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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County

Honorable J. Mark Hayes, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

RUSTY ANTRON JONES,

APPELLANT

APPELLATE CASE NO. 2017-002257

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
 -VS-)
)
 RUSTY ANTRON JONES,)
)
 DEFENDANT.)
 _____)

2015-GS-42-00949

TRANSCRIPT OF RECORD

OCTOBER 17 - 18, 2017
SPARTANBURG, SOUTH CAROLINA

BEFORE:

THE HONORABLE J. MARK HAYES, II

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

EDWARD HUNTER, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

MICHAEL MORIN, ESQ.

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

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<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
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1 Tuesday, October 17, 2017:

2 (Whereupon State's exhibits 1 - 6 were marked for
3 identification)

4 **THE COURT:** The lawyers approach a moment.

5 (Whereupon a bench conference was held off the record)

6 (Whereupon the bench conference was ended)

7 **THE COURT:** All right. Let's bring them in, the jury.
8 I'll come right back.

9 (Whereupon court was in recess at 10:13 am)

10 (Whereupon the jury panel entered the courtroom)

11 (Whereupon court reconvened at 10:19 am)

12 **THE COURT:** Good morning, ladies and gentlemen. We are
13 now going to select the first jury of the week. And I have
14 some questions I need to ask you. But before I ask you
15 these questions, I need for you to please stand and raise
16 your right hand and let the clerk of court swear you.

17 **MADAME CLERK:** Do you solemnly swear or affirm the
18 answers to the questions you're about to give will be the
19 truth, the whole truth and nothing but the truth so help you
20 God?

21 **JURY POOL:** I do.

22 **MADAME CLERK:** Thank you. You may be seated.

23 **THE COURT:** Ladies and gentlemen, we are about to begin
24 with the jury selection in the case of the State of South
25 Carolina versus Rusty Antron Jones. Mr. Jones has been

1 charged by way of indictment for distribution of crack, and
2 in the indictment it alleges that occurred on June the 25th,
3 2014 here in Spartanburg County.

4 Now Mr. Jones has denied the allegations and,
5 therefore, we are going to conduct -- going to conduct a
6 trial. And I'm going to introduce you to Mr. Jones. Mr.
7 Jones, please stand and face the ladies and gentlemen of the
8 jury.

9 (Whereupon the Defendant complied)

10 **THE COURT:** This is Mr. Rusty Antron Jones. Is there
11 any member of the jury panel who is related by blood or
12 marriage to Mr. Jones or do you have a close, personal or
13 social relationship with Mr. Jones? If so, please stand at
14 this time.

15 (No response)

16 **THE COURT:** Thank you, Mr. Jones. You may be seated.

17 Ladies and gentlemen, I'm now going to read a list of
18 witnesses who potentially may be called during the course of
19 this trial. I'm going to need for you to please listen to
20 these names because after all the names have been read, I'm
21 going to ask that you please stand if you're related by
22 blood or marriage to any of these individuals or if you have
23 a close, personal or social relationship with any of these
24 individuals. I would also ask that if these individuals are
25 present that as I call your name, please stand and face the

1 ladies and gentlemen of the jury.

2 We have Jonathan McWhite with the Greer Police
3 Department, Kara Blackwell with the Greer Police Department.
4 We have Lisa Godfrey with the Greer Police Department. We
5 have Willie Robinson of the Greer Police -- from Greer,
6 South Carolina. And then we have Ashley Harris, formerly
7 with the Spartanburg County Sheriff's Office.

8 Ladies and gentlemen, if you are related by blood or
9 marriage to any of these individuals or if you have a close,
10 personal or social relationship with any of these
11 individuals, I need for you to please stand at this time.

12 (No response)

13 **THE COURT:** I'm now going to ask the lawyers who will
14 be participating in the trial of this case to please stand
15 and introduce themselves to you.

16 **JUROR:** Your Honor, ---

17 **THE COURT:** Oh, excuse me.

18 **JUROR:** --- I apologize.

19 **THE COURT:** Excuse me. What's your juror number?

20 **JUROR:** 107.

21 **THE COURT:** You want to approach?

22 **MR. McDOWELL:** Sure.

23 (Whereupon juror 107, Darrell McDowell, approached for
24 a bench conference off the record, in the presence of the
25 jury panel, but out of their hearing)

1 **THE COURT:** All right. Now, we'll go back to having
2 the attorneys that will be participating in the trial of
3 this case to introduce themselves to you.

4 **MR. HUNTER:** My name is Eddie Hunter. And I'm an
5 assistant prosecutor here in the Seventh Circuit serving
6 Spartanburg and Cherokee Counties.

7 **MR. MORIN:** My name is Michael Morin. I have a law
8 office here in Spartanburg.

9 **THE COURT:** Ladies and gentlemen, if you're related by
10 blood or marriage to any of these attorneys, or if you have
11 a close, personal or social relationship with any of these
12 attorneys, or if you've ever been represented by any of
13 these attorneys, I need for you to please stand at this
14 time.

15 (No response)

16 **THE COURT:** Ladies and gentlemen, if you or a member of
17 your immediate family has ever been prosecuted by the
18 Seventh Circuit Solicitor's Office, I need for you to please
19 stand at this time.

20 (No response)

21 **THE COURT:** Ladies and gentlemen of the jury, if you or
22 a member of your immediate family have ever worked as a
23 police officer, state trooper, federal agent, or state or
24 law enforcement officer or agency, I need for you to please
25 stand at this time. All right.

1 We'll start first -- ma'am, you want to approach the
2 bench? What's your number?

3 **JUROR:** 28.

4 (Whereupon juror 28, Ellen Cartée, approached for a
5 bench conference off the record, in the presence of the jury
6 panel, but out of their hearing)

7 **THE BAILIFF:** Juror 120.

8 **THE COURT:** 120.

9 (Whereupon juror 120, Kathrine Nowak, approached for a
10 bench conference off the record, in the presence of the jury
11 panel, but out of their hearing)

12 **THE BAILIFF:** Juror number 119.

13 (Whereupon juror 119, Laurie Nowadly, approached for a
14 bench conference off the record, in the presence of the jury
15 panel, but out of their hearing)

16 **THE BAILIFF:** Juror number 178.

17 (Whereupon juror 178, Ashley Wright, approached for a
18 bench conference off the record, in the presence of the jury
19 panel, but out of their hearing)

20 **THE BAILIFF:** Juror number 23.

21 (Whereupon juror 23, Stacey Butler, approached for a
22 bench conference off the record, in the presence of the jury
23 panel, but out of their hearing)

24 **THE BAILIFF:** Juror number 154.

25 (Whereupon juror 154, Christopher Stacey, approached

1 for a bench conference off the record, in the presence of
2 the jury panel, but out of their hearing)

3 **THE BAILIFF:** Juror 59.

4 (Whereupon juror 59, David Gosnell, approached for a
5 bench conference off the record, in the presence of the jury
6 panel, but out of their hearing)

7 **THE BAILIFF:** Number 153.

8 (Whereupon juror 153, Madalyn Sprouse, approached for a
9 bench conference off the record, in the presence of the jury
10 panel, but out of their hearing)

11 **THE BAILIFF:** Number 139.

12 (Whereupon juror 139, Jack Rolen, approached for a
13 bench conference off the record, in the presence of the jury
14 panel, but out of their hearing)

15 **THE COURT:** Has any member of the jury panel formed or
16 expressed an opinion about any issue or matter involved in
17 this case? If so, please stand at this time.

18 (No response)

19 **THE COURT:** Is there any member of the jury who is a
20 member of an anti-drug organization or member of an
21 organization whose purpose is that to support law
22 enforcement or victim's rights or a member of the National
23 Rifle Association? If so, please stand at this time.

24 Yes, sir, you want to come forward. What's your juror
25 number?

1 **JUROR:** 51.

2 (Whereupon juror 51, John Foster, approached for a
3 bench conference off the record, in the presence of the jury
4 panel, but out of their hearing)

5 **THE BAILIFF:** Juror number 151.

6 (Whereupon juror 151, Sheila Speed, approached for a
7 bench conference off the record, in the presence of the jury
8 panel, but out of their hearing)

9 **THE BAILIFF:** Number 82.

10 (Whereupon juror 82, David Jacobi, approached for a
11 bench conference off the record, in the presence of the jury
12 panel, but out of their hearing)

13 **THE COURT:** Is there any member of the jury panel aware
14 of any bias or prejudice towards either the State or the
15 Defendant in this case? If so, please stand at this time.

16 (No response)

17 **THE COURT:** Is there any member of the jury panel who
18 was a member of the grand jury, which issued the indictment
19 in this case? If so, please stand at this time.

20 (No response)

21 **THE COURT:** Is there any member of the jury panel who
22 is a member of or contributor to any groups which are --
23 that promote victims' rights? These groups would be such
24 organizations as MADD, SADD or CAV, Citizens Against Violent
25 Crimes. If so, please stand at this time.

1 (No response)

2 **THE COURT:** Does any member of the jury panel have an
3 opinion about the use of cocaine, or crack cocaine, or other
4 illegal drugs that might affect your ability to be fair and
5 impartial in this case? If so, please stand at this time.

6 (No response)

7 **THE COURT:** Does any member of the jury panel know of
8 any reason whatsoever why he or she should not serve as a
9 juror in this case with particular emphasis being placed on
10 your ability to be fair and impartial to both the State and
11 the Defense? If so, please stand at this time.

12 (No response)

13 **THE COURT:** Does the State have any additional
14 questions?

15 **MR. HUNTER:** Nothing else from the State, Your Honor.

16 **THE COURT:** Does the Defense have any additional
17 questions?

18 **MR. MORIN:** No, sir.

19 **THE COURT:** The lawyers approach.

20 (Whereupon a bench conference was held off the record
21 in the presence of the jury pool, but out of their hearing)

22 (Whereupon the bench conference was ended)

23 **THE COURT:** All right. Ladies and gentlemen, what
24 we're doing now is the clerk of court, this lady over here
25 to my left, she has all of your names and information

1 embedded into the computer somewhere, and she is now
2 randomly making a list of your names. From those lists we
3 will engage in the striking process.

4 I mention that now because we actually, back when I was
5 a young lawyer, many years ago, we would -- when we were
6 doing jury selection, we would actually use a wooden barrel.
7 And we'd put all of your names in a capsule, and we'd bring
8 the barrel up, and we'd bring in someone from the School for
9 Deaf and Blind that was visually challenged, and they would
10 sit down there and draw the names out one at a time.

11 Jury selection -- and we still have the barrel in the
12 back in the event that something goes out, the power. And a
13 couple of weeks ago we didn't have -- something happened to
14 the computer and we had to bring the barrel out.

15 Fortunately, the cases resolved themselves and we didn't
16 have to do jury selection. Jury selection used to take the
17 better part of the day just to get the jury seated, but now
18 with the computer, it, hopefully, goes a little bit faster.

19 But in just a moment we're going to start with the
20 striking process. And when the clerk of court, when she
21 calls your name and number, I'm going to ask you, if you
22 would, to please come up and stand right in the -- right
23 with one of the bailiffs, they'll be here in the middle of
24 the room, and face the lawyers. But bring -- if she calls
25 your name, bring any of the personal items that you have

1 with you when she calls your names.

2 I believe the lawyers have agreed that it's five and
3 five for the strikes.

4 **MADAME CLERK:** Yes, sir.

5 Juror number 39, David Davidson.

6 (Whereupon juror 39, David Davidson, a white male, came
7 forward)

8 **MADAME CLERK:** What say the State?

9 **MR. HUNTER:** Please present this juror.

10 **MADAME CLERK:** What say the Defense?

11 **MR. MORIN:** Please swear the juror.

12 **MADAME CLERK:** Juror number 99, Danielle Mandella.

13 (Whereupon juror 99, Danielle Mandella, a white female,
14 came forward)

15 **MADAME CLERK:** What say the State?

16 **MR. HUNTER:** Please present this juror.

17 **MADAME CLERK:** What say the Defense?

18 **MR. MORIN:** Please swear the juror.

19 **MADAME CLERK:** Juror number 108, Kym McKinnon.

20 (Whereupon juror 108, Kym McKinnon, a white male, came
21 forward)

22 **MADAME CLERK:** What say the State?

23 **MR. HUNTER:** Please excuse this juror.

24 **MADAME CLERK:** Juror number 128, Timothy Pittman.

25 (Whereupon juror 128, Timothy Pittman, a white male,

1 came forward)

2 MADAME CLERK: What say the State?

3 MR. HUNTER: Please present this juror.

4 MADAME CLERK: What say the Defense?

5 MR. MORIN: Please swear the juror.

6 MADAME CLERK: Juror number 181, Deborah Breland.

7 (Whereupon juror 181, Deborah Breland, a white female,
8 came forward)

9 MADAME CLERK: What say the State?

10 MR. HUNTER: Please excuse this juror.

11 MADAME CLERK: Juror number 167, Erica Wallace.

12 (Whereupon juror 167, Erica Wallace, a black female,
13 came forward)

14 MADAME CLERK: What say the State?

15 MR. HUNTER: Please present this juror.

16 MADAME CLERK: What say the Defense?

17 MR. MORIN: Please swear the juror.

18 MADAME CLERK: Juror number 111, Adrianna Moates.

19 (Whereupon juror 111, Adrianna Moates, a black female,
20 came forward)

21 MADAME CLERK: What say the State?

22 MR. HUNTER: Please present this juror.

23 MADAME CLERK: What say the Defense?

24 MR. MORIN: Please swear the juror.

25 MADAME CLERK: Juror number 177, Daniel Workman, Jr.

1 (Whereupon juror 177, Daniel Workman, Jr., a white
2 male, came forward)

3 MADAME CLERK: What say the State?

4 MR. HUNTER: Please present this juror.

5 MADAME CLERK: What say the Defense?

6 MR. MORIN: Please swear the juror.

7 MADAME CLERK: Juror number 26, Maria Carrillo.

8 (Whereupon juror 26, Maria Carrillo, an Hispanic
9 female, came forward)

10 MADAME CLERK: What say the State?

11 MR. HUNTER: Please present this juror.

12 MADAME CLERK: What say the Defense?

13 MR. MORIN: Please swear the juror.

14 MADAME CLERK: Juror number 178, Ashley Wright.

15 (Whereupon juror 178, Ashley Wright, a black female,
16 came forward)

17 MADAME CLERK: What say the Defense, excuse me, what
18 say the State?

19 MR. HUNTER: Please excuse this juror.

20 MADAME CLERK: Juror number 103, Teresa Martin.

21 (Whereupon juror 103, Teresa Martin, a white female,
22 came forward)

23 MADAME CLERK: What say the State?

24 MR. HUNTER: Please present this juror.

25 MADAME CLERK: What say the Defense?

1 MR. MORIN: Please swear the juror.

2 MADAME CLERK: Juror 16, Tammy Bridges.

3 (Whereupon juror 16, Tammy Bridges, a white female,
4 came forward)

5 MADAME CLERK: What say the State?

6 MR. HUNTER: Please present this juror.

7 MADAME CLERK: What say the Defense?

8 MR. MORIN: Please swear the juror.

9 MADAME CLERK: Juror number 136, Katie Roberts.

10 (Whereupon juror 136, Katie Roberts, a white female,
11 came forward)

12 MADAME CLERK: What say the State?

13 MR. HUNTER: Please present this juror.

14 MADAME CLERK: What say the Defense?

15 MR. MORIN: Please swear the juror.

16 MADAME CLERK: Juror number 96, Adam Lough.

17 (Whereupon juror 96, Adam Lough, a white male, came
18 forward)

19 MADAME CLERK: What say the State?

20 MR. HUNTER: Please present this juror.

21 MADAME CLERK: What say the Defense?

22 MR. MORIN: Please excuse the juror from service in
23 this case.

24 MADAME CLERK: Juror number 130, Tina Poteat.

25 (Whereupon juror 130, Tina Poteat, a white female, came

1 forward)

2 MADAME CLERK: What say the State?

3 MR. HUNTER: Please present this juror.

4 MADAME CLERK: What say the Defense?

5 MR. MORIN: Please swear the juror.

6 MADAME CLERK: Juror number 124, Robert Pearson.

7 (Whereupon juror 124, Robert Pearson, a white male,
8 came forward)

9 MADAME CLERK: What say the State?

10 MR. HUNTER: Please present this juror.

11 MADAME CLERK: What say the Defense?

12 MR. MORIN: Please swear the juror.

13 MADAME CLERK: And for the alternate, juror number 139,
14 Jack Rolen,

15 (Whereupon juror 139, Jack Rolen, a white male, came
16 forward)

17 MADAME CLERK: What say the State?

18 MR. HUNTER: Please present this juror.

19 MADAME CLERK: What say the Defense?

20 MR. MORIN: Please swear the juror.

21 MADAME CLERK: Jury selection has been completed.

22 THE COURT: Anything concerning the manner and the
23 methods of the selection of the jury from the State?

24 MR. HUNTER: Nothing from the State, Your Honor.

25 THE COURT: Any from the Defense?

1 **MR. MORIN:** None, Your Honor.

2 **THE COURT:** Thank you, gentlemen.

3 Ladies and gentlemen who were selected to be our first
4 jury, congratulations. Give me just a moment, I'll have to
5 speak to those unfortunate people that did not get selected
6 to be a part of this jury.

7 Ladies and gentlemen, thank you for your time and your
8 patience while we went through this process of selecting
9 this jury. I'm going to ask if you would to please return
10 back to the jury assembly room and someone will be there
11 just shortly to give you further instructions.

12 But, again, thank you for your patience while we went
13 through this process. You may go with the bailiff, but
14 please do so quietly. We're going to continue to work.

