongoing trial. However, the Mock Trial Board has the discretion to alter scores or disqualify a team on a case-by-case basis.

### **Rule 16: Communication During Rounds**

From the time a round begins until it ends, student participants may communicate only with other student participants, judges and tournament officials. If anyone else, including coaches and spectators, attempts to communicate with a student participant during a round, it is the duty of the student to terminate the communication. A round begins when the judges enter the room.

### **Rule 17: Questions Regarding the Fact Pattern**

All questions regarding the rules and the fact pattern must be posted on the TWEN page forum. No questions will be answered by the Co-Chairs over email. If changes need to be made to the fact pattern, a final updated version of the fact pattern will be released not more than one week before the start of the competition.

## SUMMARY OF THE CASE

*This summary is explanatory only. It may not be quoted or referenced throughout the trial.*

On March 16, 2011 at approximately 6:30 p.m., a silver 2010 Chevrolet Avalanche with Texas license plate YBZ-427 was seen driving south on Interstate I-45 toward Foggy Bottom, New Columbia. The vehicle was driven by what appeared to be a Hispanic male and a second person was riding in the front passenger seat. The vehicle was traveling approximately 75 mph or approximately five mph in excess of the posted speed limit. Trooper C.K. Allen, a field officer for the New Columbia Highway Patrol was parked in the median of the interstate with his/her headlights shining toward the southbound traffic to allow him/her to see within the passing vehicles. Using radar he/she tracked the Avalanche's speed. (Stipulation that the radar is accurate).

Trooper Allen initiated the stop of the speeding vehicle. The driver of the vehicle Vol DeMort, pulled over to the right, and parked the vehicle promptly. Trooper Allen pulled up behind him and ran the tags through dispatch. The tags were registered to a Nicholas Brody of Brownsville, Texas. Trooper Allen exited the vehicle and approached the driver's side door. Mr. DeMort rolled his window down and offered his driver's license, registration and insurance information. Vol's driver's license showed the same Brownsville, Texas address that the truck was registered to.

The trooper questioned the driver and passenger. They noticed discrepancies in their statements. The driver was taken to the patrol car. The passenger identified him/herself to Trooper Allen as Avon Barksdale. Barksdale provided a driver's license that showed an address of 123 Main Street, Brownsville, Texas, a different address than the driver and owner of the car. The passenger while providing some answers appeared evasive to the trooper. Trooper Allen looked inside the vehicle, a four-door truck and did not see any luggage. The trooper was familiar with this truck as it was often used in drug trafficking because it had a cover for the bed and there were compartments that closed on the sides of the bed. The trooper asked Barksdale to remain inside the truck and the trooper walked around to the driver's side and removed the keys. The trooper then walked back to his/her vehicle to talk with dispatch.

Trooper Danerys Targaryen, a K-9 officer, arrived at the scene. Trooper Targaryen is regularly partnered with Trooper Allen. They are one of several teams of troopers who operate as a part of the Contraband Interdiction Program and coordinate the stops of persons on the interstate suspected of trafficking drugs. On this date, Trooper Targaryen heard on the radio that Trooper Allen had made a stop nearby on the interstate. He/she parked the vehicle behind Trooper Allen's and took out his/her K-9 Tholipete to do a walk around the vehicle. The dog alerted for narcotics.

Dispatch revealed that both DeMort and Barksdale's licenses were valid. However, Trooper Allen also asked the dispatcher to run a criminal history check on the occupants. DeMort had a criminal history that included two prior DUI's (one in New Columbia) and a Driving While License Suspended or Revoked charge also in New Columbia. Barksdale's criminal history revealed that he/she was currently on probation from the State of Texas for trafficking cocaine. There were no active warrants on either of the occupants.

Trooper Targaryen advised Trooper Allen of the K-9 alert and they then asked Barksdale to get out of the vehicle. He/she was placed in the back of Trooper Allen's car. Trooper Allen approached DeMort and asked him for consent to search the vehicle. DeMort refused to give consent. They removed the bed topper and did not find anything. Then they took notice of the compartments on the sides of the beds. The compartments were locked. As Trooper Allen had previously removed the keys to the ignition of the truck and the same key opened the compartments, he/she was able to open these compartments. Inside the compartments they found what appeared to be several kilos of cocaine wrapped in cellophane. A search of the passenger compartment of the truck revealed a .9 mm Glock Semi Automatic Pistol in the glove box.

A presumptive test was performed on the substance found in the truck and it tested positive for cocaine. Valdez and Menendez were both arrested and charged with one count of possession of cocaine with the intent to distribute, one count of trafficking cocaine and one count of felonious possession of a firearm.

After their arrest, DeMort and Barksdale were booked into the county jail and a bond was set at \$500,000.00 each. The following morning they were taken to an advisory hearing. The judge reduced the bond on DeMort (as he had no prior felony history and no history of failing to appear) to \$50,000.00. However, Barksdale violated his/her Texas probation by violating the law and thus immediately had an outstanding warrant from Texas. He/she also had a prior history of felonies including a charge of trafficking cocaine so the judge refused to reduce his/her bond. Shortly after DeMorts's bond was reduced, he disappeared. Since he, as of the date of this trial, has not been apprehended, his testimony is unavailable.

## **SPECIAL NOTE ON THIS CASE**

The inconsistencies that arise in this case are not intended to bring forth any 4<sup>th</sup> Amendment issues. Currently, the case law holds that:

“A sniff by a police dog specially trained to detect the presence of narcotics is not a “search” under the meaning of the Fourth Amendment to the United States Constitution.” *United States v. Place*, 462 U.S. 696 (1983).

“The Fourth Amendment is not violated when the use of a drug-sniffing dog during a routine traffic stop does not unreasonably prolong the length of the stop.” *Illinois v. Caballes*, 543 U.S. 405 (2005).

While you may attempt to deal with the cocaine’s presence in the trial during a motion in limine, please be advised that while the presiding judge may score you well, s/he will not be allowed to grant any motion that excludes the cocaine from evidence. The case itself is to focus on whether or not the Defendant knew the cocaine was there. The possible “faulty” dog search goes to the credibility of that claim, but not the admissibility of its findings.

**IN THE CIRCUIT COURT  
FOR THE TWENTY-FIFTH JUDICIAL CIRCUIT OF NEW  
COLUMBIA IN AND FOR CHASE COUNTY**

Spring Term, 2013

## **FELONY INFORMATION**

CRC04-07735CFAES

## **STATE OF NEW COLUMBIA**

## 1. TRAFFICKING IN COCAINE, 1° F

V.

2. FELONIOUS POSSESSION OF  
FIREARMS, 2°F

**Avon Barksdale** - DOB 8/5/70

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF NEW COLUMBIA:**

CLARENCE E. SMITH, State Attorney for the Twenty Fifth Judicial Circuit of New Columbia, in and for Chase County, prosecuting for the State of New Columbia, in the said County, under oath, Information makes that

AVON BARKSDALE

in the County of Chase and State of New Columbia, on the 16th day of March, in this year of our Lord, two thousand eleven, in the County and State aforesaid, unlawfully and knowingly did sell or knowingly be in actual or constructive possession of cocaine or a mixture containing cocaine; said cocaine or mixture thereof weighing 28 grams or more but less than 200 grams; contrary to Chapter 893.135 (1) (b) , New Columbia Statutes, and. against the peace and dignity of the State of New Columbia. [G10]

COUNT TWO

And the State Attorney aforesaid, under oath as aforesaid, further information makes that AVON BARKSDALE, in the county of Chase, State of New Columbia, on the 16th day of March, in the year of our Lord, two thousand eleven, in the County and State aforesaid, having been convicted and adjudged guilty on the 16th day of August, 2003, of a felony, to-wit: Trafficking of Cocaine, in the Circuit Court of the Sixth Judicial Circuit of the State of Texas in and for Cameron County, the said AVON BARKSDALE did unlawfully have in his/her care, custody, possession or control, a firearm; contrary to Chapter 790.23, New Columbia Statutes, and against the peace and dignity of the State of New Columbia. [H2]

STATE OF NEW COLUMBIA  
CHASE COUNTY

Personally appeared before me CLARENCE E. SMITH, the undersigned State Attorney for the Chase County, Big City, New Columbia, or his duly designated Assistant State Attorney, who being first duly sworn, says that the allegations as set forth in the foregoing information are based upon facts that have been sworn to as true, and which if true, would constitute the offense therein charged; hence this information is filed in good faith in instituting this prosecution, and that he has received testimony under oath from the material witness or witnesses for the offense,

Assistant State Attorney for the Twenty-Fifth  
Judicial Circuit of the State of New Columbia,

Prosecuting for said State

The foregoing instrument was acknowledged before  
me this \_\_\_\_\_ day of \_\_\_\_\_, 2013

*by* \_\_\_\_\_  
is personally known to me and who did take an oath

NOTARY PUBLIC

COUNTY OF CHASE  
STATE OF NEW COLUMBIA        )  
                                )  
vs.                            ) NO. CR 2011  
                                )  
AVON BARKSDALE              )  
                                )  
Defendant.

