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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Florence County

Honorable William H. Seals, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHRISTOPHER LEE BRIGGS,

APPELLANT.

APPELLATE CASE NO. 2021-001501

RECORD ON APPEAL

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State of South Carolina	)	Court of General Sessions
	)	Twelfth Judicial Circuit
County of Florence	)	Case No. 2020-GS-21-01702
	)	
	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
Christopher Lee Briggs,	)	
	)	
Defendant.	)	
	)	

December 6 & 8, 2021
 Florence, South Carolina

B E F O R E:

The Honorable William H. Seals, Jr., Judge

A P P E A R A N C E S:

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Krystal J. Smith
 Official Circuit Court Reporter

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COURT REPORTER LEGEND

dashes -- intentional or purposeful interruption
 or change in thought
 ellipses . . . trailing off
 [ph] phonetically written
 [sic] written as said

1 DECEMBER 6, 2021

2 (WHEREUPON, the proceedings began at 2:12 p.m.)

3 THE COURT: All right. Members of the jury, up to this
4 point in time you have been determined to be qualified to
5 serve as jurors this week. Now I need to ask another series
6 of questions to make sure that you're qualified to serve on a
7 particular case and, as I said this morning, if any of these
8 questions apply to you, I need for you to respond, and if you
9 would like to respond up here instead of out there, that's
10 fine. Just let me know and I'll have you come forward.

11 But before we begin, I'll have the solicitor call your
12 first case.

13 MR. RICHARDSON: Thank you, Your Honor. The State of
14 South Carolina calls State versus Christopher Lee Briggs,
15 which is 2020-GS-21-1702.

16 THE COURT: All right. Thank you.

17 All right. Members of the jury, in this case the State
18 of South Carolina alleges that Christopher Lee Briggs did in
19 Florence on or about March 13, 2019, knowingly sell, deliver,
20 purchase, or bring into this state a quantity of cocaine in
21 an amount of more than 10 grams but less than 28 grams.
22 Therefore, he is charged with trafficking in cocaine. He is
23 also charged with possession of other controlled substances
24 I through V, being oxycodone, as well as possession with
25 intent to distribute cocaine within the proximity of a park.

1 In this regard, the defendant has pled not guilty and
2 requested a jury trial.

3 Now, has any member of the jury panel heard anything
4 about this case, read anything about this case, know anything
5 about this case at all? If you know anything at all, please
6 stand.

7 (WHEREUPON, there was no response.)

8 THE COURT: All right. And the defendant, Christopher
9 L. Briggs, if you would, just stand and turn and face the
10 jury panel.

11 (WHEREUPON, the defendant complied.)

12 THE COURT: All right. Thank you. You may be seated.

13 Is any member of the jury panel related by blood or
14 marriage or has a close personal or social relationship with
15 the defendant, Christopher L. Briggs, in this case? If so,
16 please stand.

17 (WHEREUPON, there was no response.)

18 THE COURT: All right. And if the solicitor would
19 please stand and introduce yourself and members of your
20 office.

21 MR. RICHARDSON: Thank you, Your Honor.

22 THE COURT: Thank you.

23 MR. RICHARDSON: Good afternoon, everybody. I'm David
24 Richardson. I'm a prosecutor here with the Twelfth Circuit.
25 We cover Florence and Marion County. Also in our office is

1 John Jepertinger, who will be trying this case with me
2 beginning later in the week. We have Todd Tucker, Ryan
3 White, Kevin Hope, Danielle Leftridge, Jamie Scruggs, Rick
4 Hoefer, Stephen Hill, Jeremiah Freeman, Angel Daniels, and we
5 all work for the elected solicitor, Ed Clements, who is
6 seated next to me.

7 THE COURT: All right. Thank you.

8 Is any member of the jury panel related by blood or
9 marriage or has a close personal or social relationship with
10 this solicitor or any member of his office? If so, please
11 stand.

12 (WHEREUPON, there was no response.)

13 THE COURT: All right. Mr. Edgeworth, will you stand
14 and introduce yourself and any members of your firm?

15 MR. EDGEWORTH: Thank you, Your Honor.

16 Ladies and gentlemen of the -- or potential jurors, my
17 name is Josh Edgeworth. I'm an attorney practicing here in
18 Florence County with an office in Quinby, and I'm also in
19 Georgetown County with an office in Pawleys Island. If any
20 of you think you may know me, up until about a week ago I had
21 long hair.

22 THE COURT: All right. Members of the jury panel, is
23 anybody related by blood or marriage or has a close personal
24 or social relationship with this attorney? If so, please
25 stand. Or has been represented by him at any point in time?

1 (WHEREUPON, there was no response.)

2 THE COURT: All right. The witnesses on behalf of the
3 State of South Carolina will be Sgt. Andron Brown, Cpl.
4 Shannon McKenzie, Lt. Kendrick Spears, Cpl. Frank Mizell, and
5 Maribeth McCormack with SLED.

6 Is any member of the jury panel related by blood or
7 marriage or has a close personal or social relationship with
8 any of the State's witnesses? If so, please stand.

9 (WHEREUPON, two people stood.)

10 THE COURT: All right. The lady on the front row, your
11 name and number, please, ma'am?

12 JUROR NUMBER 177: Megan Spears, 177.

13 THE COURT: 177?

14 JUROR NUMBER 177: Uh-huh.

15 THE COURT: Okay. Which witness do you know?

16 JUROR NUMBER 177: Huh?

17 THE COURT: Which witness do you know?

18 JUROR NUMBER 177: Lt. Kendrick Spears.

19 THE COURT: All right. Well, taking that into account,
20 if you were selected to serve on the jury in this case, could
21 you be fair and impartial not only to the State but the
22 defendant as well?

23 JUROR NUMBER 177: Yes.

24 THE COURT: Okay. Thank you.

25 All right. And your name and your number, please,

1 ma'am?

2 JUROR NUMBER 61: Andrea Florence, 61.

3 THE COURT: And who do you know?

4 JUROR NUMBER 61: Kendrick Spears.

5 THE COURT: All right. Taking that into account, if you
6 were selected to serve on the jury in this case, could you be
7 fair and impartial not only to the State but the defense as
8 well?

9 JUROR NUMBER 61: Yes.

10 THE COURT: Thank you.

11 Anybody else?

12 (WHEREUPON, there was no response.)

13 THE COURT: All right. Do you have a witness list on
14 behalf of the defendant?

15 MR. EDGEWORTH: None on behalf of the defendant, Your
16 Honor.

17 THE COURT: All right. Thank you.

18 Is any member of the jury panel related by blood or
19 marriage to any law enforcement officer? If so, please
20 stand. That could be city police, sheriff, FBI, SLED, what
21 have you..

22 (WHEREUPON, several people stood.)

23 THE COURT: All right. The lady right here, give me
24 your name and your number?

25 JUROR NUMBER 130: Charity McDaniel, 130.

1 THE COURT: All right. And who are you related to?

2 JUROR NUMBER 130: My brother is a forensic investigator
3 for the Florence County Sheriff's Office.

4 THE COURT: Okay. Taking that into account, if you were
5 selected to serve on the jury in this case, could you be fair
6 and impartial not only to the State but the defendant as
7 well?

8 JUROR NUMBER 130: Yes.

9 THE COURT: Thank you.

10 And your name and number one more time?

11 JUROR NUMBER 130: Charity McDaniel, 130.

12 THE COURT: All right. And who are you related to?

13 JUROR NUMBER 130: I told you already.

14 THE COURT: Oh, I'm talking about you. I'm sorry. I
15 can't half hear.

16 JUROR NUMBER 177: Megan Spears, 177.

17 THE COURT: Got it.

18 JUROR NUMBER 177: My husband is a lieutenant with the
19 City of Florence, and my brother is Highway Patrol.

20 THE COURT: All right. Taking that into account, if you
21 were selected to serve on the jury in this case, could you be
22 fair and impartial to both sides?

23 JUROR NUMBER 177: Yes.

24 THE COURT: All right. Thank you.

25 All right. The gentleman in the back?

1 JUROR NUMBER 192: Justin Warren, 192. My wife works at
2 the Sheriff's Department.

3 THE COURT: All right. Taking that into account, if you
4 were selected to serve on the jury in this case, could you be
5 fair and impartial not only to the State but the defendant as
6 well?

7 JUROR NUMBER 192: Yes, sir.

8 THE COURT: All right. Thank you.

9 And the gentleman in the back, your name and number?

10 JUROR NUMBER 195: Tom Werts, W-e-r-t-s.

11 THE COURT: What number?

12 JUROR NUMBER 195: 195.

13 THE COURT: Okay.

14 JUROR NUMBER 195: I've got a brother with the
15 Pennsylvania State Police.

16 THE COURT: All right. Taking that into account, if you
17 were selected to serve on the jury in this case, could you be
18 fair and impartial to the State and the defendant?

19 JUROR NUMBER 195: I don't believe so, sir.

20 THE COURT: What's that?

21 JUROR NUMBER 195: I don't believe so.

22 THE COURT: Any particular reason?

23 JUROR NUMBER 195: Just --

24 THE COURT: I mean do you know these people?

25 JUROR NUMBER 195: No, I don't.

1 THE COURT: Could you --

2 JUROR NUMBER 195: I --

3 THE COURT: Could you listen to the facts and just weigh
4 the facts and make a decision based on the law?

5 JUROR NUMBER 195: I don't believe so, sir.

6 THE COURT: All right. I'll excuse you.

7 Your name and your number?

8 JUROR NUMBER 135: Jennifer Miles, 135.

9 THE COURT: All right.

10 JUROR NUMBER 135: I believe.

11 THE COURT: And how does that question apply to you?

12 JUROR NUMBER 135: My husband works at the Florence
13 County Detention Center.

14 THE COURT: All right. If you were selected to serve on
15 the jury in this case, could you be fair and impartial to the
16 State and the defendant?

17 JUROR NUMBER 135: Yes.

18 THE COURT: Good. Thank you.

19 All right. Yes. Oh, we've got another one. I'm sorry.

20 JUROR NUMBER 23: Number 23. I sat with many of the law
21 enforcement officers in Florence County during the operation
22 Desert Shield and Desert Storm. I don't have a problem with
23 it.

24 THE COURT: All right.

25 JUROR NUMBER 23: If you don't.

1 THE COURT: I don't. If you were selected to serve on
2 this case, could you be fair and impartial to the State and
3 the defendant?

4 JUROR NUMBER 23: Yes, sir.

5 THE COURT: Good. Thank you. I appreciate you
6 standing.

7 Anybody else?

8 (WHEREUPON, there was no response.)

9 THE COURT: All right. Is any member of the jury panel
10 aware of any bias or prejudice for or against the State of
11 South Carolina in this case? If so, please stand.

12 (WHEREUPON, there was no response.)

13 THE COURT: Has any member of the jury panel formed an
14 opinion as to the guilt or innocence of the defendant,
15 Christopher Briggs, in this case? If so, please stand.

16 (WHEREUPON, there was no response.)

17 THE COURT: Is there any member of the jury panel who
18 knows of any reason whatsoever why they could not give the
19 parties in this case a fair and impartial trial? If so,
20 please stand.

21 (WHEREUPON, there was no response.)

22 THE COURT: Does any member of the jury panel have any
23 religious or philosophical objections to rendering judgment
24 against their fellow man? If so, please stand.

25 (WHEREUPON, there was no response.)

1 THE COURT: Has any member of the jury panel or any
2 member of your family ever been prosecuted by this solicitor
3 or any member of the solicitor's staff, regardless of whether
4 the case was dismissed or not? If so, please stand.

5 (WHEREUPON, there was no response.)

6 THE COURT: All right. Anything further from the State?

7 MR. RICHARDSON: No, sir.

8 THE COURT: Anything further from the defense?

9 MR. EDGEWORTH: Yes, Your Honor. May we approach real
10 quick?

11 THE COURT: Sure.

12 (WHEREUPON, a bench conference was held in the presence
13 of the jury panel but out of the hearing of the jury
14 panel as follows.)

15 THE COURT: What you got?

16 MR. EDGEWORTH: The first juror, Number 177, Spears, I
17 believe that is -- is that not the spouse of Lt. Spears who
18 is on the witness list?

19 MR. RICHARDSON: Yeah.

20 MR. EDGEWORTH: Then I would -- despite the Court's
21 interrogatory, I would move that this juror be excused for
22 cause.

23 THE COURT: And her last name is Spears as well?

24 MR. EDGEWORTH: Yes, sir.

25 MR. RICHARDSON: Yeah, she's married to one of the

1 witnesses.

2 MR. EDGEWORTH: To a lieutenant in the case.

3 THE COURT: All right. And she's 177?

4 MR. EDGEWORTH: Yes, sir. I believe so.

5 THE COURT: Nicole?

6 THE CLERK: Yes, sir?

7 THE COURT: We're going to go ahead and strike 177.

8 THE CLERK: Okay. Thank you. Anything else?

9 MR. EDGEWORTH: No, sir.

10 THE COURT: All right. Thank you.

11 (WHEREUPON, the bench conference ended, and the
12 proceedings resumed as follows.)

13 THE COURT: All right. Except for those I have excused,
14 I find the jury qualified -- the jury panel qualified for
15 this case.

16 Will you give us a jury of twelve and one alternate?

17 (WHEREUPON, there was a pause in the proceedings, after
18 which the proceedings resumed as follows.)

19 THE CLERK: Okay. When I call your name, if you will
20 bring your belongings with you and come up to the middle of
21 the courtroom to where that podium is and just face the back
22 of the courtroom and just stand there for just a few minutes.

23 73, James Godwin.

24 (WHEREUPON, a white male came forward.)

25 THE CLERK: What says the State?

1 MR. RICHARDSON: Please present Mr. Godwin.

2 THE CLERK: What says the defendant?

3 MR. EDGEWORTH: Court's indulgence, Your Honor.

4 Please excuse the juror from the trial of this case.

5 THE CLERK: You've been excused from this trial only,

6 sir. You may return to your seat.

7 129, Brenda McCutcheon.

8 (WHEREUPON, a white female came forward.)

9 THE CLERK: What says the State?

10 MR. RICHARDSON: Please present Ms. McCutcheon.

11 THE CLERK: What says the defendant?

12 MR. EDGEWORTH: Please seat the juror.

13 THE CLERK: Please come have a seat in the jury box,

14 ma'am.

15 Number 6, David Anderson.

16 (WHEREUPON, a white male came forward.)

17 THE CLERK: What says the State?

18 MR. RICHARDSON: Please present Mr. Anderson.

19 THE CLERK: What says the defendant?

20 MR. EDGEWORTH: Please seat the juror.

21 THE CLERK: Please have a seat in the jury box, sir.

22 48, LaCrystal Dargan.

23 (WHEREUPON, a black female came forward.)

24 THE CLERK: What says the State?

25 MR. RICHARDSON: Please present Ms. Dargan.

1 THE CLERK: What says the defendant?

2 MR. EDGEWORTH: Please seat the juror.

3 THE CLERK: Please have a seat in the jury box, ma'am.
4 38, William Coker.

5 (WHEREUPON, a white male came forward.)

6 THE CLERK: What says the State?

7 MR. RICHARDSON: Please present Mr. Coker.

8 THE CLERK: What says the defendant?

9 MR. EDGEWORTH: Court's indulgence, Your Honor.
10 Please excuse the juror from the trial of this case.

11 THE CLERK: You've been excused from this trial only,
12 sir. You may return to your seat.

13 50, Marilyn Davis.

14 (WHEREUPON, a black female came forward.)

15 THE CLERK: What says the State?

16 MR. RICHARDSON: Please present Ms. Davis.

17 THE CLERK: What says the defendant?

18 MR. EDGEWORTH: Court's indulgence.

19 Please seat the juror.

20 THE CLERK: Please have a seat in the jury box, ma'am.
21 Number 3, Carol Alston.

22 (WHEREUPON, a black male came forward.)

23 THE CLERK: What says the State?

24 MR. RICHARDSON: Please excuse the juror from the trial
25 of this case.

1 THE CLERK: You've been excused from this trial only,
2 sir. You may return to your seat.
3 92, Vanessa Hooks.
4 (WHEREUPON, a white female came forward.)
5 THE CLERK: What says the State?
6 MR. RICHARDSON: Please present Ms. Hooks.
7 THE CLERK: What says the defendant?
8 MR. EDGEWORTH: Please seat the juror.
9 THE CLERK: Please have a seat in the jury box, ma'am.
10 27, Scott Brown.
11 (WHEREUPON, a white male came forward.)
12 THE CLERK: What says the State?
13 MR. RICHARDSON: Please present Mr. Brown.
14 THE CLERK: What says the defendant?
15 MR. EDGEWORTH: Please seat the juror.
16 THE CLERK: Please have a seat in the jury box, sir.
17 172, Taylor Smith.
18 (WHEREUPON, a white female came forward.)
19 THE CLERK: What says the State?
20 MR. RICHARDSON: Please present Ms. Smith.
21 THE CLERK: What says the defendant?
22 MR. EDGEWORTH: Court's indulgence, Your Honor.
23 Please excuse the juror from the trial of this case.
24 THE CLERK: You've been excused from this trial only,
25 ma'am. You may return to your seat.

1 134, Darren Meadows.
2 (WHEREUPON, a white male came forward.)
3 THE CLERK: What says the State?
4 MR. RICHARDSON: Please present Mr. Meadows.
5 THE CLERK: What says the defendant?
6 MR. EDGEWORTH: Please seat the juror.
7 THE CLERK: Please have a seat in the jury box, sir.
8 76, Wanda Green.
9 (WHEREUPON, a black female came forward.)
10 THE CLERK: What says the State?
11 MR. RICHARDSON: Please present Ms. Green.
12 THE CLERK: What says the defendant?
13 MR. EDGEWORTH: Please seat the juror.
14 THE CLERK: Please have a seat in the jury box, ma'am.
15 182, Bobby Tarleton.
16 (WHEREUPON, a white male came forward.)
17 THE CLERK: What says the State?
18 MR. RICHARDSON: Please present Mr. Tarleton.
19 THE CLERK: What says the defendant?
20 MR. EDGEWORTH: Court's indulgence, Your Honor.
21 Please seat the juror.
22 THE CLERK: Please have a seat in the jury box, sir.
23 143, Charles Nettles.
24 (WHEREUPON, a black male came forward.)
25 THE CLERK: What says the State?

1 MR. RICHARDSON: Please present Mr. Nettles.
2 THE CLERK: What says the defendant?
3 MR. EDGEWORTH: Please swear the juror.
4 THE CLERK: Please have a seat in the jury box, sir.
5 174, Valerie Smith.
6 (WHEREUPON, a black female came forward.)
7 THE CLERK: What says the State?
8 MR. RICHARDSON: Please present Ms. Smith.
9 THE CLERK: What says the defendant?
10 MR. EDGEWORTH: Please seat the juror.
11 THE CLERK: Please have a seat in the jury box, ma'am.
12 135, Jennifer Miles.
13 (WHEREUPON, a white female came forward.)
14 THE CLERK: What says the State?
15 MR. RICHARDSON: Please present Ms. Miles.
16 THE CLERK: What says the defendant?
17 MR. EDGEWORTH: Please excuse the juror from the trial
18 of this case.
19 THE CLERK: You've been excused from this trial only,
20 ma'am. You may return to your seat.
21 154, Brooke Price.
22 (WHEREUPON, a white female came forward.)
23 THE CLERK: What says the State?
24 MR. RICHARDSON: Please present Ms. Price.
25 THE CLERK: What says the defendant?

1 MR. EDGEWORTH: Court's indulgence, Your Honor, a
2 moment.

3 Please excuse the juror from the trial of this case.

4 THE CLERK: You've been excused from this trial only,
5 ma'am. You may return to your seat.

6 112, Jimmy Jordan.

7 (WHEREUPON, a white male came forward.)

8 THE CLERK: What says the State?

9 MR. RICHARDSON: Please present Mr. Jordan.

10 THE CLERK: Does the defendant wish to challenge this
11 juror for cause?

12 MR. EDGEWORTH: No, Your Honor.

13 THE CLERK: Please have a seat in the jury box, sir.

14 THE COURT: All right. Let's get one alternate.

15 THE CLERK: 61, Andrea Florence.

16 (WHEREUPON, a black female came forward.)

17 THE CLERK: What says the State?

18 MR. RICHARDSON: Please present Ms. Florence.

19 THE CLERK: What says the defendant?

20 MR. EDGEWORTH: Please seat the juror.

21 THE CLERK: Please have a seat in the jury box, ma'am.

22 THE COURT: All right. Any objections to the jury or
23 the process by which they were drawn? What says the State?

24 MR. RICHARDSON: No, Your Honor.

25 THE COURT: How about the defense?

1 MR. EDGEWORTH: None from the defense, Your Honor.

2 THE COURT: All right. And do you want the others to
3 call back in after six tonight?

4 MR. CLEMENTS: Call after six this afternoon, Your
5 Honor.

6 THE COURT: All right. The remainder of the jury panel,
7 you're dismissed. If you would, call back in after six this
8 evening for further instructions, but you may go at this
9 time.

10 (WHEREUPON, the jury panel was released and exited the
11 courtroom at 2:38 p.m.)

12 THE COURT: All right. Members of the jury, I'm going
13 to dismiss you until 9:30 Wednesday morning. We're going to
14 begin this case at 9:30 on Wednesday.

15 But before you go, I do want to instruct you not to
16 investigate this case. Don't research the case. You know
17 the names. You know a little bit about it based on what I've
18 told you, but don't talk about it among yourselves, with your
19 family. Don't Google it or anything like that. You'll get
20 everything you need right here properly in this courtroom
21 starting Wednesday.

22 All right. With that being said, you're free to go and
23 I'll see you Wednesday morning.

24 (WHEREUPON, the jury exited the courtroom at 2:41 p.m.)

25 THE COURT: All right. Anything we need to take up

1 before Wednesday?

2 MR. RICHARDSON: Judge, the only discussion we had was
3 about the -- how this case kind of came about. The defendant
4 had a pending arrest warrant at the time, which is what --
5 the reason that law enforcement made contact with him, and we
6 believe that none of the witnesses will mention what that
7 warrant was about, just that the warrant was in existence and
8 they were trying to serve it on him to keep from prejudicing
9 the jury about whatever the prior --

10 THE COURT: Sure.

11 MR. RICHARDSON: -- offense was.

12 THE COURT: All right. Is that okay with you?

13 MR. EDGEWORTH: Yeah. That's accurate, Your Honor.

14 THE COURT: All right. That sounds good. Anything
15 else?

16 MR. EDGEWORTH: Well, I believe we also had further
17 discussion about whether there was anything in his previous
18 record that would be of value. My understanding of our
19 conversation was that there was not. I'm just making sure
20 for the record as it obviously could impact.

21 MR. RICHARDSON: Yes, Your Honor. I'll go over his
22 prior history and see what applies and what doesn't.

23 He's got a breach of peace in 2005, which would not
24 apply.

25 A burglary second degree nonviolent in 2006. He got a

1 YOA probation on that. That's too far back.

2 He was received in the Department of Corrections on a
3 burglary second YOA. I guess the YOA must've been revoked in
4 2008. He was received again on a parole revocation for it
5 looks like the YOA in 2011. So we would have gotten out I
6 assume. It was in July of 2011. So he would have gotten out
7 sometime in 2012, I guess. So that potentially -- because
8 that would be on that burglary, I guess.