15 (Whereupon the remaining jurors exited the courtroom)

16 **THE COURT:** All right, ladies and gentlemen,
17 congratulations on being selected on our first jury. Just a
18 couple of preliminary instructions. Your task as being a
19 juror, you will at one point begin your deliberations in the
20 case. And those deliberations will take place in the jury
21 deliberation room, and they will take place only among
22 yourselves.

23 Until we get to the end of the case, and after all the
24 evidence has been presented, and I've instructed you on the
25 law that you're going to apply to this case, you're not to

1 have -- begin your deliberations, you're not to have any
2 discussions with anyone about anything involving the case,
3 that includes yourselves on breaks and the afternoons.

4 That includes going home in the evening when you'll see
5 a family member or a friend and they say, gosh, you got
6 selected to be on a jury, that's wonderful. What kind of
7 case is it? Just very politely tell them, the Judge has
8 instructed me I cannot talk to you about the case while the
9 case is going on.

10 Once the case is over you can talk to as many people as
11 you want to, as much as you want to or as little as you want
12 to. But until you begin your deliberations you're not to
13 have any discussions with anyone about anything involving
14 the case.

15 And I want to stress that that includes among
16 yourselves. Do not talk about this case until the
17 deliberations start. The deliberations do not start until
18 at the conclusion of the case.

19 The other preliminary instruction that I want to give
20 you is you cannot do any type of independent research or
21 investigation. So if by chance you have a cell phone on
22 you, do not try to do any type of Google search whether it
23 be about one of the lawyers, or me, or something about the
24 case. Do not do that. Do not go home in the evening and do
25 any research on the internet.

1 Even if I or one of the lawyers have used a word that,
2 gosh, you say I just don't understand what that word means,
3 you cannot even go to the library and pull Webster's
4 Dictionary off the shelf and look up a word. The reason for
5 that is that when you do your deliberations, the decisions
6 you make in this case, it has to be based on the information
7 and testimony and evidence you received in this courtroom.

8 So do not take it upon yourself to do any type of
9 independent research. Don't feel like you have an
10 obligation to do any type of independent research because
11 I've ordered you not to.

12 So with those preliminary instructions I'm going to
13 allow you to visit the jury deliberation room, take a short
14 break, and we're going to come back and we're going to start
15 the case. . But you may go with the bailiff, he's going to
16 show you where the jury deliberation room is.

17 (Whereupon the jury exited the courtroom at 10:49 am)

18 **THE COURT:** Anything that we need to put on the record
19 prior to the start of the case?

20 **MR. HUNTER:** Nothing from the State, Your Honor. I'd
21 just ask if the Defense would have any motions.

22 **THE COURT:** Any motions?

23 **MR. HUNTER:** I'm not aware of any, but ...

24 **MR. MORIN:** The only motion I would have, Your Honor,
25 is if Mr. Robinson is not going to be their first witness,

1 I'd ask he be sequestered.

2 **THE COURT:** Okay.

3 **MR. HUNTER:** He's not going to be the first witness.

4 **THE COURT:** All right. Any objection to him being
5 sequestered, then?

6 **MR. HUNTER:** I can't really have any objection to it.
7 So, no, Your Honor. But I'll have an officer go out and sit
8 with him.

9 **THE COURT:** All right. I'm going to take a short break
10 and then we'll come back.

11 I'm aware that there have been discussions on trying to
12 resolve the case. I have no opinion on those discussions
13 other than I do wish to advise the Defendant that if -- that
14 we've now selected the people to serve as a jury. Those are
15 twelve, thirteen members of the community. They come from
16 varying and different backgrounds. They all bring in their
17 own life history in trying to view this case.

18 I know nothing about the evidence in the case, but I do
19 know by having done this job for fifteen years now that what
20 we ask those twelve people to do is a very heavy
21 responsibility and jurors usually take it very seriously.
22 And it's frequently, while I may sit here and have listened
23 to a case and may feel the case should have been decided one
24 way, frequently the case goes the other way than what I've
25 decided.

1 I only mention that because if there is any type of way
2 to resolve this matter outside of asking those twelve people
3 to take on this very heavy responsibility, I think it's
4 probably a wise thing to do because you then have some
5 control over your own destination, don't rest it all with
6 those twelve people.

7 But I say that because I always think it's a wise thing
8 to do if you can. But if we can't, we can't. But at this
9 time I am going to step down to take a short recess.

10 **MR. HUNTER:** Should I put our negotiations on the
11 record so that we know what they are?

12 **THE COURT:** That's left up to y'all. I don't ---

13 **MR. HUNTER:** If I could, Your Honor.

14 **THE COURT:** Okay.

15 **MR. HUNTER:** Prior to Mr. Morin getting on this case
16 there was an offer made of a twenty year sentence. That
17 encompassed all of his charges, which include two
18 distribution of crack cocaine, third offenses, an attempted
19 murder, an intimidation of court witness and obstruction of
20 justice.

21 He did not accept that offer, and we actually went to
22 trial about a year ago today with Mike Brown as his
23 attorney. There was a hung jury in that case, and that's
24 why we're back here today.

25 Since then Mr. Morin has been appointed as a conflict

1 public defender on the case. And speaking with Mr. Morin
2 yesterday we made an offer of a range of ten to twenty
3 years, which included distribution of crack, third offense,
4 as well as an ABHAN from the attempted murder. So he'd be
5 pleading to two charges with a range of ten to twenty. I
6 believe Mr. Morin went to him yesterday and again today, and
7 he has rejected that offer both times.

8 **MR. MORIN:** Mr. Hunter's accurately described where we
9 are with negotiations, Your Honor.

10 **THE COURT:** All right. Well, I'm going to step down
11 for a few minutes. Y'all've put that on the record. If you
12 have any -- you want to discuss that with your lawyer, feel
13 free to during the break, but we'll come back.

14 **MR. MORIN:** Thank you.

15 (Whereupon court was in recess at 10:53 am)

16 (Whereupon court reconvened at 11:06 am)

17 **THE COURT:** Anything else before we bring the jury in?

18 **MR. HUNTER:** Nothing from the State, Your Honor.

19 **MR. MORIN:** No, sir.

20 **THE COURT:** All right. Let's bring them in.

21 (Whereupon the jury entered the courtroom at 11:07 am)

22 **THE COURT:** All right, ladies and gentlemen, we're now
23 going to begin the trial of the case of the State versus
24 Rusty Antron Jones. I need for you now to all please stand
25 and raise your right hand, let the clerk of court swear you

1 in.

2 **MADAME CLERK:** Do you solemnly swear or affirm in the
3 case about to be tried to truly try the issues joined in
4 this case and render a true verdict according to the law and
5 evidence so help you God?

6 **THE JURY:** I do.

7 **MADAME CLERK:** Thank you. You may be seated.

8 **THE COURT:** Ladies and gentlemen, before we begin this
9 trial I want to tell you that this trial will probably be
10 different from what you might expect. Many people do not
11 have the chance to attend an actual court session as you are
12 doing now and may think from watching television, or movies
13 or reading books that trials are always full of high drama
14 and riveting and intense action and riveting circumstances.
15 While all of these things may be true at times, this trial
16 is not for entertainment.

17 A trial is often slow, deliberate, and repetitive, just
18 the opposite of what you may have seen on television or in
19 movies or read about in books. This courtroom is a place of
20 honor dedicated to the protection and preservation of
21 citizens' rights through what many have called the greatest
22 justice system ever created.

23 The attorneys appearing before you are advocates for
24 the parties that they represent. But first and foremost,
25 they are officers of the court sworn to uphold the integrity

1 and fairness of our judicial system and to help you in the
2 search for the truth.

3 You should expect them to be professional, competent
4 and ethical in the representation of their client's interest
5 and remember that you have taken an oath to try this case
6 and reach a fair and just verdict. And you are also
7 expected to be professional, reasonable and ethical. I want
8 to thank you for accepting the important responsibility of
9 jury service and for your contribution today to our justice
10 system.

11 What I'm going to say now is intended to serve as an
12 introduction to the trial of this case. These remarks are
13 not a charge on the law in the case. I will instruct you on
14 the law applicable to this case at the end of the trial
15 before you retire to consider your verdict. This is merely
16 an explanation of the procedure that we will follow in the
17 trial of this case so that you may better understand what is
18 happening.

19 The Defendant in this case is charged by way of
20 indictment that's been filed with the court with the crime
21 of distribution of cocaine base or crack, the elements of
22 which will be explained to you later. The indictment is
23 simply the charge by which the case is brought to court.
24 And it is not in any sense evidence of any of the
25 allegations contained in it.

1 The Defendant has pled not guilty to the indictment.

2 The State, therefore, has the burden of proving each of the
3 elements of the indictment beyond a reasonable doubt. And
4 it will be your duty, ladies and gentlemen, to decide
5 whether the State has met that burden.

6 Your purpose as jurors is to find and determine the
7 facts. You are the sole judge of the facts. If at any time
8 I make a comment regarding the facts, you must disregard my
9 comments. You are to determine the facts from the testimony
10 you hear and other evidence that is introduced in court.

11 It is up to you to determine the emphasis which you may
12 feel properly be drawn from the evidence. It is especially
13 important that you perform your duty of determining the
14 facts diligently and conscientiously because ordinarily
15 there's no way to correct an erroneous determination of
16 facts that is made by a jury.

17 On the other hand and with equal emphasis, the same law
18 that makes you the judge of the facts makes me the judge of
19 the law. The law as given by the Court is the only law you
20 may consider. You must accept and follow it even though you
21 may disagree with it. I cannot tell you what the facts are,
22 and you cannot disagree with me about what the law is or
23 should be.

24 Your job is to take the law as I give it to you and to
25 apply it to the facts as you find them from the testimony of

1 the witnesses and other evidence that is introduced. . After
2 doing that, you will render your verdict, a true and just
3 verdict under the solemn oath that you just took as jurors.

4 Now, until I advise you to begin your deliberations,
5 you must not discuss the case with anyone, including your
6 fellow jurors, friends, family members and anyone involved
7 in this case. This includes any discussions that take place
8 face-to-face and those by telephone, email, texts, blog or
9 any other type of communication device.

10 You may not use a computer, a cell phone or any other
11 type of communication devices at any time while in this
12 courtroom or during your deliberation. During breaks for
13 meals or overnight, if necessary, you may use these devices,
14 however, you may not at any time use these devices to get or
15 send information about the case.

16 During this trial I do not expect that there will be
17 any type of media coverage of this trial, but during this
18 trial do not read, listen to or watch any news reports about
19 the case. This includes anything that might have been in
20 the newspapers or on the internet, radio or television. You
21 must not consider anything you have read or heard about the
22 case outside of this courtroom whether before or during the
23 trial.

24 After the case is submitted to you, you must discuss it
25 only in the jury room with your fellow jurors. The

1 attorneys and the parties in the case have been advised that
2 they are not to talk to you at all. So if by chance you see
3 any one of them involved in the case and they do not even
4 say hello to you as you are coming and going from the
5 courthouse, they're not being unfriendly. They're just
6 following my instructions.

7 It is important that you keep an open mind and not
8 decide any issue in the case until all the evidence has been
9 presented, the parties have made the closing arguments and I
10 have instructed you on the law. It is your solemn
11 responsibility to determine the guilt or innocence of the
12 Defendant. And your verdict must be based solely on the
13 evidence as it is presented to you in this trial and on the
14 law as I instruct you during and at the close of this trial.

15 In just a minute the solicitor will make what is called
16 an opening statement in which the solicitor will explain to
17 you the issues in the case or at least what the solicitor
18 thinks the issues are in the case. The attorney for the
19 Defendant may also make an opening statement, although he is
20 not required to do so.

21 What the attorneys tell you during their opening
22 statements is not evidence in the case. It is only their
23 contention as to what the issues are. The evidence in the
24 case will be presented to you by testimony of sworn
25 witnesses from the witness stand and any exhibits that may

1 be introduced during the course of this trial:

2 From time to time during the trial you may hear one of
3 the lawyers say something like, Your Honor, I believe I have
4 a question of law or a matter of law to discuss with you.
5 Or they may say, Your Honor, may we approach the bench? Or
6 sometimes I, myself, may find it necessary to excuse you
7 from the courtroom for a short while so that the attorneys
8 and I can discuss what is called matters of law.

9 The reason that we exclude you from these discussions
10 is because you are the judges of the facts in the case. And
11 sometimes when I am discussing matters of law with the
12 attorneys it is necessary for me to make some type of
13 comments on the facts of the case in connection with a
14 ruling on whether or not a particular law applies or not.

15 I'm not supposed to tell you what I think the facts
16 are. So I will excuse you from the courtroom while these
17 discussions take place so that you in no way will be
18 influenced by anything that I say or do in connection with
19 making rulings on matters of law.

20 In determining what the true facts are you must decide
21 whether or not the testimony of a witness is believable. It
22 is my responsibility to rule as a matter of law as to
23 whether certain testimony is admissible at all or not. But
24 once testimony is admitted, whether or not you believe it is
25 solely for you to determine.

1 In deciding whether to believe a witness you have the
2 right to consider the interest of any witness, the bias of
3 any witness, the prejudice of any witness, the opportunity
4 for the witness to have seen the matters and things about
5 which the witness may testify and the way the witness acts
6 on the witness stand. You have a right to consider anything
7 that is in the record that will help you evaluate the
8 testimony of the witnesses.

9 That means that it is your duty to pay close attention
10 to these witnesses, to observe the witnesses, to listen to
11 the witnesses and to pay close attention to the attorneys
12 and to the Court. Do not let your thoughts wander, but give
13 strict attention to the testimony in this case so that at
14 the end of the testimony, after the arguments of counsel and
15 the charge on the law by the Court you will then be in a
16 position to determine what the true facts are and to apply
17 those facts to the law that I instruct you and, thus, render
18 a true and just verdict.

19 It is your added duty, Mr. Workman, to serve as
20 foreperson in the jury room and to be the jury's
21 spokesperson here in this court. It will also be your duty
22 to write the verdict, but I will give you further
23 instructions about that at the conclusion of the case.

24 Now in order to cover everyone's rights, I will give
25 the parties an opportunity to object to anything that I've

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1 said during these opening instructions. Is there any
2 objection from the State?

3 MR. HUNTER: Nothing from the State, Your Honor.

4 THE COURT: Any from the Defense?

5 MR. MORIN: No, sir.

6 THE COURT: At this time we will receive the opening
7 statements from counsel.

8 MR. HUNTER: May it please the Court? Ladies and
9 gentlemen of the jury, my name is Eddie Hunter. I work
10 here in the Seventh Circuit Solicitor's Office. And today
11 I'm prosecuting Rusty Antron Jones for distribution of
12 cocaine base.

13 Now to go over a few things -- preliminary things over
14 while I'm giving this opening statement. If you see me
15 yawning or glassy-eyed, it's not because I don't care about
16 this case. I just want to let you know my wife and I
17 welcomed a four-week-old -- welcomed a baby into the world,
18 and he's four weeks old now. And I think his greatest joy
19 in life is to keep us up, especially at 3:00 in the morning.
20 So I'm a little tired.

21 But enough about me. This case is about Rusty Jones.
22 And what we believe that the evidence, which is going to be
23 a video, which is going to be drugs, which is going to be
24 photos as well as the testimony of the officers and Mr.
25 Robinson, the informant in this case, is going to show that

OPENING STATEMENTS - MR. HUNTER

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1 on June 25th, 2014 in the City of Greer in the Sunnyside
2 area, which is in Spartanburg County, we're going to show
3 that Rusty Jones sold Mr. Willie Robinson crack cocaine.

4 And Mr. Robinson was the big man sitting here earlier.
5 He's not feeling too well. So he's outside. But he will be
6 up on the stand, and you will hear from him.

7 The first witness we're going to put up is Mr. Ashley
8 Harris seated right there. We usually like to save him for
9 last, however, he no longer works at the sheriff's office.
10 He went and retired and got private money. So he's now
11 working a nice job, and we've got to send him on back to
12 work this afternoon.

13 His job is to test the substance that comes in from
14 Greer. His testimony will show that what Greer turned into
15 the Spartanburg County Sheriff's Office to be tested was
16 point eight three (.83) grams of crack cocaine.

17 You'll also hear from a Lisa Godfrey, who's not here
18 today. She will be here this afternoon or tomorrow morning
19 depending on how the case goes. Her job is an evidence
20 technician.

21 Rusty Jones sells the crack to Mr. Robinson, Mr.
22 Robinson gives it to Investigator McWhite and Blackwell
23 there, they turn it into the Greer Police Department. Ms.
24 Godfrey's job is to keep up with that evidence and make sure
25 it stays in the same bag, make sure it's safe and secure.

OPENING STATEMENTS - MR. HUNTER

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1 She then takes it over to Ashley Harris at the sheriff's
2 office at the time to have the drug tested. So you'll hear
3 from her as well.

4 The three other witnesses you'll hear from are
5 Investigator McWhite -- I believe it's Sergeant Blackwell or
6 Lieutenant Blackwell? Sergeant Blackwell now. Sergeant
7 Blackwell and Investigator McWhite, they were the narcotics
8 officers for the Greer Police Department at the time this
9 happened. They are going to tell you how they caught Mr.
10 Robinson selling crack cocaine.

11 Now in catching Mr. Robinson selling crack cocaine,
12 they agreed to have Mr. Robinson cooperate with the Greer
13 Police Department and buy crack cocaine from Rusty Jones in
14 exchange for the dismissal of Mr. Robinson's charges. I
15 want to be up-front and frank with you. Mr. Robinson was
16 caught selling crack. And in order for him to have his
17 charges dismissed, he had to help police find a target and
18 that target was Mr. Jones.