**Stipulations**

1. All Witness Statements, Exhibits, and the signatures thereon are authentic.
2. Jurisdiction, venue, and chain of custody of the evidence are proper.
3. All statements made by witnesses and all physical evidence and exhibits were constitutionally obtained or properly preserved for appeal.
4. The radar results are accurate.
5. The defendant's prior convictions and sentences are accurate.
6. Stipulations cannot be contradicted or challenged.
7. All witnesses are presumed to have knowledge of the facts contained in each of the stipulations.
8. Any examination, analysis, or experimentation conducted by any expert witness is presumed to have been conducted consistent with generally accepted scientific principles pertaining to the field of expertise of the witness.

## **WITNESSES**

The following witnesses shall be called:

**For the Prosecution:**

1. Trooper C. K. Allen
2. Daenerys Targaryen

**For the Defense:**

1. Louis(e) Litt
2. Avon Barksdale

**Statement of TROOPER C. K. ALLEN**

1. My name is Trooper C. K. Allen. I am employed as a New Columbia Highway Patrol Trooper where I work with my partner, Trooper Targaryen and K-9 Tholipete. I graduated from the Policy Academy and 5 years ago and have current certifications as a police officer with the State of New Columbia. I attended a 40-hour NCHP certification along with the DEA interdiction program certification. Trooper Targaryen and I have made 25 arrests for trafficking controlled substances since I have been assigned to this unit.
2. On the date in question, I was patrolling the area of Interstate 75 at approximately 6:30 pm. I was sitting in the median of the interstate in my assigned marked FHP car. I encountered the vehicle occupied by the defendant at approximately 6:34 pm. I clocked the vehicle occupied by the defendant at 75 mph. As the defendant's vehicle passed, I immediately became suspicious. This highway was notorious for drug smuggling and the truck the defendant was in was an Avalanche, which is commonly used for trafficking drugs. The truck has a built in bed cover and that is where they will usually hide their drugs in those little compartments on the side. So I activated my overhead lights and sirens and stopped the vehicle. The defendant's vehicle pulled over without incident. I did not observe any furtive movements by either the driver or the passenger. I requested the driver to give me his license, registration and proof of insurance. I ran the tags through dispatch. The driver was identified as Vol DeMort. The tag was out-of-state and the interior of the vehicle seemed as if they were living in the

- vehicle. There was food wrappers-some still with food in it, drink bottles and various other debris throughout the cab truck.
3. For safety reasons, I called my partner Trooper Targaryen for backup. I separated the two individuals and questioned Mr. DeMort first. He appeared nervous and when I asked the driver if there were any drugs in the car he answered, "Hell no." Then I said, "Well if you have nothing to hide, do you mind if I search the bed of your pickup truck. Mr. DeMort did not consent to the search. He then told me to hurry up with his speeding ticket since he had to be somewhere else. The passenger identified him/herself as Avon Barksdale and said s/he was traveling to New Columbia to find work. The driver however, said they were traveling to see his sister. Barksdale also said s/he had just met DeMort the night before.
4. As time passed, the defendant began to get nervous while seated in the passenger side of the Avalanche. S/he was drumming her/his fingers on the door frame. Then, Trooper Targaryen pulled up with her/his K-9 Tholipete and did an external search. The dog went around the truck one time and stopped near the passenger door and tried to get in the door. The defendant seemed to get real nervous; saying, "Get that dog away from me! He can have the burger." Trooper Targaryen reprimanded the dog and then started around the vehicle again. About the time the walk-around was being preformed, dispatch returned the information that the defendant had a prior conviction for trafficking. Shortly after, I heard Tholipete barking at the rear of the truck which meant that the K-9 had alerted. I knew what that meant. We began a search of the vehicle and used the keys to open all of the locked compartments in the sides of the truck bed. There we discovered 3 kilos of

what later tested positive for cocaine and a gun in the glove box. When I approached the passenger, s/he blurted out that the cocaine wasn't his/hers. The passenger and driver were arrested and the vehicle was secured. The cocaine and gun were placed into evidence.

SIGN AND SWORN to this 10 day of April 2011.

---

Stringer Bell, Notary Public  
State of New Columbia  
My Commission Expires: 11/02/12

### **Statement of TROOPER DAENERYS TARGARYEN**

1. My name is Daenerys Targaryen. I have been employed by the New Columbia Highway Patrol for 8 years. I graduated from the Policy Academy and worked as a trooper for 3 years. At that time I attended the specialized K-9 handling program consisting of three months training and am a graduate of the K-9 Detention Team Certification Program. Additionally throughout my time as a K-9 officer, I have maintained my certification. My current K-9 is Tholipete who is a German Sheppard Dog and certified as a patrol and narcotics detection dog.
2. I have been working K-9 Tholipete for a little more than one year. K-9 Tholipete has been through basic patrol and narcotics school (making it a dual purpose dog) and completed both 2010 and 2011 Narcotics Training consisting of 480 hours of actual school. K-9 Tholipete completed basic training successfully. Tholipete has State Certification for the following narcotics: Marijuana, Heroin, Cocaine and Methamphetamine. K-9 Tholipete and I have conducted approximately 40 narcotics sniffs with 16 alerts and 14 times we have found narcotics. Tholipete has not received any awards or special recognitions. On this date we had conducted 5 previous narcotics sniffs in motor vehicles with no positive alerts on any of them.
3. March 16, 2011, I was parked at the truck stop, patrolling the truck stop area. I received a call from my partner Trooper Allen. S/he told me that s/he had pulled over "Two Mexicans in a newer pick-up truck and that could only mean one of three things- methamphetamine, cocaine or marijuana- and a lot of it." S/he told me to come to where s/he had pulled the truck over so I could have Tholipete do a

search. When I arrived I observed Trooper Allen behind a late model Chevrolet Avalanche in the southbound lanes of traffic. I then observed Trooper Allen speaking with an unknown Hispanic male. As I am a part of the drug task force, I deployed K-9 Tholipete.

4. K-9 Tholipete is an aggressive alert K-9 which means that he scratches, bites and barks when encountering the presence/odor of narcotics. He went around the vehicle two different times. The first was a cursory search, where the dog is not given a command to find narcotics, and the second time Tholipete was given the command to locate narcotics. The dog gave a positive alert on the right rear turn signal area for the presence of narcotics. The suspects had been separated with the driver placed into Trooper Allen's care. The passenger was still seated in the vehicle when Tholipete alerted. It was apparent that the dog was responding and I noted to the passenger, that the dog alerted. The passenger spontaneously stated, "The cocaine is not mine."
5. I put up K-9 Tholipete and advised Trooper Allen of the dog's alert. S/he told me "I told you so" and a manual search was conducted during which I observed rear bed lockable compartments where Tholipete had been alerting. Trooper Allen has possession of the keys and opened the compartment at which time we observed multiple packages wrapped in cellophane with duct tape. I assisted Trooper Allen with securing both subjects and assisted in taking three kilos with narcotics packaging. Trooper Allen then conducted a presumptive test and it was determined the substance was cocaine. We also found a gun during the search of the vehicle. Trooper Allen placed the property into evidence and the suspects

were transported to the county jail. I waited for the department wrecker to seize  
the vehicle for civil forfeiture.

SIGN AND SWORN to this 5 day of December 2011.