9 Then the driving under suspension in 2014, which was not
10 -- doesn't carry enough time.

11 A breach of peace in 2015. It does not carry enough
12 time.

13 He's got some additional charges that don't show
14 dispositions. It would be a criminal domestic violence,
15 third offense, in 2016. I don't know what the disposition is
16 on that.

17 Unlawful carrying of a pistol in 2018. It does not show
18 a disposition, but that doesn't carry enough time anyway.

19 The same with possession of controlled substance,
20 Schedule I to V. He got a simple possession of marijuana in
21 2018, which would not qualify. Traffic violations in 2019
22 does not qualify, and everything since then has been nolle
23 prossed according to this rap sheet.

24 So the only thing really in question would be the
25 burglary that it looks like it was his second YOA parole

1 revocation that would have gotten him within the 10-year
2 window potentially.

3 THE COURT: All right.

4 MR. EDGEWORTH: Your Honor, I would ask the Court to --
5 to disallow any use of that particular offense as
6 impeachment. Number one, I don't think it goes to any type
7 of credibility on behalf of this witness. It certainly is
8 unrelated. I understand that it's somewhat unrelated in
9 context to the charges before the Court, but I think that
10 given the circumstances of this particular case, I think any
11 prejudicial effect outweighs any probative value, especially
12 when it comes to the fact that it was a YOA sentence and the
13 only reason why it's even remotely within the time period is
14 because of subsequent revocation.

15 THE COURT: All right. How do you feel about that?

16 MR. RICHARDSON: Judge, it is kind of an unusual
17 circumstance because the burglary itself occurred about five
18 years prior and we're just dealing with revocations, and my
19 concern would be risking getting it overturned on appeal.

20 THE COURT: Why don't we leave it out?

21 MR. EDGEWORTH: Thank you, Judge.

22 THE COURT: That will be good. Thank you. Anything
23 else?

24 MR. EDGEWORTH: I don't think there's anything else,
25 Your Honor.

1 THE COURT: All right. Good. I'll see you all at 9:30.
2 MR. EDGEWORTH: Yes, sir.
3 MR. RICHARDSON: All right.
4 (WHEREUPON, the proceedings adjourned for the day at
5 2:45 p.m.)
6 DECEMBER 8, 2021
7 (WHEREUPON, the proceedings resumed at 9:42 a.m.)
8 THE COURT: All right. Are y'all ready?
9 MR. JEPERTINGER: Yes, sir.
10 THE COURT: How about you?
11 MR. EDGEWORTH: Yes, Your Honor.
12 THE COURT: All right. Let's go ahead and bring in the
13 jury.
14 THE BAILIFF: All right.
15 (WHEREUPON, the jury entered the courtroom at 9:43 a.m.)
16 THE COURT: All right. Mr. Anderson, I'm going to make
17 you the foreman of the jury. If you would, just take that
18 very first seat and let the lady right here switch with you.
19 THE FOREPERSON: Right here?
20 THE COURT: Yes.
21 All right. Members of the jury, we're getting ready to
22 start this trial, but before we do, I just want to go over a
23 few things with you so you'll have a little bit of working
24 knowledge to use as the trial progresses.
25 The first thing I want to tell you is that the burden of

1 proof is on the State of South Carolina to prove the
2 defendant guilty beyond a reasonable doubt. The defendant
3 does not have a burden. I'll explain that to you in greater
4 detail at the end of this trial.

5 Furthermore, I want to explain to you what your role is
6 and what my role is and how they differ. You all are the
7 judge of the facts. You determine what the facts of this
8 case are. Well, you may ask yourselves, "How do we do that?"
9 You simply do that by looking at the evidence.

10 Evidence is made up of two things. It's made up of the
11 witnesses that come over here, they take the witness stand,
12 and they testify, and it can be made up of any exhibits
13 admitted into the record as evidence. That could be
14 photographs, reports, pictures, things of that nature. That
15 is where you all determine what the facts of this case are.

16 In turn, I am the judge of the law. My job is to give
17 these parties a fair trial, and I'm going to charge you on
18 the law applicable to this case in great detail at the end of
19 this trial. And then only when I tell you to begin your
20 deliberations will you take the law as you find it, the facts
21 -- the law as I give it to you, the facts as you find it, and
22 you'll put the two together and make a decision therefrom. A
23 lot of common sense in that process.

24 Furthermore, I want to instruct you that at no time
25 during this trial if we take a break or if you leave for

1 lunch or what have you do you need to start discussing this
2 case or researching this case. Don't get on the Internet and
3 Google anything. Don't look up anybody's names. Don't look
4 up anything pertaining to this trial and don't discuss the
5 case.

6 And the reason I tell you that it is because it's
7 important that you hear from everybody in this case right
8 here in this courtroom. I want you to hear everything the
9 State has to tell you and show you. If the defendant wants
10 to put up anything, I want you to hear everything from them.
11 Then you need to hear the law from me.

12 Once you have everything you need to begin, I will tell
13 you to begin. I'll specifically say begin your
14 deliberations, but until that time you can talk about the
15 weather or each other or whatever you want to talk about but
16 not the case.

17 Also, I want you to sit back. I want you just to relax.
18 If we're trucking along and it's just going and going and
19 going and you need a break, you need a restroom break or
20 something like that, just wave your hand to me and I'll try
21 to make sure you're taken care of. Okay?

22 All right. With that being said, I recognize the State
23 for your opening statement.

24 MR. RICHARDSON: Thank you, Your Honor.

25 THE COURT: Oh, let's swear the jury. The first time I

1 just about forgot that in twelve years, if you believe it.

2 Thank you.

3 THE CLERK: If you will all please stand and raise your
4 right hand?

5 You shall well and truly try and a true deliverance make
6 between the State of South Carolina and the defendant at the
7 bar, whom you shall have in your charge, and a true verdict
8 render according to the law and evidence, so help you God.

9 Please be seated.

10 THE COURT: Thank you.

11 Now you're recognized.

12 MR. RICHARDSON: All right.

13 OPENING STATEMENT ON BEHALF OF THE STATE

14 MR. RICHARDSON: When you think about drug use, any
15 reasonable person you ask can give you a handful of reasons
16 as to why that's a bad thing. Right? It's no-brainer stuff,
17 like illegal drugs can ruin your health. They can make you
18 addicted to them, which can cause you to lose your family,
19 lose your house, lose your job, just destroy your life.
20 There's no shortage of good reasons as to why people should
21 avoid illegal drugs, particularly opioids and harder drugs
22 that we commonly see, like, you know, cocaine, crack, heroin,
23 you know. You know them all.

24 In preparing for this case though, a reason that may not
25 be at the top of the list popped into my mind, and I say this

1 somewhat in jest, but somewhat not. Illegal drugs by their
2 very nature, you know, they're not on store shelves. They
3 are not produced in some clean regulated factory somewhere.
4 They're not shipped here in some clean shipping container and
5 put on the store shelves at Target. They haven't got the
6 quality and all that that you would come to expect from some
7 sort of product that you would consume.

8 Because these things are illegal, they have to get to
9 the end user through other means. They've got to be hidden
10 out of plain view, and sometimes they are hidden in places
11 where you wouldn't want to know, if you're the end user.
12 Now, in this particular case, we have one of those examples
13 of a storage place where you would not want a product that
14 you were going to end up using being found.

15 This case took place back in March of 2019. Members of
16 the Florence Police Department who are seated over here,
17 you're going to hear from them shortly. They were working
18 that day and part of their job is to serve arrest warrants,
19 and they're provided information from their office about
20 who's got active warrants and who to be on the lookout for
21 while they're out on patrol or in the community on any given
22 day.

23 And on March the 13th of 2019, while out in the
24 community doing their regular duties, they came across the
25 defendant in this case, Christopher Briggs, and they

1 recognized his vehicle that they knew him to drive and
2 eventually saw him in it, and they knew that he was on the
3 list of somebody that had an active arrest warrant. So they
4 approached. They ultimately placed him under arrest for
5 those warrants and while they're searching him incident to
6 that arrest, they find in his underwear a quantity of
7 cocaine.

8 Now, what he's charged with is trafficking in cocaine.
9 He's charged with three things that you'll be considering
10 here today, the first of which is trafficking in cocaine.
11 Why is it trafficking? Why is it not possession? Why is not
12 not possession with intent to distribute?

13 Why is it trafficking? There are three levels, I guess
14 you could say, of drugs possessory offenses in our state law,
15 and which one you get charged with completely depends upon
16 the weight of the particular drug that you have.

17 So in this case the amount of cocaine which you will
18 hear from the witness stand later today was a little over 27
19 grams, and that falls within the statutory threshold amount
20 of trafficking in cocaine between the amounts of 10 grams and
21 28 grams. So it's kind of, you know, at the top end of that
22 threshold, but it falls in there because of the weight of it.
23 That's why it's trafficking. It's more than 10 grams. Okay?

24 The next charge that you'll consider is what we call a
25 proximity charge. In this state there is a law against

1 possessing controlled substances with intent to distribute
2 them or traffic them within a half-mile radius of a school or
3 a park. In this particular case, the incident location was
4 on Lynch Street, which is just a few blocks away from Iola
5 Jones Park, and officers will testify about, you know, how
6 they know the location of that and how long they've been
7 working in that area.

8 The final charge you'll consider is what we call
9 possession of other controlled substance. That is basically
10 what the name of the charge is for a pill, a controlled
11 substance that's in pill form, and this one was an oxycodone
12 that the defendant had loose on his person.

13 Oxycodone are things that you get prescriptions for.
14 They are controlled substances. The doctors can give you
15 prescriptions for them, but if you have possession of these
16 things without the requisite prescription or if they're, you
17 know, stored incorrectly or what have you, that's a violation
18 of that particular statute, and that's the third charge that
19 we have before you today.

20 So what you will hear and what we will prove to you
21 through three officers from Florence City police -- we'll
22 have five witnesses total. Three will be the officers who
23 came upon this car with the defendant in it and found the
24 drugs, and then we'll have the evidence custodian for the
25 Florence Police Department who transported the items -- the

1 drug items up to SLED in Columbia, which is State law
2 Enforcement Division. They run a lab where they do the
3 majority of the drug tests in the state of South Carolina for
4 drugs that are -- that are confiscated by law enforcement
5 agencies all over the state. So you will have a SLED chemist
6 here later who will testify about what they do when evidence
7 comes in, how they test it to determine what substance it is,
8 and how much it weighs so that the appropriate charge is made
9 later.

10 And sometimes there are things submitted to them that
11 they test and come back as no controlled substance, and that
12 happened in this case. There were three different items that
13 were submitted to SLED, and one of the things that had the
14 appearance of being a controlled substance that was -- that
15 was on Mr. Briggs' person ended up not being. So, you know,
16 SLED comes back with the results, and the charges fall
17 accordingly. So that's why we have the charges that we have
18 in this case.

19 And that will be basically it from the State's
20 presentation. We will have those five witnesses that'll take
21 you from A to Z as far as how it got started and the testing
22 at the end, and I'll ask you to pay attention and I know you
23 will to each of these witnesses as they testify and at the
24 end, the conclusion of the evidence, we'll be back for a
25 closing argument where we will summarize it and we'll ask you

1 to find the defendant guilty of these three offenses. Thank
2 you.

3 THE COURT: All right. Thank you.

4 Mr. Edgeworth?

5 MR. EDGEWORTH: Thank you, Your Honor. May it please
6 the Court.

7 THE COURT: Yes, sir.

8 OPENING STATEMENT ON BEHALF OF THE DEFENDANT

9 MR. EDGEWORTH: Good morning, ladies and gentlemen of
10 the jury. My name is Josh Edgeworth. I introduced myself
11 the other day. I represent Mr. Christopher Briggs, who is
12 sitting there right there next to me, where he will be for
13 the duration of this trial.

14 And as the State has kind of intimated to you, this case
15 is about drugs, plain and simple. There's no hiding the ball
16 now. It's about drugs, and you heard the State just mention
17 that, you know, drug use can cause negative effects in
18 people's lives. We all know that. You've probably known
19 someone with an addiction problem. You've known someone who
20 has maybe been in trouble for drugs, whether it be going to
21 the hospital or otherwise.

22 But the State wants to characterize this case as a
23 trafficking case. That's what Mr. Briggs is charged with.
24 They just talked all about it, but this isn't El Chapo. This
25 isn't Pablo Escobar. We're not flying in planes from Mexico

1 or Colombia, you know, to drop off drugs in the inner cities
2 and cause all the problems that cocaine, which is the drug in
3 this case, can cause. This case is about drug use, you know.
4 There was a quantity of cocaine that was found. Does that
5 make you a trafficker?

6 What I'm going to ask you, ladies and gentlemen of this
7 jury, to do is listen to the evidence. They told you they're
8 going to sit up their witnesses right there and tell you how
9 they came across these drugs, but what they're not going to
10 tell you is what the drugs were used for or who used them.
11 You're not going to have any evidence that, you know, drugs
12 were sold. You're not going to have any evidence that, you
13 know, there's this photograph of, you know, some
14 transactions, monies and pills and drugs and cocaine being
15 given up to people. You ain't going to hear none of that.

16 You're just going to simply hear that law enforcement
17 came across the defendant and found drugs. No airplanes, no
18 cash, no women sitting by the pool. And it's laughable;
19 right? It is laughable because that's not what you're going
20 to hear. None of that.

21 So after you consider all of the evidence, I want you to
22 consider why we're here. Thank you.

23 THE COURT: All right. Call your first witness.

24 MR. RICHARDSON: Thank you, Your Honor. We'd call
25 Shannon McKenzie.

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 THE CLERK: Sir, if you'll please place your left hand
2 on the Bible and raise your right hand.

3 Do you swear or affirm the testimony you give in this
4 case to be the truth, the whole truth, and nothing but the
5 truth, so help you God?

6 THE WITNESS: Yes, ma'am, I do.

7 THE CLERK: Please be seated and state your full name
8 for the record.

9 THE WITNESS: My name is Shannon McKenzie.

10 SHANNON MCKENZIE, being first
11 duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. RICHARDSON:

14 Q: Agent McKenzie, where are you employed?

15 A: Florence City Police Department.

16 Q: How long have you been employed there?

17 A: Eleven years.

18 Q: And what did you have to do in order to become a member
19 of the Florence Police Department?

20 A: Well, you know, went through a hiring process and once
21 you got hired on, you had to go to the South Carolina
22 Criminal Justice Academy and complete that. Once you
23 graduate from there, you have to come back and complete --
24 successfully complete a field training office, twelve weeks
25 of FTO program.

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 Q: Okay. And what are your current job duties or your
2 title?

3 A: I'm in the special investigations unit. In that unit,
4 we're responsible for narcotics investigations, prostitution,
5 gambling, illegal gun sales, that kind of stuff.

6 Q: All right. And do you have -- so you investigate those
7 types of crimes as part of your day-to-day work?

8 A: Yes, sir.

9 Q: All right. Is that what you started out doing eleven
10 years ago?

11 A: No, sir. I started out on uniformed patrol.

12 Q: All right. How do you -- so you worked your way up to
13 --

14 A: Yes, sir. I was on uniformed patrol for approximately
15 three years, and then I put in to be transferred to the
16 special investigations unit, and I was transferred. Yes,
17 sir.

18 Q: So you've been in special investigations for about eight
19 years?

20 A: Eight years. Yes, sir.

21 Q: All right. What other job responsibilities other than
22 your investigative duties do you have as part of the special
23 investigations unit?

24 A: We also are assigned warrant service duties to serve the
25 warrants, looking for wanted people that are wanted by the

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 City of Florence.

2 Q: All right. And were you in this role at your job back
3 in March of 2019?

4 A: Yes, sir.

5 Q: All right. On March 13th of 2019, can you tell us what
6 you were doing that particular day?

7 A: Well, that particular day, the three of us were in my
8 vehicle. I have a Tahoe, unmarked Tahoe, and we were just
9 riding through, you know, what we -- what's known as high
10 crime areas of the city of Florence, just riding through and
11 just, for lack of a better word, patrolling areas looking for
12 wanted people, looking for anything that stood out, you know,
13 illegal drug sales or what have you. So that's what brought
14 us to the Lynch Street area that day.

15 Q: All right. And prior to you going out on patrols
16 looking for wanted people or looking for whatever is going on
17 in the community, are you provided something by your office
18 to let you know, like, who to be on the lookout for?

19 A: Yes. We receive -- we have an email to us actually, a
20 list of the warrants with the City of Florence for anybody
21 that is wanted for the City.

22 Q: Okay. So this particular day you're riding with two
23 other guys. Could you tell us who they are?

24 A: Yes. Sgt. Brown and Lt. Spears.

25 Q: All right. And they're in the same division --

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 A: Yes, sir.

2 Q: -- that you are?

3 A: Yes, sir.

4 Q: All right. So on March 13th, you're riding around and
5 you said -- you mentioned Lynch Street. What took place on
6 Lynch Street?

7 A: Well, I turned onto -- in the 600 block of Lynch Street
8 and I observed a vehicle that was backed into -- in front of
9 -- it's like a little store, a convenience store in the
10 neighborhood, and I saw a silver Jaguar that was backed in
11 and it appeared to be as if someone was in the driver's seat
12 kind of laid back, appeared to be asleep.

13 Q: All right. Now, this 600 block of Lynch Street you're
14 talking about, that's in -- is that in the city limits?

15 A: That's it the city limits of Florence.

16 Q: Is that also in Florence County?

17 A: Yes, sir.

18 Q: All right. So you see a Jaguar vehicle that's parked
19 outside of this store?

20 A: Yes, sir.

21 Q: All right. And why did you deem that significant?

22 A: Well, I had received information that Mr. Briggs had
23 recently been seen driving a silver Jaguar. The information
24 actually that I was told was that it had a paper tag.

25 MR. EDGEWORTH: Objection. Hearsay.

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 THE COURT: Sustained.

2 BY MR. RICHARDSON:

3 Q: Well, was Mr. Briggs on your -- your email list of
4 people who had active warrants?

5 A: Yes, sir.

6 Q: All right. And you mentioned that you had knowledge
7 that he was known to drive a car like the one you saw there
8 parked in front of that store?

9 A: Yes, sir.

10 Q: All right. So what did you do from there?

11 A: When I saw the car parked there, I stopped, and we went
12 ahead and got out. All three of us exited my vehicle and
13 approached the -- and approached the car.

14 Q: All right. Was anybody in the car?

15 A: One occupant was in the driver's seat laid back asleep
16 or appeared to be asleep.

17 Q: Okay. And what did you do?

18 A: Lt. Spears approached the driver's side. Sgt. Brown
19 approached the passenger side, and I approached the driver's
20 side with Mr. -- with Lt. Spears.

21 Q: All right. What happened?

22 A: We -- Sgt. Brown knocked on the passenger side window
23 just trying to get the person that was asleep in the driver's
24 seat to wake up, which they did. Sgt. Spears -- or Sgt.
25 Brown -- I'm sorry -- asked the driver to -- or the guy that

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 was sitting in the driver's seat to step out of the vehicle
2 and he talked to him. He said why, and he said you need to
3 step out, we need to talk to you. We were clearly marked
4 with police vests. So our identity was known. We had our
5 badges on. We had our vests on that's marked front and back
6 with police.

7 At this point, the guy in the driver's seat sat up and
8 began to try and start the car up and roll the windows up.
9 He appeared to be maybe trying to drive off. Sgt. Brown
10 quickly reached his hand in the window and pulled the door
11 handle, which made the door open and also made the locks
12 unlock. At that time, Lt. Spears opened the driver's side
13 door and was able to get the person out of the car.

14 Q: All right. And were you all able to verify the identity
15 of the person who was in the driver's seat of the car?

16 A: Yes, sir. As the three of us walked up to the car to
17 look in to see the condition of the person laying back in the
18 seat, we all three observed that it was indeed Mr. Briggs,
19 and we positively identified him.

20 Q: All right. Do you see Mr. Briggs in the courtroom
21 today?

22 A: Yes, sir.

23 Q: Can you show us where he is?

24 A: Yes, sir. He's sitting at the table right there.

25 Q: All right.

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 MR. RICHARDSON: Your Honor, I'd ask the record to
2 reflect he did point toward the defendant.

3 THE COURT: It will reflect.

4 BY MR. RICHARDSON:

5 Q: So you got him out of the car?

6 A: Yes, sir.

7 Q: All right. And -- and what happened from that point?

8 A: Lt. Spears went ahead and placed him in handcuffs due to
9 the fact of us having knowledge that he was wanted for an
10 arrest warrant. We went ahead and told him he was under
11 arrest for the arrest warrant.

12 Q: Okay.

13 A: As per incident to arrest, Lt. Spears asked him if he
14 had anything on his person because he is placed under arrest
15 at this point and he is going to be transported to the
16 Florence County Detention Center. He made a statement that
17 he had a pill in his pocket, and Lt. Spears said, you know,
18 okay, and so he began his pat -- Lt. Spears began his pat
19 down of his person as per our policy for officer safety and
20 for any contraband that might be trying to be smuggled into
21 the jail, and he felt a bulge in his crotch area. At that
22 point, Lt. Spears asked him what this is, and he said it's
23 some work.

24 Q: It's some what now?

25 A: Some work.

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 Q: Some work?

2 A: Yes, sir.

3 Q: Did that mean anything to you?

4 A: Yes, sir. That's street --

5 MR. EDGEWORTH: Objection. Speculation.

6 MR. RICHARDSON: Well, Judge, I'd argue he's -- he's in
7 the special investigations unit investigating drug crimes.
8 He has the requisite knowledge of what that means.

9 MR. EDGEWORTH: Your Honor, may we approach?

10 THE COURT: Uh-huh

11 (WHEREUPON, a bench conference was held in the presence
12 of the jury but out of the hearing of the jury as
13 follows.)

14 MR. EDGEWORTH: That's the first time ever have I heard
15 anything about an admission or a statement from my client.
16 There's nothing to indicate that in any report or any of this
17 other evidence that's ever been produced, and now they're
18 having an officer testify to a statement, an admission by my
19 client that we haven't had a hearing on or anything.

20 THE COURT: Yes?

21 MR. JEPERTINGER: He's subject to cross-examination,
22 Your Honor. In fact, he can ask him about whether it's in
23 his report or not.

24 THE COURT: That's what I say. It's an admission by a
25 party opponent.

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 MR. EDGEWORTH: But we have no notice, and we didn't
2 have a hearing on whether or not it was voluntary or
3 otherwise. I mean I had no knowledge. This is the first
4 ever in three years.

5 THE COURT: It's my understanding he just spit it out.

6 MR. JEPERTINGER: Yes.

7 THE COURT: He wasn't questioning him. But I don't know
8 what different it would make.

9 MR. EDGEWORTH: Okay.

10 MR. RICHARDSON: Yeah. I mean I didn't --

11 MR. EDGEWORTH: He's talking about now using the word
12 work as some type of jargon. I mean --

13 MR. RICHARDSON: Well, I mean you could -- I mean I'm
14 not going to qualify him as an expert or something. So if
15 you just want to leave it as it is and not have him
16 speculate?