19 You'll see a video. You'll see Mr. McWhite here,
20 Sergeant Blackwell where they set up a video on Mr.
21 Robinson. He then drives his vehicle to an area near Turner
22 Street in the Sunnyside area of Greer where he meets up with
23 Mr. Jones and a few of Mr. Jones' friends.

24 You'll hear Mr. Robinson ask for hard because that's
25 what his people want is hard. You'll hear Mr. Jones say

OPENING STATEMENTS - MR. MORIN

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1 that he only has a "G". And you'll hear what these terms
2 mean from the officers, from Mr. Robinson. He only has a
3 gram. At which point Mr. Robinson purchases that crack
4 cocaine, approximately a gram of crack cocaine, has it in
5 the bag and takes it back to the officers who recover the
6 evidence, recover the video and start the process at that
7 point.

8 But I want you to listen to the video. I want you to
9 listen to the officer and Mr. Robinson. I want you to use
10 your common sense when you're deliberating. I also want you
11 to know that you have the ability to believe all of what a
12 witness says, some of what a witness says or none of what a
13 witness says.. You need to listen to the witnesses and
14 decide for yourself what the outcome in this case is.

15 And use your common sense, look at the evidence. And
16 I'm sure at the end of it that we will overcome all of the
17 reasonable doubt, the standard that I have to prove to you,
18 again, reasonable doubt, not all doubt, but reasonable doubt
19 that Rusty Jones on June 25th, 2014 sold crack cocaine to
20 Mr. Robinson. Thank you.

21 **MR. MORIN:** Target, it's an interesting word. And
22 during the trial, as I ask questions, it'll be interesting,
23 target, how many times does target come up? Mr. Robinson,
24 the drug dealer who got the deal had other charges
25 dismissed, too.

OPENING STATEMENTS - MR. MORIN

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1 The Government says that they have this evidence, they
2 have this video. And during the course of the trial I'm
3 going to ask the Government why they didn't do easy things,
4 things that are simple that would make your job easier that
5 they just didn't do.

6 Sometimes when juries come in they expect that they're
7 going to see some sort of CSI room where they're going to
8 track all these things. I'm not going to ask them that.
9 I'm going to ask them how hard would it be to do this and
10 this? May I see this? And the answer's going to be, we
11 didn't do it, we don't have it, yes, we could have.

12 So when the Government has a target and the Government
13 says we could have done these things that would have made
14 your job easier, that would have made the case beyond a
15 reasonable doubt, and they don't do it, that starts to cause
16 a question for me. And it should cause a question for you.

17 So I'm telling you that while I'm asking these
18 questions and cross examining these witnesses, I'm asking
19 the Government to explain why they didn't do simple things
20 with a target. So I'm just introducing myself and what I'm
21 going to be doing during this trial so that when you go why
22 is he doing that, it's because I'm trying to figure out if
23 you're the target, and I can do something easy to take care
24 of it, and I don't do it, why didn't I? Target.

25 I believe that the State can't prove beyond a

ASHLEY HARRIS - DIRECT EXAMINATION BY MR. HUNTER

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1 reasonable doubt. A reasonable doubt is to have doubt that
2 would cause you to hesitate to act.. Their failures during
3 this trial and the things I'm going to ask are going to be
4 connected to that target. Thank you.

5 **THE COURT:** Is the State ready to call the first
6 witness?

7 **MR. HUNTER:** Yes, Your Honor. At this time the State
8 would call Ashley Harris.

9 **THE COURT:** Sir, just come right up here and let the
10 clerk of court swear you in.

11 **MADAME CLERK:** Raise your right hand and put your left
12 hand on the Bible.

13 **Ashley Harris, being duly**
14 sworn testified as follows;

15 **MADAME CLERK:** Thank you. You may have a seat.

16 **Direct Examination by Mr. Hunter:**

17 Q. I guess it's not Lieutenant Harris anymore, but, Mr.
18 Harris, ---

19 A. Yes, sir.

20 Q. Please state your full name for the record.

21 A. It's Ashley Harris.

22 Q. Okay. How long were you employed by the Spartanburg
23 County Sheriff's Office?

24 A. I worked for Spartanburg County for almost seventeen --
25 a little over seventeen years.

ASHLEY HARRIS - DIRECT EXAMINATION BY MR. HUNTER

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1 Q. Okay. And what was -- what were the duties in your
2 employment at the sheriff's office?

3 A. I was responsible for running the forensics lab for
4 Spartanburg. We would test substances that were submitted
5 to identify them. Most of the incoming cases were drug
6 cases. We would identify what the item was, how much it
7 weighed, do the testing and then make a report to show what
8 the findings were of that analysis.

9 Q. Can we go over your education prior to becoming a
10 member of the sheriff's office?

11 A. Yes, sir. I graduated Wofford College here in
12 Spartanburg with a bachelor's degree in chemistry. After
13 leaving there I started working on my PhD in analytical
14 chemistry.

15 And the professor that I was working for actually left
16 the school that I was at. So I got a job with the South
17 Carolina State Law Enforcement Division. Went through their
18 training program as a forensic chemist in the Drug Analysis
19 Unit.

20 After being there for a little over two years, I took
21 the job with Spartanburg County to open their lab for them.
22 While I was at Spartanburg County I completed my master's
23 degree in analytical chemistry through Furman University and
24 had continuing education the entire time all the way up
25 until I retired in 2015.

ASHLEY HARRIS - DIRECT EXAMINATION BY MR. HUNTER

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1 **MR. MORIN:** The Defense will stipulate, Your Honor,
2 that Mr. Harris is well qualified in this matter as an
3 expert.

4 **MR. HUNTER:** Your Honor, at this time the State would
5 offer Ashley Harris as an expert in the forensic analysis --
6 forensic chemistry, Your Honor.

7 **THE COURT:** Forensic chemistry? All right. Ladies and
8 gentlemen, normally a person cannot give opinion testimony.
9 Normally when a person testifies they must testify as to
10 what either they saw, heard or sensed by smell or something
11 of that nature.

12 However, there is an exception when someone is
13 qualified because of education or experience, they are
14 permitted to give their opinion in certain areas if the
15 Court qualifies them that way. This witness will be
16 qualified in the area of forensic chemistry to give opinion
17 testimony in that area. Now that does not mean that you
18 must accept the opinion, but it is evidence for you to use
19 in any way that you see fit.

20 Q. In your time at the sheriff's office how many
21 substances have you tested? You can give an estimate.

22 A. I would say somewhere around twenty-five thousand cases
23 were submitted. And that probably ends up being thirty
24 thousand individual items.

25 Q. And that's for controlled substances?

ASHLEY HARRIS - DIRECT EXAMINATION BY MR. HUNTER

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1 A. Yes, sir.

2 Q. Okay. Not all of them test positive for controlled
3 substances?

4 A. No, sir.

5 Q. This one did, though, correct?

6 A. Yes, sir.

7 Q. Okay. Can you briefly tell me how you received that
8 item in front of you marked State's exhibit, I believe, is
9 it 2?

10 A. Yes, sir, it is.

11 Q. Can you briefly describe how you received that item?

12 A. Yes, sir. The outside bag is the one that I placed it
13 in after testing, but the bag that's seen here with the
14 sheriff's office symbol on it is known as a BEST bag. It
15 stands for Best Evidence Sample Testing bag.

16 It is a tamper-evident bag that officers will drop the
17 evidence into to submit into the lab. It makes sure that
18 everyone's submitting it the same way. It's just uniform.
19 And it comes with its own paperwork and everybody just does
20 it the same way. It makes everything a little faster.

21 Once it was submitted in this bag, the first thing I
22 did was I checked to make sure the integrity of the bag was
23 good. And then I assigned it a lab number. And it was
24 placed in a queue until it was its turn to be tested.

25 Upon taking it out I looked at the bag again to make

ASHLEY HARRIS - DIRECT EXAMINATION BY MR. HUNTER

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1 sure that it had not been tampered with, it was sealed
2 properly. And I placed my initials, the lab number and the
3 date on it, the date that I actually opened it.

4 Q. Okay. And just by looking at it, knowing that you've
5 tested thirty thousand substances, what did it appear to be
6 before you tested it?

7 A. It was a -- there was a rock substance that was found
8 inside this plastic corner of a bag. And that was placed
9 inside a Ziploc bag. And it was just an off-white rock-like
10 substance. From -- sheerly from looking at it, it appeared
11 to be crack cocaine, but we follow it and we do a series of
12 tests to determine its actual identity.

13 Q. And what are some of the issues you have when testing
14 crack cocaine?

15 A. With all drug cases that are submitted for analysis we
16 do a series of tests. We don't just do one test and
17 determine what it is.

18 The first thing we do is a presumptive test. In the
19 case of something that is thought to be cocaine or crack
20 cocaine we simply place a chemical on it that turns blue in
21 the presence of cocaine. All it is is presumptive.

22 There are other things that will give a false positive,
23 a false blue. So after completing that we would -- in the
24 fact that it was cocaine or crack cocaine, we actually use a
25 solubility test to see if we could dissolve the substance in

ASHLEY HARRIS - DIRECT EXAMINATION BY MR. HUNTER

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1 the solvent.

2 And then we place that on an instrument called a GCMS

3 to do the analysis of it to get a direct determination.

4 That is considered a presumptive test. And if the two of

5 those tests agree, the presumptive test and the confirmatory

6 test, then we'll send out a report stating what the item was

7 found.

8 Q. So the presumptive test is the color change?

9 A. Yes, sir.

10 Q. And did you do that with the substance ---

11 A. Yes, sir.

12 Q. --- in front of you? Did it change to blue?

13 A. Yes, sir, it did. The -- changed blue. There's two

14 chemicals. It's a split chemical. You add the first one

15 on. If it turns blue immediately, it tends to indicate that

16 it's the hydrochloride soft form or powdered cocaine. Once

17 you add the second chemical on it, if it turns blue, then it

18 tells you that it was -- it was crack or a freebase cocaine.

19 Q. Okay. So you did the presumptive test and it came back
20 positive?

21 A. Yes, sir.

22 Q. And then you did the second GC Mass Spec Test?

23 A. Yes, sir.

24 Q. And explain that test.

25 A. The GCMS is a piece of instrumentation in which you

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1 dissolve the substance, you're trying to figure out what it
2 is, into a solvent. And in this case, like I said, we used
3 the solubility test, we dissolved it in a chemical called
4 hexane and inject it on the GC Mass Spec.

5 And as it goes through the column it gets separated
6 into all the different components in case there's multiple
7 things there. And when it gets to the end, the Mass Spec
8 actually breaks it apart and those pieces are like the
9 fingerprint for the substance.

10 And in this case the fingerprint is then analyzed by
11 the computer. The computer tells me what it thinks it is.
12 And then I go back and confirm that for identification
13 purposes.

14 Q. And did you do that in this case?

15 A. Yes, sir.

16 Q. And what did you confirm the substance as?

17 A. That it was, in fact, cocaine. And using the
18 solubility and the spot test determined it was crack
19 cocaine.

20 Q. How do you determine the weight of a substance?

21 A. The first thing that's done when the sample comes in, a
22 lot of times crack might be a little damp. So we'll make
23 sure that the substance is dry.

24 The first thing we do is we take the sample for the
25 presumptive test. So we remove that from the very

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1 beginning. Then we take a sample out for the confirmatory
2 test for the GC Mass Spec or the GCMS. And then after all
3 the samples are -- their packaging is removed, and then we
4 weigh the substance after all sampling is done and with no
5 packaging.

6 Q. And what do you weigh the substance on?

7 A. It's placed on the analytical scale in the lab. The
8 lab's analytical scales are accurate to two decimal places.
9 And they're checked for accuracy every week. Every month we
10 take it a little bit further and do more samples on them.
11 And then once a year an external company is hired to
12 actually come in and calibrate it and to certify it for
13 another year of use.

14 Q. And all this was done prior to the time that you tested
15 this substance?

16 A. Yes, sir.

17 Q. Okay. And ultimately in your expert opinion, what is
18 the substance in front of you?

19 A. The off-white rock substance that's seen here in this
20 bag tested positive for cocaine base, more commonly known as
21 crack to a total weight of zero point eight three (0.83)
22 grams.

23 Q. Okay. So that point eight three (.83) grams is after
24 you've already taken two samples out of that rock?

25 A. Yes, sir, that is correct.

KARA BLACKWELL - DIRECT EXAMINATION BY MR. HUNTER

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1 Q. And after you let it dry?

2 A. Yes, sir.

3 Q. Which would cause it to lose weight as well?

4 A. Yes, sir.

5 Q. Okay. What schedule is crack cocaine?

6 A. It is a schedule II drug, sir.

7 Q. Please answer any questions Mr. Morin may have for you.

8 A. Yes, sir.

9 MR. MORIN: I have no questions for this witness.

10 THE COURT: Thank you, sir. You may step down. Any
11 reason why the witness cannot be excused?

12 MR. MORIN: No.

13 THE COURT: You may be excused, former detective.

14 A. Thank you, Your Honor.

15 THE COURT: Yes, sir.

16 MR. HUNTER: Your Honor, at this time the State would
17 call Sergeant Blackwell.

18 THE COURT: Come up here and let the clerk of court
19 swear you in.

20 MADAME CLERK: Raise your right hand and put your left
21 hand on the Bible.

22 Kara Blackwell, being
23 duly sworn testified as follows;

24 MADAME CLERK: Thank you. You may be seated.

25 Direct Examination by Mr. Hunter:

KARA BLACKWELL - DIRECT EXAMINATION BY MR. HUNTER

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1 Q. Please give your full name for the record.

2 A. Kara Blackwell.

3 Q. And what is your current position at the Greer Police
4 Department?

5 A. Currently I am a sergeant with our Operational Support
6 Division.

7 Q. Okay. Can you go over your law enforcement career?

8 A. I've been with the Greer Police Department since 2004.
9 That was the beginning of my law enforcement career. So
10 it's been thirteen years.

11 Spent a good bit of time on patrol. They appointed me
12 to our newly developed Directed Patrol Unit in -- I forget
13 what year that was, quite a few years ago. After that I
14 went back to patrol as a road supervisor and corporal.

15 From there I was moved to supervisor in our
16 Investigations Unit, specifically assigned to vice
17 investigations, which is where I was when this case came up.
18 Since then I've been promoted to sergeant and currently in
19 our Operational Support Division.

20 Q. How long -- this happened June 25th, 2014. How long
21 had you been a vice officer at that point?

22 A. Over a year, but less than a year and a half. I
23 believe it was about a year and four months at that time.

24 Q. Okay. And had you had the opportunity in that year to
25 perform undercover buys?

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1 A. Yes, sir.

2 Q. Okay. Please tell the jury how that process happens.

3 A. We -- you typically have an informant such as -- like
4 we did in this case. Sometimes they are working off
5 charges, sometimes they're paid, but it's an informant. And
6 they come to us, agree.

7 We sign some paperwork for their cooperation in the
8 case with us. We arrange some sort of buy for some type of
9 illegal drug, generally. And the two of us work together on
10 the case. That way it ensures the ethical outcome of the
11 case.

12 We search our informants prior to their buy. We sent
13 them with Greer Police Department funds to make a purchase.
14 It's audio recorded, video recorded the best we can with
15 surveillance equipment that we have at the Greer Police
16 Department.

17 Once the buy is done, they return to us, give us the
18 evidence, we submit it for analysis. That's a very, very
19 brief overview of what we do.

20 Q. Okay. And were you present on June 25th, 2014?

21 A. Yes, sir.

22 Q. Who else was present with you in your capacity as a
23 Greer police officer that day?

24 A. At the time, Investigator McWhite.

25 Q. Okay. Who was the informant in the case?

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1 A. Mr. Robinson.

2 Q. Okay. Where did y'all initially meet, if you remember?

3 A. Who? Me and Mr. Robinson?

4 Q. Yes.

5 A. We were conducting an undercover operation, similar to
6 what I just described, and we had another informant purchase
7 crack cocaine from Mr. Robinson.

8 Q. Okay. And at that point he agreed to cooperate with
9 your office?

10 A. Yeah. After he was arrested, we discussed with him,
11 and he agreed to cooperate.

12 Q. Okay. And the cooperation was that you were going to
13 ask our office, the solicitor's office, to dismiss his
14 charges if he cooperated to your satisfaction?

15 A. Yes, sir.

16 Q. And y'all requested our office to dismiss those
17 charges?

18 A. Yes, sir.

19 Q. And our office has dismissed those charges?

20 A. Yes.

21 Q. Okay. Now on June 25th, 2014, can you describe how
22 that day started?

23 A. This was an afternoon. I don't remember the details of
24 the entire day. I know that that day we planned an
25 operation with Mr. Robinson to buy crack cocaine from Rusty,

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1 Mr. Jones. It was afternoon. We met with Mr. Robinson and
2 began the process of making that undercover purchase.

3 Q. Now when you send in an informant to purchase drugs
4 from a target as Mr. Morin said, ---

5 A. Yes, sir.

6 Q. --- you don't come up with the specific target, do you?

7 A. No, sir.

8 Q. You don't send an informant in that doesn't know the
9 person they're buying drugs from?

10 A. No. No, sir.

11 Q. Okay. How does that process work?

12 A. Okay. So prior to this day, would have been during our
13 initial, prior conversation with Mr. Robinson when we talked
14 about cooperation and signing up as an informant, we ask the
15 question who is it that you can buy drugs from here in the
16 City of Greer? We don't say we need you to buy drugs from
17 this person.

18 It's not generally safe sending somebody into a
19 situation to buy drugs from someone they don't know. That's
20 unusual and that's just not going to happen. No one's going
21 to sell drugs -- a drug dealer's not going to sell drugs to
22 somebody they don't know.

23 Our conversation is who is it that you can buy drugs
24 from? And we will go from there and decide whether or not
25 that target is somebody we're interested in buying drugs

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1 from.