---

Stringer Bell, Notary Public  
State of New Columbia  
My Commission Expires: 11/02/12

**Statement of LOUISE(E) LITT**

1. My name is Louis(e) Litt and I am a retired New York Police Sergeant. I worked 25 years for the City of New York, the last 18 training dogs for the police department. I have trained in excess of 100 dogs for narcotics, explosives, and cadaver detection as well as patrol work. I also personally worked 2 patrol dogs and 2 narcotics detection dogs. I am a certified K-9 trainer for the State of New York.
2. I have testified as an expert witness in over 50 trials in 11 states including the State of New Columbia. I have been declared an expert witness in that state on 2 occasions, the last being in 2009. In 35 of those 50 trials, I have offered expert testimony. I was retained by the defendant in this case and have been paid \$5,000 dollars for consultation and testimony. I have reviewed the police reports as well as the statements of Avon Barksdale, Trooper Allen, and Trooper Targaryen.
3. You can use any kind of K-9 for detection work. However, I have been most successful with the following breeds: German Shepards, Labrador Retrievers, Irish Setters and Belgian Malinois. Dogs have the ability to smell approximately 40 times more accurately than humans due to their olfactory cells. Humans possess approximately 5 million olfactory cells whereas dogs possess 220 million. This allows them to smell more accurately than humans. A properly trained narcotics detection dog can search either “cursory” or “point to point” depending on the situation. At a traffic stop, it is most accurate for the dog to search “point to point.” This is searching particular areas on the vehicle or object and requesting the dog to place their nose at specific locations. A properly trained police dog

should be able to pin point where the narcotic scent is coming from and depending upon their alert, either passive (sit response) or aggressive (scratch, bark or bite), a K-9 can search inside or outside a vehicle or both. Based on my experiences with K-9's using the aggressive alert method is not the most effective. The present of a dog can unsettle people and cause them to have nervous actions that can be misread by the handlers/police as signs of guilt. Mr./Mrs. Barksdale's actions were consistent with someone who was startled by, and nervous about the presence of a dog.

4. In evaluating a K-9 and his/her handler's performance, I consider several factors.

First and foremost, I look to see if the handler "keyed" the K-9 in any way. A handler can key his/her K-9 partner if s/he is not careful. Keying is giving the dog a signal to alert to an area regardless of the presence of narcotics. Additionally, I review the records of the dog and handler to see if there was a history of false alerts, either false negatives or false positives. A properly trained detection dog should only alert on narcotic odor and not other scents like food sources. The records of the K-9 are important because it should show how many times the dog was wrong or gave false positive alerts. All of this should be documented in the handler's records. The handler's logs should be detailed as to each search and the results, both those performed in the line of duty and those performed as training exercises.

5. I have reviewed the police report and testimony of Trooper Targaryen as well as having reviewed the work logs as well as training records of K-9 Tholipete. Based upon my experience and expertise I have come to the opinion that neither K-9 Tholipete nor her/his handler, Trooper Targaryen, is reliable. In the training records I have found inconsistencies as to the actual training. Those inconsistencies include the basic training which was only 100 hours. The reoccurring training logs show Tholipete has been disinterested. He has walked away from a narcotics hide and refused to work around vehicular traffic. I find nowhere in the training records of any corrective action for any of the previous problems, all of which could have been corrected, all of which could have been corrected with proper training.

6. In looking at the traffic stop itself, I found nowhere where the K-9 team was requested to conduct an exterior sniff of the vehicle. In addition, in the work logs I find where Tholipete only went around the vehicle one time and alerted. It does not show the previous search where she gave no indication. Where Tholipete alerted, he barked several times at the rear area of the vehicle one time and alerted. It does not show the previous search where she gave no indication. Where Tholipete alerted, he barked several times at the rear area of the vehicle not pin pointing the location of the order. I also did not see in the police report where Tholipete was introduced to the bed area or interior of the motor vehicle. Inside the vehicle were food remnants; fast food wrappers and the like. I find no place in his records where he was proofed off of such items. I cannot determine with any

degree of certainty that the food wrappers did not distract K-9 Tholipete or he would have alerted to the narcotics if her/his handler had not keyed her to it.

SIGN AND SWORN to this 20th day of April 2011.

---

Stringer Bell, Notary Public  
State of New Columbia  
My Commission Expires: 11/02/12

### **Statement of AVON BARKSDALE**

1. My name is Avon Barksdale. I have been married for 14 years. I have 3 children, ages 12, 9, and 3. My usual place of residence if 755 Old River Lane, Brownsville, Texas. My spouse and I have lived at this address at least part of each year through most of our marriage but, since we are migrant workers, we often travel to follow the work, even if we do not have a specific job to go to.
2. In late February, my wife/husband took the kids and headed to New Columbia to look for work. I stayed behind in Texas to work at a plant. There was still some work to be done and the money is pretty good. We work very hard and it is hard to get enough money to raise a family.
3. After my spouse left, my friend Nicholas Brody (from the plant) was really nice to me and invited me over to his house for dinner a few times. I met his cousin Vol DeMort there. I know that people talk about him. He was slick and always seemed to have a lot of money. The truck that Nicholas drove was a lot nicer than anything we ever had. I think Vol may have had something to do with that nice truck, but I don't know and since they treated me nicely after my family left, I didn't think much more about it.
4. One night while at Nicholas' house, I was talking to Vol and told him that my family needed me in New Columbia and I wanted to join them as soon as the plant closed. My family was having a real though time and they needed me. Vol said that he was going to be headed down that way soon and that I could catch a ride with him. A few days later he called me and said he was leaving in the

morning if I wanted a ride. It was my only chance to get to my family. I didn't have time to pack or even let the plant know I was leaving.

5. We drove down in Nicholas' truck and I was in the passenger's seat while Vol drove. I really didn't think about the truck or Vol or anything until after we got into New Columbia. We were going to pull into a rest area. As we began to slow down in the rest area there were a bunch of cops parked there. When Vol saw the cops he kept going. I asked him what the deal was and he told me there was cocaine in the back of the truck. I freaked and I asked Vol to pull over and let me out. He told me to quit worrying. He even told me that he would give me a few hundred dollars if I just sort of kept an eye out for him.
6. The next thing I knew there was a cop behind us trying to stop the car. Other than the fact that we were going a few miles over the speed limit, I don't know why we were pulled over. Vol pulled the car over and he was acting pretty normal to the cops.
7. The cops asked me where we were going. I told them I was heading to be with my family. I thought the cops were going to let us go with a warning. Just had gone to the police car to sign the warning and the next thing I know there was another cop at the case and s/he had a dog. I got really nervous then. I remembered what happened the last time a police dog came near my car and I am still on probation for that.
8. The cop walked the dog around the truck and the dog seemed a lot more interested in the sandwich that I had on my seat than in the back of the truck. I

was kind of laughing about it and then the cop started walking the dog around the truck again and the dog started really barking. I knew I was in for it then.

9. When the K-9 cop came back around my side I tried to tell him/her that the cocaine wasn't mine and I didn't even know it was there until a few miles back at the rest stop. I should have known s/he wouldn't have believed me. Then Trooper Allen started to ask me if I was legal. S/he said that they knew we were Mexicans as soon as they saw the truck and that we were up to no good. They think just because I have a Mexican last name I couldn't be born here and I had to be doing something wrong. It kinda burned me up.
10. I know I did the wrong thing back in Texas when I got caught with cocaine. I was out of work and had a sick baby. If we didn't get some money we would be out in the street in the middle of winter. When we got to jail, Vol swore he would tell the cops the truth. The next day he got out and here I am.

SIGN AND SWORN to this 10th day of April 2011.

---

Stringer Bell, Notary Public  
State of New Columbia  
My Commission Expires: 11/02/12

## Exhibit 1

April 2, 2011

To: Alex Barksdale, Wimauma, New Columbia  
From: Avon Barksdale, 25th Circuit Correction Center

Dear Alex:

I am so sorry for what I have done to you and the kids. I hope you can forgive me. You know I love you and the kids more than life itself. You will have to believe me when I tell you that I really didn't know what was going on until it was too late.