17 THE COURT: Why don't we do that?

18 MR. EDGEWORTH: Okay. Over the objection, I assume?

19 THE COURT: Well, I'll sustain your objection. We'll
20 just stop --

21 MR. EDGEWORTH: Okay.

22 THE COURT: -- the questioning.

23 MR. EDGEWORTH: Very good. Thank you, Your Honor.

24 MR. RICHARDSON: Okay. That'll work.

25 (WHEREUPON, the bench conference ended, and the

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 proceedings resumed as follows.)

2 BY MR. RICHARDSON:

3 Q: All right. Agent McKenzie, so the item was found in the

4 crotch area --

5 A: Yes, sir.

6 Q: -- of Mr. Briggs' --

7 A: Yes, sir.

8 Q: -- pants or underwear?

9 A: Underwear.

10 Q: All right. Now, did you get -- were you standing right

11 there to see kind of what was pulled out of there and how it

12 was packaged and all?

13 A: Yeah. A little bit more to the -- to the rear of him.

14 Yes, sir. I couldn't exactly see where it was actually

15 removed from specifically except for just the crotch area,

16 but yes, sir, it was a bag.

17 Q: And who -- who first got it off of him?

18 A: Lt. Spears.

19 Q: Okay. And what did Lt. Spears do with it?

20 A: He turned it over to me.

21 Q: All right. I want to show you what's marked for

22 identification only at this point as State's Exhibit No. 3.

23 Can you take a look at that and tell me if you recognize it?

24 A: Yes, sir.

25 Q: What is that?

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 A: That is a sample. It is cocaine. There is a pill, one
2 white pill, and another package of what we believed to be
3 crack at the time.

4 Q: All right. And this is what was turned over to you?

5 A: Yes, sir.

6 Q: By Sgt. Spears -- or Lt. Spears?

7 A: Lt. Spears, yes, sir.

8 Q: All right. And what did you do with it when it was
9 turned over to you?

10 A: I went to my Tahoe and got an evidence bag out of my
11 Tahoe and placed it in the evidence bag and then placed it in
12 my vehicle and secured it.

13 Q: All right. Could you explain to us the purpose of an
14 evidence bag when it comes to drug evidence and why you do
15 that?

16 A: Yes, sir. Well, it's to maintain the integrity of the
17 evidence, but it's also for everyone's safety. We don't know
18 what's in these illegal drugs, like it could be anything. So
19 we go ahead and take them as quickly as we can and as safely
20 as we can and seal them up in an evidence bag. Therefore, if
21 it happens to be fentanyl or anything else, it don't get in
22 my vehicle. I have a K-9 also that's in my vehicle. So --
23 but it's to maintain the integrity of the evidence. Yes,
24 sir.

25 Q: Now, when you handled those items, obviously, you have

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 to be the one who puts them in that sealed bag. Are you
2 wearing gloves?

3 A: Yes, sir.

4 Q: Or protective equipment?

5 A: We put gloves on.

6 Q: All right. When you put this item in the bag there at
7 the scene -- now, is the bag you put it in still there?

8 A: At the -- at the -- yeah, let me see. Can I see it,
9 ma'am, real quick?

10 Q: Yes.

11 A: Yes. So the small bag would be the bag that we placed
12 it in, and then we complete this BEST pack bag once we get
13 back to the FPD evidence room.

14 Q: Okay.

15 A: Yeah.

16 Q: And is that what the item is kept in to take for
17 testing?

18 A: Yes. Once we complete what's called a BEST pack, we
19 complete that, it's sealed, notarized that it's been sealed
20 by a notary, and then it is logged into the Florence PD
21 evidence room and that's where it's kept until it's
22 transported to Columbia to SLED for analyst -- for analysis.

23 Q: So are you the person who took it from the scene on
24 Lynch Street to the Florence evidence locker?

25 A: Yes, sir.

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 Q: At the police department?

2 A: Yes, sir.

3 Q: All right. And after you put it in there, did you mess
4 with it anymore prior to this case?

5 A: No. Once I -- once I locked it in that locker, I've not
6 seen it again until I picked it up this morning and signed it
7 out.

8 Q: Okay.

9 MR. RICHARDSON: I beg the Court's indulgence one
10 moment.

11 THE COURT: Uh-huh.

12 BY MR. RICHARDSON:

13 Q: Well, let me ask you this. The location that you were
14 at here, that was [REDACTED] Lynch Street?

15 A: Yes, sir.

16 Q: In the city?

17 A: Yes, sir.

18 Q: You ended up -- you guys made a charge for proximity?

19 A: Yes, sir.

20 Q: Okay. Is that right?

21 A: Yes, sir.

22 Q: And tell us about the basis of that charge?

23 A: The possession with intent to distribute within
24 proximity of a -- of a park or school is -- the statute reads
25 it has to be within one half mile of the park or school.

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 That location is within one half mile of Iola Jones Park,
2 which is also in the city limits of Florence in Florence
3 County.

4 Q: Okay. Now, did you have an opportunity -- once the
5 defendant was secured and the drugs were taken off his
6 person, did you all look in his car?

7 A: I believe Sgt. Brown did. Yes, sir.

8 Q: Okay. So you had the drug evidence, you were taking
9 care of that?

10 A: Right.

11 Q: And they handled the rest of the investigation as far as
12 the scene?

13 A: Yes.

14 Q: All right.

15 MR. RICHARDSON: Please answer any questions that
16 defense counsel may have for you.

17 THE WITNESS: Yes, sir.

18 CROSS-EXAMINATION

19 BY MR. EDGEWORTH:

20 Q: Investigator McKenzie, is that the proper title?

21 A: Yes, sir. That's fine.

22 Q: Now, on March 13th, 2019, you were on this search
23 warrant or warrant service team?

24 A: Well, I'm in the special investigations unit. Yeah, one
25 of our duties as to serve arrest warrants. Yes, sir.

SHANNON MCKENZIE - CROSS BY MR. EDGEWORTH

1 Q: Okay. You're on -- you're on the team. You testified
2 that you and others were riding around in an unmarked vehicle
3 in a high crime area?

4 A: Yes, sir.

5 Q: And that high crime area that you're referring to, is
6 that in an area that is known to have public housing?

7 A: Public housing? Yes, sir.

8 Q: Okay. And to your knowledge does that area of public
9 housing primarily have an African-American contingent of
10 residents?

11 A: Yes, sir.

12 Q: Okay. Now, so your belief is the area is high crime.
13 You're riding around in an unmarked vehicle, and then you
14 come upon a car that is just parked in a parking space at a
15 convenience store; is that correct?

16 A: Yes, sir.

17 Q: Okay. Is there anything illegal about being parked in a
18 parking spot?

19 A: No, sir.

20 Q: Is there anything illegal about being backed into that
21 parking spot?

22 A: No, sir.

23 Q: Okay. When you saw the car, was there any other
24 evidence of illegal activity as you saw the car?

25 A: There was no evidence of illegal activity. No, sir.

SHANNON MCKENZIE - CROSS BY MR. EDGEWORTH

- 1 Q: Okay.
- 2 A: But there was concern that whoever was laid back in the
3 seat might have some type of problem.
- 4 Q: Oh, did you -- did you magically know that someone was
5 asleep in the vehicle when you first spotted the car?
- 6 A: No, sir. But --
- 7 Q: Okay, okay.
- 8 A: -- it's not natural for someone to just be laying in a
9 seat. You know, they could be passed out. I'm still a
10 police officer. I'm in the special investigations unit, but
11 part of my duties also as a sworn officer is to serve and
12 protect people. So if someone is laid back and they're
13 having a medical condition or something, it would be my duty
14 to check on them and not just ride by and just turn -- turn a
15 blind eye. No, sir.
- 16 Q: But that's not what you testified to doing here today;
17 correct?
- 18 A: No, sir, it was not.
- 19 Q: Okay, yeah. Okay. So in this particular case, you
20 didn't know that someone was laid back in the car; correct?
- 21 A: I did know someone was laid back. I could see them when
22 I was driving by. Yes, sir.
- 23 Q: Oh, okay. Were you concerned for that person's safety?
- 24 A: I also knew who it was. Yes, sir.
- 25 Q: Were you concerned for that person's safety?

SHANNON MCKENZIE - CROSS BY MR. EDGEWORTH

1 A: If I would've gotten out of that car and Mr. Briggs was
2 having a medical condition, yes, sir, I would've been
3 concerned for his safety and I would've gotten him medical
4 attention.

5 Q: Okay.

6 A: Absolutely.

7 Q: Did you, in fact, during the course of your interaction
8 with Mr. Briggs ask him if he needed medical attention?

9 A: He told us that he was just asleep and that he was
10 sleeping off a headache. That's what he said.

11 Q: Sleeping off a headache?

12 A: That's what he said. Yes, sir.

13 Q: Were you concerned about his complaint about a headache?

14 A: He appeared to be okay, but yes, sir. If he would've
15 said he needed medical attention, we would have provided it
16 for him.

17 Q: Okay.

18 A: Not a problem.

19 Q: Did you ask him at any time had he used any of the drugs
20 that you found on his person?

21 A: I specifically did not. No, sir.

22 Q: Okay.

23 MR. EDGEWORTH: I have no further questions for this
24 witness.

25 THE COURT: All right. Any redirect?

ANDRON BROWN - DIRECT BY MR. RICHARDSON

1 MR. RICHARDSON: No, Your Honor.

2 THE COURT: All right. You may step down.

3 THE WITNESS: Thank you, sir.

4 THE COURT: Thank you.

5 Call your next witness.

6 MR. RICHARDSON: We'd call Andron Brown.

7 THE CLERK: Sir, please place your left hand on the
8 Bible and raise your right hand.

9 Do you swear or affirm the testimony you give in this
10 case to be the truth, the whole truth, and nothing but the
11 truth, so help you God?

12 THE WITNESS: I swear.

13 THE CLERK: Please be seated and state your full name
14 for the record.

15 THE WITNESS: Andron Brown.

16 ANDRON BROWN, being first duly
17 sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. RICHARDSON:

20 Q: Agent Brown, where do you work?

21 A: Florence City Police Department.

22 Q: How long have you been there?

23 A: I've been employed with the department for about 13
24 years now.

25 Q: And is that the extent of your time in law enforcement,

ANDRON BROWN - DIRECT BY MR. RICHARDSON

1 13 years?

2 A: Yeah. My whole 13 years has been with the Florence

3 Police Department.

4 Q: All right. And what division or unit do you work with

5 with the Florence PD?

6 A: Now at this point I work with the -- I'm a sergeant in

7 the special investigations unit or the narcotics unit.

8 Q: Okay. Have you been in that role your whole 13 years?

9 A: No. I started on patrol, uniformed patrol as well. A

10 spot came open on this unit, special investigations unit, and

11 about three and a half or four years into my patrol career, I

12 was transferred over.

13 Q: So you've been there for --

14 A: Going on nine years. I think February will be nine

15 years.

16 Q: Okay. And you're now the sergeant in that division?

17 A: Yes, sir.

18 Q: Okay. And back on March 13th of 2019, obviously you

19 would have been in the same role?

20 A: Yeah.

21 Q: Special investigations?

22 A: I wasn't a sergeant then, but yeah, I was in the same

23 role.

24 Q: Same unit?

25 A: Same unit.

ANDRON BROWN - DIRECT BY MR. RICHARDSON

1 Q: All right. And were you present there at [REDACTED] Lynch
2 Street?

3 A: Yes, I was present.

4 Q: And tell us what you did there at the scene?

5 A: At the scene, we initially came up, identified the
6 vehicle as the vehicle that we've known Mr. Briggs to drive.
7 I pulled over to the vehicle. I went to the passenger side.
8 Lt. Spears went to the driver's side. The window was
9 actually up when I first got there. I immediately noticed in
10 the driver -- or the passenger seat that there was a digital
11 scale in the passenger seat of the vehicle.

12 I knocked on the window to try to get the attention of
13 the subject who we identified as Mr. Briggs that was laid
14 back in the seat. He was asleep. In my opinion, I thought
15 he was asleep. I knocked on the window. He eventually came
16 to, woke up, kind of cracked the window halfway or so, and
17 started talking to us.

18 We asked him to step out of the vehicle. He asked why.
19 He didn't want to step out of the vehicle. Eventually, he
20 tried to roll the windows of the vehicle up. I was able to
21 reach in fast enough and pull the handle on the passenger
22 side door, and I guess with that make of vehicle or whatever
23 it unlocked all the doors. So all the doors of the vehicle
24 unlocked, and Lt. Spears was able to gain access to the
25 driver's door, driver's side door, and open it.

ANDRON BROWN - DIRECT BY MR. RICHARDSON

1 We removed Mr. -- Mr. Briggs from the vehicle. He did
2 tell us at one point that he had a headache. Once we found
3 the pill that was in his pocket, he told us he had a
4 headache. I actually asked him why he was sitting at that
5 location, and he -- I think he lived nearby or his father
6 lived by or something like that. We asked him why he was
7 sitting at that location. If he had a headache, why didn't
8 he just go home? He didn't really provide a reason for that.
9 Lt. Spears ended up searching him and, subsequently, he
10 located the -- the suspected cocaine in his crotch area.

11 Q: All right. And while that search was going on -- and we
12 just heard testimony that Agent Spears gave the drug evidence
13 to Agent McKenzie?

14 A: Yes, sir.

15 Q: What was -- what did you do there at the scene?

16 A: At the scene, Lt. Spears was handling that. Cpl.
17 McKenzie was handling the evidence issue, and I was -- I just
18 went through the car and gathered -- just did a -- we had to
19 do a thorough search of the vehicle and located the digital
20 scale. I think there was a phone or something inside the
21 vehicle.

22 Q: And did you collect what you found there inside of the
23 vehicle and put it in evidence?

24 A: Yes, sir. I collected -- everything that I collected
25 was given -- all the evidence was given to Cpl. Spears -- I

ANDRON BROWN - DIRECT BY MR. RICHARDSON

1 mean -- I'm sorry. Cpl. McKenzie.

2 Q: All right. I'm going to show you what's marked as

3 State's Exhibit 1 for identification only at this point.

4 Could you tell us what is -- what this is or what these items

5 are?

6 A: Okay. There's a digital scale in here. The digital

7 scale is the scale that I saw on the passenger seat of the

8 vehicle. It has white residue all over it. There's a cell

9 phone, a flip cell phone in here, and there's another phone,

10 another cell phone in here.

11 Q: And is there --

12 A: And a paper or a title I guess to a vehicle.

13 Q: All right. And are these the items that you collected

14 from the --

15 A: Yeah.

16 Q: -- from the car?

17 A: Yes, sir. That's correct.

18 Q: All right. And this is what they looked like when you

19 collected them?

20 A: The same exact way.

21 Q: All right.

22 MR. RICHARDSON: Your Honor, at this time, I'd move

23 State's 1 into evidence.

24 THE COURT: Any objections?

25 MR. EDGEWORTH: No objection, Your Honor.

ANDRON BROWN - DIRECT BY MR. RICHARDSON

1 THE COURT: State's No. 1 is in evidence without
2 objection.

3 (WHEREUPON, State's Exhibit No. 1, digital scale, two
4 cell phones, and a vehicle title, was admitted into
5 evidence.)

6 BY MR. RICHARDSON:

7 Q: I'm going to show you what's marked as State's 2. If
8 you could take a look at that?

9 A: Okay. Sandwich bags. They were also located in the
10 vehicle.

11 Q: All right. Do you recall where in the vehicle?

12 A: I can't remember exactly where these were located in the
13 vehicle.

14 Q: All right. And are they in the same condition they were
15 when you saw them?

16 A: Yes, sir.

17 Q: All right.

18 MR. RICHARDSON: At this time, I would move State's 2
19 into evidence.

20 THE COURT: Any objections?

21 MR. EDGEWORTH: No objection, Your Honor.

22 THE COURT: All right. State's No. 2 is in evidence
23 without objection.

24 (WHEREUPON, State's Exhibit No. 2, sandwich bags, was
25 admitted into evidence.)

ANDRON BROWN - DIRECT BY MR. RICHARDSON

1 MR. RICHARDSON: Okay.

2 BY MR. RICHARDSON:

3 Q: Once you collected these items, what did you do from
4 there?

5 A: From there, he was -- we waited on transport. Once Lt.
6 Spears located what he located, we waited on transport. He
7 was transported to the Florence County Detention Center, and
8 we -- that was -- that was it.

9 Q: All right.

10 MR. RICHARDSON: I beg the Court's indulgence.

11 BY MR. RICHARDSON:

12 Q: Agent Brown, when you were searching the car, did you
13 find any, I guess, what would be known as drug paraphernalia
14 or items that would be commonly used to ingest drugs?

15 A: No. None of that was found.

16 Q: In a situation where you come upon somebody who may be
17 actively using drugs, what types of items would you commonly
18 find?

19 A: Different types of items for different drugs. For the
20 drugs that we have on scene that we had in this situation,
21 cocaine, you may find straws. You may find cut straws.
22 Usually, that's going to be a way that a user takes that is
23 snorting it. That's the most -- you know, I guess the most
24 -- the usual way that it's taken by a user.

25 With other drugs, like crack cocaine, you may find crack

ANDRON BROWN - DIRECT BY MR. RICHARDSON

1 pipes, little glass stems, a Brillo pad or charcoal. For
2 heroin, you may find cotton balls and syringes and different
3 things like that, but none of those things were found in the
4 vehicle.

5 Q: All right. So just the digital scale with the white
6 residue, the cell phones, and those bags?

7 A: Yes, sir. That's correct.

8 Q: All right.

9 MR. RICHARDSON: Please answer any questions that
10 defense counsel may have.

11 THE COURT: Cross.

12 MR. EDGEWORTH: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. EDGEWORTH:

15 Q: Sgt. Brown --

16 A: Yes, sir.

17 Q: When is the last time you used cocaine?

18 A: When was the last time?

19 Q: Yes, sir.

20 A: I never have.

21 Q: Okay. So you have zero experience whatsoever with the
22 use and/or abuse of cocaine; correct?

23 A: Personally, correct.

24 Q: Okay. Now, you also did not find in that car --
25 speaking of things that you did not find, you didn't find a

ANDRON BROWN - CROSS BY MR. EDGEWORTH

- 1 hunk of cash?
- 2 A: No, sir.
- 3 Q: You didn't find the keys to an airplane?
- 4 A: No, sir.
- 5 Q: Okay. Did you find -- well, a thought just occurred to
- 6 me. You approached the vehicle on the passenger side?
- 7 A: Uh-huh. Yes, sir.
- 8 Q: Okay. And Sgt. -- or I apologize if I get the title
- 9 wrong, but Sgt. Spears was on the -- on the driver's side?
- 10 A: Lt. Spears was on the driver's side.
- 11 Q: Lt. Spears?
- 12 A: Yes, sir.
- 13 Q: Okay. And you were able to -- or Mr. Briggs, as you
- 14 testified, was asleep in the vehicle by your -- by your
- 15 knowledge?
- 16 A: Well, I was assuming he was asleep. I assumed he was
- 17 asleep. Yes, sir.
- 18 Q: Okay. He appeared to be asleep?
- 19 A: Appeared.
- 20 Q: Okay.
- 21 A: Yes, sir.
- 22 Q: And the -- you indicated that it appeared that the
- 23 windows were being rolled back up so you -- you unlocked the
- 24 -- you were able to unlock the car so that Lt. Spears could
- 25 -- was able to get into the car on the other side?

ANDRON BROWN - CROSS BY MR. EDGEWORTH

1 A: Well, I didn't know that the doors would unlock for Lt.
2 Spears. I just know he was rolling up the window. It didn't
3 appear that he was rolling it up. The windows were going up.
4 He rolled it down to talk to me and then he rolled it up when
5 I tried to -- when I asked him to step out of the vehicle.
6 Q: Okay. I guess that's kind of where my question is
7 intended.
8 A: Yes, sir.
9 Q: Do you see Mr. Briggs put his hand on the door in an
10 effort to turn the -- roll the windows up?
11 A: No. I saw the windows going on.
12 Q: Okay.
13 A: I saw the window going up.
14 Q: Okay. You just saw the window going up on your side?
15 A: The window on my side started rolling up.
16 Q: Okay. Now, when you saw into the car, you indicated
17 that you perceived what's been placed into evidence as this
18 scale. You saw that in the vehicle?
19 A: On the passenger seat.
20 Q: Okay. It wasn't hidden; correct?
21 A: No, it wasn't hidden.
22 Q: It was in plain sight?
23 A: That's correct.
24 Q: Okay. And you've stated that there's some type of
25 residue on there. Did you test the scale for that?

ANDRON BROWN - CROSS BY MR. EDGEWORTH

1 A: No, I didn't.

2 Q: Okay.

3 A: I said a white residue. I didn't test it.

4 Q: Right. So you don't know what's on there; right?

5 A: I have no idea.

6 Q: Okay. Now, you also said that you collected a phone

7 from Mr. Briggs; is that correct?

8 A: It's two phones in there.

9 Q: Okay. Do you have a phone, sir?

10 A: I do.

11 Q: Okay. Now, do you have the ability when you take a

12 phone as evidence to extract information from it?

13 A: I don't understand, sir.

14 Q: Okay. In your -- in your experience as a law

15 enforcement officer, is there the ability to extract

16 information from a cell phone, in particular ones that you

17 take into evidence?

18 A: Oh, yeah, yeah. It's possible. Some phones you can't

19 get into, but it's possible at times.

20 Q: Okay. You did not do that in this case, did you?

21 A: No, I did not.

22 Q: Okay. So we don't know what was on that phone, just

23 like we don't know what's on your phone today?

24 A: On the cell phone, no. I have no idea what was on the

25 cell phone. Those were just collected.

ANDRON BROWN - CROSS BY MR. EDGEWORTH

- 1 Q: It could just simply be his cell phone?
- 2 A: You're a hundred percent correct.
- 3 Q: Understood. Okay. Now, you talked about things related
- 4 to what you perceived to be evidence of drug use?
- 5 A: Yes, sir.
- 6 Q: In particular, you said crack pipes. You didn't find
- 7 any crack pipes; correct?
- 8 A: No, I didn't find any.
- 9 Q: And you didn't find any crack?
- 10 A: Didn't find any.
- 11 Q: Okay. You didn't find any spoons for cooking down
- 12 heroin, did you?
- 13 A: No.
- 14 Q: Okay. In fact, you didn't find any heroin?
- 15 A: That's correct.
- 16 Q: All right. So those two things don't even really apply
- 17 to this case; correct?
- 18 A: The heroin and the crack you mean?
- 19 Q: That's right.
- 20 A: No. He -- no. That stuff doesn't apply to this case,
- 21 no.
- 22 Q: Now, he mentioned to you or you stated that Mr. Briggs
- 23 talked about his headache?
- 24 A: He did mention a headache. Yes, sir.
- 25 Q: And you also talked about the fact that he told you that

ANDRON BROWN - CROSS BY MR. EDGEWORTH

1 the pill he had was for his headache; correct?