2 Q. On the day of June 25th, 2014 where did you and
3 Investigator McWhite meet Mr. Robinson?

4 A. We met Mr. Robinson in a church parking lot in the City
5 of Greer.

6 Q. Okay. You stated earlier that it is y'all's policy to
7 search the informant.

8 A. Thoroughly, yes, sir.

9 Q. Who did the searching that day?

10 A. Investigator McWhite did. Typically I did females, he
11 did males. So he did the search that day.

12 Q. Typically what is your search of an informant like?

13 A. Thorough. The goal of the search is to ensure that we
14 are sending the informant without anything illegal to do
15 this buy, with no money of their own, with no drugs of their
16 own and nothing illegal, no weapons or anything like that.
17 So the search is of the informant, their clothing, their
18 car, any compartments in their car. We're looking for
19 things as small as a crack rock when we do that search.

20 Q. So you do that search to make sure that the informant
21 doesn't have anything on them prior to the buy?

22 A. Yes.

23 Q. And then they are searched again ---

24 A. Yes.

25 Q. --- after the buy?

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1 A. Yes.

2 Q. Why is that?

3 A. To make sure that they haven't acquired anything other
4 than what we know about when they go. They go and purchase
5 the drugs that we've agreed to purchase and come back. We
6 need to make sure that they didn't bring any weapons, any
7 other drugs, any other money or done any other illegal
8 activity on our watch.

9 Q. Okay. And in this case, how much money was given to
10 Mr. Robinson?

11 A. One hundred dollars.

12 Q. Okay. And he was searched for his own money prior to
13 ---

14 A. Yes.

15 Q. To the best of your knowledge, was any recovered from
16 him prior to the distribution?

17 A. I don't know. I'd have to look back. I don't think
18 there was. If he had money on him, we would have kept it in
19 our possession. He wouldn't have taken it with him. I ---

20 Q. So he ---

21 A. --- don't think he did.

22 Q. --- wasn't sent with any money other than the hundred
23 dollars?

24 A. Correct.

25 Q. All right. And when Mr. Robinson got back, how much

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1 money did you receive back?

2 A. Fifty dollars.

3 Q. Okay. And was that based on the amount of crack found
4 -- was that normal of what you would expect?

5 A. Yes.

6 Q. Okay. And of that fifty dollars, how much of it was
7 sent by you in the first place?

8 A. One hundred. Photo -- we keep track of the serial
9 numbers on the bills that we provide the informant. So when
10 he brought the money back, two of those bills matched our
11 records. So they were the two twenties that he did not
12 spend when he was there. He was given change. And, of
13 course, that ten dollars -- bill was not provided to him by
14 us. It was provided to him by Mr. Jones' change.

15 Q. And did you observe Mr. McWhite search Mr. Robinson?

16 A. I did.

17 Q. Did you observe Mr. McWhite search his vehicle?

18 A. I did.

19 Q. Okay. And you were Mr. McWhite's supervisor at that
20 time.

21 A. I was.

22 Q. If you'd had a problem with it, with his search, you
23 would have stopped it and said something?

24 A. Absolutely.

25 Q. And you didn't do that in this case?

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1 A. I did not.

2 Q. All right. Have you had a chance to review the buy
3 videos?

4 A. I have.

5 Q. I'm going to have you look at State's exhibit 3. Do
6 you recognize that picture?

7 A. I do.

8 Q. How do you recognize that picture?

9 A. That is a still shot of the surveillance footage that
10 we recovered from the buy.

11 Q. So that's a still shot that you and Mr. McWhite would
12 have provided to our office from the buy video?

13 A. Yes.

14 Q. And it fairly and accurately depicts the scene from
15 that video as you know it today?

16 A. Yes.

17 MR. HUNTER: Your Honor, at this time the State would
18 offer State's exhibit 3 into evidence.

19 MR. MORIN: No objection.

20 THE COURT: Without objection, it'll be State's 3.

21 (Whereupon State's exhibit 3 was admitted into
22 evidence)

23 Q. I know he looks a little bit different today, but do
24 you recognize the individual in that picture?

25 A. I do.

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1 Q. And how do you recognize that individual?

2 A. For the better part of thirteen years I was familiar
3 with Mr. Jones through a work capacity and immediately
4 recognized him on the video from knowing him in the
5 community.

6 Q. So it's your testimony today that that is Rusty Jones?

7 A. Yes, sir.

8 Q. And he has a tattoo right there?

9 A. Yes, on his neck.

10 Q. Do you recognize that?

11 A. Yes.

12 (Whereupon State's exhibit 7 was marked for
13 identification)

14 Q. Now, did you or Mr. McWhite handle the money from the
15 beginning to give to Mr. Robinson?

16 A. I don't remember. We don't -- one of the two of us. I
17 don't remember who handed it to him. I would assume
18 Investigator McWhite probably in this case.

19 Q. All right. Because this was -- Investigator McWhite
20 was the main ---

21 A. Yes.

22 Q. --- the handler on this case?

23 A. Yes, sir. If I can clarify. As the supervisor in the
24 unit at the time, I kept the funds in my possession until we
25 went to use them. I would have retrieved those funds from a

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1 locked compartment, made copies of them and then provided
2 them to Investigator McWhite to give to the informant is
3 typically how that happens.

4 Q. So you would have made the copies?

5 A. Yes.

6 Q. Let me show you what's been marked State's exhibit 7.

7 A. Yes, sir.

8 Q. Do you recognize that item?

9 A. I do.

10 Q. And is that an item that you provided to our office?

11 A. Yes.

12 Q. Are those the funds that you made copies of?

13 A. Yes.

14 **MR. HUNTER:** Your Honor, at this time the State would
15 offer State's exhibit 7 into evidence.

16 **MR. MORIN:** I have a matter of law.

17 **THE COURT:** All right. Ladies and gentlemen, this is
18 where -- one of those times I have to excuse you from the
19 courtroom. Let me remind you not to have any discussions
20 among yourselves about anything involving the case. And
21 we'll get you back just shortly. You may go with the
22 bailiff.

23 (Whereupon the jury exited the courtroom at 11:47 am)

24 **THE COURT:** Yes, sir.

25 **MR. MORIN:** Your Honor, may I approach the witness? I

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1 need to see the thing or do you have it?

2 **MR. HUNTER:** I have another copy, if you'd like to see
3 it.

4 **MR. MORIN:** Well, whichever one ---

5 **MR. HUNTER:** Okay.

6 **MR. MORIN:** Your Honor, I'm going to hand it up to you
7 so you'll know what I'm talking about.

8 The Government made two cases against my client. In
9 this particular instance they've handed her a copy that she
10 has not signed, she has not dated, she has not made any kind
11 of markings on it whatsoever indicating that that money goes
12 to this case.

13 And the reason I know that is because in the previous
14 case they had, that they are not trying, Officer McWhite
15 signed and dated it. And it was also initialed by the
16 informant.

17 In this particular case, her testimony is that she
18 recognizes it without anything else connecting it to this
19 case, she didn't, she hasn't. It's not marked by her. It's
20 not dated. It's not marked by Officer McWhite. And there's
21 no foundation for her to be able to positively identify that
22 as going to this case.

23 **MR. HUNTER:** Your Honor, I think it's interesting to
24 say because of that in the other case, which was done
25 exactly the same. Now he can obviously attack her

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1 testimony, but it is marked through.

2 We've already heard the testimony that is -- that they
3 did a fifty dollar buy. You have two of those that are
4 marked through, which would show those are the two twenty
5 dollars that they did not receive back. And he can argue
6 why she didn't sign it, however, she has obviously laid the
7 foundation for that being the money in this case.

8 **MR. MORIN:** I understand that that's what she's saying.
9 The State wants to present this as evidence. And they have
10 not connected how she knows this is it. That's the
11 foundation. Her just saying, well, this came from the case
12 without any connection to it is what my objection is.

13 **THE COURT:** If I understand your objection, I mean, it
14 goes more to the weight of her testimony or credibility of
15 her testimony than it does to admissibility.

16 **MR. MORIN:** I don't believe that the foundation has
17 been set yet. Her testimony is not enough to establish that
18 this is what she says it is. And she hasn't testified how
19 she knows it is. She just says it is. And that's what the
20 foundation is. How does she know that this goes to that?

21 **THE COURT:** I thought she did.

22 **MR. MORIN:** No. She said this came from this case.
23 And I was waiting for her to say I know it is because of
24 this or that. She never did or she hasn't. She's just
25 saying it's in this case.

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1 **MR. HUNTER:** We will ask that before asking to admit it
2 again, Your Honor.

3 **THE COURT:** All right. If you would. Anything else
4 before we bring the jury in?

5 **MR. MORIN:** No, sir.

6 **THE COURT:** All right. Let's bring the jury in.

7 (Whereupon the jury entered the courtroom at 11:51 am)

8 **Direct Examination by Mr. Hunter Continued:**

9 Q. Ms. Blackwell, I've handed up the U.S. currency. How
10 do you know that that is from this case that we're speaking
11 about today?

12 A. There's two reasons. One is the informant's initials,
13 W. J. R., Willie James Robinson, is on the bottom in his
14 handwriting. The second is because, like I said before, we
15 provided one hundred dollars of currency to Mr. Robinson.
16 He spent fifty. He gave three twenties to Mr. Jones and
17 returned with two of those twenties. I took a black marker
18 and drew through the serial number on the two twenties that
19 were not ultimately used in that purchase.

20 Q. Okay. And ---

21 A. That is what is shown here.

22 Q. And that is something that you and Mr. McWhite would
23 have done and provided to our office?

24 A. Yes.

25 Q. And to your knowledge, Mr. Robinson was the only other

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1 informant against Mr. Jones, is that correct?

2 A. Yes, sir.

3 MR. HUNTER: Your Honor, at this time the State would
4 offer State's exhibit 7 into evidence.

5 MR. MORIN: I have no objection at this time, Your
6 Honor..

7 THE COURT: All right. It'll be admitted as State's 7.

8 (Whereupon State's exhibit 7 was admitted into
9 evidence)

10 MR. HUNTER: Motion -- permission to publish, Your
11 Honor.

12 THE COURT: Yes, sir.

13 Q. So these are the five twenties that were given to Mr.
14 Robinson?

15 A. Yes, sir.

16 Q. And we see that two of them have been blacked out?

17 A. Yes, sir.

18 Q. And why is that?

19 A. Those are the -- those are the two twenties that he
20 returned to us after the buy. So they were ultimately not
21 used in the purchase per se.

22 Q. All right. Because you know the purchase was for fifty
23 dollars?

24 A. Correct.

25 Q. Okay. And do you recognize this at the bottom?

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1 A. Yes, sir.

2 Q. And how do you recognize that?

3 A. That's Mr. Robinson's initials. He initialed a few
4 things for us, and that was his initials. We watched him do
5 it also.

6 Q. Okay. Can you tell me a little bit about the
7 surveillance equipment Greer uses?

8 A. At the time -- it's changed since then because
9 technology advances and things change. At the time we had
10 an Oculus camera system. And we were fortunate enough to
11 have a system that allowed us to use two cameras at one
12 time.

13 Typically -- we try to use two cameras if we could
14 because it's very difficult to determine where to put that
15 camera on your informant. You don't know if the purchase is
16 going to happen in the car or in person. And so it's nice
17 to have two cameras in order to try to get the best video
18 that you can because we are out of control once that
19 informant leaves us, how it's done.

20 In this situation we were able to put two cameras on
21 Mr. Robinson. He's very, very tall. We put one up top and
22 one a little bit lower on the front of his shirt. They're
23 concealed behind his shirt, see-through, tiny pin holes in
24 his -- in his clothing. That is activated prior to him
25 leaving our presence to go make the purchase. And once he

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1 returns, we turn that off.

2 That is not live. We are not able to monitor that
3 live. However, we have audio surveillance, which is just a
4 little tiny box that generally we have them put in their
5 pocket or somewhere else on their person that allows us to
6 monitor via audio live what is happening all the time. So
7 while he's driving in his car we can hear the music that
8 he's playing or the things that he's talking about if he
9 takes a phone call. We can hear the interaction between him
10 and the informant during the purchase.

11 Sometimes there's static. If there's static, we try to
12 move to a location where we can hear clearly. That's to
13 ensure the integrity of the case, primarily the safety of
14 our informant. Drug purchases are what they are and
15 anything can go wrong, and it's our job to make sure that
16 that -- it is safe. So we are monitoring via audio the
17 entire time, things happen. When he returns, we collect
18 that equipment.

19 Q. Did you actually perform surveillance in this case?

20 A. Yes.

21 Q. And is that normal with every case?

22 A. Yes.

23 Q. Okay. Who did you perform surveillance with?

24 A. Investigator McWhite.

25 Q. Okay. Explain how you do your surveillance.

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1 Q. We switch roles depending on who is the -- you heard
2 Mr. Hunter say handler in the case. In this particular
3 situation, Detective McWhite was the primary investigator.
4 So I was kind of his helper. And so I monitored the audio
5 surveillance.

6 We ride together. We're in the same vehicle. His job
7 was to drive and watch the informant til we could no longer
8 see him. My job is to audio monitor everything that's going
9 on and take notes here and there if I hear something that's
10 going on or the times that we leave and come back. So my
11 primary job was note-taking and listening.

12 Q. How close do you try to get to the location of the buy?

13 A. Ideally we'd like ---

14 MR. MORIN: Your Honor, ---

15 A. --- to watch it.

16 MR. MORIN: --- at this time I have a motion.

17 THE COURT: All right.

18 MR. MORIN: May we approach?

19 THE COURT: Y'all want to approach.

20 (Whereupon a bench conference was held off the record
21 in the presence of the jury, but out of their hearing)

22 (Whereupon the bench conference was ended)

23 MR. MORIN: May I just have a moment?

24 (Pause)

25 MR. MORIN: Withdraw the motion, Your Honor.

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1 Direct Examination by Mr. Hunter Continued:

2 Q. You just talked about the notes. You do those notes on
3 a vice report, is that correct?

4 A. Yes, sir.

5 Q. Okay. Do you have a copy of your vice report?

6 A. I do not.

7 Q. How close do you like to try to get to the buy
8 location?

9 A. Typically and ideally we would like to watch the entire
10 thing from a distance, not to compromise the investigation,
11 we'd like to watch. In this particular situation we could
12 not get close enough to that location without being noticed
13 by the other people there. So we were less than a quarter
14 mile, far less than a quarter mile at our surveillance
15 location.

16 Q. What was the location of the buy?

17 A. It was [REDACTED] Turner Street.

18 Q. Okay. And what City is that?

19 A. Greer.

20 Q. And what County?

21 A. Spartanburg.

22 Q. Okay. And is there any reason that you couldn't get
23 any closer in that area?

24 A. Yeah, it was a house on a road in a neighborhood, and
25 there's a lot of foot traffic in that location. And if we

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1 would have parked anywhere on that road to watch, we would
2 have been noticed, and it would have given up the
3 investigation.

4 Q. So where did y'all try to sit?

5 A. We sat at the intersection of Sunnyside and Arlington,
6 which is an intersection very, very close to Turner Street.

7 Q. Okay. In your years as a vice officer, how many
8 undercover operations have you been a part of?

9 A. Oh, gosh, around a hundred.

10 Q. Did you do anything different in this one that you did
11 in others?

12 A. Not significantly. I can't think of anything.

13 Q. So this was a normal operation?

14 A. Yes, sir.

15 Q. Everything was done how you normally operate?

16 A. Yes, sir.

17 Q. Please answer any questions Mr. Morin may have ---

18 A. Yes, sir.

19 Q. --- for you.

20 **Cross Examination by Mr. Morin:**

21 Q. Officer Blackwell, you testified that you've been with
22 Greer for seventeen years, is that right?

23 A. No, sir.

24 Q. I'm sorry.

25 A. Thirteen.

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1 Q. Thirteen. And at the time that this occurred, you'd
2 been with them for ten?

3 A. Yes, sir.

4 Q. All right. Making sure I got the numbers right.

5 A. Yes.

6 Q. So during those ten years you went to the academy?

7 A. Yes, sir.

8 Q. And did you have any other classes, education-type
9 things to prepare you to work vice?

10 A. Yes.

11 Q. Can you tell me about those?

12 A. Yes. I went to the State's Vice Leadership class
13 that's held every other year in Columbia. I've been to
14 basic detective, basic narcotics, undercover techniques,
15 interview and interrogation. I'd have to look at a list.
16 There's quite a bit.

17 Q. Quite a bit?

18 A. Yes, sir.

19 Q. And those classes and types of things that Greer was
20 sending you to so you would be well trained and well versed
21 in what needed to be done regarding these kind of cases?

22 A. Yes, sir.

23 Q. And one of the things that they, I'm sure, and tell me
24 if I'm wrong, but recording down what happened is important
25 in these cases?

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1 A. Yes, sir.

2 Q. And I noticed that when the State asked you if he had
3 any money, you said, if he would have. And then when the
4 State -- when Mr. Hunter asked you if -- who had the money,
5 you said things like I don't know, I don't remember, and I
6 assumed, is that right?

7 A. (Affirmative nod).

8 Q. But ---

9 A. What money are you ---

10 Q. I mean, my question is that as a well trained officer,
11 aren't those things kind of important to know?

12 A. Yes, sir.

13 Q. But you didn't record them, so you had to tell the jury
14 that you assumed that that's the way it went?

15 A. Right. I did not write that down specifically three
16 years ago.

17 Q. Now, you worked on the road for quite a while during
18 your employment with Greer?

19 A. Yes, sir.

20 Q. And if my memory of history is right, the entire time
21 you worked at Greer on the road you would have had a camera
22 in your car, is that correct?