You remember, Nicholas from the plant. Well after you left, he was really nice to me. He invited me over to her house for dinner a few times. I met his cousin Vol there. I know - people talked about him. He was slick and always seemed to have a lot of money. That truck Nicholas drove was a lot nicer than anything we ever had. But you know they were good to me and I was lonely after you guys left. I was talking to Vol one night at their house and telling him that I had to get down to you as soon as the plant closed because you were having a real rough time of it alone with the kids. He said he was heading down that way soon and I could catch a ride with him. A few days later he called me and said he was leaving in the morning if I wanted a ride. I didn't have time to let the P.O. know I was going - oh well that is the least of my problems now.

I didn't really think anything of it until after we got into New Columbia. There were a bunch of cops parked at a rest area we pulled into. Once we pulled in and he saw them, he kept going. I asked him what the deal was and he told me that they had cocaine in the back of the truck. I really freaked on him and even asked him to pull over and let me out. He told me to quit worrying we had gotten this far and were only a few hours from you. He even told me that he would give me a few hundred dollars if I just sort of kept an eye out for him - so I stayed.

Next thing I knew there was a cop behind us trying to stop the car. He pulled over and was acting pretty normal to the cops. I told the cop that I was going to meet you and it looked like he was going to let us go on a warning. We were only going a few miles over the speed limit and all. Vol had gone to the car to sign the warning. When I looked up there was another cop there this time s/he had a dog. I got really nervous then. I remember the last time they pulled a dog to my car.

When we got to the jail, Vol swore he would tell the cops the truth. The next day he got out and here I am. Can you please see if Nicholas knows where he is???? Everyone in here tells me I am a goner if we don't find him. I can't live without you.

I love you,

Avon

- Page 2 -

---

*This letter was intercepted by the correctional facility and listed as evidence by the State Attorney.*

**Exhibit 2**



**Exhibit 3**  
(Dated 12-05-10)



Exhibit 4



**Exhibit 5**



## **Exhibit 6**

### **Pinellas County Sheriff's Office Narcotic Detection Test**

**Name Daenerys Targaryen K9 Tholipete**

**Agency Chase County S/O Date 11-21-10**

THE TEST WILL CONSIST OF TWO PARTS, BUILDINGS AND VEHICLES. THERE WILL BE FOUR SEPARATE HIDES. TWO HIDES MUST BE A SOFT NARCOTIC, MARIJUANA, HASHISH, OR CERTIFIED DERIVATIVE. THE REMAINING TWO HIDES WILL BE HARD NARCOTICS, COCAINE, HEROIN, METHAMPHETAMINE, OR ANY DERIVATIVE. THE AMOUNTS OF THE HIDES WILL BE A MINIMUM OF 5 GRAMS WITH THE SECOND HIDE BEING GREATER THAN 10 GRAMS. HIDES WILL BE PLACED TO ASSURE SCENT AVAILABILITY

#### **INDOOR TEST**

1. THE INDOOR SEARCH WILL CONSIST OF THREE ROOMS. EACH ROOM WILL BE A MINIMUM OF 200 SQUARE FEET.
2. THERE WILL BE A TIME LIMIT OF ONE AND HALF MINUTES PER 100 SQUARE FEET. LARGE ROOMS CAN BE SECTIONED OFF TO THE 200 SQUARE FEET.
3. THE ROOMS MUST BE FURNISHED AND CAN BE KITCHENS, WORKSHOPS OR OTHER ROOMS CONTAINING FURNITURE.
4. THERE WILL BE TWO HIDES WITHIN THE THREE ROOMS. ONLY ONE HIDE IN EACH ROOM.

#### **VEHICLE TEST**

1. FIVE VEHICLES SHALL BE USED. THE VEHICLES MAY BE ANY TYPE OR MODEL. ANY MAY INCLUDE AUTOMOBILES, TRUCKS, BUSES, AIRPLANES, BOATS, ETC.
2. THE VEHICLES MAY BE PLACED IN ANY ORDER POSITION AS LONG AS THE TEAMS HAVE ACCESS TO THEM.
3. THE NARCOTICS CAN BE PLACED INSIDE OR OUTSIDE OF THE VEHICLE.
4. NO TWO HIDES WILL BE PLACED IN THE SAME VEHICLE.
5. IF ONLY THE OUTSIDE OF VEHICLE IS SEARCHED THERE WILL BE A TEN MINUTE TIME LIMIT WITH A TWO MINUTE WARNING AT THE EIGHT MINUTE MARK. IF BOTH THE OUTSIDE AND INSIDE ARE UTILIZED THEN AN ADDITIONAL MINUTE PER VEHICLE WOULD BE ADDED TO TEST TIME.

VEHICLE TEST

**LOCATION-TRI-J'S TOWING**

**SOFT TEST**

**HIDE #1 BROWN DODGE PASS REAR HUBCAP**

**NARCOTIC 28.0 GRAMS MARIJUANA**

**HIDE #2 BLUE TOYOTA LEFT FRONT HOOD AREA**

**NARCOTIC 5.0 GRAMS OF HASH**

**HARD TEST**

**HIDE #1 BLUE GMC PICK UP IN TOOL BOX IN BED OF TRUCK**

**NARCOTIC 28 GRAMS OF COCAINE**

**HmE #2 WHITE PONTIAC PASS REAR DOOR**

NARCOTIC 5.0 GRA1vIS OF HEROIN

**BUn..DING SEARCH**

**LOCATION ST PETE PD K9**

**SOFT**

**NARCOTIC 28.0 GRAMS OF MARIJUANNA HIDE#2**

**FILING CABINET IN CLASSROOM**

**NARCOTIC 5.0 GRAMS HASH**

**HARD**

**TEST**

**HmE#1 STORAGE ROOM IN BLE SUITCASE**

**NARCOTIC 28.0 GRA1"\1IS OF COCAINE ;. . ~ HmE # 2 WEIGHT ROOM UNDER 45LB PLATES ON FLOOR ---**

**NARCOTIC 5.0 ~?~**

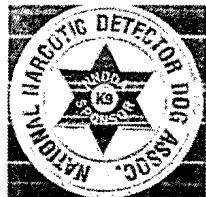
**TRAINER**

Exhibit 7

(Dated 12-5-10)



## Exhibit 8



### THE NATIONAL NARCOTIC DETECTOR DOG ASSOCIATION, INC.

379 C.R. 105, CARTHAGE, TEXAS 75633  
ATTN: Ronnie LaGrone, Treasurer

Phone: 1-888-289-0070

#### MEMBERSHIP APPLICATION AND RECEIPT

FEES: 1 or A \$30.00  
2 or 3 \$50.00

New       Renewal  
(Please TYPE or PRINT Clearly)

Visit our Site  
[www.nndda.org](http://www.nndda.org)

NAME: (LAST) Targaryen (FIRST) Daenerys (M.I.)  
ADDRESS: 7501 Miller Rd CITY: Big City  
STATE: N.C. ZIP: 30101 EMAIL: None  
DATE OF BIRTH 1/10/69 SSN 123-45-6789 PUBLISHED phone NO: (332)-  
WORK PHONE NUMBER: (352) 965 HOME PHONE NO: ( )  
AGENCY: Chase County Sheriff ADDRESS: 147 Citizens Dr.  
CITY: Big City STATE: N.C. ZIP: 30101  
POSITION AND TITLE OF APPLICANT: Cpl. K-9 SRU

IF CORPORATE, NATURE OF BUSINESS

SEND NNDDA MAIL TO MY:  Business  Résidence

CANINE NAME: \_\_\_\_\_ AGE: \_\_\_\_\_ BREED: \_\_\_\_\_

HOW LONG ON ACTIVE DUTY: \_\_\_\_\_ CANINE OWNED BY: \_\_\_\_\_

#### MEMBERSHIP CATEGORIES

(Check appropriate box below, MAKE CHECKS PAYABLE TO THE NNDDA)

- Active member dues \$30.00 annually, shall be full time paid law enforcement officer, or corrections officer either local, state or federal.  
 Corporate members dues \$50.00 annually, shall be private industry companies and must send a copy of the license from appropriate state agencies, if required by the state where the firm has offices. DEA license for controlled substance required.  
 Active associate members dues \$30.00 annually, shall be any non-law enforcement person whom is gainfully employed by a company that is a corporate member of this association.  
 Associate sponsor member dues \$50.00 annually, shall be any person or company desiring to be associated with this organization.