2 A: Yes, sir.

3 Q: Okay. Are you aware that the number one side effect of
4 cocaine use is headaches?

5 A: I'm not aware of that.

6 MR. RICHARDSON: Objection. Speculation.

7 MR. EDGEWORTH: I asked him if he was aware of it.

8 THE COURT: I'll overrule it. Go ahead.

9 BY MR. EDGEWORTH:

10 Q: Are you aware?

11 A: No, I'm not aware of that.

12 Q: Okay. Now, one thing you've said you couldn't remember
13 was the location of the sandwich bags that have been placed
14 into evidence?

15 A: That's correct.

16 Q: Do you recall them being found in the trunk?

17 A: I can't remember where they were found.

18 Q: Okay.

19 A: That's what I'm saying.

20 Q: Okay.

21 MR. EDGEWORTH: Court's indulgence, Your Honor.

22 I have no further questions for this witness, Your
23 Honor.

24 THE COURT: All right. Any redirect?

25 MR. RICHARDSON: No, sir, Your Honor.

KENDRICK SPEARS - DIRECT BY MR. RICHARDSON

1 THE COURT: All right. You may step down.

2 THE WITNESS: All right.

3 THE COURT: Call your next witness.

4 MR. RICHARDSON: The State would call Kendrick Spears.

5 THE CLERK: Sir, if you'll please place your left hand
6 on the Bible and raise your right hand.

7 Do you swear or affirm the testimony you give in this
8 case to be the truth, the whole truth, and nothing but the
9 truth, so help you God?

10 THE WITNESS: I do.

11 THE CLERK: Please be seated and state your full name
12 for the record.

13 THE WITNESS: Kendrick Spears.

14 KENDRICK SPEARS, being first
15 duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. RICHARDSON:

18 Q: Lt. Spears, how long have you worked for the Florence
19 Police Department?

20 A: Eighteen years.

21 Q: And what sort of job duties have you had during your 18
22 years?

23 A: I started off on uniformed patrol for approximately
24 three years, and I've been assigned to the special
25 investigations unit for approximately 19 -- approximately 15

KENDRICK SPEARS - DIRECT BY MR. RICHARDSON

1 -- 15 years.

2 Q: Fifteen years?

3 A: Yes.

4 Q: And you're now the lieutenant over that division?

5 A: That's correct.

6 Q: Is that -- what does that mean in terms of your level of
7 authority?

8 A: I supervise the daily activities of the unit and also
9 help with casework, make sure everything is done properly.

10 Q: Okay. Back in -- back on March the 13th of 2019, were
11 you present there is [REDACTED] Lynch Street when -- with Mr. Briggs
12 and the other officers who have testified?

13 A: Yes, I was.

14 Q: And what -- what do you -- what did you do there that
15 day?

16 A: We observed Mr. Briggs' vehicle, a person of interest,
17 at the location of [REDACTED] Lynch Street. We approached the
18 vehicle to check on the well-being of the subject and to
19 identify, which we realized it was Mr. Briggs.

20 Sgt. Brown made contact with him, attempted -- asked him
21 to open the door, asked him to step out of the vehicle at the
22 time. That's when Mr. Briggs was able to put the window up.
23 Because of that action, like Sgt. Brown testified to, he was
24 able to reach in and unlock the door. That caused my side of
25 the door to unlock where I was able to open it and remove Mr.

KENDRICK SPEARS - DIRECT BY MR. RICHARDSON

1 Briggs from the vehicle.

2 Because he had the active arrest warrants, he was
3 handcuffed and placed under arrest for the active arrest
4 warrants. Our protocol, before I search anybody, I'm going
5 to ask do you have anything on your person to --

6 Q: Why do you do that?

7 A: It's a safety issue. We deal with people that may have
8 needles or other dangerous materials that could contaminate
9 us and harm us as officers. So he was asked if he had
10 anything, and he stated he had a pill, an oxycodone pill,
11 which he -- which was removed from his pocket. I then
12 conducted a further search of him and in his crotch area I
13 felt something consistent with narcotics.

14 Once I felt it, I asked, you know, to see -- you know, I
15 asked him the question what is this and he stated it was
16 work. In my career and my experience, when someone says
17 work, it's normally the term of drugs that are being sold for
18 the most part.

19 Q: Now, he's -- he's wearing -- he's fully clothed at this
20 point; right?

21 A: Yes.

22 Q: You're doing a pat-down search on the outside of his
23 clothing?

24 A: On the outside of his clothing, correct.

25 Q: And how do you go about extracting this?

KENDRICK SPEARS - DIRECT BY MR. RICHARDSON

1 A: Once he told me what it was, I went and retrieved
2 gloves, and it was -- he actually had on boxer briefs, and it
3 was in the opening of his boxer briefs where I retrieved the
4 items.

5 Q: Okay. Now, you do this at the scene?

6 A: Yes.

7 Q: Right?

8 A: It was on scene.

9 Q: So just logistically, do you -- do you have to have him,
10 like, pull his pants down or you just have to reach in there
11 or what do you do?

12 A: Yeah. Pretty much I just reached in there. He told me
13 and I felt where it was at. It was sitting on the outside of
14 it. So I was able to just retrieve it from right there out
15 of the public eye.

16 Q: Okay. And so you were the first person from the law
17 enforcement side who had contact with this drug evidence?

18 A: That's correct.

19 Q: Right? Now, I'm going to show you what's been marked
20 for identification only as State's Exhibit 3 and see if you
21 recognize that?

22 A: I do.

23 Q: What is it?

24 A: It's the suspected cocaine and the suspected -- well,
25 it's cocaine, found to be cocaine, the pill that he said he

KENDRICK SPEARS - DIRECT BY MR. RICHARDSON

- 1 had for a headache that was given to him, and it was another
2 substance at the time that we thought was crack cocaine. All
3 these items were sent to SLED for testing, and SLED returned
4 back saying the cocaine was present, indeed it was the
5 oxycodone pill, but the substance we thought was crack
6 cocaine came back negative for crack cocaine.
- 7 Q: All right. And the -- the pill that's in here you
8 mentioned was in his pants pocket?
- 9 A: It was in his pants pocket.
- 10 Q: The other two bags of items, that's what was in his
11 underwear?
- 12 A: That's correct.
- 13 Q: Now, you collected these items personally and what did
14 you do with them when you collected them?
- 15 A: Once they were collected, I surrendered them to Cpl.
16 McKenzie for him to maintain care and custody of it.
- 17 Q: All right. And prior to today, have you messed with
18 those since?
- 19 A: No, I haven't.
- 20 Q: All right. Did -- did you do anything with respect to
21 searching the car?
- 22 A: No. I remained with Mr. Briggs during the incident.
23 Sgt. Brown -- he searched the vehicle and collected the items
24 from the vehicle.
- 25 Q: So you maintained contact with the defendant?

KENDRICK SPEARS - DIRECT BY MR. RICHARDSON

1 A: Yes, that's correct.

2 Q: Until he was transported?

3 A: That's correct.

4 Q: Okay.

5 MR. RICHARDSON: I beg the Court's indulgence.

6 BY MR. RICHARDSON:

7 Q: Lt. Spears, you're familiar with that -- the location on

8 Lynch Street and the various schools and parks in that area?

9 A: I am.

10 Q: And have you worked in that area for a number of years?

11 A: Yes, my whole career.

12 Q: All right. And this particular address here on Lynch

13 Street, where was it located or where was it near in terms of

14 parks or schools?

15 A: It was within a half-mile radius of Iola Jones Park.

16 Q: All right. And now, the word there I want to focus in

17 on is radius. So it would be -- would that be kind of like

18 as the crow flies, like instead of just driving on the

19 streets?

20 A: That's correct. That's correct. Both ways. But as the

21 crow flies, definitely.

22 Q: All right. Now, just from like a, you know, human

23 travel perspective, about how far away from that blocks-wise

24 or drive-wise would that be?

25 A: Approximately three blocks I would say.

KENDRICK SPEARS - DIRECT BY MR. RICHARDSON

1 Q: Three city blocks in Florence?

2 A: Three city blocks, correct.

3 Q: All right.

4 MR. RICHARDSON: Thank you, sir. Please answer any
5 questions defense counsel may have for you.

6 THE COURT: Yes, sir.

7 MR. EDGEWORTH: Thank you, Your Honor. May it please
8 the Court.

9 CROSS-EXAMINATION

10 BY MR. EDGEWORTH:

11 Q: Lt. Spears, I'm confused by several things that you've
12 testified to; so I'd like to go through those. One is you
13 testified that when y'all approached, one of the reasons why
14 you approached the vehicle was to check on the individual's
15 well-being?

16 A: Uh-huh.

17 Q: Did you, in fact, do that?

18 A: Yes, we did. Once we -- once we approached the vehicle,
19 knocked on the window, and he was alert. So we realized that
20 he was alert and he was okay.

21 Q: Well, what made you think something was wrong with him
22 to begin with? Why would you need to check on his well-
23 being?

24 A: Because he was sleeping in a vehicle in a parking lot in
25 the car.

KENDRICK SPEARS - CROSS BY MR. EDGEWORTH

- 1 Q: And is there anything illegal about that?
- 2 A: No, not at all. It's concerning, but not illegal, no.
- 3 Q: Okay. Concerning because that individual may be
- 4 overdosing on drugs?
- 5 A: It's possible.
- 6 Q: Okay.
- 7 A: We deal with that often.
- 8 Q: Now, you've been an -- or you've been in this unit I
- 9 guess you said 15 years?
- 10 A: That's correct.
- 11 Q: Okay. And part of your duties is to draft a report or
- 12 an incident report after your interactions, your law
- 13 enforcement interactions; correct?
- 14 A: That's correct.
- 15 Q: Okay. And in those reports, you know, you put the date
- 16 and the time and a description of the individual that you
- 17 interacted with; correct?
- 18 A: That's correct.
- 19 Q: You put all the important information in there from that
- 20 interaction?
- 21 A: That's correct.
- 22 Q: Okay. Now, did you write an incident report in this
- 23 case?
- 24 A: No, I did not.
- 25 Q: You did not?

KENDRICK SPEARS - CROSS BY MR. EDGEWORTH

1 A: No.

2 Q: The -- are you part of the City of Florence incident

3 report related to this particular case?

4 A: Am I part of it?

5 Q: That's correct.

6 A: Yes, I'm part of it.

7 Q: Okay. Well, do you have knowledge of who drafted this

8 report?

9 A: Yes.

10 Q: Who? Who did that?

11 A: Sgt. Andron Brown.

12 Q: Okay. Mr. Brown did? Did you review the report?

13 A: Yes.

14 Q: Okay. Did you approve what was in it?

15 A: Yes.

16 Q: Okay. Have you read the report?

17 A: I have.

18 Q: And when you read the report at that time, did you make

19 certain that all the important facts were in the report?

20 A: Yes.

21 Q: Okay. Have you read the report recently?

22 A: Yes, I have.

23 Q: Okay. May I show it to you?

24 A: Yes.

25 Q: Okay. Will you review it and make sure it's a copy of

KENDRICK SPEARS - CROSS BY MR. EDGEWORTH

1 the same report that's part of this case?

2 (WHEREUPON, there was a pause in the proceedings for
3 review of the document by the witness.)

4 BY MR. EDGEWORTH:

5 A: Yes. Same report and I reviewed it.

6 Q: Okay. And the contents of this report are accurate as
7 to the incident?

8 A: The only thing that I would say was different was the
9 location of that pill, that one pill.

10 Q: Okay. But other than that that, there's nothing that's
11 been left out of this report to your knowledge?

12 A: No.

13 Q: Okay. You testified just now that Mr. Briggs when you
14 asked him about the drugs on his person --

15 A: Uh-huh.

16 Q: -- that it was work?

17 A: Correct.

18 Q: Okay. Is that indicated anywhere in this report?

19 A: No. That was not in there.

20 Q: Did you not think that that would be something very
21 important to put in the report if it, in fact, happened?

22 A: Yes, it could have been in there, but it didn't change
23 the circumstances of it.

24 Q: Okay. You didn't find that that was important to put in
25 there?

KENDRICK SPEARS - CROSS BY MR. EDGEWORTH

1 A: Yeah, it could have been listed in there.

2 Q: Okay.

3 A: But it's not going to change anything.

4 Q: It's not going to change anything other than the fact

5 that us trying to figure out when you decided to call that

6 statement work.

7 A: He made the statement on scene.

8 Q: Well, if he had made it, shouldn't you have put that in

9 this report?

10 A: I didn't type the report.

11 Q: You reviewed the report?

12 A: I reviewed the report.

13 Q: You said that he made the comment to you?

14 A: Correct.

15 Q: Did you make your own report saying that he said that to

16 you?

17 A: No, I did not.

18 Q: Did you read this report just now?

19 A: I did.

20 Q: Okay. Did you see the part where it says Briggs stated

21 why?

22 A: Briggs said at what point?

23 Q: Well, I'll let you read it. Here's the sentence right

24 there. What does it say? Right here. What does that

25 sentence say?

KENDRICK SPEARS - CROSS BY MR. EDGEWORTH

1 A: Briggs then stated why.

2 Q: And why is in quotation mark, is it not?

3 A: Uh-huh.

4 Q: As if it was a direct quote; correct?

5 A: Correct.

6 Q: It doesn't say work?

7 A: Yeah. That was Sgt. Brown's interpretation. I didn't

8 write that part.

9 Q: You read the report?

10 A: I read the report.

11 Q: Do you think that that was his interpretation of what --

12 of what Mr. Briggs allegedly said to you?

13 A: No, I don't.

14 Q: You do not believe that's the interpretation?

15 A: That's when we were face-to-face at the time --

16 Q: Okay.

17 A: -- when he made that comment.

18 Q: The point being is it or is it not true that this

19 alleged statement that you say for the first time on this

20 witness stand is not in the report?

21 A: It's not in the report. That's correct.

22 Q: But we're to believe you that he made this statement?

23 A: That's correct.

24 Q: Did you have a recording device on your person at the

25 time of your interaction?

KENDRICK SPEARS - CROSS BY MR. EDGEWORTH

1 A: No, I did not.

2 Q: Why not?

3 A: Within the special investigations unit, we are not

4 issued recording devices.

5 Q: So in special investigations where you may or may not be

6 approached by some alleged drug dealer who may or may not

7 have a gun, you do not have a recording device on your

8 person?

9 A: We do not.

10 Q: Don't you think that it would be necessary to have a

11 recording device on your person to protect you?

12 A: It could be used for protection, right.

13 Q: You said that you patted him down to make sure for your

14 safety?

15 A: That's correct.

16 Q: But you did not have a recording device to make sure we

17 know whether or not Mr. Briggs actually said work?

18 A: That's correct.

19 Q: So we don't know what he said, do we? But according to

20 the report, he said why; correct?

21 A: According to the report.

22 Q: All right.

23 A: But that's not what he said to me.

24 Q: Did you drug test Mr. Briggs after you put him in

25 custody?

KENDRICK SPEARS - CROSS BY MR. EDGEWORTH

- 1 A: No. We don't do drug testing.
- 2 Q: Okay. Do you also recall that he told you that he had
- 3 taken -- gotten the oxycodone pill because he had a headache?
- 4 A: I do recall that.
- 5 Q: Okay.
- 6 A: Yes.
- 7 Q: In Exhibit No. 3, you can just kind of make out the pill
- 8 in there; correct?
- 9 A: Yes.
- 10 Q: It is half eaten, is it not?
- 11 A: It is.
- 12 Q: And would that corroborate what Mr. Briggs told you at
- 13 the scene, that he had ingested the pill because he had a
- 14 headache?
- 15 A: He didn't say he ingested it. He told me he had it
- 16 because he had a headache.
- 17 Q: Okay. Well, do you think he would get it if he had a
- 18 headache and not at least take part of that?
- 19 A: I can't say what he would do.
- 20 Q: You would agree with me that it appears someone ate half
- 21 of that pill; correct?
- 22 A: Possibly.
- 23 Q: Okay.
- 24 A: But they do break them to sell them.
- 25 Q: Excuse me?

KENDRICK SPEARS - CROSS BY MR. EDGEWORTH

1 A: I said it could've been broken. I don't know. I
2 couldn't say.

3 Q: But would you not have to break it in order to order to
4 eat half of it if you had a headache?

5 A: I assume.

6 Q: Okay. This park that we keep on referring to?

7 A: Uh-huh.

8 Q: Iola Jones Park. It is a park in -- it is in and around
9 the public housing area of Florence; correct?

10 A: North Florence, correct.

11 Q: Okay. And when you came across Mr. -- Mr. Briggs, he
12 wasn't at the park, was he?

13 A: No, he wasn't.

14 Q: He was asleep in his car?

15 A: Asleep in his vehicle, appeared to be.

16 Q: Okay. He was not at the park or within a half a mile of
17 the park out there selling drugs, was he?

18 A: No.

19 Q: Okay. He was asleep in his car?

20 A: That's correct. He appeared to be asleep in his car.

21 Q: So the mere fact that the park just so happened to be
22 within a half a mile is just coincidental in this instance;
23 correct?

24 A: Yeah.

25 Q: Okay.

KENDRICK SPEARS - CROSS BY MR. EDGEWORTH

1 A: That's correct.

2 Q: Do we even know why they put this park in the public
3 housing area?

4 A: Why?

5 Q: Uh-huh.

6 A: For public access to a park.

7 Q: Okay. Is it possible that, you know, since this is
8 purportedly a high crime area that we put a park in the
9 public housing area so we can tack on criminal charges
10 whenever we can?

11 A: That wasn't the purpose, but we want it to be a well-
12 kept area.

13 Q: Is that possible?

14 A: I can't say.

15 Q: Because why would we worry about a park? Unless someone
16 was selling drugs there, who cares about the half a mile
17 radius other than law enforcement?

18 A: The community. The community don't want drugs around
19 parks and schools. So that's why that came about.

20 Q: Well, then why isn't it -- if this is a high crime area,
21 why isn't it just the whole public housing area if we believe
22 that to be a high crime area we're trying to protect and all?

23 A: I don't make the laws.

24 Q: Fair enough.

25 MR. EDGEWORTH: No further questions, Your Honor.

KENDRICK SPEARS - REDIRECT BY MR. RICHARDSON

1 THE COURT: Any redirect?

2 REDIRECT EXAMINATION

3 BY MR. RICHARDSON:

4 Q: The section of the report that you referred to about
5 Briggs then stated why, at what point in your interaction
6 with him at the car did that take place?

7 A: I think right after Sgt. Brown was asking him to step
8 out of the vehicle.

9 Q: All right. So at that point he was still in --

10 A: Still inside the vehicle.

11 Q: -- the driver's seat --

12 A: Yes.

13 Q: -- in the car?

14 A: We wasn't face-to-face at that time.

15 Q: All right.

16 A: He was still in the driver's seat.

17 Q: Now, at that point, he and Sgt. Brown were interacting?

18 A: Yes. Correct. Across the passenger side.

19 Q: Okay. Now, the statement that you testified about where
20 the substance was referred to as I guess the street term work
21 --

22 A: Correct.

23 Q: Who did he direct that statement to or who was talking?

24 A: We were face-to-face at that point in time when he said
25 it.

KENDRICK SPEARS - REDIRECT BY MR. RICHARDSON

1 Q: You and Mr. Briggs?

2 A: Yes. Me and Mr. Briggs.

3 Q: Okay. So that would have been at least some moments
4 after --

5 A: After.

6 Q: -- the interaction with Mr. Brown?

7 A: Correct. That's correct.

8 Q: All right.

9 MR. RICHARDSON: Thank you. That's all the questions I
10 have.

11 THE COURT: All right. Anything further?

12 MR. EDGEWORTH: I don't think I need to ask any further
13 questions, Your Honor.

14 THE COURT: You may step down.

15 THE WITNESS: All right.

16 THE COURT: Call your next witness.

17 MR. JEPERTINGER: Your Honor?

18 THE COURT: Yeah.

19 MR. JEPERTINGER: May we approach the bench?

20 THE COURT: Sure.

21 (WHEREUPON, a bench conference was held in the presence
22 of the jury but out of the hearing of the jury as
23 follows.)

24 MR. JEPERTINGER: Here's the deal. Frank Mizell is
25 sick. I told him to be -- I didn't know how quickly or

1 slowly we were going to get through this trial. I told him
2 to be here at 2:30. He'll be here at 2:30. Logically, he'd
3 be the next witness unless you stipulate all he did was
4 transport all this crap, the drug evidence, to SLED.

5 MR. EDGEWORTH: Okay.

6 MR. JEPERTINGER: Would you have a problem with that? I
7 mean that's all he would've testified to.

8 MR. EDGEWORTH: I assume the SLED person is going to say
9 that --

10 MR. JEPERTINGER: That she received it.

11 MR. EDGEWORTH: -- they received it into evidence?

12 MR. JEPERTINGER: Right.

13 MR. EDGEWORTH: I don't have a problem with that.

14 MR. JEPERTINGER: Okay. So we'll just stipulate that
15 Frank Mizell took --

16 MR. RICHARDSON: His name is on the verified chain as
17 dropping it off.

18 MR. JEPERTINGER: Right.

19 MR. EDGEWORTH: I'm fine with that if that's all he was
20 going to testify to.

21 MR. JEPERTINGER: Okay.

22 THE COURT: Sounds good.

23 MR. JEPERTINGER: That would -- so the stipulation would
24 be that Frank Mizell took the drugs to SLED for analysis.
25 That's the only thing he took; correct?

MARIBETH MCCORMACK - DIRECT BY MR. JEPERTINGER

1 MR. RICHARDSON: Yeah.

2 THE COURT: The stipulation is on the record.

3 MR. JEPERTINGER: Yes, sir.

4 MR. EDGEWORTH: Thank you.

5 MR. JEPERTINGER: Thank you.

6 (WHEREUPON, the bench conference ended, and the
7 proceedings resumed as follows.)

8 THE COURT: All right. Call your next witness.

9 MR. JEPERTINGER: Okay. The State would call Maribeth
10 McCormack from SLED.

11 THE CLERK: Ma'am, please place your left hand on the
12 Bible and raise your right hand.

13 Do you swear or affirm the testimony you give in this
14 case to be the truth, the whole truth, and nothing but the
15 truth, so help you God?

16 THE WITNESS: Yes.

17 THE CLERK: Please be seated and state your full name
18 for the record.

19 THE WITNESS: My name is Maribeth McCormack.

20 MARIBETH MCCORMACK, being
21 first duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. JEPERTINGER:

24 Q: Yes. Ms. McCormack, my name is John Jepertinger. I'm
25 deputy solicitor here in Florence County. I think we have

MARIBETH MCCORMACK - DIRECT BY MR. JEPERTINGER

1 met before or spoken before, but could you tell the ladies
2 and gentlemen of the jury for whom you work?

3 A: Yes. I work at the South Carolina Law Enforcement
4 Division, commonly known as SLED.

5 Q: Okay. And how long have you worked for SLED?

6 A: For about 13-and-a-half years.

7 Q: And what are your responsibilities there at the South
8 Carolina Law Enforcement Division?

9 A: I'm a forensic scientist in the drug analysis
10 department, and I analyze evidence for the presence of
11 controlled substances.

12 Q: Okay. Excuse me. How do you typically receive drugs
13 from several agencies around the state?

14 A: Yes. I receive evidence from our evidence control
15 department.

16 Q: All right. I'm going to show you what's been marked as
17 State's Exhibit 4 for identification at this point. Can you
18 tell us what this State's Exhibit 4 for identification is?