23 A. If they were operational. They were relatively new
24 when I first started.

25 Q. Well, it's right there -- that's why I said if my

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1 memory's correct. But right around the time you started
2 cameras were ---

3 A. In a marked unit. Yes, sir, in marked units.

4 Q. Well, does Greer have unmarked units that now have
5 cameras in them?

6 A. All of our unmarked units do not have cameras.

7 Q. All of them do not. Now, is there a recording of this
8 search that was done of the car?

9 A. No, sir.

10 Q. Okay. There is a recording of what Mr. Robinson did,
11 but there's no recording of the search of the car or Mr.
12 Robinson?

13 A. Right. We never do that.

14 Q. Is there a photograph of what Mr. Robinson was wearing
15 that day?

16 A. No, sir.

17 Q. Did Mr. Robinson have anything in his possession or in
18 the vehicle that was his when he went on this buy, as you
19 call it?

20 A. Well, everything that was left in the vehicle was his,
21 yes.

22 Q. Okay. And the search that you were searching for, the
23 thing you were trying to make sure he didn't have, is, I
24 think it's State's exhibit 1, is that correct? Let me find
25 it.

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1 A. That along with other things, yes, sir.

2 Q. Right. So you did a search to make sure that that
3 wasn't in the car?

4 A. That along with other things, yes, sir.

5 Q. Right. What were some of the other things that were in
6 the car with Mr. Robinson?

7 A. I didn't do the search. So I don't specifically recall
8 everything that was in his car. I supervised the search
9 from outside, but I did not search the car. That was not my
10 role this time.

11 Q. Okay. So while you were supervising you were just sort
12 of generally watching Officer McWhite, you don't know what
13 he was doing?

14 A. He was searching the car.

15 Q. Okay. And tell me about the search of Mr. Robinson.

16 A. He searches pockets, socks, shoes, anything -- anywhere
17 on him that something could be hidden.

18 Q. Okay. And he does that, a physical and his own visual
19 ---

20 A. Yes.

21 Q. --- search?

22 A. Yes.

23 Q. How did you first -- did you first come into contact
24 with Mr. Robinson?

25 A. Mr. -- like I said, we used another informant,

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1 purchased drugs from Mr. Robinson. He was subsequently
2 arrested. And subsequent to that arrest we arranged a
3 meeting with Mr. Robinson to discuss, you know, his
4 cooperation in exchange for dropping his charges.

5 Q. Now when you say you arrested him, you mean you took
6 him into custody? Did you ever get a warrant for his
7 arrest?

8 A. There was a warrant issued for his arrest for
9 distribution. I don't recall if I signed it or if
10 Investigator McWhite signed it.

11 Q. I can't read this other -- I think it says McWhite.

12 MR. HUNTER: May I see it?

13 MR. MORIN: Yes, sir.

14 Q. There's a signature on this document. I'm going to
15 have it marked as Defense exhibit 1 for identification.

16 (Whereupon Defendant's exhibit 1 was marked for
17 identification)

18 Q. So I guess I'm going to start out with is this your
19 signature at the bottom or is that Officer McWhite?

20 A. No, that's not mine.

21 Q. Okay. Now your testimony was the reason that you knew
22 that the copied money or one of the reasons that you knew
23 the copied money goes to this case is because it has Mr.
24 Robinson's initials on it?

25 A. Yes, sir.

KARA BLACKWELL - CROSS EXAMINATION BY MR. MORIN

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1 Q. Did I understand you correctly when you said Mr.
2 Robinson only bought or only allegedly bought from Mr.
3 Jones?

4 A: As far as I knew in the cases that I'm involved in,
5 yes, it is the only time -- the only person that Mr.
6 Robinson purchased from under my direction with Mr. McWhite.
7 I don't -- I'm not in the unit anymore. I don't know what's
8 happened since.

9 Q. So to your knowledge he could have bought drugs from
10 other people and recorded it like this with his initials ---

11 A. Not prior to this time.

12 Q. Right. But I'm going to hand you State's exhibit
13 number 7.

14 A. Yes.

15 Q. All right.

16 A. I specifically remember doing that.

17 Q. Did you record it anywhere in your report?

18 A. I'd have to read the incident report. I did not record
19 it in my notes, no, sir.

20 Q. All right. It's not dated?

21 A. No, it's not.

22 Q. Nobody else's initials appear on it but Mr. Robinson's?

23 A. That is true.

24 Q. You said that you -- in response to Mr. Hunter's
25 question you said this case went like all the other cases

KARA BLACKWELL - CROSS EXAMINATION BY MR. MORIN

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1 that you've done, the general ---

2 A. With no significant differences.

3 Q. Right. And if somebody else had taken sixty dollars to
4 buy drugs and gotten fifty dollars, this is the way it would
5 have been done?

6 A. That's never happened in my experience before.

7 Q. I understand. But my question is if that had happened
8 and they had done this like this because your testimony is
9 you don't know what Mr. Robinson might have done outside
10 this case?

11 A. Since this time, prior to -- right, since this time I
12 have no idea.

13 Q. So it's -- he could have gone somewhere else under
14 Officer McWhite's or somebody else's direction and had the
15 same hundred dollars and gotten the same fifty dollars and
16 put his initials on it?

17 A. I suppose that's possible.

18 Q. Now to your recollection, Mr. Robinson, at the time you
19 spoke to him, was charged with distribution?

20 A. Yes.

21 Q. And distribution in a half mile of a school?

22 A. Yes.

23 Q. Were you aware he was also -- well, do you remember the
24 date? How long was it before -- did this take two weeks?

25 Did he talk to you a month?

KARA BLACKWELL - CROSS EXAMINATION BY MR. MORIN

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1 A. Oh, gosh.

2 Q. This is June 24th. And I guess my question is did you
3 speak to him in May or June? Do you know?

4 A. I would have to look at the date that we signed him up.
5 I don't know. I don't remember being it -- an extended
6 period of time, but to give you a specific time, I can't
7 accurately tell you.

8 Q. I'm going to show you a document and ask you if you can
9 tell me what it is and.---

10 A. Okay.

11 Q. --- if it refreshes your memory as to ...

12 A. Yes.

13 Q. That's your signature at the bottom of that ---

14 A. Yes.

15 Q. --- document? And that document is called?

16 A. The consent form. A special consent form that we have
17 our informants sign.

18 Q. Right. And it's dated June 11th, I believe.

19 A. It is.

20 Q. Okay. So he had a distribution -- had a distribution
21 of a half mile of a school. Were you aware that he also had
22 a pointing and presenting a firearm pending at that time?

23 MR. HUNTER: Objection, Your Honor. Can we approach?

24 THE COURT: All right.

25 (Whereupon a bench conference was held off the record

KARA BLACKWELL - CROSS EXAMINATION BY MR. MORIN

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1 in the presence of the jury, but out of their hearing)

2 (Whereupon the bench conference was ended)

3 Q. All right. So he had -- Mr. Robinson had two charges
4 that got dismissed, distribution and a half mile of a school
5 was the agreement that he was going to do that, to make a
6 buy, right?

7 A. Yes.

8 Q. And then Mr. Jones was arrested? And here ---

9 A. Yes, he was arrested.

10 Q. And here we are today on distribution?

11 A. Yes.

12 Q. Okay.

13 MR. MORIN: If I may have just a moment, Your Honor.

14 (Pause)

15 MR. MORIN: I have no further questions, Your Honor.

16 THE COURT: Any redirect limited to what he went into?

17 MR. HUNTER: No, Your Honor.

18 THE COURT: Thank you, ma'am. You may step down.

19 Lawyers approach.

20 (Whereupon a bench conference was held off the record

21 in the presence of the jury, but out of their hearing)

22 (Whereupon the bench conference was ended)

23 THE COURT: All right, ladies and gentlemen, we're

24 going to take the lunch break at this time. I need to

25 remind you that you cannot have any discussions with anyone,

1 including yourselves or anyone else on anything involving
2 the case as well as my -- renew my instruction to you, don't
3 do any type of independent research or investigation.

4 We've now started the trial of the case. Let's say
5 that you've heard of a location, don't even sort of go out
6 of your way and say, well, I'm just going to drive by there,
7 you know, take a look to see where it is. Don't do anything
8 like that because, again, the decisions you make have to be
9 based on the information and evidence you receive as part of
10 this trial. So allow the lawyers the opportunity to present
11 to you the evidence and allow me the opportunity to instruct
12 you on the law that you will apply.

13 But I'm going to ask, if you would, to be back in the
14 jury room by 1:45. That'll give you just an hour and a half
15 by that clock. But you may go with the bailiff, and he will
16 show you the way out.

17 (Whereupon the jury exited the courtroom at 12:14 pm)

18 **MR. HUNTER:** Your Honor, at this time, based on what I
19 was talking to you at the bench and Mr. Morin's statement
20 about, the pointing and presenting a firearm, we're going to
21 have to move for a mistrial. He has now tainted the
22 testimony that's coming forward with Mr. Robinson.

23 I have looked up in our system why that charge was
24 dismissed. Megan Moricle was the prosecutor on that case.
25 It was dismissed because the victim was unable to be

1 located.

2 Now the jury knows a prior bad act that was never even
3 convicted and possibly taint the testimony of Mr. Robinson.
4 At this point I don't believe the State can go forward with
5 a fair trial.

6 MR. MORIN: Your Honor, the evidence that I was able to
7 figure out by the rap sheet he gave me was that Mr. Robinson
8 was arrested for a pointing and presenting six days before
9 this agreement was made, and that after my client was
10 arrested the case was dismissed. That's what I knew about
11 that. I think that that goes towards it.

12 Now, they can say, well, he didn't have any agreement
13 on that, but they also are arresting him and saying that he
14 had warrants when their documentation shows that they
15 actually never even got a warrant.

16 Now, Mr. Hunter started out with this is a target case.
17 I'm trying to establish a defense that that's exactly what
18 it is. He's the one who said it, and I'm hooking onto that.
19 They are doing things for Mr. Robinson whether it's
20 connected or not.

21 Now, I apologize about -- I didn't in no way want it to
22 cause a mistrial and in no way wanted -- well, I did want to
23 taint their case because I think something's going on there.
24 But if I can't -- and in addition to that, these officers
25 knew or should have known that he had an additional charge

1 that was pending at the time it was.

2 And if they didn't know that, then that goes toward my
3 defense of they didn't really care. They had their own plan
4 of what they wanted to do when they started it. That's what
5 I said in opening, and I submit that that goes towards that.

6 If she says I didn't know that or she says she did,
7 I'll move on or I'll just leave it alone. I don't want to
8 cause a mistrial.

9 I don't know that that's what's happened, but my
10 position is they targeted my client and they didn't care
11 about Mr. Robinson. They didn't care about his charge, they
12 targeted him. And they would have done whatever they needed
13 to do to take care of Mr. Robinson.

14 **THE COURT:** Well, we're just arguing the motion.
15 You're not going to make a closing argument.

16 **MR. MORIN:** Well, I understand. I didn't mean to do
17 that, Your Honor. But I wanted to explain what I'm doing.

18 **THE COURT:** Any reply?

19 **MR. HUNTER:** Yes, Your Honor. Partially, Mr. Robinson
20 was arrested on warrants on all of these offenses prior to
21 cooperating against Mr. Jones. His first offense, he was
22 arrested on May 20th, 2014. That's the distribution of
23 cocaine base, on 2014A2320500455.

24 Your Honor, then on June 3rd he was arrested for that
25 pointing and presenting a firearm. That's on

1 2014A2320500497. And ultimately the half mile offense,
2 which actually occurred with the distribution of cocaine
3 base, he was arrested on that June 11th date, 2014,
4 2014A2320500456.

5 Your Honor, this would have been possible if we would
6 have proffered this information. We could have gone through
7 it before. But now the jury's heard that the Defendant was
8 arrested for pointing and presenting a firearm, and I don't
9 think we can get around that.

10 **THE COURT:** The Defendant?

11 **MR. HUNTER:** Excuse me, the informant.

12 **THE COURT:** All right. I'm not going to grant the
13 motion. He did not pursue the question. He said afterward
14 he's not going to go any -- forward with asking the
15 question.

16 There's -- granting mistrials are dramatic remedies.
17 There's other options that the State could ask the Court to
18 do if it felt that it was prejudiced. So I am not going to
19 grant the motion. All right. We'll get back together.

20 **MR. HUNTER:** Your Honor, if I may with one thing? May
21 we move to strike that from the record?

22 **MR. MORIN:** No objection.

23 **THE COURT:** All right. I'll strike that. Do you want
24 me to strike it from the record in the presence of the jury
25 and draw attention to it?

1 **MR. HUNTER:** Yes, Your Honor.

2 **THE COURT:** All right. We'll do that when we come
3 back.

4 **MR. HUNTER:** Thank you.

5 (Whereupon court was in recess at 12:19 pm)

6 (Whereupon court reconvened at 1:59 pm)

7 **THE COURT:** All right. Lawyers approach.

8 (Whereupon a bench conference was held off the record)

9 (Whereupon the bench conference was ended)

10 **THE COURT:** At the end of the -- prior to the lunch
11 break this Court had indicated that it would instruct the
12 jury to ignore or to strike a particular question that was
13 made by Mr. Morin, to strike it from the record. The Court
14 never ruled initially.

15 I feel like Mr. Morin's question was proper. Mr. Morin
16 then abandoned that question, did not pursue it after we had
17 a bench conference. So I don't believe that it would be
18 proper for me now to go back in and say strike that question
19 when actually the question was proper to begin with. So I
20 just think it's a dead matter right now.

21 **MR. MORIN:** Yes, Your Honor.

22 **THE COURT:** Okay. Anything else before we bring the
23 jury back?

24 **MR. MORIN:** No, I think we've covered everything.

25 **THE COURT:** Okay.

LISA GODFREY - DIRECT EXAMINATION BY MR. HUNTER

1 **MR. HUNTER:** That's it.

2 **THE COURT:** All right. Let's bring the jury in.

3 **MR. HUNTER:** Your Honor, just so you know, Mr. Morin
4 and I agree that Mr. Robinson can be here during the chain
5 witness since he will be the next witness.

6 MR. MORIN: That's correct, Your Honor.

7 (Whereupon the jury entered the courtroom at 2:04 pm)

8 **THE COURT:** Is the State ready to call their next
9 witness?

10 **MR. HUNTER:** Yes, Your Honor. The State calls Lisa
11 Godfrey.

12 **THE COURT:** Ma'am, just come right up here and let the
13 clerk of court swear you in.

14 **MADAME CLERK:** If you'd raise your right hand, put your
15 left hand on the Bible.

16 Lisa Godfrey, being duly
17 sworn testified as follows;

18 **MADAME CLERK:** Thank you. You may be seated.

19 **THE COURT:** Ma'am, just have a seat in the red chair
20 and pull the red chair up to the microphone.

21 Direct Examination by Mr. Hunter:

22 Q. Ms. Godfrey, how are you doing today?

23 A. Good. How are you?

24 Q. Make sure you speak up into that microphone so we can
25 all hear you. Please state your full name for the record.

LISA GODFREY - DIRECT EXAMINATION BY MR. HUNTER

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1 A. Lisa Godfrey.

2 Q. And how are you currently employed?

3 A. I'm over the evidence -- property and evidence at the
4 Greer Police Department.

5 Q. And how long have you been in that job?

6 A. I took that position in 2011.

7 Q. Okay. Since 2011 have you been doing that non-stop?

8 A. Correct.

9 Q. Okay. And you were employed as the evidence technician
10 July or June 25th, 2014?

11 A. Yes, sir.

12 Q. Please explain what your duties as an evidence
13 technician are.

14 A. Officers submit evidence into lockers. They fill out a
15 P&E sheet they put into a plastic bag, paper bag, seal it,
16 put it into a locker, lock the locker. When I come in the
17 next day, take it out, I enter it into the computer system.
18 I log on a piece of paper, which is the P&E sheet my name,
19 that I'm putting it in Greer P&E and date and time, showing
20 the date and time that I actually put it into our computer
21 system and then put it back into the storage.

22 Q. Okay. And on June 25th, 2014 did you receive an item
23 from Investigator McWhite?

24 A. I did.

25 Q. Okay. I'm going to show you State's exhibit 2, which

LISA GODFREY - DIRECT EXAMINATION BY MR. HUNTER

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1 is there in front of you. Do you recognize that item?

2 A. I do.

3 Q. And how do you recognize that item?

4 A. It would be the item that Detective McWhite put in on
5 the 25th of June.

6 Q. All right. Where did you receive that item?

7 A. Out of the drug locker at the Greer Police Department,
8 yes.

9 Q. Okay. And then what did you do with it?

10 A. I entered it into our computer system and then I stored
11 it into a caged area. We keep certain items in a caged area
12 from other items. And it was stored there until it was
13 taken to the Spartanburg County Lab.

14 Q. And when did you do that?

15 A. It was taken to the Spartanburg County Lab on July the
16 7th of 2014.

17 Q. And who did you turn it over to?

18 A. Lieutenant Ashley Harris.

19 Q. Okay. And from that June 25th date that you received
20 it until July 7th when you relinquished control to Ashley
21 Harris did it appear that item had been tampered with?

22 A. No, sir. I do not take things that are not sealed
23 properly, nor will the Spartanburg County Lab.

24 Q. All right. So in this case if it wasn't sealed
25 properly you never would have taken it in the first place?

LISA GODFREY - DIRECT EXAMINATION BY MR. HUNTER

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1 A. Correct. The officer would have been called back to
2 correct the issues, but in this case there was no issues
3 because it would have been noted on the evidence sheet.