\*\*\*\*\* CERTIFYING OFFICIAL USE ONLY \*\*\*\*\*

TYPE OF PAYMENT:  CHECK #  CASH  P.O. # 3176

CERTIFICATION FEES:  Narcotics (25.00)  PSDog (25.00)  Other (25.00 each)

MEMBERSHIP FEES: 30 CERTIFICATION FEES: \_\_\_\_\_

TOTAL: 55 Collected BY: \_\_\_\_\_ C/O #: \_\_\_\_\_

\*\*\*\*\* MY SIGNATURE BELOW CERTIFIES THAT THE ABOVE STATEMENT ARE TRUE AND CORRECT. \*\*\*\*\*

APPLICANT'S SIGNATURE: \_\_\_\_\_ DATE: 7/

## Exhibit 9

### NAPWDA K-9 Team Certification Test Sheet

**\*\*\* Note \*\*\* PRINT CLEARLY**

Certification Test(s) Date(s): 12-3-126-10 Certificate Number(s): 12183  
 Type Member? Regular:  Associate: \_\_\_\_\_ Status? New  Current

Is this K-9 used directly by your law enforcement employer? Yes  No

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ ML S

Home Address: 7501 Miller Road City: Big City State: NC Zip: 30101 Home Phone: (404) 481-1111

Employer Name: Chase County Sheriff Your Assignment: Cal K-9 SEO

Employer Address: 147 Citizens Drive City: Big City State: NC Zip: 30101 Work Phone: (404) 945-7925

K-9 Name: Thelipete K-9 age: 2 Yrs K-9 Breed: German Shepherd

K-9 sex: F K-9 colors: LBK/Brn

Phases Tested In:	PASS	FAIL	MASTER TRAINER SIGNATURE	FAILURE FEE PAID
"Police Utility Dog Title":				
Obedience:				
Agility:				
Article Search:				
Area Search:				
SAR Area Search:				
Tracking:				
Building Search:				
Aggression Control:				
Trailing: circle one:				
Novice - Expert - Distinguished :				
Accelerant Detection Team:				
Cadaver Detection Team:				
Explosive Detection Team:				
Narcotic Detection Team:	X		<i>Sandi J. Schell</i>	
Wildlife Detection Team:				

*LIST EACH Accelerant, Explosive, Narcotic or Wildlife Odor passed: - Marijuana  
Cocaine, Heroin + meth*

Master Trainer Comments:

Master Trainer Assisted by: *Patricia Miller*

**\*\*\* NOTE \*\*\***

**Void if membership not Current!**

*Specialty Detection Tests are on the Reverse Side of this Sheet*

## Exhibit 10

Definition: Team miss = Any incorrect response by the team.						
#1 Building Search Test			#2 Vehicle Search Test			
Location:	12-05-01	No. of Rooms -	1	Location:	12-05-01	
No. of Rooms -	1	No. of Blank Rooms -	1	No. of Vehicles -	1	
Set time:	12:00	Set time:	12:00	No. of Blank Vehicles -	1	
Odor Type	Amount	Location of Aid	Odor Type	Amount	Location of Aid	
1. Marijuana	1.5g	Bedroom	1. Marijuana	.3g	Trunk	
2. Cocaine	20g	Doors	2. Marijuana	.1g	Passenger Seat Back	
3. Heroin	16mg	Living Room	3. Marijuana	.3g	Trunk	
4. K2	.18g	Closet	4. Marijuana	.5g	Interior Driver Side	
5. Meth	.2g	Bedroom	5. Marijuana	10g	Glass Box	
6. Inhaler	.1g	Bedroom	6. Marijuana	2.6g	Motor	
7. Other			7. Marijuana	1.02	By Rear Frame	
8. Other					5.5g	Car Credit
9. Other						
10. Other						
11. Other						
12. Other						
Team Missed:				Missed:		
Team Rating:				Rating:	Satisfactory	
M.T. Signature:				Signature:	Unsatisfactory	
Comments:				Comments:		
THE NATIONAL NARCOTIC DETECTOR DOG ASSOCIATION, INC.						
THIS IS TO CERTIFY THAT <i>D. Targaryen</i> of <i>Calif. Narcotic Dog</i> are members in good standing of The National Narcotic Detector Dog Association						
12-05-01						
#3 Open Area Search Test			#4 Open Area Search Test			
Location:	12-05-01	Area Size: 100	Location:	12-05-01	Area Size: 100	
Set time:	12:00	So. Ft.	Set time:	12:00	So. Ft.	
Odor Type	Amount	Blank Area Size:	Odor Type	Amount	Blank Area Size:	
1. Marijuana	146g	So. Ft.	1. Marijuana	146g	So. Ft.	
2. Cocaine	5.6g	So. Ft.	2. Cocaine	5.6g	So. Ft.	
3. Heroin	.9g	So. Ft.	3. Heroin	.9g	So. Ft.	
4. K2	.6g	So. Ft.	4. K2	.6g	So. Ft.	
5. Meth		So. Ft.	5. Meth		So. Ft.	
6. Inhaler		So. Ft.	6. Inhaler		So. Ft.	
7. Other		So. Ft.	7. Other		So. Ft.	
8. Other		So. Ft.	8. Other		So. Ft.	
9. Other		So. Ft.	9. Other		So. Ft.	
10. Other		So. Ft.	10. Other		So. Ft.	
11. Other		So. Ft.	11. Other		So. Ft.	
12. Other		So. Ft.	12. Other		So. Ft.	
Team Missed:				Missed:		
Team Rating:				Rating:	Satisfactory	
M.T. Signature:				Signature:	Unsatisfactory	
Comments:				Comments:		
THE NATIONAL NARCOTIC DETECTOR DOG ASSOCIATION, INC.						
THIS IS TO CERTIFY THAT <i>D. Targaryen</i> of <i>Calif. Narcotic Dog</i> are members in good standing of The National Narcotic Detector Dog Association						
12-05-01						

## Exhibit 10.2

Definition: Team miss = Any incorrect response by the team.

<b>#1. Building Search Test</b>			<b>#2. Vehicle Search Test</b>		
Location:	Muscle Moll		Location:	12/6/01 Fast car lot	
No. of Rooms -	5	No. of Blank Rooms -	1	No. of Vehicles -	
Set time:	1:15		Set time:	3:15 P.M.	
Odor Type	Amount	Location of Aid	Odor Type	Amount	Location of Aid
1. Marijuana	33 g	Seesaw	1. Marijuana	33	Milk
2. Cocaine	28 g	Door	2. Marijuana	10	Pearl Best Acrylics
3. Heroin	16 g	Ridge Day	3. Cocaine	31	Gel
4. Heroin	16 g	Cupboard	4. Cocaine	5 g	With Beige Seats
5. Meth	2 g	Bat	5. Heroin	10 g	Glass Box
6. Meth	10 g	Cupboard	6. Heroin	20 g	Motor
7.			7. Meth	102	By Pearlesque
8.			8. Meth	5 g	Crown Cars
9.			9.		
10.			10.		
11.			11.		
12.			12.		
Team Missed -	<i>0</i>		Team Missed -	<i>0</i>	
Team Rating:	<input checked="" type="checkbox"/> Satisfactory	<input type="checkbox"/> Unsatisfactory	Team Rating:	<input checked="" type="checkbox"/> Satisfactory	<input type="checkbox"/> Unsatisfactory
M.T. Signature:	<i>James C. Clark</i>		M.T. Signature:	<i>James C. Clark</i>	
Comments:			Comments:	<i>Good team</i>	
<b>#3. Luggage - Locker - Other Search Test</b>			<b>#4. Open Area Search Test</b>		
Location:	Type Search:		Location:	100 Sq. Ft.	
Set time:	No. of Luggages -	No. of Blank Luggages -	Area Size:	100	Sq. Ft.
Odor Type	Amount	Location of Aid	Set time:	04:14	Blank Area Size:
1.			Odor Type	Amount	Location of Aid
2.			1. Marijuana	146 g	Weeds
3.			2. Cocaine	56 g	Weeds
4.			3. Heroin	9 g	Weeds
5.			4. Marijuana	9 g	Bush
6.			5.		
7.			6.		
8.			7.		
9.			8.		
10.			9.		
11.			10.		
12.			11.		
12.			12.		
Team Missed -	<i>0</i>		Team Missed -	<i>0</i>	
Team Rating:	<input checked="" type="checkbox"/> Satisfactory	<input type="checkbox"/> Unsatisfactory	Team Rating:	<input checked="" type="checkbox"/> Satisfactory	<input type="checkbox"/> Unsatisfactory
M.T. Signature:	<i>James C. Clark</i>		M.T. Signature:	<i>James C. Clark</i>	
Comments:			Comments:	<i>Team is good!</i>	