19 A: This is a chain of custody.

20 Q: All right. And is it regarding this particular case?

21 A: Yes.

22 Q: All right. And can you tell us from whom you received
23 the drugs in this case?

24 A: Yes. I received them from Bethany Davidson, who is a
25 forensic technician in evidence control.

MARIBETH MCCORMACK - DIRECT BY MR. JEPERTINGER

1 Q: Okay. And she works for SLED?

2 A: Yes.

3 Q: Okay. And who brought the drugs in from the Florence
4 Police Department?

5 A: Frank Mizell.

6 Q: Okay.

7 MR. JEPERTINGER: And let the record reflect that
8 there's been a stipulation between the State and the defense
9 that we will not need the testimony of Mr. Mizell, that we
10 have agreed that he carried the substances up to SLED for
11 analysis.

12 THE COURT: All right.

13 MR. EDGEWORTH: So stipulated, Your Honor.

14 THE COURT: All right. Good.

15 MR. JEPERTINGER: All right.

16 BY MR. JEPERTINGER:

17 Q: Now, when you receive the drugs at SLED, normally how
18 are they packaged?

19 A: They are normally packaged in what we call a BEST kit.
20 It is a tamper-evident pouch.

21 Q: Okay. I'm going to show you State's Exhibit 3 for
22 identification, and can you tell us is this the substances
23 that Mr. Mizell from the Florence Police Department dropped
24 off with Ms. Davidson, who gave you the substances
25 eventually?

MARIBETH MCCORMACK - DIRECT BY MR. JEPERTINGER

1 A: Yes.

2 Q: Okay. How do we know that?

3 A: There is a lab number associated. I see my initials and

4 date, and there's also a number associated with the BEST kit.

5 Q: Okay. And when a BEST kit -- is that a tampered --

6 tamper-proof sealed bag that you receive?

7 A: It's not tamper-proof. It's tamper-evident.

8 Q: Okay.

9 A: So if -- it would be obvious if someone had tried to

10 tamper with it due to the blue nature of the seal.

11 Q: Okay. And in this particular case, was there any

12 evidence of any tampering with the substances that you

13 received in that BEST kit?

14 A: No.

15 Q: All right. Okay. Now, you conducted an analysis on the

16 substances contained in that State's Exhibit 3; correct?

17 A: Yes.

18 Q: All right. Now, when you receive -- and I see that

19 there are three separate items in there; correct?

20 A: Yes, sir.

21 Q: Okay. Can you tell the difference for just -- without

22 getting too scientific with us, what is the difference

23 between cocaine and crack?

24 A: Cocaine is usually found in a powder form. Crack

25 cocaine is cocaine that has water and a base added to it and

MARIBETH MCCORMACK - DIRECT BY MR. JEPERTINGER

1 heated. That may be a preferred method for smoking because
2 it has a much lower melting point than cocaine.

3 Q: All right. So it is essential to make crack you need
4 powder cocaine?

5 A: Yes.

6 Q: Is that correct? Okay. And upon just a visual
7 observation, there is an object that could possibly be crack
8 cocaine in that --

9 MR. EDGEWORTH: Objection. Calls for speculation.

10 BY MR. JEPERTINGER:

11 Q: Well, within your -- within a reasonable degree of
12 scientific certainty and dealing with different substances,
13 have you observed cocaine base or crack before?

14 A: Before, yes.

15 Q: Okay. And in this case, you received those items;
16 correct?

17 A: Yes, sir.

18 Q: Okay. Now, let's go over -- and I have not done this.
19 Could you tell the ladies and gentlemen of the jury your
20 educational experience? And I know you gave us how long
21 you've worked for SLED, but your educational experience in
22 dealing with various substances?

23 A: Yes. I have a Bachelor of Science degree in chemistry
24 and a Master of Teaching chemistry and physics, both from the
25 University of South Carolina. And I have worked at SLED for

MARIBETH MCCORMACK - DIRECT BY MR. JEPERTINGER

1 13 years in the drug analysis department, and I've tested
2 over 11,000 cases.

3 Q: Have you ever been qualified in the field of chemical
4 analysis?

5 A: Yes.

6 Q: Have you testified in court before?

7 A: Yes.

8 Q: Have you been qualified as an expert in that -- your
9 field of expertise?

10 A: Yes.

11 Q: Okay.

12 MR. JEPERTINGER: At this time, I would move to have Ms.
13 McCormack qualified as an expert in the field of --

14 BY MR. JEPERTINGER:

15 Q: What would be the field?

16 A: Drug analysis.

17 MR. JEPERTINGER: In drug analysis.

18 THE COURT: Any objections?

19 MR. EDGEWORTH: Your Honor, may we approach?

20 THE COURT: Sure.

21 (WHEREUPON, a bench conference was held in the presence
22 of the jury but out of the hearing of the jury as
23 follows.)

24 MR. EDGEWORTH: I fully anticipate based on the
25 questions that have been forthcoming that the State is going

MARIBETH MCCORMACK - DIRECT BY MR. JEPERTINGER

1 to attempt to have this person qualified as an expert for the
2 simple reason of saying that this stuff that tested negative
3 for anything could have been possibly an attempt to turn it
4 into crack, and that's not what we're here for.

5 MR. JEPERTINGER: I don't know what I'm going to ask.

6 MR. EDGEWORTH: Well, that's what it appeared you were
7 going to do.

8 THE COURT: Well, let's see what he asks before any
9 objection.

10 MR. JEPERTINGER: Okay.

11 MR. EDGEWORTH: All right.

12 (WHEREUPON, the bench conference ended, and the
13 proceedings resumed as follows.)

14 THE COURT: What about any objections to the experts?

15 MR. EDGEWORTH: None as to the qualifications --

16 THE COURT: All right.

17 MR. EDGEWORTH: -- submitted to the Court, Your Honor.

18 THE COURT: The motion is granted.

19 MR. JEPERTINGER: All right.

20 BY MR. JEPERTINGER:

21 Q: So you received what's in State's Exhibit 3?

22 A: Yes.

23 Q: Can you tell us the analysis you conducted on each of
24 those substances and what you determined each of these
25 substances to be within a reasonable degree --

MARIBETH MCCORMACK - DIRECT BY MR. JEPERTINGER

1 A: Yes.

2 Q: -- of medical -- of scientific certainty?

3 A: May I refer to my notes?

4 Q: Absolutely.

5 A: The first item was powder substance, and cocaine was

6 found, 27.66 grams.

7 Q: Okay. And can you show the ladies and gentlemen of the

8 jury which of the three items we are referring to, ma'am?

9 A: This item.

10 Q: This? This first item? Okay. That would be the

11 lighter color item in the bag?

12 A: Yes.

13 Q: Okay. And what was the weight again?

14 A: 27.66 grams.

15 Q: All right. And in terms of the second item?

16 A: There were two plastic bags and liquid substance, and

17 there were no controlled substances detected.

18 Q: Okay. And what specific test would you conduct on them

19 to determine whether it's a controlled substance or not?

20 A: On Item 1, I performed a chemical test, which is a

21 preliminary test, as well as a confirmatory test, which is

22 gas chromatography mass spectrometry. On the Item 2, I

23 performed the gas chromatography mass spectrometry as long --

24 excuse me -- as well as a physical test.

25 Q: Okay. And you say that item was no controlled

MARIBETH MCCORMACK - DIRECT BY MR. JEPERTINGER

1 substance?

2 A: Yes.

3 Q: All right. And then there was a third item submitted to
4 you, and what did you determine that item to be?

5 A: Yes. There was one white tablet, and that was oxycodone
6 and acetaminophen.

7 Q: All right. And was there any scientific test or did you
8 do it through a drug Bible or how did you determine what that
9 substance was?

10 A: Yes. I had a literature reference to match the
11 markings, as well as gas chromatography mass spectrometry.

12 Q: And it did come back as oxycodone? And that is a
13 scheduled controlled substance?

14 A: Yes.

15 Q: And do you know which scheduled controlled substance it
16 would be?

17 A: Schedule II.

18 Q: Controlled substance?

19 A: Yes.

20 Q: Okay. And a scheduled controlled substance you normally
21 need a prescription for, I guess?

22 A: Yes.

23 Q: All right. All right. And I'll show you State's
24 Exhibit 5. Is this a copy of the report that you prepared in
25 this matter?

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1 A: Yes.

2 Q: And these are -- it contains the same results you've
3 just testified from from your notes; is that correct?

4 A: Yes.

5 Q: Okay.

6 MR. JEPERTINGER: At this time, Your Honor, along with
7 the stipulation, Your Honor, the State would move State's
8 Exhibit 3, State's Exhibit 4, and State's Exhibit 5 into
9 evidence.

10 THE COURT: Any objections?

11 MR. EDGEWORTH: No objection, Your Honor.

12 THE COURT: All right. So admitted. They are into
13 evidence without objection.

14 (WHEREUPON, State's Exhibit No. 3, drugs in BEST kit,
15 State's Exhibit No. 4, chain of custody, and State's
16 Exhibit No. 5, drug analysis report, were admitted into
17 evidence.)

18 MR. JEPERTINGER: I beg the Court's indulgence.

19 Your Honor, we have no further questions for Ms.
20 McCormack and turn her over to Mr. Edgeworth.

21 THE COURT: Yes.

22 MR. EDGEWORTH: Thank you, Your Honor. Briefly.

23 CROSS-EXAMINATION

24 BY MR. EDGEWORTH:

25 Q: Ms. McCormack, the Item No. 3 that you indicated was

MARIBETH MCCORMACK - CROSS BY MR. EDGEWORTH

1 oxycodone and acetaminophen mixture?

2 A: Yes.

3 Q: Are you familiar with that mixture?

4 A: Yes.

5 Q: Do you know what tradename or brand-name that mixture
6 could go by?

7 A: It could go by something similar to Percocet. I don't
8 know in this case the exact common name for it.

9 Q: And are you aware of what that drug is typically used
10 for?

11 A: Yes.

12 Q: And what are some of the reasons why it may be used?

13 A: Pain relief.

14 Q: Okay. To include headaches?

15 A: I'm not sure of specifically, but I do know it is a pain
16 reliever, yes.

17 Q: So in essence it could relieve pain from a headache; is
18 that correct?

19 A: Yes.

20 Q: Okay. Now --

21 MR. EDGEWORTH: I have no further questions, Your Honor.

22 THE COURT: All right. Any redirect?

23 MR. JEPERTINGER: No, and I would ask if Ms. McCormack
24 can go back to Columbia?

25 THE COURT: Any objections?

1 MR. EDGEWORTH: No objection, Your Honor.

2 THE COURT: Have a good day.

3 THE WITNESS: Thank you.

4 THE COURT: Call your next wetness.

5 MR. JEPERTINGER: The State rests, Your Honor.

6 THE COURT: All right. Members of the jury, if you
7 would, go into the jury room. We're going to take up some
8 motions out here. Do not discuss the case at this time.

9 (WHEREUPON, the jury exited the courtroom at 11:05 a.m.)

10 THE COURT: All right. Any motions?

11 MR. EDGEWORTH: Yes. Thank you, Your Honor. May it
12 please the Court.

13 At this time, the defense would move to dismiss or
14 direct a verdict as it relates to each of the counts, in
15 particular the defense's position is simply that any of the
16 evidence submitted before this Court just merely raises a
17 suspicion as to each of the counts, to include trafficking.

18 There's been no testimony that -- that there was any --
19 or there's been no evidence put into the record that there
20 was any selling of any drugs, any manufacturing of any drugs,
21 any distribution of any drugs, and -- and as far as the
22 proximity is concerned, I think that there is -- that they
23 would all be tangentially related, with the exception, Your
24 Honor, of the -- of the -- for the possession of the
25 controlled substance. So we would ask the Court to direct a

1 verdict at this point.

2 THE COURT: All right. Would you like to reply?

3 MR. JEPERTINGER: And in the light most favorable to the
4 non-moving party, I think there's been direct evidence that
5 this individual was trafficking, just trafficking based on
6 weight. And Ms. McCormack just testified that it was 27.66
7 grams, which is beyond the threshold of 10 grams.

8 THE COURT: All right.

9 MR. JEPERTINGER: And there has been testimony I think
10 from at least two officers that Iola Jones Park is within a
11 half-mile radius, three blocks, a half-mile radius as the
12 crow flies of the location of where these drugs were found.

13 THE COURT: All right. I'm going to deny the motion.

14 Any other motions?

15 MR. EDGEWORTH: No other motions at this time, Your
16 Honor. However, I would like to request a brief recess to
17 discuss with my client about the defense case.

18 THE COURT: All right. Sounds good. Let's take a 15-
19 minute break.

20 MR. EDGEWORTH: Yes, Your Honor. That'll be fine.

21 THE COURT: All right. Sounds good. Thank you.

22 (WHEREUPON, there a break in the proceedings from 11:08
23 a.m. until 11:27 a.m., after which the proceedings as
24 follows.)

25 THE COURT: All right. Mr. Briggs, have you talked with

1 your lawyer?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: All right. Let me go over a few things with
4 you before you tell me what you want to do.

5 The first thing I want to tell you is that if you would
6 like to come over here and be sworn in and take the witness
7 stand and testify, you can. However, you need to understand
8 if you do testify that you may be cross-examined on any and
9 all relevant issues in connection with your case.

10 Furthermore, if you have a criminal record and it
11 involves crimes of dishonesty or false statements or crimes
12 that carry punishment of more than one year and the Court
13 determines that the probative value of admitting same
14 outweighs its prejudicial effect, then your criminal record
15 will be introduced to attack your credibility. Do you
16 understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Furthermore, it's important to understand
19 that you have the right to remain silent. You don't have to
20 testify, and nobody can make you testify. And if you chose
21 to exercise that right, I would tell that jury they cannot
22 use that against you in any way. I would even go so far as
23 to tell them they cannot discuss that fact in the jury room.
24 Do you understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: All right. Do you have any questions for me
2 about your right to remain silent or your right to testify?

3 THE DEFENDANT: No, sir.

4 THE COURT: Have you discussed that with your lawyer?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And what have y'all decided?

7 THE DEFENDANT: I'm going to testify.

8 THE COURT: All right. Is that correct?

9 MR. EDGEWORTH: That is what he has advised me, Your
10 Honor.

11 THE COURT: All right. That sounds good. I find that
12 he did so freely, intelligently, and with the advice of a
13 very good lawyer.

14 THE DEFENDANT: Thank you.

15 THE COURT: Thank you.

16 All right. Let's go ahead and bring out the jury.

17 THE BAILIFF: Yes, sir.

18 (WHEREUPON, the jury entered the courtroom at 11:30
19 a.m.)

20 THE COURT: All right. If the defense will call your
21 first witness.

22 MR. EDGEWORTH: Thank you, Your Honor. The defense
23 calls Mr. Christopher Briggs.

24 THE CLERK: Sir, if you will please place your left hand
25 on the Bible and raise your right hand.

CHRISTOPHER BRIGGS - DIRECT BY MR. EDGEWORTH

1 Do you swear or affirm the testimony you give in this
2 case to be the truth, the whole truth, and nothing but the
3 truth, so help you God?

4 THE DEFENDANT: I do.

5 THE CLERK: Please be seated and state your full name
6 for the record.

7 THE DEFENDANT: Christopher Briggs.

8 MR. EDGEWORTH: Thank you, Your Honor.

9 CHRISTOPHER BRIGGS, being
10 first duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. EDGEWORTH:

13 Q: Mr. Briggs, how old are you, sir?

14 A: I'm 34.

15 Q: Okay. And where do you live?

16 A: In North Florence.

17 Q: Okay. And who do you live with?

18 A: My parents.

19 Q: Okay. Do you have -- are you married?

20 A: No, sir.

21 Q: Do you have any children?

22 A: Yes.

23 Q: Do you help take care of those children?

24 A: Yes.

25 Q: Okay. How many children do you have?

CHRISTOPHER BRIGGS - DIRECT BY MR. EDGEWORTH

1 A: I only have one son.

2 Q: Okay. And you help take care of him?

3 A: Yes.

4 Q: Okay. Are you from Florence originally?

5 A: Yes.

6 Q: Okay. And have you lived here all your life?

7 A: Yes.

8 Q: Okay. Now, obviously, we're here today for an incident

9 that occurred on or about March 13th, 2019. I'll point your

10 attention to that -- that time frame. Okay?

11 A: Yes, sir.

12 Q: And obviously, you know why you're here?

13 A: Yes.

14 Q: Okay. Tell the jury about the circumstances surrounding

15 the arrest that we're here for today?

16 A: Well, around about that time I was -- I was real bad on

17 drugs at that time, and they -- well, the Florence police --

18 Q: Let me stop you right there, and I may interrupt you

19 intermittently to make sure that the jury is aware. What

20 drugs were you on at that time?

21 A: Cocaine.

22 Q: Okay. And how long had you been using cocaine as of the

23 time that you were arrested?

24 A: Eight years.

25 Q: So you had been using cocaine off and on for

CHRISTOPHER BRIGGS - DIRECT BY MR. EDGEWORTH

1 approximately eight years?

2 A: Yes.

3 Q: Okay. Go ahead.

4 A: Around about that time, I was -- I was in the car asleep

5 or laying back or whatever. I had just -- I was coming down

6 from partying the night before.

7 Q: Where were you partying at?

8 A: On Lynch Street.

9 Q: Okay. And where in particular?

10 A: The same spot. That's like a little pool hall club type

11 thing.

12 Q: Okay. And when you say same spot, are you referring to

13 where your car was parked?

14 A: Yes.

15 Q: Okay. And so your car was parked outside of, like, a

16 club?

17 A: Yes.

18 Q: Okay. And that's -- is that where you were that night?

19 A: Yes.

20 Q: Okay. Go ahead.

21 A: So I was coming down and around about that time I did,

22 like, uppers and downers. I was taking Percocets, and I was

23 doing cocaine too. And when they approached me, when they

24 approached the car, they asked me -- they never asked me

25 anything. They came to the car and said that you need to get

CHRISTOPHER BRIGGS - DIRECT BY MR. EDGEWORTH

1 out of the car, we've got to talk to you. So I asked them
2 why, and he started pulling on the door. The door opened.

3 As soon as he get me out the car, he put me in
4 handcuffs. He didn't ask me anything about do I have any
5 drugs on me or anything. He dug straight in my drawers and
6 got the cocaine out like he already knew where it was at or
7 knew that I had it on me or something like that. He dug
8 straight in my drawers, pulled it out, and then searched me
9 and found the pill and asked me why did I have a pill on me,
10 and I told him that it was for a headache.

11 Q: So when they showed you the pill --

12 A: Uh-huh.

13 Q: -- they asked you what it was for?

14 A: Yes.

15 Q: Okay. And you told them that it was for a headache?

16 A: Yes.

17 Q: Okay. Had you ingested some of the pill?

18 A: Yes.

19 Q: Okay. What happened next?

20 A: Next after -- after they got the drugs off of me, they
21 was searching the car. So I told them that the car -- that
22 my father would come and get the car. Let my father come and
23 get the car.

24 They went through the car and found the title in the car
25 and told me that the car was not mine's. They said that my

CHRISTOPHER BRIGGS - DIRECT BY MR. EDGEWORTH

1 name is not on the car title or nobody -- or my father's name
2 on the car title and so he couldn't get the car or me
3 couldn't get the car. They took the title and the car.
4 Q: Okay. But that vehicle wasn't yours?
5 A: No.
6 Q: Were you there while they were searching the car?
7 A: Yes.
8 Q: Okay. Where else did they search?
9 A: In the trunk.
10 Q: Okay. And do you recall what they found in the trunk?
11 A: The sandwich bags.
12 Q: Okay. Did you put the sandwich bags there?
13 A: No.
14 Q: Okay. Now, is this a car that is used by both you and
15 your dad?
16 A: He drove it sometimes, but not like that.
17 Q: Okay. Did other people use that car?
18 A: Yes.
19 Q: Okay. Now, you're in the handcuffs and they're
20 searching the vehicle?
21 A: Yes.
22 Q: Okay. And then at some point you're transported to the
23 detention center?
24 A: Uh-huh.
25 Q: Is that a yes?

CHRISTOPHER BRIGGS - DIRECT BY MR. EDGEWORTH

1 A: Yes.

2 Q: Now, you heard the officers testify earlier?

3 A: Yes.

4 Q: Okay. They made a comment that you -- they claim you

5 said the word "work" whenever they asked you about the drugs.

6 Do you recall them saying that?

7 A: I remember them saying that.

8 Q: Did you ever say that?

9 A: No.

10 Q: In fact, did they ever ask you why you had the drugs?

11 A: No.

12 Q: Did they ever ask you if you had used the drugs?

13 A: No.

14 Q: Did they say -- did they ask you whether you needed any

15 medical treatment?

16 A: No.

17 Q: You told them about the headache?

18 A: Yes.

19 Q: And when they -- they had the pill. After they pulled

20 out the pill, you told them why you had the pill?

21 A: Yes.

22 Q: Now, you heard the SLED agent come and testify just

23 moments ago; correct?

24 A: Yes.

25 Q: And that there was a particular amount of weight of this

CHRISTOPHER BRIGGS - DIRECT BY MR. EDGEWORTH

1 cocaine? You heard that testimony?

2 A: Yes.

3 Q: Okay. That was your cocaine?

4 A: Yes. I was in possession of it.

5 Q: Okay. And you were using that cocaine?

6 A: Yes.

7 Q: How long had you had that cocaine, if you can recall?

8 A: Twenty minutes.

9 MR. EDGEWORTH: Court's indulgence, Your Honor.

10 BY MR. EDGEWORTH:

11 Q: During the eight years that you have testified that

12 you've been using cocaine, did you purchase cocaine often?

13 A: Yes.

14 Q: Okay. And when you did so, did you -- how did you --

15 how did you go about doing it?

16 A: I'd just buy myself enough to last me.

17 Q: Okay. And --

18 A: Um --

19 Q: Go ahead. I didn't mean to interrupt you.

20 A: Yeah. I'd just buy enough to last me.

21 Q: You've had to buy more than once is what I'm asking?

22 A: Yes, yes.

23 Q: Okay. Do you know about how many times you've had to

24 buy or how often you had to buy?

25 A: Maybe once a week.

CHRISTOPHER BRIGGS - CROSS BY MR. RICHARDSON

1 MR. EDGEWORTH: I have no further questions, Your Honor.

2 THE COURT: All right. Cross.

3 CROSS-EXAMINATION

4 BY MR. RICHARDSON:

5 Q: Mr. Briggs, you say you are from Florence, grew up in
6 Florence, always lived in Florence?

7 A: Yes.

8 Q: Right? And in the North Florence area kind of where all
9 this took place?

10 A: Yes.

11 Q: All right. Where you were that day was I think [REDACTED]
12 Lynch Street at this club or pool Hall or whatever?

13 A: Yes.

14 Q: And doesn't -- did you live kind of sort of near there?

15 A: I live in the neighborhood.

16 Q: All right. So is your address also on Lynch Street or
17 --

18 A: No.

19 Q: All right. But you -- your family or you lived just,
20 you know, a short distance away?

21 A: I lived on -- yes, on Stackley Street.

22 Q: All right. And that's pretty quickly walkable or
23 drivable?

24 A: Maybe for a walk about ten minutes.

25 Q: All right. And have you lived there or around there

CHRISTOPHER BRIGGS - CROSS BY MR. RICHARDSON

1 your whole life?