4 Q. Okay. So in this case you received it on June 25th?

5 A. I logged it in on June the 27th. Detective McWhite
6 impounded on June the 25th.

7 Q. Okay. And then on July 7th you took it to Ashley
8 Harris?

9 A. Correct.

10 Q. And it was in the same condition as it is today?

11 A. Correct.

12 Q. Or substantially the same because Mr. Harris,
13 obviously, did some testing on it?

14 A. Correct.

15 Q. Okay. Please answer any questions Mr. Morin may have
16 for you.

17 MR. MORIN: I have no questions of this witness.

18 THE COURT: Thank you, ma'am. You may step down.

19 MR. HUNTER: Your Honor, I believe she has a
20 parent/teacher conference. May she be excused?

21 THE COURT: Any objection?

22 MR. MORIN: No, Your Honor.

23 THE COURT: Thank you, ma'am. You may be excused as
24 well. The State ready to call their next witness?

25 MR. HUNTER: Yes, Your Honor. At this time the State

WILLIE ROBINSON - DIRECT EXAMINATION BY MR. HUNTER.

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1 would call Willie Robinson.

2 **THE COURT:** Sir, just come right up here and I'll let
3 the clerk of court swear you in. Watch that cord as you're
4 stepping over it.

5 **MADAME CLERK:** If you'll raise your right hand and put
6 your left hand on the Bible.

7 **Willie Robinson, being**
8 duly sworn testified as follows;

9 **THE COURT:** Sir, why don't you step up and just have a
10 seat in the red chair and pull the red chair up to the
11 microphone.

12 **Direct Examination by Mr. Hunter:**

13 Q. Mr. Robinson, would you please state your full name for
14 the record.

15 A. Willie Robinson.

16 Q. Where are you from, Mr. Robinson?

17 A. I'm from Greer.

18 Q. Okay. How long have you lived in Greer?

19 A. Twenty years.

20 Q. Are you feeling all right today?

21 A. No.

22 Q. What's wrong?

23 A. I think my blood sugar done dropped.

24 Q. Do you have diabetes?

25 A. Yeah.

WILLIE ROBINSON - DIRECT EXAMINATION BY MR. HUNTER

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1 Q. Do you recognize the man sitting at Defense table?

2 A. Yeah.

3 Q. Other than his lawyer, what's his name?

4 A. Mr. Jones.

5 Q. What's his full name?

6 A. Rusty Jones.

7 Q. Okay. How do you recognize him?

8 A. I've seen him around. And I, you know, I talk to him
9 and deal with him.

10 Q. When you say you deal with him, how do you deal with
11 him?

12 A. Well, actually -- actually, I started out giving him --
13 he was a friend of mine. And it just, you know, escalated
14 from there and got in some trouble. That's about it.

15 Q. When you say you deal with him, what does that mean to
16 you?

17 A. When I deal with -- when I deal with a person, you
18 know, I begin to, you know, like that person, and I help him
19 out and do stuff for him if he ask me to, I would do it.
20 And also I have bought drugs from him, if that's ---

21 Q. You've bought drugs from him?

22 A. If that's what you're asking me, yeah.

23 Q. All right. Was it for your use or did you resell those
24 drugs?

25 A. I resold it.

WILLIE ROBINSON - DIRECT EXAMINATION BY MR. HUNTER

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- 1 Q. Okay. So he was your supplier?
- 2 A. Yeah.
- 3 Q. You, yourself, got into some trouble with Greer police,
- 4 did you not?
- 5 A. Say it again, sir.
- 6 Q. You got in some trouble with Mr. McWhite, did you not?
- 7 A. Yes, sir.
- 8 Q. And Mr. McWhite sent an informant in to purchase crack
- 9 cocaine from you?
- 10 A. Um-hum (affirmative).
- 11 Q. Is that correct?
- 12 A. Um-hum (affirmative).
- 13 Q. And when he did that, you were within one half mile of
- 14 a school or park?
- 15 A. Um-hum (affirmative).
- 16 Q. So you've had two charges that Mr. McWhite had on you?
- 17 A. Um-hum (affirmative).
- 18 **THE COURT:** Sir, if you would, we need you to give ---
- 19 A. Yes, sir.
- 20 **THE COURT:** Thank you.
- 21 Q. Did you agree to cooperate with Greer police?
- 22 A. Yes, sir.
- 23 Q. In exchange for them requesting your charges be
- 24 dismissed?
- 25 A. Well, they going to work on it. It ain't been

WILLIE ROBINSON - DIRECT EXAMINATION BY MR. HUNTER

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- 1 dismissed. But that -- that was -- that was the agreement.
- 2 Q. They were going to request that we dismiss ---
- 3 A. Yes.
- 4 Q. --- those charges? That's at the time?
- 5 A. Yes.
- 6 Q. They've since -- they've now been dismissed?
- 7 A. No.
- 8 Q. But ...
- 9 A. They haven't been dismissed.
- 10 Q. You don't have any distribution charges pending today?
- 11 A. No.
- 12 Q. Okay. So they've been dismissed?
- 13 A. Okay.
- 14 Q. But your agreement was that you would cooperate and
- 15 purchase drugs for Greer police ---
- 16 A. Um-hum (affirmative).
- 17 Q. --- once you got caught?
- 18 A. Yes, sir.
- 19 Q. Is that correct?
- 20 A. Yes.
- 21 Q. And that you would do it from your supplier?
- 22 A. Yeah.
- 23 Q. And who was your supplier?
- 24 A. Mr. Jones was one.
- 25 Q. Okay. I'm showing you what's been premarked State's

WILLIE ROBINSON - DIRECT EXAMINATION BY MR. HUNTER

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1 exhibit 1. Do you recognize that item?

2 A. (Negative nod).

3 Q. Let me back up a little bit. On June 25th did you meet
4 with Investigator McWhite and ---

5 A. Yes.

6 Q. --- Sergeant Blackwell?

7 A. Yeah, yeah.

8 Q. All right. Did they hook you up with a camera system?

9 A. Yeah.

10 Q. Okay. And that camera system recorded your movements
11 for a time, ---

12 A. Yeah.

13 Q. --- is that correct? And as part of that there was a
14 video produced that showed a buy between you and Mr. Jones,
15 is that correct?

16 A. Yeah.

17 Q. Okay. And you've had a chance to review that video?

18 A. Yeah, I've seen it twice.

19 Q. You saw it back at the Duncan Police Department when we
20 met a few years ago?

21 A. Um-hum (affirmative).

22 Q. And then you saw it again about a year ago?

23 A. Um-hum (affirmative).

24 Q. Okay. On State's exhibit 1 did you write your initials
25 on that?

WILLIE ROBINSON - DIRECT EXAMINATION BY MR. HUNTER

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1 A. Yeah.

2 Q. Okay. As well as the date, I believe, of October 9th,
3 2016?

4 A. Mr. Eddie, to tell you the truth, I don't remember
5 putting my initials on this.

6 Q. Okay. But do you remember watching a video ---

7 A. I remember watching a video.

8 Q. Okay. But this was a year ago when you put your
9 initials ---

10 A. Oh, okay.

11 Q. Is that your handwriting?

12 A. Yeah.

13 Q. Okay. And that is -- W. J. R. are your initials?

14 A. Right.

15 Q. Okay. But you did review two videos from June 25th?

16 A. Um-hum (affirmative).

17 Q. Prior to making the buy did you also do a phone call?

18 A. Um-hum (affirmative).

19 Q. Okay. And as part of that phone call -- recorded by
20 the police?

21 A. Um-hum (affirmative).

22 Q. And you've had a chance to review that as well?

23 A. Yes.

24 Q. Okay. I want to go to June 25th. We've heard from
25 Sergeant Blackwell that y'all met at a church.

WILLIE ROBINSON - DIRECT EXAMINATION BY MR. HUNTER

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1 MR. MORIN: Your Honor, I'm going to ask that the State
2 not lead the witness.

3 THE COURT: You want to rephrase?

4 Q. Where did you meet Sergeant Blackwell and Investigator
5 McWhite on June 25th, 2014?

6 A. I think the police station.

7 Q. Okay. Initially did you go anywhere else?

8 A. Yeah.

9 Q. Where did you go?

10 A. A church.

11 Q. Okay. At that church were you searched by Investigator
12 McWhite?

13 A. Yes, sir.

14 Q. Okay. Did he search you?

15 A. Searched me, my car.

16 Q. How did he search you?

17 A. He did a thorough search. He also did a thorough
18 search on my car.

19 Q. Okay. Explain what you -- by thorough.

20 A. He didn't leave out nothing. He started -- he came
21 from head to toe on me and went from front to back on my
22 car.

23 Q. Okay. Did he provide you with any money?

24 A. Yeah.

25 Q. Okay. How much money did he provide you with?

WILLIE ROBINSON - DIRECT EXAMINATION BY MR. HUNTER

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1 A. Forty? No, he gave me a hundred dollars.

2 Q. Gave you a hundred? Okay. How much crack did you end
3 up buying, though?

4 A. Fifty dollars.

5 Q. Fifty dollars? Okay. So he searched your car, he's
6 hooked you up with an audio/video device, searched you, and
7 then what happened next? Did you make the phone call? Or
8 did that already happen?

9 A. Already happened.

10 Q. Okay. Where were you headed?

11 A. Where was I heading?

12 Q. Yes.

13 A. Explain that.

14 Q. After he searched you and you were going to buy, where
15 did you head?

16 A. Oh, I went to see Mr. Jones.

17 Q. Okay. That location that you went and saw him at, what
18 is it called?

19 A. Shop.

20 Q. Okay. So it's called the shop?

21 A. (Affirmative nod).

22 Q. You know what street that's on?

23 A. No.

24 Q. Okay. You know what area of Greer that's in?

25 A. Um-hum (affirmative).

WILLIE ROBINSON - DIRECT EXAMINATION BY MR. HUNTER

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1 Q. What area is that?

2 A. Sunnyside.

3 Q. Okay. When you went to that location who did you
4 observe?

5 A. When I went to the shop?

6 Q. Correct.

7 A. Just me and Mr. Jones.

8 Q. There were some -- a few other people there, though,
9 too, correct?

10 MR. MORIN: Objection, Your Honor.

11 Q. Were there other people there?

12 THE COURT: Thank you.

13 A. It was other people there. They was -- it's a shop.
14 They work on cars.

15 Q. Okay. Who were you going to meet?

16 A. Mr. Jones.

17 Q. Okay. Why were you going to meet him?

18 A. I needed to see him. I needed to buy some dope.

19 Q. Okay. Who were you buying the dope for?

20 A. Oh, at that time I was buying it for the City of Greer.

21 Q. Okay. So you weren't buying it for yourself?

22 A. Uh-uh (negative).

23 Q. You were buying it for the police?

24 A. Um-hum (affirmative).

25 Q. Okay. Did you make any stops on the way, ---

WILLIE ROBINSON - DIRECT EXAMINATION BY MR. HUNTER

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1 A. No, sir.

2 Q. --- after you left the church, to Mr. Jones' shop?

3 A. No, sir.

4 Q. When you call this a shop, can you please explain what
5 the shop is?

6 A. Shop is, these guys, they come in and they work on cars
7 and change oil, and brakes, and stuff like that right there.
8 This was -- as far as I'm concerned -- as far as I know,
9 it's a legitimate shop.

10 Q. But it's not like a mechanic -- is it like a building?

11 A. No, there's no building there. They just work outside.

12 Q. Okay. Did you make any stops prior to going to this
13 location?

14 A. No.

15 Q. Okay. And after you left the location did you make any
16 stops? Before seeing these police officers?

17 A. No.

18 Q. I'm going to show you what's been premarked State's
19 exhibit 2. Do you recognize that item?

20 A. I guess.

21 Q. You say I guess. Do you recognize -- what did -- what
22 did you buy from Rusty Jones?

23 A. Where's the rest of it?

24 Q. When you say the rest of it, what do you mean?

25 A. It's supposed to been more.

/

WILLIE ROBINSON - DIRECT EXAMINATION BY MR. HUNTER

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1 Q. Okay. Did you purchase -- what did you purchase from
2 Rusty Jones?

3 A. Fifty dollars.

4 Q. Fifty dollars worth of?

5 A. Crack.

6 Q. Okay. Do you recognize the packaging -- not
7 necessarily the big packaging that it's in, but that small
8 package within -- let me point to it.

9 A. That right there?

10 Q. Yeah, the corner baggy. Do you recognize ---

11 A. Uh-uh (negative).

12 Q. Okay. How did you receive the crack cocaine from
13 Rusty?

14 A. It was put in my hands. It wasn't no -- it wasn't in
15 no bag.

16 Q. Wasn't in no bag?

17 A. Uh-uh (negative).

18 Q. Did you put it in a bag?

19 A. No.

20 Q. You didn't?

21 A. Uh-uh (negative).

22 (Pause)

23 **MR. MORIN:** Your Honor, we need to approach.

24 **THE COURT:** Approach..

25 (Whereupon a bench conference was held off the record

WILLIE ROBINSON - DIRECT EXAMINATION BY MR. HUNTER

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1 in the presence of the jury, but out of their hearing)

2 (Whereupon the bench conference was ended)

3 **THE COURT:** Mr. Robinson, just let us know if you need

4 some water.

5 (Pause)

6 Q. Let me show you what's been premarked State's exhibit

7 5. Do you recognize that item?

8 A. Mr. Eddie, it's been so long, I guess that's the bag.

9 I don't -- it's done been three or four years. I don't -- I
10 don't really remember.

11 Q. Okay. Do you remember having a hearing on this case
12 where you testified before?

13 A. Yes, sir, I remember that.

14 Q. Okay. Do you remember at that hearing that you agreed
15 that State's exhibit 2 was the crack cocaine that you
16 purchased from Rusty ---

17 A. Yeah.

18 Q. --- that day?

19 A. Yeah.

20 Q. Okay. You remember that?

21 A. Yeah.

22 Q. It's just now that it's three years later it's hard for
23 you to remember?

24 A. Yeah.

25 Q. Okay.

WILLIE ROBINSON - DIRECT EXAMINATION BY MR. HUNTER

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1 **MR. HUNTER:** Your Honor, at this time the State would
2 offer State's exhibit 1 into evidence.

3 **MR. MORIN:** Oh, the DVD?

4 **MR. HUNTER:** Yes.

5 **MR. MORIN:** Okay. With that, Your Honor, I have no
6 objection.

7 **THE COURT:** Without objection -- did you say the DVD
8 was 1?

9 **MR. HUNTER:** Yes, Your Honor.

10 **THE COURT:** State's 1 will be admitted.

11 (Whereupon State's exhibit 1 was admitted into
12 evidence)

13 **MR. HUNTER:** Permission to publish?

14 **THE COURT:** Yes, sir.

15 (Pause)

16 Q. Now I just want to ask a few basic questions before we
17 listen to these and watch these. Do you remember making a
18 recorded phone call?

19 A. Yeah.

20 Q. And who did you make that phone call to?

21 A. Mr. Jones.

22 Q. Okay. And that phone call was recorded by police?

23 A. I think so.

24 Q. Okay. And you've had a chance to listen to that
25 before? Not necessarily today, but prior to today you've

WILLIE ROBINSON - DIRECT EXAMINATION BY MR. HUNTER

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1 had a chance to listen to it?

2 A. (Affirmative nod).

3 **THE COURT:** That's a yes, sir?

4 A. Yes.

5 **THE COURT:** Thank you.

6 (Pause)

7 **MR. HUNTER:** Your Honor, if I may ask for a five minute
8 recess? It appears ---

9 **THE COURT:** All right, ladies and gentlemen, I'm going
10 to ask, if you would, to retire back to the jury
11 deliberation room. Do not have any discussions among
12 yourselves about anything involving the case. We'll get you
13 back just shortly.

14 (Whereupon the jury exited the courtroom at 2:25 pm)

15 **THE COURT:** Why don't I just step to the back and let
16 me know when you get it fixed.

17 (Whereupon court was in recess at 2:26 pm)

18 (Whereupon court reconvened at 2:32 pm)

19 **THE COURT:** Is there -- there is sound with the video
20 or is it just ---

21 **MR. HUNTER:** Yes, Your Honor.

22 **THE COURT:** Okay. I'm going to need for y'all not to
23 speak while the video's playing, then.

24 **MR. HUNTER:** If I ask questions, I need to stop it so
25 that I can ---

WILLIE ROBINSON - DIRECT EXAMINATION BY MR. HUNTER

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1 **THE COURT:** Okay. That'll be good. Let's bring the
2 jury back in. I think the technology has ---

3 **MR. HUNTER:** It's my fault, and I apologize. I got it
4 working.

5 **THE COURT:** Glad you didn't look to me.

6 (Whereupon the jury entered the courtroom at 2:33 pm)

7 **THE COURT:** Yes, sir.

8 **Direct Examination by Mr. Hunter Continued:**

9 (Whereupon State's exhibit 1, DVD, was played for the
10 jury with intermittent questions)

11 Q. All right. During that phone call we heard two voices.

12 Did you hear two voices?

13 A. Um-hum (affirmative).

14 Q. Okay. Who was the louder voice?

15 A. The loud?

16 Q. The louder voice? The one that you hear better.

17 A. Mine -- you talking about mine?

18 Q. That was your voice. Who was the other voice on that
19 phone call?

20 A. Mr. Jones.

21 Q. Okay. And where did he want you to meet again?

22 A. At the shop.

23 Q. At the shop. Okay. Now after your -- you've been
24 given the money, you've been searched, you've been equipped
25 with the audio/video, you go to the shop?

WILLIE ROBINSON - DIRECT EXAMINATION BY MR. HUNTER

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1 A. Um-hum (affirmative).