### Exhibit 10.3

Tijuana NCOB-1568	
Location	Date
Marijuana	<input type="checkbox"/> Pass <input type="checkbox"/> Fail <input type="checkbox"/> N/A
Cocaine	<input type="checkbox"/> Pass <input type="checkbox"/> Fail <input type="checkbox"/> N/A
Heroin	<input type="checkbox"/> Pass <input type="checkbox"/> Fail <input type="checkbox"/> N/A
Methamphetamine	<input type="checkbox"/> Pass <input type="checkbox"/> Fail <input type="checkbox"/> N/A
Other	<input type="checkbox"/> Pass <input type="checkbox"/> Fail <input type="checkbox"/> N/A
Other	<input type="checkbox"/> Pass <input type="checkbox"/> Fail <input type="checkbox"/> N/A
Other	<input type="checkbox"/> Pass <input type="checkbox"/> Fail <input type="checkbox"/> N/A
24-43	
Certification Official	Number

Tijuana NCOB-1568	
Location	Date
Marijuana	<input type="checkbox"/> Pass <input type="checkbox"/> Fail <input type="checkbox"/> N/A
Cocaine	<input type="checkbox"/> Pass <input type="checkbox"/> Fail <input type="checkbox"/> N/A
Heroin	<input type="checkbox"/> Pass <input type="checkbox"/> Fail <input type="checkbox"/> N/A
Methamphetamine	<input type="checkbox"/> Pass <input type="checkbox"/> Fail <input type="checkbox"/> N/A
Other	<input type="checkbox"/> Pass <input type="checkbox"/> Fail <input type="checkbox"/> N/A
Other	<input type="checkbox"/> Pass <input type="checkbox"/> Fail <input type="checkbox"/> N/A
Other	<input type="checkbox"/> Pass <input type="checkbox"/> Fail <input type="checkbox"/> N/A
24-43	
Certification Official	Number

Tijuana NCOB-1568	
Location	Date
Marijuana	<input type="checkbox"/> Pass <input type="checkbox"/> Fail <input type="checkbox"/> N/A
Cocaine	<input type="checkbox"/> Pass <input type="checkbox"/> Fail <input type="checkbox"/> N/A
Heroin	<input type="checkbox"/> Pass <input type="checkbox"/> Fail <input type="checkbox"/> N/A
Methamphetamine	<input type="checkbox"/> Pass <input type="checkbox"/> Fail <input type="checkbox"/> N/A
Other	<input type="checkbox"/> Pass <input type="checkbox"/> Fail <input type="checkbox"/> N/A
Other	<input type="checkbox"/> Pass <input type="checkbox"/> Fail <input type="checkbox"/> N/A
Other	<input type="checkbox"/> Pass <input type="checkbox"/> Fail <input type="checkbox"/> N/A
24-43	
Certification Official	Number

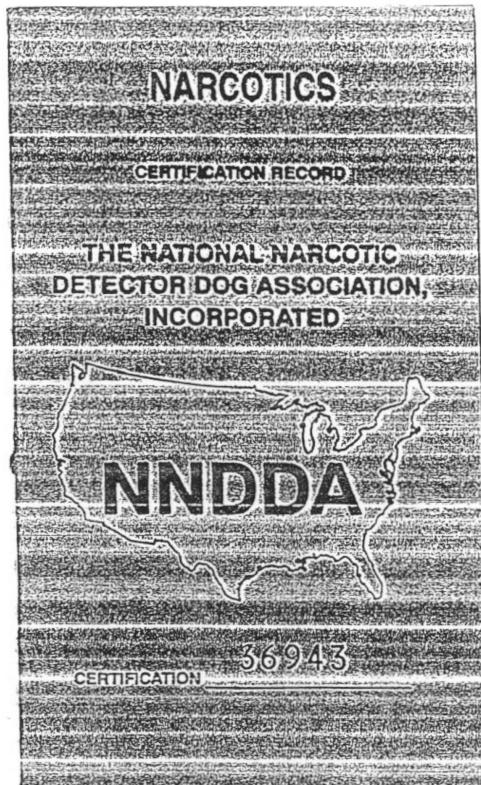
**THE NATIONAL NARCOTIC DETECTOR  
DOG ASSOCIATION, INC.**

THIS IS TO CERTIFY THAT  
*D. Frigard, Jr.*  
of *Chula Vista Police Department*  
are certified for *Narcotic Detection*  
12-05-0

**THE NATIONAL NARCOTIC DETECTOR  
DOG ASSOCIATION, INC.**

THIS IS TO CERTIFY THAT  
*D. Frigard, Jr.*  
of *Chula Vista Police Department*  
are members in good standing of  
The National Narcotic Detector Dog Association  
12-05-0

**Exhibit 11**



## Exhibit 11.2

To all present: Greetings

BE IT KNOWN THAT:

Trooper Targaryen  
whose signature appears below, and the dog

Breed: German Shepherd

Sex: Female

has met the standards established by NNDAA, Inc.  
for the year indicated and for the drugs listed on  
the qualification records.

Targaryen  
Signature

Page 1

### Exhibit 11.3

<p>The endorsements on the following pages indicate the certification of Handler and Dog for a period of one (1) year from the date of the last certification.</p> <p>Any tampering ...or... changes to this Certification Record will invalidate the total record.</p> <p>This record is the total property of NNDNA, Inc. and may be recalled for any reason by an elected officer or ANY CERTIFYING OFFICIAL who has signed this record. The name of the Handler appearing in this record agrees without reservation to all rules and standards by NNDNA, Inc.</p> <p>After initial certification a stamp will be used on the blank pages in this CERTIFICATION RECORD to indicate Officer and Recording Secretary's signature.</p> <p>To replace lost book, there is a surcharge of \$25.00.</p>	<p>Date: <u>12-05-10</u></p> <p>Place: <u>Titusville, NC</u></p> <p>Handler: <u>Trooper Targaryen</u></p> <p>Dog: <u>Thaligete</u></p> <p>This is to certify that the aforementioned Handler and Dog are certified for a period of one (1) year from the date listed on last certification.</p> <p> _____ Certification Official</p>
Page 2	Page 3

### Exhibit 11.4

Titusville, NC 12-05	
Location	Date
Marijuana	Pass <input checked="" type="checkbox"/> Fail <input type="checkbox"/>
Cocaine	Pass <input checked="" type="checkbox"/> Fail <input type="checkbox"/> N/A <input type="checkbox"/>
Heroin	Pass <input checked="" type="checkbox"/> Fail <input type="checkbox"/>
Methamphetamine	Pass <input checked="" type="checkbox"/> Fail <input type="checkbox"/>
Other	Pass <input type="checkbox"/> Fail <input type="checkbox"/>
Other	Pass <input type="checkbox"/> Fail <input type="checkbox"/>
Other	Pass <input type="checkbox"/> Fail <input type="checkbox"/>
John Jones	
Certification Official	Number 8123
Location	Date
Marijuana	Pass <input type="checkbox"/> Fail <input type="checkbox"/>
Cocaine	Pass <input type="checkbox"/> Fail <input type="checkbox"/> N/A <input type="checkbox"/>
Heroin	Pass <input type="checkbox"/> Fail <input type="checkbox"/>
Methamphetamine	Pass <input type="checkbox"/> Fail <input type="checkbox"/>
Other	Pass <input type="checkbox"/> Fail <input type="checkbox"/>
Other	Pass <input type="checkbox"/> Fail <input type="checkbox"/>
Other	Pass <input type="checkbox"/> Fail <input type="checkbox"/>
John Jones	
Certification Official	Number
Location	Date
Marijuana	Pass <input type="checkbox"/> Fail <input type="checkbox"/>
Cocaine	Pass <input type="checkbox"/> Fail <input type="checkbox"/> N/A <input type="checkbox"/>
Heroin	Pass <input type="checkbox"/> Fail <input type="checkbox"/>
Methamphetamine	Pass <input type="checkbox"/> Fail <input type="checkbox"/>
Other	Pass <input type="checkbox"/> Fail <input type="checkbox"/>
Other	Pass <input type="checkbox"/> Fail <input type="checkbox"/>
Other	Pass <input type="checkbox"/> Fail <input type="checkbox"/>
John Jones	
Certification Official	Number