2 A: Yes.

3 Q: All right. So you're familiar with Iola Jones Park?

4 A: Yes.

5 Q: It's been there since time?

6 A: Yes.

7 Q: All right. Now, you said that you were coming off or

8 coming down from partying at this club at [REDACTED] Lynch Street

9 that evening before?

10 A: Uh-huh.

11 Q: All right. Now, when the police were out there with

12 you, would you agree this was around 3 o'clock in the

13 afternoon?

14 A: It could be, yes.

15 Q: All right. And had you -- had you been there in the

16 car, like, the whole time since the night before?

17 A: No.

18 Q: Okay. Well, you mentioned that you had had that cocaine

19 for about -- I think you said about 20 minutes, if I heard

20 you right?

21 A: Uh-huh.

22 Q: That's your estimation of --

23 A: Of how long. That's when I went and got some more, yes.

24 Q: All right. And you bought yourself -- you said I buy

25 myself enough to last me?

CHRISTOPHER BRIGGS - CROSS BY MR. RICHARDSON

- 1 A: Yes.
- 2 Q: And this -- what you had on you was testified to have
3 weighed about 27.66 grams I think was the testimony. Is that
4 how much you typically purchase at any given time?
- 5 A: Yes.
- 6 Q: All right. About how long does that last you?
- 7 A: About a week.
- 8 Q: A week? So that's basically an ounce?
- 9 A: Give or take.
- 10 Q: Of cocaine?
- 11 A: Uh-huh.
- 12 Q: All right. Now, you admit or you've acknowledged that
13 what we have here, this cocaine, was down in your underwear?
- 14 A: Yes.
- 15 Q: All right. And the pill was in your pocket, pants
16 pocket?
- 17 A: It could have been.
- 18 Q: It could have been? Somewhere on you?
- 19 A: Yes.
- 20 Q: All right. All right. So you don't dispute what the
21 substance was? I mean you said you've been using it for a
22 long time, eight-plus years.
- 23 A: Yes.
- 24 Q: All right. So you freely admit that's cocaine and you
25 had it down in your underwear?

CHRISTOPHER BRIGGS - CROSS BY MR. RICHARDSON

1 A: Yes, sir.

2 Q: All right.

3 MR. RICHARDSON: Very good. I think that's all the
4 questions I have.

5 THE COURT: All right. Redirect?

6 MR. EDGEWORTH: No redirect, Your Honor.

7 THE COURT: All right. You may step down.

8 THE DEFENDANT: Thank you.

9 THE COURT: All right. Any other witnesses?

10 MR. EDGEWORTH: No further witnesses from the defense,
11 Your Honor.

12 THE COURT: All right. Y'all come on up here and let's
13 talk about scheduling real quick.

14 (WHEREUPON, a bench conference was held in the presence
15 of the jury but out of the hearing of the jury as
16 follows.)

17 THE COURT: What do y'all want to do? Do you want to
18 just keep on going?

19 MR. JEPERTINGER: Yes.

20 THE COURT: Just keep on? I mean we can take a break
21 and send them out for 15 minutes or so?

22 MR. JEPERTINGER: Yeah.

23 THE COURT: Okay. We can do that.

24 MR. RICHARDSON: Okay.

25 (WHEREUPON, the bench conference ended, the proceedings

1 resumed as follows.)

2 THE COURT: Members of the jury, if you would, step into
3 the jury room. We're going to do a little bit of work out
4 here and then we'll be back with you. Do not discuss the
5 case.

6 (WHEREUPON, the jury exited the courtroom at 11:43 a.m.)

7 THE COURT: Okay. What have we got?

8 MR. JEPERTINGER: Okay. This -- Your Honor, I'm going
9 to show you a copy of *Matthews v. State*.

10 THE COURT: Uh-huh.

11 MR. JEPERTINGER: I'll give you this and I'll give you
12 this and I'll give you this. The problem we have is this
13 *Matthews v. State* came back -- came out in 1990. It was a
14 marijuana case, but it's basically the same idea of the issue
15 of trafficking weight versus PWID weight. Okay?

16 And Justice Finney at the time wrote this:

17 Where, however, the undisputed evidence is that the
18 amount involved exceeds the minimum trafficking amount, then
19 only the trafficking charge should be submitted to the jury
20 when you're dealing with possession.

21 Your Honor, by extension, PWID should not be charged to
22 the jury, nor should possession be charged to the jury. It's
23 an up or down question whether it was trafficking amount
24 weight. A trafficking case based on possession, Judge, there
25 is no indication that there was any distribution or any of

1 this other business. This is a question of weight.

2 And when something is based on weight -- Ms. McCormack
3 testified that it was 27.66 grams. There is no evidence
4 contradicting that one way or another, and I would just rely
5 on *Matthews v. State*. I mean it is when -- the language,
6 once again: Where, however, the undisputed evidence is that
7 the amount involved exceeds the minimum trafficking weight,
8 which it does in this case, then the only -- then only the
9 trafficking charge should be submitted to the jury.

10 THE COURT: So you do not want to submit the possession
11 with intent to distribute?

12 MR. JEPERTINGER: No PWID, no possession. It's either
13 trafficking or it is not.

14 THE COURT: All right.

15 MR. EDGEWORTH: For the record, Your Honor, I've
16 obviously just been handed this. I wasn't too familiar, but
17 in even brief reading I would argue that, you know, this --
18 this -- assuming this is still good law, it appears to --
19 this case is only about marijuana, which, you know, those
20 particular examples, those are much larger weights, and I
21 think that in that particular instance, you know, *prima facie*
22 wise, I mean there would be -- it appears that this is
23 limited to a marijuana offense.

24 MR. JEPERTINGER: I don't think so.

25 MR. EDGEWORTH: Well, I mean --

1 MR. JEPERTINGER: Judge --

2 MR. EDGEWORTH: Again, I'm limited on being able to
3 review it.

4 THE COURT: Take your time. Go ahead and take a look at
5 it. We'll go back there and take a look at it.

6 MR. EDGEWORTH: Okay.

7 THE COURT: And then we'll come back and deal with all
8 of that stuff.

9 (WHEREUPON, there was a break in the proceedings from
10 11:46 a.m. to 12:04 p.m., after which the proceedings
11 resumed as follows.)

12 THE COURT: All right. What do you think, Mr.
13 Edgeworth?

14 MR. EDGEWORTH: Your Honor, I've looked into it, of
15 course, and unfortunately, the case that I see, *State v.*
16 *Grandy*, does imply that there was a -- that that particular
17 case would apply for a cocaine offense, which was my original
18 argument.

19 I would argue, Your Honor, that, you know, due process
20 would call for allowing the lesser-included offense in this
21 particular case. My client has testified as to use,
22 understanding that the record or at least the testimony from
23 the SLED agent was as to that particular weight, and I didn't
24 cross-examine her as to that particular issue. I'm not
25 expecting this to be an issue, but I would ask the Court to

1 grant the lesser-included on the basis of due process.

2 THE COURT: Lesser-included of possession?

3 MR. EDGEWORTH: Yes, sir.

4 THE COURT: What's your take on the possession with
5 intent to distribute within the proximity of a park?

6 MR. JEPERTINGER: Judge, there is no offense called
7 trafficking within proximity.

8 THE COURT: I mean possession with intent to distribute
9 within proximity.

10 MR. JEPERTINGER: It is what it is. I mean that's the
11 only offense that you have that --

12 THE COURT: Yeah, but your marijuana case talks about
13 trafficking --

14 MR. JEPERTINGER: Right.

15 THE COURT: -- and the possession with intent to
16 distribute, not within the proximity of a park.

17 MR. JEPERTINGER: That's correct.

18 THE COURT: Wouldn't that make it a different offense
19 because of the location?

20 MR. JEPERTINGER: It is separate. It is a separate
21 criminal offense completely.

22 THE COURT: Uh-huh.

23 MR. JEPERTINGER: But there is no offense called
24 trafficking within --

25 THE COURT: Yeah.

1 MR. JEPERTINGER: -- proximity of a park, I mean.

2 THE COURT: Right, but you were wanting to dismiss --

3 MR. JEPERTINGER: I want to dismiss anything dealing
4 with PWID cocaine or possession of cocaine based on *Matthews*
5 and *State v. Grandy*.

6 THE COURT: Well, *Matthews* did not have that section
7 about within a proximity of the park.

8 MR. JEPERTINGER: Judge, if it would make it simple, we
9 would --

10 THE COURT: Well, I mean if you consent to it, I'm fine
11 with it.

12 MR. EDGEWORTH: I'm not consenting, Your Honor. I think
13 -- I think, more importantly, this obviously is confusing as
14 well. I mean you're having to -- you're having this other
15 offense, the PWID within proximity.

16 THE COURT: So you want to dismiss that as well?

17 MR. EDGEWORTH: Dismiss?

18 THE COURT: I mean that's what he wants to do, isn't it?

19 MR. JEPERTINGER: I haven't said anything. Go ahead.

20 MR. RICHARDSON: Yeah. Judge, what I think we've got,
21 each of these three offenses stands alone.

22 THE COURT: Right.

23 MR. RICHARDSON: The trafficking in the statute, the
24 intent for what to do with the drugs in the trafficking
25 statute is not contemplated. It's very cut and dried. It

1 basically says if you have actual or constructive possession
2 of more than 10 grams of cocaine, you are guilty of
3 trafficking in cocaine. It doesn't matter if he intended to
4 sell it. It doesn't matter if he intended to use it. It
5 doesn't matter if he intended to throw it off a bridge.

6 In the PWID within proximity --

7 THE COURT: Right.

8 MR. RICHARDSON: -- that law requires that you are in --
9 obviously in proximity of a certain location and that you
10 intend to distribute illegal drugs.

11 THE COURT: Uh-huh.

12 MR. RICHARDSON: For the jury to find him guilty of that
13 one, they would have to look at not only the fact that he had
14 this amount of drugs, but also the other indicia of
15 distribution, the scales, the baggies, all those things.

16 THE COURT: Right.

17 MR. RICHARDSON: Which are separate and apart from just
18 the standalone fact that he had trafficking weight drugs.
19 And then, of course, you've got the third, possession of a
20 pill.

21 THE COURT: Uh-huh.

22 MR. RICHARDSON: So my position would be you've got
23 three standalone cases here that are distinguishable from
24 each other. I don't think any of them need to be tossed out.
25 I think that they can each be discussed within the purview of

1 their own statutory language and proven by the evidence.

2 Obviously, with trafficking, we have the direct
3 evidence. He acknowledges he had it. He doesn't dispute the
4 weight. You know, he said -- he said why -- what he intended
5 to do with it, but that's not relevant under the trafficking
6 statute.

7 The PWID proximity, we just have the extra burden of
8 proving to the jury that even though he had it, it did matter
9 for that statute what he intended to do with it.

10 THE COURT: Right.

11 MR. RICHARDSON: So I think they are three different
12 things, and I think under *Matthews v. State* and in *Grandy*,
13 for a trafficking offense if you meet the weight threshold
14 and it's undisputed, then there is no lesser-included, and
15 that's state law by the U.S. -- by the South Carolina Supreme
16 Court. I don't think it matters what other offenses may be
17 -- he may be charged with.

18 THE COURT: Have you got the law on that that says it
19 cannot be possession or is that --

20 MR. RICHARDSON: That's in *Grandy* and then *Matthews*.

21 THE COURT: Do we have that case?

22 MR. RICHARDSON: It says --

23 MR. EDGEWORTH: I think, Your Honor, that's what the
24 distinguishing factor, which was, you know, that was the only
25 charge. Here we've got the additional offense of PWID within

1 proximity. I think that then invokes -- you know, I think it
2 becomes confusing for the jury if you don't -- if that's not
3 allowed as a lesser-included offense.

4 THE COURT: The possession you're talking about?

5 MR. EDGEWORTH: Yes, Your Honor.

6 MR. RICHARDSON: Yeah, because I can -- it might confuse
7 them at first, but I'll explain it. It says, you know, in
8 *Matthews* when there is conflicting evidence as to whether the
9 amount -- and in that case marijuana, but it doesn't matter
10 -- involved is sufficient to invoke the trafficking statute
11 -- excuse me. Where there's undisputed evidence the amount
12 involved exceeds the minimum trafficking amount, then only
13 trafficking should be submitted to the jury. It deals
14 specifically just with the trafficking issue.

15 THE COURT: Yeah.

16 MR. RICHARDSON: It doesn't contemplate a proximity
17 charge, and I don't think it has to. I think it's a separate
18 offense that's proven by different elements that stands on
19 its own, and I've got to prove that to them too.

20 THE COURT: I agree.

21 MR. RICHARDSON: So I think all three operate
22 independently, but this *Grandy* and *Matthews* case is a hit on
23 point on the trafficking issue when it comes to lesser-
24 included offenses, and it would be contrary to the law of the
25 Supreme Court of South Carolina to put a PWID or a possession

1 lesser-included on that trafficking.

2 THE COURT: I gotcha.

3 MR. EDGEWORTH: I hear it, but I disagree.

4 THE COURT: Can you show me any law that shows that
5 possession is a lesser-included of trafficking?

6 MR. EDGEWORTH: Well, Your Honor, I mean I didn't find
7 any case law that says that it's mandated when there's --
8 when there's undisputed evidence. I mean I can't -- you
9 know, in this particular case, I can't assert to this Court
10 in all candor that -- I mean I read -- I saw the *Grandy* case,
11 and it adopts this *Matthews* rule as it applies to the cocaine
12 as opposed to the marijuana issue when it's undisputed, and
13 that's what I was, you know, reaching out before with, you
14 know, this particular case.

15 We've rested, but we acknowledge that we haven't put up
16 any -- any evidence that contradicts the State's position on
17 the weight. As to the intent, we do have evidence.

18 MR. JEPERTINGER: Your Honor, the --

19 THE COURT: So what you want is all three of these plus
20 possession only?

21 MR. EDGEWORTH: I'm sorry. Say that one more time, Your
22 Honor?

23 THE COURT: So what you want to do is add the lesser-
24 included of possession?

25 MR. EDGEWORTH: Yes, Your Honor.

1 MR. RICHARDSON: I don't think that works under the
2 *Grandy* principal.

3 THE COURT: Yeah. It says where, however, the
4 undisputed evidence is that the amount involved exceeds the
5 minimum trafficking amount, then only the trafficking charge
6 should be submitted to the jury. But in that case, it did
7 not have within proximity of a park.

8 MR. JEPERTINGER: That's a separate offense.

9 THE COURT: So they were calling it --

10 (WHEREUPON, there was a pause in the proceedings for the
11 Court and law clerk to confer, after which the
12 proceedings resumed as follows.)

13 MR. RICHARDSON: Yeah. Judge, like I mentioned earlier
14 --

15 THE COURT: Yeah.

16 MR. RICHARDSON: -- the trafficking, it stands over
17 here.

18 THE COURT: Okay.

19 MR. RICHARDSON: The PWID is different elements on a
20 different offense that I have to prove --

21 THE COURT: I gotcha.

22 MR. RICHARDSON: -- with different evidence. I mean
23 it's similar. It's all obviously one fact pattern, but we're
24 not talking about the same elements of the crime charged.
25 You know, it's different and it's an independent thing I have

1 to prove to them based on the circumstantial evidence of the
2 scales and the bags and all that.

3 THE COURT: Right.

4 MR. RICHARDSON: So it's --

5 THE COURT: You just don't want the possession?

6 MR. RICHARDSON: Well --

7 THE COURT: Possession.

8 MR. RICHARDSON: Having the PWID and possession is in
9 violation of *Matthews* and *Grandy*.

10 THE COURT: Yeah.

11 MR. RICHARDSON: Underneath the trafficking.

12 (WHEREUPON, there was a pause in the proceedings, after
13 which the proceedings resumed as follows.)

14 THE COURT: All right. I tend to agree with the State,
15 unless you can find me something different.

16 MR. EDGEWORTH: Your Honor, as I mentioned, I researched
17 this while we were out. I could not.

18 THE COURT: Do you want us to send the jury out and give
19 you a few minutes to send them to lunch and come back at --

20 MR. EDGEWORTH: Yeah. I would appreciate the
21 opportunity to review this further.

22 THE COURT: How about until 1:30?

23 MR. EDGEWORTH: Yes, sir. That would be fine.

24 THE COURT: Is that good with you?

25 MR. JEPERTINGER: I'm nowhere close to eating, Judge.

1 THE COURT: All right. Why don't you tell the jury they
2 can go to lunch until 1:30, but do not discuss the case, do
3 not research the case. Be back at 1:30.

4 THE BAILIFF: Okay.

5 MR. EDGEWORTH: Thank you, Judge.

6 THE COURT: All right. You check it out and I'll look
7 at it too.

8 (WHEREUPON, there was a break in the proceedings from
9 12:15 p.m. until 1:30 p.m., after which the proceedings
10 resumed as follows.)

11 THE COURT: All right. Mr. Edgeworth, did you find
12 anything to lead me to believe I should --

13 MR. EDGEWORTH: Your Honor, unfortunately, I have not
14 located a case on point as it directly relates to the State's
15 argument as to the -- the trafficking as it relates to
16 weight, but I would at least for the record like to make an
17 argument in part legal and in part public policy.

18 First and foremost, Your Honor, as the Court is aware,
19 the scheme of this particular -- these drug statutes, this
20 case was rendered -- the case upon which the State is relying
21 was in 1990 and, of course, since that time the legislature
22 has over time decreased penalties for those statutes or
23 otherwise for these drug charges and, of course, as the Court
24 is most likely aware, there is pending legislation to further
25 reduce those penalties to include the trafficking -- the

1 minimum -- the minimum sentences for -- for those
2 traffickings.

3 I think the underlying premise there is, of course, the
4 fact that traditionally the courts have received possession
5 with intent to distribute and possession as inherent lesser-
6 includeds regardless of whether weight was the sole issue.
7 And although -- although the defense did not put up any
8 evidence controverting the amount as defined by their expert,
9 we did put up evidence to show that he was in possession of
10 that and the intent for which he had that possession.

11 And because the scheme essentially notes as follows, you
12 have possession and then a particular weight will allow the
13 jury to infer intent to distribute and then additional weight
14 would allow the jury to infer that the individual was
15 trafficking, I think that it's important for the Court to
16 take that in consideration when making its ruling as to
17 whether or not we're allowed to have the lesser-included
18 offense under the trafficking indictment.

19 And I think that if we -- because I believe that the
20 jury could find that based on the evidence that was presented
21 by the State that possession may have been with the intent to
22 distribute, I think that it's appropriate to allow that
23 charge to be -- to be held or to be presented to the jury.

24 THE COURT: I think the law as it stands leads me to
25 charge trafficking, the possession with intent within

1 proximity, and the oxycodone. I don't think you can have the
2 -- unless you challenged the weight, which is just not
3 challenged at all.

4 MR. EDGEWORTH: Yes, Your Honor.

5 THE COURT: And the fact that it was cocaine itself
6 wasn't challenged, and it really wasn't challenged that it
7 was on him as well.

8 MR. EDGEWORTH: Yes, Your Honor.

9 THE COURT: So I think under the law as it is I'm
10 obligated to charge it like it is.

11 MR. EDGEWORTH: Yes, sir.

12 THE COURT: But do you want to come take a look at the
13 --

14 MR. EDGEWORTH: Absolutely.

15 THE COURT: -- charge. See if there's something you
16 want to change or not. That's just the verdict form.

17 MR. EDGEWORTH: Oh, okay.

18 (WHEREUPON, there was a pause in the proceedings, after
19 which the proceedings resumed as follows.)

20 THE COURT: All right. So let's go ahead and bring in
21 the jury.

22 Let the record reflect that there were no changes to the
23 charge. They all consented.

24 (WHEREUPON, the jury entered the courtroom at 1:39 p.m.)

25 THE COURT: All right. The State is recognized for your

1 closing statement.

2 MR. RICHARDSON: Thank you, Your Honor. Mr. Edgeworth.

3 CLOSING ARGUMENT ON BEHALF OF THE STATE

4 MR. RICHARDSON: You've heard about three separate and
5 distinct criminal charges in this case, and I emphasize the
6 separate and distinct nature of them because you have to
7 consider each of them on their own merit based on the
8 elements of each of those offenses. So I'm going to start
9 out talking about each of the three of those things and the
10 law that applies to them. All right? So I'll stand in a
11 different place for each one.

12 We'll start first with the -- what we call -- I call the
13 pill charge, the oxycodone. Possession of a controlled
14 substance, Schedule I to V. For that charge to be proved, we
15 basically just have to show that the defendant had possession
16 of that illegally, which, you know, in this situation it's
17 loose in his pocket without the proper prescription or bottle
18 or anything like that. You possess a controlled substance
19 like that, that's contrary to statute and that's -- that's
20 basically it. Straightforward.

21 The next one I want to talk to you about is the
22 possession with intent to distribute within proximity of a
23 park. This one probably has the most complicated elements of
24 any of the three offenses, and I'll spend some time on it.

25 One, I've got to show that this -- that he was in

1 possession of drugs near or within a half-mile radius of a
2 school or a park and that he had an intent to distribute
3 those drugs there within that distance of the park. All
4 right? So there's more to this one than the others.

5 So as far as the facts that you heard from the stand,
6 the defendant acknowledged that he's from the area and he
7 lives right there. He's familiar with Iola Jones Park. He
8 acknowledged he had these drugs on him.

9 So the question on this particular charge is is there
10 evidence that he had this with intent to distribute, and what
11 we look at here is both direct and circumstantial evidence.
12 All right?

13 The direct evidence is it's uncontroverted that he had
14 the drugs, a digital scale, multiple cell phones, and a pack
15 of Ziploc bags. You are allowed to infer from that what he
16 intended to do.

17 You also have, based on the testimony, the knowledge of
18 what he didn't have. He didn't have straws with which to
19 snort cocaine or any sort of drug paraphernalia that would
20 have indicated usage. He had scales with white residue on
21 them that are used to weigh things. He had bags in the car,
22 and he had a large amount of cocaine, 27.66 grams.

23 You are allowed to infer from that that he intended to
24 distribute this to other people by looking at the totality of
25 the circumstances here. He's near the park. He's got a

1 large amount of drugs. He's got scales to weigh them, bags
2 to package them, and no paraphernalia to use them.

3 And it sort of goes to an argument I think or an analogy
4 that's been beaten to death over the years I'm sure, but if
5 you go to the meat counter at the grocery store and you buy,
6 you know, X amount of steaks, how does the butcher handle
7 that order? They weigh it. They package it. You don't
8 bring your own scales. You don't bring your own packaging.
9 And the same principle applies here in this -- in this
10 scenario. All right?

11 So using all that you have, you can infer that he
12 intended to distribute this stuff within this area of the
13 park. That's pretty much it on that one.

14 Lastly is the trafficking count. This one is probably
15 the most straightforward of all of them, and I know the
16 defense in their opening made a reference to the word
17 trafficking and what that implies, like this isn't El Chapo
18 and all that sort of stuff, and it's not. You know, this
19 isn't a limousine riding, jet flying, you know, wheeling
20 dealing son of a gun allegation here.