2 Q. What did you do at the shop?

3 (Pause)

4 Q. That day? Not normally. What did you do at the shop
5 that day?

6 A. Made the purchase, and I left.

7 Q. A purchase of what?

8 A. Drugs.

9 Q. From?

10 A. Mr. Jones.

11 Q. I'm quoting here, you just said, people love that shit,
12 especially when it's hard. What do you mean by that?

13 A. It's crack. If it's not hard, it ain't no good.

14 Q. Speak up a little bit.

15 A. If it's not hard, it's not no good.

16 Q. What's not good?

17 A. The drugs.

18 Q. Okay. So if they're wet, it's no good?

19 A. No good.

20 Q. Somebody said, it ain't nothing but a "G". Do you know
21 who said that?

22 A. Uh-uh (negative).

23 **THE COURT:** Sir, can you give a verbal response.

24 A. No.

25 Q. You want to re-watch that portion?

WILLIE ROBINSON - DIRECT EXAMINATION BY MR. HUNTER

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1 A. Yeah.

2 Q. I know it kind of paused there for a second, but whose
3 back of the head do we see right there? You need me to back
4 it up just a second? I apologize on that. You need me to
5 back it up ---

6 A. Yeah.

7 Q. --- a little? Mr. Robinson?

8 A. Yes, sir.

9 Q. Do you need me to back it up?

10 A. Yes, sir.

11 Q. This gentleman right here, do you recognize that
12 person?

13 A. I think that's Mr. Jones.

14 Q. All right. And we'll see him with the phone down here
15 in a second. Do you recognize there's a tattoo there on the
16 right?

17 A. Yeah.

18 Q. Okay. Is that the person that said, it's nothing but a
19 "G"?

20 A. To be honest with you, I don't remember.

21 Q. Okay. But do you remember hearing that?

22 A. Yeah, I remember hearing it, but I don't remember who
23 said it.

24 Q. All right. What does that mean?

25 A. A "G"?

WILLIE ROBINSON - DIRECT EXAMINATION BY MR. HUNTER

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1 Q. Yes.

2 A. Could mean -- could mean a gram.

3 Q. Okay. Could mean a gram?

4 A. Yeah.

5 Q. Okay. Again, how much crack cocaine did you purchase
6 that day?

7 A. I think it was fifty dollars.

8 Q. Which would be how much in grams?

9 A. That would be a gram.

10 Q. Okay. All right. Now we've got a better shot. Do you
11 recognize that person?

12 A. Um-hum (affirmative).

13 Q. And who is that?

14 A. Mr. Jones.

15 Q. What did you mean by you saved me fifty dollars?

16 A. Well, at that time he didn't have what I wanted.

17 Q. What did you want?

18 A. I wanted two grams.

19 Q. Okay. You wanted two grams. How much would two grams
20 have cost you?

21 A. Hundred dollars.

22 Q. Hundred dollars?

23 A. Um-hum (affirmative).

24 Q. How much money did they give -- the police department
25 give you?

WILLIE ROBINSON - DIRECT EXAMINATION BY MR. HUNTER

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1 A. I think it was a hundred dollars.

2 Q. Okay. I'm going to show you what's been premarked
3 State's exhibit, I believe it's 7. Actually, it's already
4 admitted into evidence. I know it's kind of hard, but do
5 you recognize these initials down here?

6 A. Um-hum (affirmative).

7 Q. Whose initials are those?

8 A. They're mine.

9 Q. And how much money is that?

10 A. Hundred dollars.

11 Q. Hundred dollars. So who did you buy a gram of crack
12 from that day?

13 A. Who did I buy it from?

14 Q. Who did you buy it from?

15 A. Right there? When I was -- on here?

16 Q. June 25th, 2014, this video, who did you buy crack
17 from?

18 A. That's Mr. Jones, I think. Yeah, Mr. Jones.

19 Q. Mr. Jones?

20 A. Yeah. It's been a long time. Been a long time. So
21 I'm, you know, I'm saying it's Mr. Jones.

22 Q. Okay. That's who you -- that's who you called that
23 day?

24 A. Yeah.

25 Q. And that's who's in that video?

WILLIE ROBINSON - DIRECT EXAMINATION BY MR. HUNTER

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1 A. Yeah.

2 Q. And your people like it hard because that's crack
3 cocaine, ---

4 A. Yeah.

5 Q. --- want it to be hard?

6 A. Yeah.

7 Q. And who made the hand-to-hand transaction?

8 A. I did.

9 Q. With who?

10 A. Mr. Jones.

11 Q. I'm going to back it up a little bit because it keeps
12 skipping when I get too close to it. Do you remember if he
13 handed the crack to you?

14 A. What did you say, Mr. ---

15 Q. Do you remember if he handed the crack to you?

16 A. No.

17 Q. Okay. What did he -- where did he put it?

18 A. I think he laid it down in the seat.

19 Q. Okay. And then what did you do with it?

20 A. I picked it up.

21 Q. Okay. Where did you take it at that point?

22 A. Got in my car and -- I got in my car and left, and I
23 met Mr. White [sic].

24 Q. Okay. Back at what location?

25 A. At the precinct.

WILLIE ROBINSON - DIRECT EXAMINATION BY MR. HUNTER

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1 Q. Okay. Did you make any stops in between?

2 A. No.

3 Q. Did you go back to the church or back to the police
4 office?

5 A. I don't remember, Eddie. I think it was at -- at the
6 police office.

7 Q. Okay. But you did -- didn't make any stops before ---

8 A. No.

9 Q. --- you met Investigator McWhite?

10 A. No.

11 Q. After making this purchase did you meet with
12 Investigator McWhite to provide a statement to him?

13 A. Say again.

14 Q. Did you provide a written statement to Investigator
15 McWhite after making this purchase?

16 A. I guess.

17 Q. Now, is that what I just handed you?

18 A. Yeah.

19 Q. Would reading that help you -- help you remember any of
20 this situation?

21 A. Okay. Yeah.

22 Q. If you want to just take a second, you can't -- don't
23 need to read that out loud, but just read that since you're
24 having some trouble remembering things, okay?

25 A. Um-hum (affirmative).

WILLIE ROBINSON - DIRECT EXAMINATION BY MR. HUNTER

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1 (Pause)

2 A. Okay.

3 Q. All right. You read the whole thing?

4 A. I ---

5 Q. You're a fast reader.

6 A. Yeah.

7 Q. All right. You can put it down. I just want to make
8 sure we're clear -- we're clear on everything. Who did you
9 purchase crack cocaine from on June 25th, 2014?

10 A. Mr. Jones.

11 Q. Okay. And where did that buy take place?

12 A. At the shop.

13 Q. Okay. And how did that deal go down at the shop?

14 A. Smooth.

15 Q. It went smooth?

16 A. Yeah.

17 Q. All right. Where did he place the drugs?

18 A. He put them in the seat. He didn't give them to me, he
19 put it in the seat.

20 Q. Okay. And did you take those drugs and who did you
21 give them to afterwards?

22 A. Mr. White [sic].

23 Q. At anytime before the buy or anytime after did you have
24 any other illegal substances on you on June 25th, 2014?

25 A. No, sir.

WILLIE ROBINSON - DIRECT EXAMINATION BY MR. HUNTER

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1 Q. Okay. Did you have any other money on you on June
2 25th, 2014?

3 A. No.

4 Q. Okay. The only items that you had money and drug-wise
5 were the items provided to you by Greer police?

6 A. Um-hum (affirmative).

7 Q. The money?

8 A. Yes, sir.

9 Q. And the drugs were provided by?

10 A. Yes, sir.

11 Q. Who?

12 A. Mr. ---

13 Q. Who ---

14 A. --- Jones.

15 Q. --- were the drugs provided by?

16 A. Mr. Jones.

17 Q. Okay. I just want to be crystal clear on -- other than

18 Mr. Jones have you ever been an informant for Greer police

19 ---

20 A. No.

21 Q. --- in any other undercover buys against other
22 subjects?

23 A. No.

24 Q. Just Mr. Jones?

25 A. Yeah.

WILLIE ROBINSON - CROSS EXAMINATION BY MR. MORIN

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1 Q. So if your initials are on a piece of paper, it's just
2 for the investigation of Mr. Jones?

3 A. (Affirmative nod).

4 Q. Please answer any questions Mr. Morin may have for you.

5 Cross Examination by Mr. Morin:

6 Q. Mr. Robinson, ---

7 A. Yes, sir.

8 Q. --- this is your car, right?

9 A. Yes, sir.

10 Q. And how long have you had that car? Do you still have
11 it?

12 A. No, it got towed.

13 Q. Okay. Sorry to hear that. Did you have it for a long
14 time before this happened?

15 A. I had that car maybe two, two or three years.

16 Q. Okay. And if I understand correctly, you drove to the
17 police station and then you drove to the church, ---

18 A. Um-hum (affirmative).

19 Q. --- is that right?

20 A. Um-hum (affirmative).

21 Q. And it was in the church that the search took place?

22 A. No. Actually, to tell you the truth, the search took
23 place at the police station before we even left the police
24 station.

25 Q. Okay. So you got searched at the police station and

WILLIE ROBINSON - CROSS EXAMINATION BY MR. MORIN

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1 then you drove to the church?

2 A. Um-hum (affirmative).

3 Q. You got out of the car?

4 A. Um-hum (affirmative). Matter of fact, tell you the
5 truth, it was searched at the church, too.

6 Q. So there were two searches?

7 A. Yes.

8 Q. Okay. And who did the search at the police station?

9 A. Mr. White [sic]. And I think Ms. Blackwell was with
10 him.

11 Q. Was with him?

12 A. I think she was.

13 Q. Okay. Same thing at the church?

14 A. Yep.

15 Q. Okay. Now when they searched your car was it just Mr.
16 McWhite, or was it both of them, or just Ms. Blackwell or
17 Officer Blackwell?

18 A. Tell you the truth, I don't remember.

19 Q. Okay. Now this was -- you've told the jury this was a
20 thorough search, now two searches, right?

21 A. Yep.

22 Q. But there wasn't any stops between the police station
23 and the church?

24 A. No.

25 Q. Did they follow you or ---

WILLIE ROBINSON - CROSS EXAMINATION BY MR. MORIN

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1 A. Yeah.

2 Q. --- did you follow them?

3 A. They followed me.

4 Q. Okay. And when they got to the church were -- well, I

5 guess the question is how long did the search go on? How

6 long did it take to do that thorough search?

7 A. I don't know. It could have been a little minute.

8 Q. Okay.

9 A. I'd probably say, what, ten minutes.

10 Q. Okay. Now when you left out to go to the shop, ---

11 A. Um-hum (affirmative).

12 Q. --- how many cigarettes did you have?

13 A. How many cigarettes did I have?

14 Q. Did you have a whole pack, or did you have them loose?

15 What was it?

16 A. I had a whole pack of cigarettes. I think I smoked

17 three.

18 Q. Okay. And you had your own lighter?

19 A. Had my own lighter.

20 Q. I noticed that you rolled the window down on the way,

21 looked like it was raining. Was it hot that day?

22 A. I think it was raining. It might have been raining.

23 Q. You turned on your wipers when you first got in, but

24 then they went off.

25 A. It might have been raining.

WILLIE ROBINSON - CROSS EXAMINATION BY MR. MORIN

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1 Q. Air condition work in the car?

2 A. Yeah.

3 Q. Did you have anything to drink in the car?

4 A. I don't drink.

5 Q. No, I don't -- no, I don't mean alcohol. I mean like
6 water. Anything?

7 A. No.

8 Q. You sure?

9 A. I don't think so.

10 Q. Okay. A pack of cigarettes. Was that a new pack or
11 did you already have them open?

12 A. I already had them.

13 Q. Already had them?

14 A. Um-hum (affirmative).

15 Q. And ---

16 A. Because the reason why talking about I know I already
17 had them, ---

18 Q. Um-hum (affirmative).

19 A. --- because I was instructed not to stop nowhere or
20 talk to nobody.

21 Q. Right. But I guess my question is is when you started
22 driving was the pack already -- had you already smoked one
23 or did you open the pack inside the car?

24 A. The pack was already open.

25 Q. Okay. Now when you walk up to this place where it is

WILLIE ROBINSON - CROSS EXAMINATION BY MR. MORIN

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1 you said something to them about -- and I tried to write it
2 down. You said, y'all still burning shit. You remember
3 that?

4 A. Yeah.

5 Q. Who were you talking to? Because I can't see on there.
6 Do you remember who you were talking to?

7 A. When I said y'all, ---

8 Q. Yes.

9 A. --- I mean all of them out there.

10 Q. Right.

11 A. They was burning something. I don't know what it was,
12 but they was burning something.

13 Q. Okay. And when you walked up to Mr. Jones he was
14 talking on the phone, correct?

15 A. I believe so.

16 Q. Okay. And there's another fellow there on the other
17 side of the door. Did you see him?

18 A. I seen him, but I don't know him.

19 Q. Okay. He was kind of leaning on the open door in the
20 car, right?

21 A. Yeah.

22 Q. Okay. And you talked about fixing cars and fixing
23 brakes or something?

24 A. Um-hum (affirmative).

25 Q. Was that just small talk, I guess?

WILLIE ROBINSON - CROSS EXAMINATION BY MR. MORIN

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- 1 A. That's what they do. They work on cars and fix brakes.
- 2 Q. Right. All right.
- 3 MR. MORIN: If I may just have a minute.
- 4 (Pause)
- 5 MR. MORIN: And, again, Your Honor, if I may just have
- 6 a moment.
- 7 (Pause)
- 8 Q. Now when you're driving back to meet them back at the
- 9 church, right?
- 10 A. Um-hum (affirmative).
- 11 Q. Where did you put the drugs then?
- 12 A. Talking about on the way back?
- 13 Q. Yeah, on the way back.
- 14 A. I laid it in the seat.
- 15 Q. Laid it in the seat?
- 16 A. Yeah.
- 17 Q. Okay. And how about the fifty dollars?
- 18 A. The fifty dollars that I had?
- 19 Q. Yeah, that you ---
- 20 A. I had it in my -- yeah, I had it in my shirt pocket.
- 21 Q. Shirt pocket?
- 22 A. Yeah.
- 23 Q. Okay. You sure? You didn't lay it down or ...
- 24 A. I'm not going to sit here and be a hundred percent.
- 25 Q. Okay.

WILLIE ROBINSON - CROSS EXAMINATION BY MR. MORIN

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1 A. 'Cause I might have laid it down or I might have put it
2 in my shirt. I don't remember.

3 Q. All right.

4 A. But I remember it was fifty dollars I gave back to
5 them.

6 Q. All right.

7 MR. MORIN: That's all the questions I have.

8 THE COURT: Any redirect limited to what he went into?

9 MR. HUNTER: Nothing from the State, Your Honor.

10 THE COURT: Thank you, sir. You may step down. Watch
11 your step as you're stepping down. Lawyers approach a
12 moment.

13 MR. HUNTER: Your Honor, may he be excused since he's
14 not feeling too well?

15 MR. MORIN: No objection.

16 THE COURT: Without objection. Sir, you may be
17 excused. Thank you for coming.

18 (Whereupon a bench conference was held off the record
19 in the presence of the jury, but out of their hearing)

20 (Whereupon the bench conference was ended)

21 THE COURT: All right, ladies and gentlemen, we're
22 going to take a short break. I need to remind you not to
23 have any discussions among yourselves about anything
24 involving the case, but you may retire back to the jury
25 deliberation room. We'll get you back just shortly.

JONATHAN McWHITE - DIRECT EXAMINATION BY MR. HUNTER

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1 (Whereupon the jury exited the courtroom at 3:07 pm)

2 **THE COURT:** All right. We'll come back just shortly.

3 (Whereupon court was in recess at 3:08 pm)

4 (Whereupon court reconvened at 3:17 pm)

5 **THE COURT:** Bring them in.

6 (Whereupon the jury entered the courtroom at 3:19 pm)

7 **THE COURT:** Let me see the lawyers one more minute.

8 (Whereupon a bench conference was held off the record

9 in the presence of the jury, but out of their hearing)

10 (Whereupon the bench conference was ended)

11 **THE COURT:** The State ready to call their next witness?

12 **MR. HUNTER:** Yes, Your Honor. The State calls

13 Investigator McWhite.

14 **THE COURT:** Just come right up here and let the clerk
15 of court swear you in, sir.

16 **MADAME CLERK:** If you'll raise your right hand, put
17 your left hand on the Bible.

18 **Jonathan McWhite, being**
19 duly sworn testified as follows;

20 **MADAME CLERK:** Thank you. You may be seated.

21 **Direct Examination by Mr. Hunter:**

22 Q. Mr. McWhite, please give your full name for the record.

23 A. Jonathan McWhite.

24 Q. And, apparently, I've been calling you investigator,
25 which you were at the time, but you've received a promotion

JONATHAN McWHITE - DIRECT EXAMINATION BY MR. HUNTER

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1 since then.

2 A. Yes, sir.

3 Q. All right. So is it Corporal White [sic]?

4 A. Yes, sir, McWhite.

5 Q. Can you briefly go over your law enforcement
6 experience?

7 A. Sure. Prior to becoming full-time law enforcement
8 officer I was a volunteer state constable where I worked in
9 the upstate with ---

10 THE COURT: If you would, try to speak up.

11 A. Sure.

12 THE COURT: You've got that last person on the other
13 side of the room has got to hear you, and the lady back here
14 and I have to hear you. So ---

15 A. Yes, sir.

16 THE COURT: --- please speak up.

17 A. I apologize. I did volunteer for about a year before
18 becoming full-time police officer. I was hired with the
19 Greer Police Department in the spring of 2012. I was
20 assigned to uniform patrol where I worked night-shift.

21 In August of 2013 I was moved to vice and narcotics
22 investigations. I've been there since that time. In March
23 of this year I was promoted to corporal and supervisor of
24 the unit.