## Exhibit 12

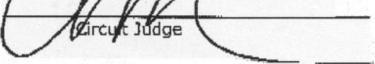
## Exhibit 12.2

BBF TURNS FL TO PROSECUTOR'S FORM  
PLEASE CALL 321-565-5701

**CHASE COUNTY COMPLAINT AFFIDAVIT**  PCSO FL0 510000  Other Agency *FHP*

ARREST NUMBER	FELONY		CD/GD	SWFT	SECTION	REC.	TYP	LAW	AGENCY REPORT NUMBER		
			MFD	CN IN							
ARREST OFFICE	1. FELONY		2. MFD	3. CRIMINAL	4. V.P.	5. CIVIL			ARMED ARREST NUMBER		
ALL THAT APPLY	1. TRAFFIC		2. MED TRAFFIC	3. OTHER	6. PROBABLE CAUSE			ADULT JUVENILE			
NOTICE TO APPEAR	MANDATORY APPEARANCE		JUVENILE REQUEST FOR		CAPTION			REVIEWED BY ASSISTANT STATE ATTORNEY			
OFFICE											
DEFENDANT INFORMATION	DEFENDANT'S NAME & ADDRESS		DEFENDANT'S DATE OF BIRTH		LOCATION OF OFFENSE (SUBPOENA/NAME, ADDRESS)			DATE			
DATE OF ARREST	TIME OF ARREST	BOOKING DATE	BOOKING TIME	ISSUE DATE	ISSUE TIME	WEAPON USED	WEAPON TYPE	P.P.S.S. Notified	<input type="checkbox"/> Y <input type="checkbox"/> N		
ANI NUMBER	1. SSI NUMBER	2. SSN	3. TITLE NUMBER	DOC NUMBER	PR NUMBER			<input type="checkbox"/> Inv.	<input type="checkbox"/> Juv. <input type="checkbox"/> Elderly <input type="checkbox"/> Handicap		
Domestic Related <input type="checkbox"/> Y <input type="checkbox"/> N											
NAME LAST, FIRST, MIDDLE											
NAME											
RACE		1. WHITE	2. AMERICAN INDIAN	3. ASIAN	4. BLACK	5. HISPANIC	6. MULTIRACIAL	7. AMERICAN ISLANDER	8. UNKNOWN		
ADDRESS, MARKS, ATTACH, ETC.											
PHYSICAL ADDRESS (STREET & APT#) <i>2077</i> NAME <i>WATTS</i> CITY <i>WATTS</i> PHONE <i>(321) 565-5701</i> RESIDENCE TYPE <i>1. RESIDENT 2. TENANT 3. GUEST 4. OUT-OF-STATE</i> ZONE <i>1</i>											
MAILING ADDRESS (STREET & APT#) <i>2077</i> NAME <i>WATTS</i> CITY <i>WATTS</i> PHONE <i>(321) 565-5701</i> MAILER'S ZIPCODE											
BUSINESS ADDRESS (NAME & STREET) <i>2077</i> NAME <i>WATTS</i> CITY <i>WATTS</i> PHONE <i>(321) 565-5701</i> OCCUPATION											
DRIVER'S LICENSE STATE & NUMBER		SOCIAL SECURITY NUMBER		ISSUE NUMBER		PLACE OF BIRTH		STATE/ZIP			
CO-DEFENDANT NAME (LAST, FIRST, MIDDLE)											
NAME											
NAME		SEX	DATE OF BIRTH		AGE	1. ARRESTED	2. AT LARGE	3. PROBATION	4. SUSPENDED		
CO-DEFENDANT NAME (LAST, FIRST, MIDDLE)											
NAME		SEX	DATE OF BIRTH		AGE	1. ARRESTED	2. AT LARGE	3. PROBATION	4. SUSPENDED		
NOTIFIED BY (NAME) <i>JAY</i> DATE <i>10/10/03</i> TIME <i>10:00 AM</i> JUVENILE DISPOSITION <i>1. TURNED OVER TO JUV. CTY 2. TURNED OVER TO MFD JUV. CTY</i> CODE											
RELEASED TO (NAME) <i>JAY</i> RELATIONSHIP <i>1. PARENT 2. GUARDIAN</i> DATE <i>10/10/03</i> TIME <i>10:00 AM</i>											
CHARGE											
<b>Possession COCAINE - FELONY</b> <i>1843.073</i> 1											
ACTIVITY		1. BILL	2. DRUGDEAL	3. DRUGDEALER	4. MANUFACTURE	5. OTHER	TYPE	6. SUBSTITUATE	7. HALLUCINOG	8. PARAPHENALIA	9. UNKNOWN
MATERIAL		2. BUY	3. DELIVER	4. DISTIBUTE	5. PRODUCE	6. CULTIVATE	7. INSTRUMENT	8. DRUGDEALER	9. DRUGDEAL	10. EQUIPMENT	11. OTHER
POSSESS		3. TRAFFIC	4. USE				12. DRUG DEBT	13. DRUG DEBT	14. DRUG DEBT	15. DRUG DEBT	16. OTHER
CHANGE DESCRIPTION											
ACTIVITY		1. BILL	2. DRUGDEAL	3. DRUGDEALER	4. MANUFACTURE	5. OTHER	TYPE	6. SUBSTITUATE	7. HALLUCINOG	8. PARAPHENALIA	9. UNKNOWN
MATERIAL		2. BUY	3. DELIVER	4. DISTIBUTE	5. PRODUCE	6. CULTIVATE	7. INSTRUMENT	8. DRUGDEALER	9. DRUGDEAL	10. EQUIPMENT	11. OTHER
POSSESS		3. TRAFFIC	4. USE				12. DRUG DEBT	13. DRUG DEBT	14. DRUG DEBT	15. DRUG DEBT	16. OTHER
THE UNDERSIGNED CERTIFIES AND SWARS THAT HE HAS READ AND READABLE DOCUMENTS TO SIGN, AND DOES BELIEVE THAT THE ABOVE-NAMED DEFENDANT COMMITTED THE FOLLOWING VIOLATION OR LAW:											
ON THE <i>10/10/03</i> DAY OF <i>OCTOBER</i> AT <i>10:00 AM</i> (CET) I HEREBY RELEASE FACTS CONCERNING CAUSES FOR ARREST.											
<b>STOPPED ON POURED SAILLDER. WHILE CONDUCTING A TRAFFIC INVESTIGATION, K-9 THOLIPETE Trooper T. ARRIVED ON THE SCENE. TRO ADOISED AFFIANT THAT K-9 ALERTED TO THE VEHICLE AND A PROBABLE CAUSE SEARCH FOR NARCOTICS WAS CONDUCTED. 3 KILOGRAMS OF COCAINE WAS LOCATED IN THE BED OF SAID VEHICLE. DEFENDANT, THE PASSENGER OF THE VEHICLE, SANTA DEVUSCY STATED "THAT'S NOT MY COCAINE" BEFORE BEING TOLD WHAT WAS DISCOVERED. DEFENDANT AND CO-DEFENDANT WERE BOTH ARRESTED.</b>											
P.C. BILLS FOR CHARGES											
NOTICE											
I AGREE TO APPEAR AT THE TIME AND PLACE DESIGNATED WHEN I AM NOTIFIED TO ANSWER THE PERTINENT CHARGES OR TO PAY THE FINE SUBSTANTIALLY DIFFERENT FROM THAT WHICH I AM TOLD OR ADVISED. I UNDERSTAND THAT I MAY BE HELD IN CONTEMPT OF COURT AND A WARRANT FOR MY ARREST SHALL BE ISSUED, IF I FAIL TO APPEAR BEFORE THE COURT AS REQUIRED UNLESS I COMPLY WITH THE REQUIREMENTS FOR PAYING THE FINE AND MEETING ANY OTHER SPECIFIED CONDITIONS AS INDICATED ON THE BACK SIDE OF THIS AFFIDAVIT.											
Signature of Defendant/Juvenile and Parent or Guardian <i>JAY</i> Date <i>10/10/03</i>											
O. WAIVERS											
WAIVERS		Held for other agency		SEARCHED BY		RIGHT TO TRIAL		DATE		RIGHT TO TRIAL	
NAME											
ADULTS ONLY											
O HOLD FOR FIRST APPEARANCE											
O DO NOT HOLD											
UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING (COPIES), AND THAT THE FACTS STATED IN IT ARE TRUE, TO THE BEST OF											
<i>JAY</i>											