21 Trafficking is just what our state legislature calls the
22 possession of a certain amount of a drug. It may be
23 something different in federal court or somewhere where
24 you're dealing with cartels and all that sort of thing, but
25 in state court where we are, this is just the name of the

1 law. This is what it's called, and it's simple.

2 If you possess, either actually or constructively -- and
3 in this case its actual because it's in his underwear. If
4 you possess more than 10 grams of cocaine but less than 28
5 grams, it is this particular offense of trafficking, and it
6 doesn't matter, according to the statute, what you intended
7 to do with it.

8 Now, you might say huh because over here I was talking
9 about intent to distribute over here near a park, but that's
10 a standalone offense. That's the proximity offense here.

11 I'm over here at the trafficking, and we are considering
12 that charge. It doesn't matter if he intended to use it,
13 sell it, or throw it off a bridge. If he had it and it
14 weighs enough, it's trafficking. The intent is not a thing
15 when it comes to the trafficking statute. It's very cut and
16 dried.

17 So here we have the 27.66 grams as testified by the SLED
18 analyst. It's nearly three times the minimum threshold limit
19 of 10 grams. It's at the top end of that spectrum for this
20 trafficking, and all you have to find is did he have it on
21 him and did it weigh more than 10 grams. If the answer is
22 yes to those, it's automatic guilty. It doesn't matter what
23 he intended to do with it.

24 You know, I don't -- if he used that much drugs on a
25 weekly basis, that's all. If he sells it, that's all. You

1 know, nobody is up here trying to say, you know, he's flying
2 a private jet and riding on yachts. It just is what it is.
3 It's what the law is called here. Nobody in here can control
4 that.

5 But those are the three different charges and the
6 elements that make them up and, you know, you heard from law
7 enforcement about how they got to this point. There's no
8 real controversy there. They recognized the car. They knew
9 from the list that they had he had pending arrest warrants.
10 They went to go see if he was in the car so they could serve
11 the warrants on him. He was.

12 They got him out, arrested him on the warrants, and
13 found drugs in his underwear. It's as straightforward as
14 that, and the defendant got up there and admitted that they
15 were his, he knew where they were, and he knew what it was,
16 and that's basically it.

17 So I ask you with the evidence that you have that you go
18 back there and deliberate and you take these items back there
19 with you and review them, look at them as much as you want,
20 and I ask you to find the defendant guilty of these three
21 offenses. Thank you.

22 THE COURT: All right. The defense?

23 MR. EDGEWORTH: Thank you, Your Honor. May it please
24 the Court.

25 THE COURT: Yes, sir.

CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

MR. EDGEWORTH: Well, it's convenient now that the State is conceding, you know, certain points that make you guys have to sit here today, and we certainly appreciate that because I know that when you heard the evidence and testimony in the case, it had to have resonated with you for a variety of reasons.

One, and I'll start with my client. He got up there and testified and admitted to you that he had the drugs. He had an addiction problem of eight years. He told you that.

Now, the State wants you to ignore that. They want to now have you or remind you that these three separate and distinct offenses should allow you to find him guilty of trafficking, possession with intent to distribute within the proximity of a school, and possession of a controlled substance that he told you he had and he told you why he needed it, you know, an addict taking cocaine on a regular basis, large amounts of cocaine he was buying once a week apparently, having a headache and needing to take, according to the SLED expert, you know, for pain relief. Get rid of that headache. Makes sense to me. Right?

The State wants you to ignore all the things that now they say are, you know, like a little bit of sleight-of-hand in a sense, you know. Let's talk about a few of those.

They showed you little pieces of evidence. Right?

1 Well, we know he had the cocaine. He told you. He told you
2 that he had the cocaine, and they want to make a point that,
3 oh, it was in his underwear. Well, where else are you going
4 to have it? It's his. Right? Shove it in your pants.

5 They want to talk about -- wherever it might be -- this
6 I guess scale that they claim. They didn't test it. They
7 kept on -- they want you to think -- they talk about
8 inferences or you're allowed to infer. They want you to
9 infer that this alleged white substance that's on there is
10 cocaine. They didn't taste it or test it rather. They
11 didn't go that step further and test that so that we can --
12 maybe that would help the defense.

13 We don't even know if the thing works. Nobody even
14 testified whether they even tried to see if it works or, in
15 fact, whether it actually was a scale. They just said it was
16 a scale. Right? That's law enforcement telling you that.

17 Law enforcement telling you that and they couldn't even
18 get their other stories right. On one hand, you have an
19 officer talking about that, you know, he told them it was
20 work, but he didn't write the report. It was the other guy
21 who wrote the report who is on the other side of the car.
22 It's smoke and mirrors.

23 They write reports routinely, and they're supposed to
24 put the stuff in there. They admitted they're supposed to
25 put the stuff in there that's important, but this is the

1 first time I ever heard anything about that. All of a
2 sudden, we're going to use some street slang that they are
3 aware of to make you think my client is a drug dealer.

4 The other thing they said that's kind of sleight-of-hand
5 -- right? They talk about these baggies. They found it on
6 him. No, they did not. It was in the trunk. So this
7 aficionado drug dealer who was supposed to be, you know,
8 selling drugs has the baggies in the trunk and for some --
9 why are they in the trunk? They didn't show you individually
10 wrapped pieces of things that are ready for sale. It's all
11 in one package for someone's use, that someone being my
12 client. He admitted to it.

13 But they want you to come in here and say that -- and
14 they're kind of, you know, putting a little spin on what I
15 told you in opening. Right? Of course, this wasn't El
16 Chapo. That was the whole point. That was exactly the whole
17 point. This isn't El Chapo. This isn't Pablo Escobar. They
18 didn't find money. They didn't even find ten bucks on him.

19 Don't you think if somebody was a drug dealer, I mean
20 they're going to have some cash on them. Right? Whether
21 it's because they're selling drugs or they need to give
22 change in some form of transaction. Zero cash. Forget the
23 -- forget the airplane. No cash whatsoever.

24 That's -- that's all they found right here, but they
25 want you to infer that because he lives in a place that's

1 within three blocks of a park -- right? So everyone in this
2 area is subject to being prosecuted for within the vicinity
3 of a park because they live next to the park. It doesn't
4 sound reasonable to me.

5 So a person, you know, they could be in their home
6 across the street from the park, have drugs for recreational
7 use purposes, and now they purportedly are, you know, to be
8 charged with possession with intent to distribute within the
9 proximity of a park. They can't help where they live
10 necessarily. Some of these folks are in public housing. So
11 I mean maybe they can't help where they live. They need the
12 assistance.

13 They want you to accept the proposition that because
14 he's here and because these gentlemen testified to what they
15 saw -- I mean they tried to talk about it like it was just
16 like some accident. Right? You know, they were out and they
17 found him. But then on one hand, they're saying that, you
18 know, well, we saw him sleeping so we went to go check on
19 him, but then over here they're saying, well, no, we were
20 looking for him, and then over here they're talking about --
21 on the little stage that's over here, they're saying, well,
22 we recognized the car.

23 I mean which one is it really? What were you really
24 doing out there? I mean if you really were worried about
25 someone's well-being probably and you saw somebody asleep or

1 otherwise that's in a car in a place that they claim he
2 shouldn't be because it's a high crime area, wouldn't you
3 think something might be up and you check on him or at least
4 see if he's okay? They didn't do any of that. They just
5 pulled him out of the car and put the cuffs on in and started
6 searching him and searching him, and they admitted that he
7 told them that he had the pill.

8 So what are we going to do? What are we going to do?
9 The man came before you and told you what he did. He sat
10 there and told you what he did, and now I'm asking you to do
11 something for him and find him not guilty. Thank you.

12 THE COURT: All right. The State?

13 FURTHER CLOSING ARGUMENT ON BEHALF OF THE STATE

14 MR. RICHARDSON: The bulk of this case essentially just
15 comes down to the math, like in an old Foghorn Leghorn
16 cartoon I used to watch when I was a kid when he's playing
17 baseball with the little boy with glasses and he keeps
18 getting outwitted by the kid, and he eventually says figures
19 never lie or the figures don't lie.

20 Anyway, the figure in this case, 27.66 grams. That's
21 the amount. That's the weight. That's trafficking. The
22 rest of it, you look at the rest of the evidence and figure
23 out for the other charge what he intended to do.

24 You have all that you need, and I appreciate it. Thank
25 you.

CHARGE ON THE LAW

THE COURT: All right. Members of the jury, it is now my duty to instruct you on the law applicable to this case. It is your duty as jurors to accept and apply the law as I now state it to you. Furthermore, it is your exclusive duty to decide all the issues of fact in this case and to determine the effect, value, and weight of the evidence presented.

Both the State and the defendant have the right to expect that you will carefully consider and evaluate the evidence and apply the law of this case to it so that in the end both the State of South Carolina and this defendant will have received a fair and impartial trial. I want you to understand that when I use the word defendant, I am referring to Mr. Christopher Lee Briggs.

The State in this case alleges several different offenses against the defendant. These offenses are trafficking in cocaine, possession with intent to distribute cocaine within proximity of a park, and possession of other controlled substances, Schedules I through V.

Each charge is a separate and distinct offense. You must decide each charge separately on the evidence and the law applicable to it, uninfluenced by your decision as to any other charge. The defendant may be convicted or acquitted on any or all of the offenses. You will be asked to write a

1 separate verdict of guilty or not guilty for each offense.

2 To these charges, the defendant has entered a plea of
3 not guilty. This plea of not guilty places the burden of
4 proof on the State to prove the defendant guilty to you
5 beyond a reasonable doubt on each charge.

6 It is vital to understand that the defendant is presumed
7 under the law to be innocent of the charges. It is a
8 fundamental rule of our laws that the defendant, regardless
9 of the seriousness of the charges against him, is always
10 presumed innocent of the crimes for which he is charged
11 unless and until his guilt has been proven by evidence that
12 satisfies you beyond a reasonable doubt.

13 The presumption of innocence is not a mere legal theory
14 or legal phrase. The presumption of innocence is very
15 important, and you need to understand that this presumption
16 accompanies the defendant from the time of his arrest and
17 appearance in this court and continues with the defendant
18 even after you retire to the jury room to deliberate.

19 In other words, the defendant receives the benefit of
20 the presumption of innocence until the very end of this trial
21 when you, the jury, will deliberate upon the evidence and
22 decide whether the State has proven his guilt on each and
23 every charge beyond a reasonable doubt.

24 During this trial, you and I have separate duties to
25 perform. As the trial judge, it is my responsibility to

1 preside over this trial. Therefore, I have the duty to rule
2 upon the admissibility of the evidence offered during the
3 course of this trial. In that regard, you are to consider
4 only the testimony which has been presented from this witness
5 stand, together with any exhibits admitted into the record of
6 this case.

7 Furthermore, I have the additional duty to charge you on
8 the law applicable to this case and, in that regard, it is
9 your duty to accept and apply the law as I now state it to
10 you. If you have any preconceived ideas as to what the law
11 is or what the law ought to be and it does not agree with
12 what I tell you the law is, then you are obligated under your
13 oath as jurors to abandon these preconceptions and accept the
14 law as I now state it to you.

15 In this trial, you are the sole and exclusive judge of
16 the facts, and I am the judge of the law. Do not infer that
17 I have any opinion about the facts in this case from anything
18 I have said or done during the course of this trial. In this
19 regard, the law simply does not permit me to have an opinion
20 about the facts.

21 As jurors, it is your duty alone to determine the
22 effect, value, and weight of the evidence presented during
23 the course of this trial. Furthermore, it is your job as
24 jurors to determine the credibility and believability of the
25 witnesses who have testified in this case. You must evaluate

1 the evidence and to determine which evidence convinces you.

2 In determining the believability of witnesses who have
3 testified in this trial, you may believe one witness over
4 many or many over one. You may believe a part of the
5 testimony of a witness and reject the remaining part. You
6 may believe the testimony of a witness in its entirety or
7 reject it in full. You may consider whether the witness has
8 an interest in the result of the trial, whether the witness
9 is prejudiced toward either party, the opportunity for the
10 witness to have seen the matters and things about which the
11 witness may testify, and the way the witness acts on the
12 witness stand.

13 Proof beyond a reasonable doubt is proof that leaves you
14 firmly convinced of the defendant's guilt. There are few
15 things in this world that we know with absolute certainty.
16 So even in criminal cases, the law does not require proof
17 that overcomes every possible doubt.

18 However, if based upon your consideration of the
19 evidence you are firmly convinced that the defendant is
20 guilty of the crimes charged, you must find him guilty. If,
21 on the other hand, you think there's a real possibility that
22 he is not guilty, you must give him the benefit of the doubt
23 and find him not guilty.

24 Please understand that reasonable doubt may arise from
25 evidence which has been presented in this case or from the

1 lack of evidence in the case. It is your responsibility to
2 determine whether or not reasonable doubt exists as to the
3 guilt of this defendant on each and every charge.

4 I charge you that the defendant is entitled to every
5 reasonable doubt arising in the whole case. If upon any
6 issue of fact essential to conviction and a verdict of guilty
7 you have a reasonable doubt as to how that issue would be
8 resolved, it would be your duty to resolve that reasonable
9 doubt in favor of the defendant.

10 Thus, in summary, it's important to understand that the
11 defendant is not required to prove his innocence. Instead,
12 the State is required by law to prove every essential element
13 of the charges against the defendant by evidence which
14 satisfies you of his guilt beyond a reasonable doubt. Only
15 then can you convict the defendant and find him guilty.

16 There are two types of evidence which are generally
17 presented during a trial: direct evidence and circumstantial
18 evidence. Direct evidence directly proves the existence of a
19 fact and does not require deduction. Circumstantial evidence
20 is proof of a chain of facts and circumstances indicating the
21 existence of a fact.

22 Crimes may be proven by circumstantial evidence. The
23 law makes no distinction between the weight or value to be
24 given to either direct or circumstantial evidence. However,
25 to the extent the State relies on circumstantial evidence,

1 all of the circumstances must be consistent with each other
2 and when taken together point conclusively to the guilt of
3 the accused beyond a reasonable doubt. If these
4 circumstances merely portray the defendant's behavior as
5 suspicious, the proof has failed.

6 The State has the burden of proving the defendant guilty
7 beyond a reasonable doubt. This burden rests with the State
8 regardless of whether the State relies on direct evidence,
9 circumstantial evidence, or some combination of the two.

10 The rules of evidence ordinarily do not permit witnesses
11 to testify to opinions or conclusions. An exception to this
12 rule exists for witnesses we call expert witnesses. A
13 witness who by education and experience may state an opinion
14 as to the relevant and material matters in which the witness
15 claims to be an expert and may also state the reasons for the
16 opinion.

17 You should consider any expert opinion received in
18 evidence in this case and, like any other evidence, give it
19 the weight you think it deserves. If you decide that the
20 opinion of an expert is not based on sufficient education or
21 experience or if you conclude that the reasons given in
22 support of the opinion are not sound or that the opinion is
23 outweighed by other evidence, you may disregard the opinion
24 entirely.

25 An expert witness's testimony is to be given no greater

1 weight than that of any other witness simply because the
2 witness is an expert. Further, you are not required to
3 accept an expert's opinion, even though it is uncontradicted.

4 The defendant is charged with trafficking cocaine, more
5 than 10 grams but less than 28 grams. The State must prove
6 beyond a reasonable doubt that the defendant knowingly sold,
7 manufactured, cultivated, delivered, purchased or brought
8 cocaine into this state or provided financial assistance or
9 otherwise aided, abetted, attempted, or conspired to sell,
10 manufacture, cultivate, deliver, purchase or bring cocaine
11 into this state or was knowingly in actual or constructive
12 possession of or knowingly attempted to become in actual or
13 constructive possession of cocaine.

14 Actual possession means that the drugs were in the
15 actual physical custody of the defendant. Constructive
16 possession means that the defendant had dominion and control
17 or the right to exercise dominion and control over the drugs
18 itself or the property on which the drugs were found.

19 The State must also prove beyond a reasonable doubt that
20 the amount of cocaine was 10 grams or more but less than 28
21 grams. Furthermore, the weight of any controlled substance
22 is the weight of that substance in either pure form or with
23 any compound or mixture.

24 The defendant is also charged with possession with
25 intent to distribute within the proximity of a park. In this

1 regard, the State must prove beyond a reasonable doubt that
2 the defendant distributed, sold, purchased, manufactured or
3 unlawfully possessed with intent to distribute cocaine while
4 in, on, or within one half mile of the grounds of a public or
5 private elementary, middle, or secondary school, a public
6 playground or park, a public vocational or trade school or
7 technical education center, or a public or private college or
8 university.

9 The defendant is also charged with possession --
10 possession of oxycodone. The State must prove beyond a
11 reasonable doubt the defendant knowingly or intentionally
12 possessed oxycodone, a Schedule I through V controlled
13 substance.

14 Knowingly means with knowledge, consciously, not
15 accidentally. Intentionally means willfully, intending the
16 result which actually occurs, not accidentally or
17 involuntarily. Intent may be shown by acts and conduct of
18 the defendant and other circumstances from which you may
19 naturally and reasonably infer intent.

20 To prove possession, the State must prove beyond a
21 reasonable doubt that the defendant had both the power and
22 the intent to control the disposition or use of oxycodone.
23 Possession may be either actual or constructive.

24 Possession of oxycodone is a crime unless the oxycodone
25 was obtained directly from or through a valid prescription or

1 order of a practitioner acting in the course of professional
2 practice. A practitioner is a physician, dentist,
3 veterinarian, podiatrist, scientific investigator, pharmacy,
4 hospital, or other person or institution licensed,
5 registered, or otherwise permitted to distribute, dispense,
6 conduct research with respect to or administer a controlled
7 substance in the course of professional practice of research
8 in this state.

9 Furthermore, mere presence at the scene where the drugs
10 were found is not enough to prove possession.

11 Ladies and gentlemen, I'm now drawing near the end of my
12 charge, and I want you to clearly understand that you are not
13 partisans or advocates for the State or the defendant. You
14 do not serve as jurors to reward your friends or punish your
15 enemies.

16 In this regard, you have been selected by both the State
17 and the defendant to be fair and impartial jurors. It is
18 your duty by your joint deliberations to determine the facts
19 in this case, giving the defendant the benefit of every
20 reasonable doubt on each and every issue. Then to the facts
21 which you determine to be correct, you should take and apply
22 the law of this case which has been given to you by this
23 Court and then arrive at a verdict.

24 When you have accomplished these responsibilities, you
25 will have satisfied your oath as jurors and you will have

1 discharged your duty to this Court.

2 Now, Ms. Clerk, if you would hand the foreman the
3 verdict form?

4 THE CLERK: Yes, sir.

5 THE COURT: Now, Mr. Foreman, I have handed you the
6 verdict form. When you arrive at a verdict in this case, you
7 will write your verdict on the form.

8 For the charges, if the State has failed to prove the
9 guilt of the defendant beyond a reasonable doubt, your
10 verdict, of course, would be two words: not guilty. However,
11 should the State have proven their case against the defendant
12 beyond a reasonable doubt, then your verdict would be one
13 word: guilty.

14 Mr. Foreman, once you have reached a verdict -- the jury
15 has reached a verdict, just check whatever choice is your
16 verdict and sign it. Also please understand that the verdict
17 you render in this case must be the verdict of each and every
18 twelve -- each and every juror. It must be your unanimous
19 verdict. All twelve jurors must agree on the verdict which
20 you authorize the foreman to write for the jury.

21 Mr. Foreman and members of the jury, I want you to
22 further understand that the order in which the choices of
23 verdict appear on the verdict form are not suggestive of any
24 verdict on the part of this Court. The verdict in this case
25 is to be determined by you, not the Court.

1 Furthermore, ladies and gentlemen, please understand
2 that even though I have given the verdict form to the
3 foreman, it is not his verdict alone. It is the verdict of
4 each and every one of you. I emphasize again the verdict
5 must be unanimous.

6 Now, you will retire to the jury room. However, I would
7 ask that you do not begin your deliberations until you are
8 told to do so. The law requires that I consult with the
9 attorneys first. After I have done so, the bailiff will
10 bring in the items of evidence and instruct you to begin your
11 deliberations at that time.

12 Also, should you have any questions during your
13 deliberations, you must put them in writing and send them to
14 me by way of the bailiff. The court bailiff will be placed
15 immediately outside of the jury room door to provide security
16 and assistance for you during your deliberations.

17 Once you have reached your verdict, please knock on the
18 jury room door and ask the bailiff to advise the Court that
19 you have reached a verdict, and we will return you to the
20 courtroom as promptly as possible thereafter.

21 Thank you. You may retire to the jury room, but again,
22 do not begin your deliberations until told to do so.

23 (WHEREUPON, the jury exited the courtroom at 2:13 p.m.)

24 THE COURT: All right. Any objections from the State?

25 MR. JEPERTINGER: No, sir.

1 THE COURT: How about the defense?

2 MR. EDGEWORTH: None from the defense.

3 THE COURT: All right. Check -- take a look at the
4 items that are in evidence and make sure they're in order.

5 (WHEREUPON, there was a pause in the proceedings, after
6 which the proceedings resumed as follows.)

7 THE COURT: All right. Let's send it in and tell them
8 to begin and tell them to bring out the alternate.

9 (WHEREUPON, the jury deliberations began at 2:16 p.m.)

10 (WHEREUPON, the alternate juror entered the courtroom.)

11 THE COURT: All right. I want to let you know that your
12 duties are complete. We had to have you just in case
13 somebody got sick. We had to have twelve people. If they
14 got sick or couldn't come, you had to step in. So you had to
15 hear it all.

16 But we appreciate you being here. We appreciate you
17 serving. You'll be paid, and you've earned a three-year
18 exemption from jury service. Hope you have a good Christmas.

19 THE CLERK: Do you need a work excuse?

20 THE ALTERNATE JUROR: That's okay. They know I was
21 here.

22 THE CLERK: Okay.

23 (WHEREUPON, there was a break in the proceedings from
24 2:16 p.m. until 2:26 p.m., after which the proceedings
25 resumed as follows.)

1 THE COURT: We've already got some questions.

2 MR. JEPERTINGER: Okay, Judge.

3 THE COURT: All right. We have three questions.

4 MR. JEPERTINGER: Okay.

5 THE COURT: The first one is what were the existing
6 arrest warrants?

7 MR. JEPERTINGER: We can't go over that.

8 THE COURT: The second one is defendant's explanation
9 for why he has a scale. The third one is did the defendant
10 have a job at the time of the arrest.

11 MR. JEPERTINGER: Okay.

12 THE COURT: If so, what was salary or where did -- where
13 did the funds originate in order to afford this amount of
14 drugs weekly?

15 MR. JEPERTINGER: Well, they're all good questions, but
16 admittedly not in evidence.

17 MR. EDGEWORTH: Correct.

18 MR. JEPERTINGER: So --

19 THE COURT: Why don't I write you have all of the
20 evidence before you. The evidence in this case is now
21 closed. Please continue your deliberations.

22 MR. JEPERTINGER: That's correct.

23 MR. EDGEWORTH: Yes, Your Honor.

24 THE COURT: Okay.

25 (WHEREUPON, there was a pause in the proceedings, after

1 which the proceedings resumed as follows.)

2 (WHEREUPON, the jury note was marked as Court's Exhibit
3 No. 1.)

4 THE COURT: All right. Let's go ahead and send that
5 back in and tell them to continue deliberations and make sure
6 they don't throw that away.

7 THE BAILIFF: All right.

8 (WHEREUPON, there was a break in the proceedings from
9 2:28 p.m. until 2:40 p.m., after which the proceedings
10 resumed as follows.).

11 THE COURT: We have three questions. The first one is
12 could we have a definition of the law of trafficking. I can
13 read that to them again.

14 MR. JEPERTINGER: Yep.

15 THE COURT: Did he have a prescription for oxycodone?

16 MR. RICHARDSON: It's not in evidence.

17 THE COURT: Not in evidence. All right. And what are
18 the options on trafficking versus smaller charges?

19 MR. JEPERTINGER: None.

20 THE COURT: Is that appropriate to you?

21 MR. EDGEWORTH: To just say none?

22 THE COURT: In this case there are none.

23 MR. EDGEWORTH: Right. Okay.

24 THE COURT: Unless you want to word it differently.

25 MR. EDGEWORTH: Yeah, I'm trying to think of what would

1 be appropriate.

2 THE COURT: How about in this case there are none?

3 MR. EDGEWORTH: Right. I think -- yeah, I think that's
4 more appropriate.

5 THE COURT: All right. Go ahead and bring them in.

6 (WHEREUPON, the jury note was marked as Court's Exhibit
7 No. 2.)

8 MR. RICHARDSON: Judge, before they come in, I think
9 what may be tripping them up on the trafficking statute is
10 there are, like, three different paragraphs in there, all
11 separated by "ors" and only one of them is applicable.

12 MR. EDGEWORTH: Judge, I would ask -- ask you to direct
13 --

14 MR. JEPERTINGER: Hold on. Hold on.

15 (WHEREUPON, the jury entered the courtroom at 2:42 p.m.)

16 THE COURT: All right. The first question is could we
17 have a definition of the law of trafficking. I'm going to
18 read that to you slowly one more time.

19 The defendant is charged with trafficking in cocaine,
20 more than 10 grams but less than 28 grams. The State must
21 prove beyond a reasonable doubt that the defendant knowingly
22 sold, manufactured, cultivated, delivered, purchased, or
23 brought cocaine into this state or provided financial
24 assistance or otherwise aided, abetted, attempted, or
25 conspired to sell, manufacture, cultivate, deliver, purchase,

1 or bring cocaine into this state or was knowingly in actual
2 or constructive possession of or knowingly attempted to
3 become in actual or constructive possession of cocaine base.

4 Actual possession means that the drugs were in the
5 actual physical custody of the defendant. Constructive
6 possession means that the defendant had dominion and control
7 or the right to exercise dominion and control over the drugs
8 or the property on which the drugs were found.

9 The State must also prove beyond a reasonable doubt that
10 the amount of cocaine base was 10 grams or more but less than
11 28 grams. Furthermore, the weight of any controlled
12 substance is the weight of that substance in either pure form
13 or with any compound or mixture.

14 Your second question was did he have a prescription for
15 oxycodone. That is not into evidence.

16 Your third question is what are the options on
17 trafficking versus smaller charges. In this case there are
18 none.

19 All right. With that being said, if you would go back
20 into the jury room and continue your deliberations.

21 (WHEREUPON, the jury exited the courtroom at 2:45 p.m.)

22 MR. JEPERTINGER: You said base.

23 THE COURT: I said base?

24 MR. JEPERTINGER: You kept saying cocaine base. I don't
25 know if we bring the foreman -- just bring the foreman out

1 because he kept saying base.

2 MR. EDGEWORTH: Oh, I didn't pay attention.

3 THE COURT: I didn't either.

4 MR. JEPERTINGER: Yes, just bring the foreman out and
5 say instead of cocaine base I should have said cocaine.

6 MR. EDGEWORTH: No problem with that.

7 THE COURT: Okay. As soon as they can bring him out,
8 that would be good.

9 Nicole, do you want to go get Willie?

10 THE CLERK: Sir?

11 THE COURT: Do you want to get Willie for me real quick?

12 THE CLERK: I will.

13 THE COURT: Get the foreman and bring him out here real
14 quick.

15 (WHEREUPON, the jury foreman entered the courtroom at
16 2:46 p.m.)

17 THE COURT: All right. Mr. Foreman, when I gave you all
18 the trafficking cocaine, I kept saying cocaine base. It's
19 not base. It's just simply cocaine.

20 THE FOREMAN: Okay.

21 THE COURT: So if you'd just tell the jury we're talking
22 about cocaine, not cocaine base.

23 THE FOREPERSON: Yes, sir.

24 THE COURT: All right. Thank you.

25 (WHEREUPON, the foreperson left the courtroom.)

1 THE COURT: All right. Any objections to that from
2 either the State or the defendant?

3 MR. EDGEWORTH: No, Your Honor.

4 THE COURT: Okay. We'll wait and see what happens.

5 (WHEREUPON, there was a break in the proceedings from
6 2:46 p.m. until 3:00 p.m., after which the proceedings
7 resumed as follows.)

8 THE COURT: We've got our verdict. We'll go ahead and
9 bring in the jury.

10 (WHEREUPON, the jury entered the courtroom at 3:02 p.m.)

11 THE COURT: All right. Mr. Foreman, if you'll hand the
12 bailiff the verdict forms. Thank you.

13 All right. I find the verdict form in order. You can
14 publish.

15 VERDICT

16 THE CLERK: State of South Carolina, County of Florence,
17 in the Court of General Sessions, Twelfth Judicial Circuit,
18 Indictment Number 2020-GS-21-1702, State of South Carolina
19 versus Christopher Lee Briggs.

20 As to the charge of trafficking in cocaine, we, the
21 jury, unanimously find the defendant guilty.

22 As to the charge of possession with intent to distribute
23 cocaine within proximity of a park, we, the jury, unanimously
24 find the defendant not guilty.

25 As to the charge of possession of other controlled

1 substance I through V, we, the jury, unanimously find the
2 defendant guilty.

3 Signed, David Anderson, foreperson. Dated December 8th,
4 2021.

5 Members of the jury, if this is your verdict, please
6 raise your right hand.

7 (WHEREUPON, the jurors complied.)

8 THE COURT: All right. Need for further polling from
9 the State?

10 MR. JEPERTINGER: Not from the State.

11 THE COURT: From the defense?

12 MR. EDGEWORTH: Yes, Your Honor. Please poll the jury.

13 THE COURT: All right. If you'll poll the jury.

14 THE CLERK: When I call your name, if you will stand.

15 If you will stand, I'm going to ask you two questions. I
16 need you to answer yes or no to each question, please.

17 Brenda McCutcheon. Was this your verdict then in the
18 jury room?

19 JUROR NUMBER 129: Yes.

20 THE CLERK: Is this still your verdict now?

21 JUROR NUMBER 129: Yes.

22 THE CLERK: Thank you.

23 David Anderson. Was this your verdict then?

24 JUROR NUMBER 6: Yes.

25 THE CLERK: Is this still your verdict now?

1 JUROR NUMBER 6: Yes.

2 THE CLERK: LaCrystal Dargan. Was this your verdict
3 then?

4 JUROR NUMBER 48: Yes.

5 THE CLERK: Is this still your verdict now?

6 JUROR NUMBER 48: Yes.

7 THE CLERK: Marilyn Davis. Was this your verdict then?

8 JUROR NUMBER 50: Yes.

9 THE CLERK: Is this still your verdict now?

10 JUROR NUMBER 50: Yes.

11 THE CLERK: Vanessa Hooks. Was this your verdict then?

12 JUROR NUMBER 92: Yes.

13 THE CLERK: Is this still your verdict now?

14 JUROR NUMBER 92: Yes.

15 THE CLERK: Scott Brown. Was this your verdict then?

16 JUROR NUMBER 27: Yes.

17 THE CLERK: Is this still your verdict now?

18 JUROR NUMBER 27: Yes.

19 THE CLERK: Darren Meadows. Was this your verdict then?

20 JUROR NUMBER 134: Yes.

21 THE CLERK: Is this still your verdict now?

22 JUROR NUMBER 134: Yes.

23 THE CLERK: Wanda Green. Was this your verdict then?

24 JUROR NUMBER 76: Yes.

25 THE CLERK: Is this still your verdict now?

1 JUROR NUMBER 76: Yes.

2 THE CLERK: Bobby Tarleton. Was this your verdict then?

3 JUROR NUMBER 182: Yes.

4 THE CLERK: Is this still your verdict now?

5 JUROR NUMBER 182: Yes.

6 THE CLERK: Charles Nettles. Was this your verdict
7 then?

8 JUROR NUMBER 143: Yes.

9 THE CLERK: Is this still your verdict now?

10 JUROR NUMBER 143: Yes.

11 THE CLERK: Valerie Smith. Was this your verdict then?

12 JUROR NUMBER 174: Yes.

13 THE CLERK: Is this still your verdict now?

14 JUROR NUMBER 174: Yes.

15 THE CLERK: Jimmy Jordan. Was this your verdict then?

16 JUROR NUMBER 112: Yes.

17 THE CLERK: Is this still your verdict now?

18 JUROR NUMBER 112: Yes.

19 THE CLERK: That's everyone, Judge.

20 THE COURT: All right. Thank you.

21 Members of the jury, I thank you for your service.

22 You're excused for the week.

23 Is that correct, Solicitor?

24 MR. RICHARDSON: Yes, sir.

25 THE COURT: You've earned a three-year exemption by

1 being here. You will be paid a little bit of money. It by
2 no means will compensate you for what your time and effort
3 was worth, but we appreciate you being here sincerely. Hope
4 you have a good week and a good Christmas and, again, thank
5 you.

6 (WHEREUPON, the jury was excused and exited the
7 courtroom at 3:05 p.m.)

8 THE COURT: All right. Any motions?

9 MR. EDGEWORTH: Yes, Your Honor. First and foremost, I
10 would like to renew my objection to the Court's ruling not
11 allowing the lesser-included offenses to be put before the
12 jury of possession with intent to distribute and possession
13 under the trafficking indictment.

14 Secondly, Your Honor, I move this Court for a new trial.
15 Based on the evidence that was submitted before the Court, I
16 do not think that the jury could have reached the conclusion
17 that they did without speculating. My client -- my client
18 testified in this matter as to the -- his -- his intent
19 behind his possession of the cocaine. We'd ask the Court to
20 consider setting aside that and having a new trial.

21 THE COURT: All right. Would the State like to respond
22 for the record?

23 MR. JEPERTINGER: Yeah. The State would ask that the
24 Court would honor the verdict as announced by the jury.

25 There was sufficient evidence, both direct and

1 circumstantial, for the trafficking. Based on the case law,
2 he is not entitled to the lesser-included offense in terms of
3 the trafficking statute. Possession of other controlled
4 substances, what they found him guilty of as well in this
5 case.

6 They found him not guilty of the proximity charge. Your
7 Honor, as I understand counsel's position with what his
8 client said, as the Court informed the jury, the jury can
9 believe all of a witness's testimony or disbelieve all of a
10 witness's testimony, and he was a witness at that point and
11 they didn't believe him in terms of everything he said.

12 THE COURT: All right. I'm going to respectfully deny
13 those motions.

14 MR. JEPERTINGER: Judge, we have some sentencing sheets
15 prepared in this regard. I'm just going to sign my name to
16 that. I could have put Mr. Richardson's name since he did
17 the bulk of the work, but I've gotten accustomed to writing
18 Jepertinger.

19 As I stated, the trafficking in cocaine, 10 grams or
20 more but less than 28 grams, first offense, carries between 3
21 to 10 years and a \$25,000 fine. And the possession of other
22 controlled substances Schedules I through V, first offense,
23 would carry up to six months and a \$1,000 fine.

24 THE COURT: All right. Thank you.

25 MR. JEPERTINGER: Yes, sir.

1 THE COURT: All right. You want to tell me his record?

2 MR. RICHARDSON: Yes, sir, Your Honor. It starts in
3 2005 with a breach of peace.

4 A burglary second degree nonviolent in 2006. He got YOA
5 probation initially. It looks like where it says that he was
6 sentenced to probation, it calls it a violent burglary second
7 degree. I don't know which one was, but eventually in 2008
8 he was received in the Department of Corrections on the
9 burglary on a YOA not to exceed six years and there it says
10 nonviolent again. In 2011, he had a parole revocation on the
11 YOA sentence.

12 He had a driving under suspension in 2014, an open
13 container in 2014, breach of peace in 2015. He has a couple
14 of offenses that show charges but no dispositions. I don't
15 know what they -- what they are.

16 Then in 2018, he had a possession of marijuana. In
17 2019, he had a DUS and DUI first. He also had a trafficking
18 in crack to go along with that.

19 Then in addition to the charges that we went on trial
20 for this week, he also had some additional pending charges
21 for distribution of cocaine base, a distribution within
22 proximity, a PWID of a Schedule I controlled substance,
23 possession of a Schedule II controlled substance, unlawful
24 carrying of a pistol. It appears -- okay. And those were
25 the arrest warrants I guess that were in existence when they

1 went to serve those is what led to this case.

2 THE COURT: I see.

3 All right. Yes, sir?

4 MR. EDGEWORTH: Thank you, Your Honor. May it please
5 the Court.

6 First and foremost, I would like to on behalf of my
7 client -- you know, understanding that in this particular
8 incident the State moved forward with the charges that they
9 did, I don't think that the fact that the nature of the
10 offenses that they had the search warrant for are relevant
11 for sentencing purposes on this particular offense because
12 the State chose to move forward on this one in general.

13 But, you know, my client is 34 years old. He's a
14 father. He has been out on bond for quite some time on this
15 case that's just finally coming to fruition, not through any
16 fault of anybody, but, you know, due to the pandemic and
17 otherwise.

18 To my knowledge, other than the prior offenses that they
19 were speaking of that they had a search warrant which
20 preceded this incident, he hasn't been in any trouble since
21 and that's been a significant period of time. Unfortunately,
22 the jury, you know, found as they did, and I would ask the
23 Court for leniency in that regard and would specifically
24 request the minimum sentence under the statute.

25 THE COURT: All right.

1 MR. RICHARDSON: Judge, his NCIC does reflect -- I don't
2 think it's the same one -- in March of this year an arrest
3 for a weapons charge, unlawful weapon. The indictments that
4 I read from earlier have an offense date of 2018. So I think
5 if the NCIC is correct, there was -- he's out on bond for
6 another pistol charge from March of this year.

7 SENTENCE

8 THE COURT: All right. The sentence of the Court on
9 trafficking is 9 years. The sentencing of the Court for the
10 possession is five months, and I'm going to run them
11 consecutive.

12 MR. EDGEWORTH: Your Honor, I apologize. I did not hear
13 what the sentence of the Court was.

14 THE COURT: Nine years. Five months.

15 MR. EDGEWORTH: Thank you, Your Honor.

16 THE COURT: All right.

17 (WHEREUPON, the proceedings ended at 3:12 p.m.)

18

19 --- END REQUESTED TRANSCRIPT ---

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Florence Co. Judicial Center
RANDOM STRIKE SHEET

12/6/2021

Judge Name: Seals, William H.

Sorted By Random Nbr

Trial Type: Criminal

Panel ID: 2020GS2101702

Description: STATE VS CHRISTOPHER BRIGGS

Trial

38

Courtroom:

	NAME	JUROR NBR	RACE	SEX	ST/DOB	DEF	CRT	REMARKS
1	Godwin, James W	73	W	M	()	(X)	()	
2	McCutcheon, Brenda R	120	W	F	()	()	()	1
3	Anderson, David E	6	W	M	()	()	()	2
4	Dargan, Lacyrystal E	48	B	F	()	()	()	3
5	Coker, William R	38	W	M	()	(X)	()	
6	Davis, Marilyn A	50	B	F	()	()	()	4
7	Alston, Carol N Jr.	3	B	M	(X)	()	()	
8	Hooks, Vanessa J	92	W	F	()	()	()	5
9	Brown, Scott S	27	W	M	()	()	()	6
10	Smith, Taylor M	172	W	F	()	(X)	()	
11	Meadows, Darran K	134	W	M	()	()	()	7
12	Green, Wanda	76	B	F	()	()	()	8
13	Tarleton, Bobby D	182	W	M	()	()	()	9
14	Nottles, Charles J	143	B	M	()	()	()	10
15	Smith, Valene S	174	B	F	()	()	()	11
16	Miles, Jennifer W	135	W	F	()	(X)	()	
17	Price, Brooke M	154	W	F	()	(X)	()	
18	Jordan, Jimmy H Jr.	112	W	M	()	()	()	12
19	Florence, Andrea M	61	B	F	()	()	()	act
20	Hartfield, David R	65	W	M	()	()	()	
21	Warren, Justin B	192	W	M	()	()	()	
22	Cameron, Jefferson M	32	B	M	()	()	()	
23	Robinson, Samica S	158	B	F	()	()	()	
24	Lynch, Nancy A	125	W	F	()	()	()	
25	Hughes, Stephanie J	70	W	F	()	()	()	
26	Stokes, Richard J II	178	W	M	()	()	()	
27	Cannon, Jomique Y	34	B	M	()	()	()	
28	Ostrander, Elaine P	147	A	F	()	()	()	
29	Daysughan, Marvin J	51	B	M	()	()	()	
30	Sowells, Wilton J	175	B	F	()	()	()	
31	Fortune, Anthony D	66	B	M	()	()	()	
32	Altman, Cierra A	4	W	F	()	()	()	

Print Date: 12/6/2021 2:23:47 PM

File: RandomStrike

1 of 2

State of South Carolina	)	
	)	Certificate
County of Florence	)	

I, the undersigned, Krystal J. Smith, Notary Public and Official Court Reporter for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing pages, numbered 1 through 161, constitute a true, proceedings had and evidence introduced in the hearing of the above captioned case, relative to appeal, in the Family Court for Florence County, South Carolina, on the 6th and 8th days of December, 2021.

I do further certify that I am neither of kin, counsel,
nor interest to any party hereto.

s/Krystal J. Smith

Court Reporter

Florence, South Carolina

July 10, 2022

WITNESSES

DOCKET NO. 2020-GS-21-01702

The State of South Carolina

County of

FLORENCE

COURT OF GENERAL SESSIONS

JANUARY

TERM

2021

THE STATE

vs.

CHRISTOPHER LEE BRIGGS

John C Jepertinger

ARREST WARRANT NUMBER

(0278)

2020GS2101702

(0179)

2020 GS2101702A

(0107)

2020GS2101702B

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

Indictment for

TRAFFICKING IN COCAINE,
POSSESSION OF OTHER
CONTROLLED SUBSTANCE I-V

AND

POSSESSION WITH INTENT TO
DISTRIBUTE COCAINE WITHIN
PROXIMITY OF A PARK

FILED

DEC 17 P 1:05

CHRIS POULOS O'HARA
CCCP & OS
FLORENCE COUNTY, SC

STATE OF SOUTH CAROLINA)
)
 COUNTY OF FLORENCE)

INDICTMENT FOR
 TRAFFICKING IN COCAINE,
 POSSESSION OF OTHER
 CONTROLLED SUBSTANCE I-V



POSSESSION WITH INTENT TO DISTRIBUTE
 COCAINE WITHIN
 PROXIMITY OF A PARK

At a Court of General Sessions, convened on DECEMBER 17, 2020 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE- TRAFFICKING IN COCAINE

That **Christopher Lee Briggs** did in Florence on or about March 13, 2019, knowingly sell, deliver, purchase or bring into this State, or did aid, abet, attempt or conspire to sell, deliver, purchase or bring into this State, or was in actual or constructive possession, or attempted to become in actual or constructive possession of a quantity of Cocaine in an amount of more than ten (10) grams, but less than twenty-eight (28) grams, the same being a controlled substance, all within the meaning of Section 44-53-370, et. seq., S. C. Code of Laws, 1976, as amended, such possession not having been authorized, and being in violation of Section 44-53-370(e)(2)(a), S. C. Code of Laws, 1976, as amended, for the crime of Trafficking.

COUNT TWO- POSSESSION OF OTHER CONTROLLED SUBSTANCE I-V

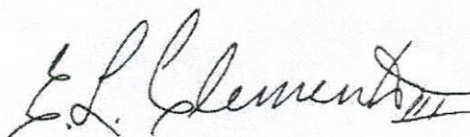
That **Christopher Lee Briggs** did in Florence County on or about March 13, 2019, knowingly and intentionally possess a quantity of Oxycodone, a Schedule I-V Narcotic under provisions of Section 44-53-370, et. seq., S. C. Code of Laws, 1976, as amended, such possession not having been authorized by law, in violation of Section 44-53-0370(d)(2), S. C. Code of Laws, 1976, as amended.

ATTACHED TO AND BECOMING A PART OF THE ORIGINAL INDICTMENT FOR TRAFFICKING IN COCAINE, POSSESSION OF OTHER CONTROLLED SUBSTANCE I-V AND POSSESSION WITH INTENT TO DISTRIBUTE COCAINE WITHIN PROXIMITY OF A PARK, WITH THE AFORESAID NAMES(S) OF CHRISTOPHER LEE BRIGGS SHOWN THEREON:

COUNT THREE – POSSESSION WITH INTENT TO DISTRIBUTE COCAINE
WITHIN PROXIMITY OF A PARK

That **Christopher Lee Briggs** did in Florence County on or about March 13, 2019, unlawfully possess with intent to distribute a quantity of Cocaine, a controlled substance under provisions of Section 44-53-110, et. seq., S. C. Code of Laws, 1976, as amended, while in, on, or within a one-half mile radius of the grounds of a public or private school, college or university, a public playground or park, or a public vocational or trade school or technical education center, to wit: Iola Jones Park, in violation of Section 44-53-445, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



E.L. Clements, III
TWELFTH CIRCUIT SOLICITOR

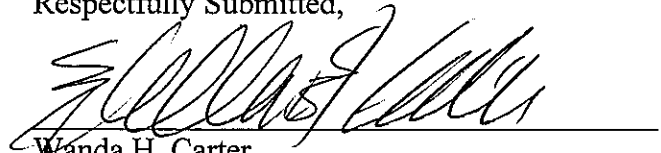
Oct 12 2022

CERTIFICATE OF COUNSEL FOR APPELLANT

SC Court of Appeals

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Wanda H. Carter
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

This 12th day of October, 2022.

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
Oct 12 2022
SC Court of Appeals

Appeal from Florence County

Honorable William H. Seals, Circuit Court Judge

THE STATE,

RESPONDENT,

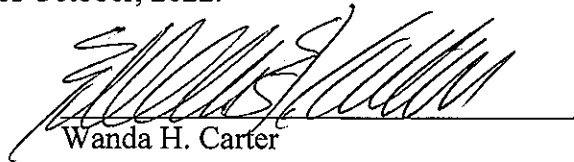
V.

CHRISTOPHER LEE BRIGGS,

APPELLANT.

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon William M. Blich, Jr., Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), and on Christopher Lee Briggs, #332194, at Wateree River Correctional Institution, PO Box 189, Rembert, SC, 29128, this 12th day of October, 2022.


Wanda H. Carter
Deputy Chief Appellate Defender