## Exhibit 13

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT IN AND FOR CAMERON COUNTY, TEXAS			
STATE OF TEXAS VS. AVON BARKSDALE		CASE NO. SPN. DOC NUM:	03-1234CFAES
<input type="checkbox"/> Community Control Violator <input type="checkbox"/> Retrial <input type="checkbox"/> Probation Violator <input type="checkbox"/> Resentence			
<b>JUDGMENT</b>			
The Defendant, Avon Barksdale, being personally before this court represented by RICHARD DEPIPOPO, the attorney of record, and the State represented by SANDRA DUNLAP and having			
<input type="checkbox"/> been tried and found guilty by jury/by court of the following crime(s) <input checked="" type="checkbox"/> entered a plea of guilty to the following crime(s) <input checked="" type="checkbox"/> entered a plea of nolo contendere to the following crime(s)			
Count	Crime	OBTS Num.	Statute & Degree
1	TRAFFICKING COCAINE		971.23
<input checked="" type="checkbox"/> And no cause being shown why the defendant should not be adjudicated guilty, IT IS ORDERED THAT the defendant is hereby ADJUDICATED GUILTY of the above crime(s).			
<input type="checkbox"/> And pursuant to section 943.325, T... Statutes, having been convicted of attempts or offenses relating to sexual battery (ch 794) or lewd and lascivious conduct (ch. 800) the defense shall be required to submit blood specimens.			
<input type="checkbox"/> And good cause being shown; IT IS SHOW THAT ADJUDICATION OF GUILT BE WITHHELD. The Court hereby stays and withdraws the imposition of sentence as to count(s) _____ And places the defendant on _____ under the supervision of the Department of Corrections (conditions of probation and/or community control set forth in a separate order).			
<input type="checkbox"/> The Court defers imposition of sentence until			
<input type="checkbox"/> The Court finds that the defendant violated all the conditions alleged in the affidavit, a copy of which is attached as exhibit 1.			
The defendant in open court was advised of his right of appeal from this judgment by filing notice of appeal with the Clerk of Court within thirty days following the date sentence is imposed or probation is ordered pursuant to this adjudication. The defendant was also advised of right to the assistance of counsel in taking said appeal at the expense of the State upon showing of indigence.			
 Circuit Judge			

## JURY INSTRUCTIONS

### 1 INTRODUCTION TO FINAL INSTRUCTIONS

Members of the jury, I thank you for your attention during this trial. Please pay attention to the instructions I am about to give you.

#### 3.2 STATEMENT OF CHARGE

As to Count I, Avon Barksdale, the defendant in this case, has been accused of the crime of Trafficking Cocaine.

##### 25.10 TRAFFICKING IN COCAINE N.C.S. 893.135(1)(b)

Certain drugs and chemical substances are by law known as "controlled substances." Cocaine or any mixture containing cocaine is a controlled substance.

Before you can find the defendant guilty of Trafficking in Cocaine, the State must prove the following four elements beyond a reasonable doubt:

*Elements*

1. Avon Barksdale knowingly

[sold]

[purchased]

[manufactured]

[delivered]

[brought into New Columbia]

[possessed]

a certain substance.

2. The substance was [cocaine] [a mixture containing cocaine].

3. The quantity of the substance involved was 28 grams or more.

See *State v. Dominguez*, 509 So.2d 917 (New Col. 1987)

4. Avon Barksdale knew that the substance was [cocaine] [a mixture containing cocaine].

*Note to Judge:*

If applicable under the facts of the case and pursuant to N.C.S. 893.135(2), the following bracketed language should be given instead of element above. For example, if it is alleged that the defendant intended to sell heroin but actually sold cocaine, the alternate element 4 would be given.

**Definitions; give as applicable**

Sell

"Sell" means to transfer or deliver something to another person in exchange for money or something of value or a promise of money or something of value.

Manufacture N.C.S. 893.02(12)(a)

"Manufacture" means the production, preparation, packaging, labeling or relabeling, propagation, compounding, cultivating, growing, conversion or processing of a controlled substance, either directly or indirectly. Manufacturing can be by extraction from substances of natural origin, or independently by means of chemical synthesis. It can also be by a combination of extraction and chemical synthesis.

Deliver

N.C.S. 893.02(5)

"Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

Possession

To "possess" means to have personal charge of or exercise the right of ownership, management or control over the thing possessed.

Possession may be actual or constructive.

Actual possession means

- (a) the thing is in the hand of or on the person, or
- (b) the thing is in a container in the hand of or on the person, or
- (c) the thing is so close as to be within ready reach and is under the control of the person.

**Give if applicable**

Mere proximity to a thing is not sufficient to establish control over that thing when the thing is not in a place over which the person has control.

Constructive possession means the thing is in a place over which the person has control, or in which the person has concealed it.

**Give if applicable**

See *Chicone v. State*, 684 So.2d 736 (New Col. 1996)

If a thing is in a place over which the person does not have control, in order to establish constructive possession the State must prove the person's (1) control over the thing, (2) knowledge that the thing was within the person's presence, and (3) knowledge of the illicit nature of the thing.

Possession may be joint, that is, two or more persons may jointly have possession of an article, exercising control over it. In that case, each of those persons is considered to be in possession of that article.

If a person has exclusive possession of a thing, knowledge of its presence may be inferred or assumed.

If a person does not have exclusive possession of a thing, knowledge of its presence may not be inferred or assumed.

### 3.2 STATEMENT OF CHARGE

As to Count 2the defendant in this case, has been accused of the crime of Felonious Possession of a Firearm.

#### 10.15 FELONS POSSESSING WEAPONS

N.C.S. 790.23

Before you can find the defendant guilty of Felonious Possession of a Firearm, the State must prove the following two elements beyond a reasonable doubt:

*Elements*

1. The defendant had been convicted of (prior offense).
2. After the conviction the defendant knowingly

*Give 2a or 2b as applicable*

- a. [owned] [had in [his] [her] care, custody, possession or control]

[a firearm.]

[an electric weapon or device.]

b. [carried a (weapon alleged), which was concealed from the ordinary sight of another person.]

*Defense*

If you find that the defendant's civil rights had been restored at the time of the offense, you shall find the defendant not guilty.

*Definitions*

"Convicted" means that a judgment has been entered in a criminal proceeding by a competent court pronouncing the accused guilty.

A ["firearm"] ["electric weapon or device"] ["concealed weapon"] is legally defined as (adapt from N.C.S. 790.001 as required by the allegations).

*Give if 2a alleged*

"Care" and "custody" mean immediate charge and control exercised by a person over the named object. The terms care, custody and control may be used interchangeably.

To "possess" means to have personal charge of or exercise the right of ownership, management or control over the thing possessed.

Possession may be actual or constructive. If a thing is in the hand of or on the person, or in a bag or container in the hand of or on the person, or is so close as to be within ready reach and is under the control of the person, it is in the actual possession of that person.

If a thing is in a place over which the person has control or in which the person has hidden or concealed it, it is in the constructive possession of that person.

Possession may be joint, that is, two or more persons may jointly have possession of an article, exercising control over it. In that case, each of those persons is considered to be in possession of that article.

If a person has exclusive possession of a thing, knowledge of its presence may be inferred or assumed.

If a person does not have exclusive possession of a thing, knowledge of its presence may not be inferred or assumed.

**[END OF PACKET]**

**Number of pages: 53**