25 Q. How were you employed on June 25th, 2014?

JONATHAN McWHITE - DIRECT EXAMINATION BY MR. HUNTER

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1 A. I was a detective with the Greer Police Department,
2 vice and narcotics.

3 Q. Okay. And were you assigned as the primary detective
4 on the investigation of Mr. Rusty Jones?

5 A. Yes, sir.

6 Q. How did you come up with Rusty Jones as your suspect or
7 your target as Mr. Morin alluded to?

8 A. Sure. Well, if I could start, my responsibilities
9 working in vice and narcotics covers drugs, alcohol,
10 prostitution, gambling. And we -- that's quite a few
11 different responsibilities. But our ultimate purpose is to
12 make the City of Greer a safe place ---

13 MR. MORIN: Objection, Your Honor. It's not a
14 responsive ---

15 THE COURT: Sustain the objection.

16 Q. Hold on a second. What are your responsibilities in
17 the vice and narcotics office?

18 A. To oversee, conduct and investigate crimes relating to
19 illegal drugs, alcohol, prostitution and gambling. In that
20 we largely focus on drugs and narcotics investigations.

21 In doing that we run operations on all different kind
22 of drugs and in all areas of the city. We have
23 approximately thirty thousand residents and thirty square
24 miles. So in one of these investigations -- it began
25 actually with a traffic stop that I conducted, which led to

JONATHAN McWHITE - DIRECT EXAMINATION BY MR. HUNTER

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1 some drug paraphernalia charges that which led to a
2 distribution from Mr. Robinson, who we just heard from.

3 Q. Okay. And after you -- Mr. Robinson agreed to work as
4 an informant?

5 A. Correct.

6 Q. How does that process work?

7 A. Typically if we arrest someone on drug charges and it's
8 generally just for drug charges, we don't allow folks to
9 work off assaults or any kind of crime where there's a
10 victim out there who had an injury or a loss of some type.
11 With the drug crimes, we go to them. And as long as they
12 were cooperative with the police officers, did not run,
13 fight, cause harm to the public or police officers, we'll
14 put you in as defendants and ask them if they'd be willing
15 to cooperate with the Greer Police Department. I do that
16 with just about everyone I sit down and interview whether
17 they come through the jail, patrol arrest or whether it's an
18 investigation we're running.

19 Q. Okay. Did you do that with Mr. Robinson?

20 A. I did.

21 Q. Okay. And what were the fruits of that conversation?

22 A. The first thing we -- the first question I usually ask
23 after I find if they're willing to cooperate is who do you
24 buy from? And so we ask just like we do everyone, who can
25 you buy from? Asked that of Mr. Robinson. He responded, I

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1 can buy from Rusty -- Rusty Jones.

2 Q. And you knew who Mr. Rusty Jones was at that time?

3 A. Correct.

4 Q. Okay. Were you the only person that ever worked with
5 Mr. Robinson at the Greer Police Department as an informant
6 as his -- as I've stated before, his handler?

7 A. Correct. I signed him up. Anytime we did work
8 together, it was just myself, Corporal Blackwell handling
9 it. But no other -- outside of us, no other officers have
10 handled him.

11 Q. And outside of your investigation into Mr. Rusty Jones,
12 had Mr. Robinson ever been an informant in an undercover
13 capacity where he has bought drugs from anybody for the
14 Greer Police Department?

15 A. No, he's not.

16 Q. So it's only against Mr. Rusty Jones?

17 A. Correct.

18 Q. All right. Let's get to June 25th, 2014. How did that
19 day start?

20 A. So generally our days and weeks are somewhat fluid
21 dealing with the nature of our business, but we actually met
22 with Mr. Robinson earlier in the day to attempt to purchase
23 from Mr. Jones. At that time Mr. Jones was not available.

24 So -- and Mr. Robinson's testimony reflected that when
25 he said I was searched at the police department, I was

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1 searched at the church. We met him at the police
2 department. We searched him there, shot a phone call, he's
3 not around, we can't make a buy. So we said, well, let's
4 meet up later.

5 This time we met him at Dominion Church, empty parking
6 lot, ---

7 Q. Go back to that beginning.

8 A. Sure.

9 Q. So the first search does happen at the police office?

10 A. Correct.

11 Q. At your -- down there at Main Street and Poinsett ---

12 A. [REDACTED] South Main, yes, sir.

13 Q. Okay. However, nothing occurs at that time?

14 A. That's correct.

15 Q. All right. Why did you not mark that in your report?

16 A. We only do an incident report for operations where
17 drugs are actually bought and -- so we can start an
18 investigation that might lead to charges. At that time
19 there was no money that changed hands, no -- we didn't turn
20 on any surveillance equipment. We just shot an initial
21 phone call, and we knew it wasn't going to work, so we
22 scrapped that buy.

23 Q. Has that happened to you before?

24 A. All the time.

25 Q. Okay. So where does Mr. Robinson go from the police

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1 station at that point?

2 A. During the first buy or ---

3 Q. The first attempt.

4 A. The first attempt, we just told him, hey, just keep in
5 touch with you, we'll get back with you later. I don't know
6 if he went home or -- but ---

7 Q. But he didn't stay with you and Sergeant Blackwell?

8 A. That's correct. He left the police department.

9 Q. At some point again you meet up with Mr. Robinson?

10 A. That's right.

11 Q. And that's at that Dominion Church?

12 A. Yes, sir.

13 Q. Okay. Now we've heard Mr. Robinson speak about the
14 search. Who searched Mr. Robinson?

15 A. I searched him and his vehicle.

16 Q. Who -- okay. Why do you not video record that search?

17 A. So that's a good question. We -- primarily for the
18 safety of the informant. You'll notice that those cameras
19 face away from the informant. And that is to minimize the
20 informant's identity because prior to trial things happen.
21 We don't want pictures floating around before things go to
22 trial.

23 So, (A), it's quite a long process. Instances where
24 like the first time we searched him, we got ready, and
25 nothing happened. That's a lot of -- that's data, that's

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1 time downloading video. It's not something we do or any
2 agency -- I've worked for Greenville County, Spartanburg
3 County, SLED, all the way up to the DEA. We use the best,
4 you know, practices and every agency I've worked with,
5 that's not something we record.

6 That's for their privacy because sometimes we might be
7 unbuttoning pants, get in waistbands, we're definitely going
8 in pockets, hats, socks, anywhere like Corporal -- Sergeant
9 Blackwell now, said, we're looking for crack rocks. And
10 typically we're buying ten or twenty dollar crack rocks if
11 it's just a low level dealer. So we're looking for anywhere
12 we can find evidence. It's a very thorough search.

13 Q. So just in your training and experience you've worked
14 with multiple agencies up to the DEA?

15 A. Correct.

16 Q. And you've never videotaped any of your searches or
17 searches that they've been a part of?

18 A. No.

19 Q. Okay. Please explain how you search an informant prior
20 to a buy.

21 A. Well, as I said, we're looking for things as small as a
22 crack rock, or a shard of meth, or a stem of marijuana. So
23 we'll start -- I usually have folks empty their pockets
24 first.

25 And you saw him in the video, he said, I need my keys.

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1 I was actually still hanging onto his keys because that was
2 something either -- I probably just grabbed them, stuck them
3 on my seat or something.

4 So I usually have them empty their pockets. A lot of
5 times we are working with drug addicts. We have the same
6 concerns as a patrol officer on the street. We don't want
7 to get stuck, or cut or anything like that. So empty your
8 pockets.

9 Once I can pat on the outside and make sure they're
10 empty, I'll go into those pockets. I'm checking for the
11 smallest of items. Go into the pockets, lift up pants legs,
12 check socks. If they're wearing a ball cap, check those.
13 Cigarette packs, always check those because especially on
14 the road, folks encounter someone, and oftentimes they'll
15 stuff drugs in cigarette packs. So if it's been broken at
16 all, I'll check that.

17 And then I'll start on the vehicle, ---

18 Q. Okay.

19 A. --- if they have one.

20 Q. And now explain your search on the vehicle.

21 A. Very similar to -- like I said, I started on patrol and
22 searched a lot of cars. So during our field training
23 process we get a lot of practice searching vehicles.
24 Personally, I usually start with the door panel of the
25 driver's seat and work my way around the vehicle and

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1 checking under floor mats, in cup holders, center console,
2 cracks of the seats, visors, small compartments, around the
3 dash. Again, anywhere that we might find evidence that
4 would hurt our case, we want to eliminate that right up-
5 front.

6 Q. And then I think Mr. Morin asked Mr. Robinson if he had
7 a drink, which I believe he does in this case. Would you
8 have searched the drink?

9 A. Sure. Absolutely. I think -- if it was a bottle or I
10 can see through it, then I might have stuck my finger in
11 there. But, you know, I'm going to look through to make
12 sure there's no -- nothing on the inside, but clear -- clear
13 contents.

14 Q. And that's how you normally search most cases?

15 A. Correct.

16 Q. Is that what you did in this case with Mr. Robinson?

17 A. Yes, it is.

18 Q. Both at the police station before the buy went down
19 where you had to abandon this case?

20 A. Correct.

21 Q. As well as at the church?

22 A. Yes, sir.

23 Q. Okay. I'm going to show you State's exhibit 7. And I
24 believe, as Sergeant Blackwell stated, her responsibility as
25 the supervising agent is to handle the money first. So

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1 she's the one who has the bags out, has the ledger and does
2 the reporting. However, she then hands the money over to
3 you, is that correct?

4 A. Either -- if she's the case agent, she might do it. In
5 this case I'm the case agent. So I would have taken the
6 money and got the informant's signature.

7 Q. Okay. So whose initials are there at the bottom?

8 A. Mr. Willie Robinson.

9 Q. Okay. And who would have got those initials from him?

10 A. Me.

11 Q. Okay. And do you remember doing that in this case?

12 A. I do. And I believe Corporal Blackwell, at the time,
13 is the one who marked through the other serial numbers after
14 it was completed.

15 Q. Okay. What did you do with that money?

16 A. The money that was marked through?

17 Q. No. The money at the beginning, ---

18 A. Okay. I apologize.

19 Q. --- the hundred dollars?

20 A. Correct. So the hundred dollars that we checked out of
21 our drug buy account, give that over to the informant, in
22 this case, Mr. Robinson. Once the informant and the
23 informant's vehicle, property, purses, whatever, has been
24 searched, we'll provide them with money and then fit them
25 with surveillance equipment.

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1 Q. Okay. And one of the reasons you record the money is
2 so that you have evidence that the money was given to an
3 informant?

4 A. Yes.

5 Q. Is there any other reason you record the money?

6 A. Sure. Oftentimes we're buying from dealers at their
7 houses. So we have a record where if we perform a search
8 warrant, in this case it wasn't applicable, but if we bought
9 at somebody's house, we'll serve a search warrant on their
10 house. And then I will seize any money on the scene, take
11 it back to the police department and go through -- and I
12 have had instances where I've actually been able to recover
13 our drug money from a closet, or a bedroom or something like
14 that. So for the -- for the purposes of knowing how much we
15 spent, what was turned over to the informant and the
16 possibility of recovering it in the future.

17 Q. But Mr. Jones wasn't arrested on this charge until
18 three months later?

19 A. Correct.

20 Q. Okay. So that wouldn't have been applicable in this
21 situation?

22 A. Right.

23 Q. Okay. So you've given him the money, you've given him
24 the recording device and you've searched his car and his
25 person?

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1 A. Correct.

2 Q. What specifically do you tell Mr. Robinson to do, not
3 to do before you send him on the way? ..

4 A. Pretty much the same thing every time. It's, all
5 right, you know what to do, go meet with, in this case,
6 Rusty, purchase the drugs, you need to go straight there,
7 come straight back, don't make any stops along the way or on
8 your way back. That's usually my -- go straight there, go
9 straight back comes out of my mouth very often.

10 Q. Okay. Now, I know both videos -- you've had an
11 opportunity to review both videos, correct?

12 A. Correct.

13 Q. All right. And when I say both videos, it's really
14 just two videos at the same time. Can you explain how the
15 surveillance camera works?

16 A. Sure. So with that system, it's got two tiny pinhole
17 cameras. And because of Mr. Robinson's height, we put a
18 lower and an upper camera on him. We turn that on at the
19 beginning. And then when they come back, we turn it off.

20 But it digitally stores and records video, audio/video.
21 And then we download it on the computer later. But it's a
22 relatively small device. Since then we've upgraded to a
23 color camera, but we still use that on a regular basis.

24 Q. Okay. And did you perform surveillance in this case?

25 A. We did.

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1 Q. Who did you perform that with?

2 A. Sergeant Blackwell and I conducted a stationary
3 surveillance at a location close by or in the Sunnyside, a
4 couple blocks away, far enough to where we wouldn't be seen,
5 but close enough to respond in case of emergency.

6 Q. Why would it matter if you or Investigator Blackwell or
7 Sergeant Blackwell are seen?

8 A. It would completely disrupt the case. It would cause
9 the informant to be in danger. I have been busted on
10 occasion being too close to the incident location. And, you
11 know, the folks we deal from, deal with a lot of times know
12 our undercover vehicles. So even in an undercover vehicle,
13 we have to be careful not to get too close, within eyeshot.

14 Q. Okay. So they know that you're police?

15 A. Correct.

16 Q. Okay. Were you present for the recorded phone call?

17 A. I was.

18 Q. Okay. Have you listened to that recorded phone call?

19 A. I have.

20 Q. And in your time as a police officer have you been able
21 to talk to Mr. Rusty Jones on other occasions?

22 A. Yes.

23 Q. Okay. And you hear two voices on that phone call?

24 A. I do.

25 Q. Whose voices do you hear on that phone call?

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1 A. Mr. Robinson and Rusty Jones.

2 Q. Okay. Now I've also asked -- you've watched both
3 videos?

4 A. Correct.

5 Q. One video shows a whole lot more than the second video,
6 is that ---

7 A. That's right. The video that we show is the one that
8 gets the best picture of his face.

9 Q. Let me show you State's exhibit 3. Do you recognize
10 the person in this picture?

11 A. Yes, sir.

12 Q. Who is in this picture?

13 A. Rusty Antron Jones.

14 Q. Looks a little different from today, though?

15 A. Shorter hair in the picture, yes, sir.

16 Q. Okay. When you leave your surveillance location where
17 do you go back to?

18 A. The predetermined meeting location. So unless for some
19 unforeseen circumstance we changed it, which in this case we
20 did not, we always will meet them wherever we left from in
21 the beginning. So in this case we left from the church and
22 we said just meet us back at the church.

23 Q. Okay. When you got back to the church did Mr. Robinson
24 have anything for you?

25 A. Can you repeat that?

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1 Q. Did he have anything for you?

2 A. Yes, sir.

3 Q. What did he have?

4 A. Approximately one gram of crack cocaine.

5 Q. Okay. I'm going to show you State's exhibit 2. Do you
6 recognize that item?

7 A. Yes, sir.

8 Q. How do you recognize that item?

9 A. This rock of crack cocaine here is accompanied by a
10 BEST bag, which I filled out. That's in any drugs -- we
11 operate in Greenville and Spartanburg Counties. So the
12 evidence is a little different for each.

13 But anytime we seize anything other than marijuana, in
14 Spartanburg County it's put in a BEST bag as Mr. Harris
15 described earlier. But it's a very uniform process. I
16 would have taken that crack cocaine -- I did, I field tested
17 it, field tested positive for cocaine, the presence of
18 cocaine, packaged it in this BEST bag, which has my
19 signature, name, date and the agency on it. And that's how
20 I recognize it.

21 Q. Just so that the jury can see, I'm going to put it up
22 on the Elmo.

23 A. You can see that it says the agency is Greer. The lab
24 number, that's not assigned by us. That's the receiving
25 agency.

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1 Q. Okay. So the agency is Greer?

2 A. Correct.

3 Q. Is this your handwriting?

4 A. The signature is mine, the date and just J. McWhite.

5 That's Sergeant Blackwell just where she -- I take the drugs
6 in my custody, but because of all the steps of evidence, she
7 just wrote my name on there. And then you can see my
8 signature underneath.

9 Q. So the 6/25/14 would have been written by Sergeant
10 Blackwell?

11 A. Correct.

12 Q. And then your name would have been written by Sergeant
13 Blackwell, but that's your signature underneath it?

14 A. Yes, sir.

15 Q. And then that's Ashley's writing right there, the lab
16 number?

17 A. So, yeah, that would have been after I'd turned it in.

18 Q. And, again, Ashley Harris' initials?

19 A. Correct.

20 Q. Okay. Now, in this bag we have a large heat-sealed
21 bag. Did you put it in that bag?

22 A. No, I ---

23 Q. This large ---

24 A. Oh, no. No, sir.

25 Q. Okay. In fact, go back out a little bit. When you

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1 received it from Mr. Robinson, how did you receive it?

2 A. It came with that bag there, the bag that was laid on
3 the front seat of Mr. Jones' [sic] vehicle. He brought that
4 to me just like that inside that.

5 Q. So just this small bag right here?

6 A. Correct.

7 Q. Okay. And then this was inside of that bag?

8 A. Yes, sir.

9 Q. Okay. And then this Ziploc bag, did you do that?

10 A. No.

11 Q. Okay. Those Ashley Harris' initials?

12 A. Yes, sir.

13 Q. Okay. So Ashley would have done that?

14 A. Correct.

15 Q. Okay. But you placed this bag, the white rock into the
16 blue bag?

17 A. Yes, sir.

18 Q. Okay. What did you do when you -- after placing them
19 into that bag?

20 A. As soon as those are sealed and I make copies of all of
21 our property and evidence sheets, put in an envelope and
22 dropped into our drug locker. We have a specific locker in
23 our property and evidence department. It is just for drugs.
24 No one has access to that except for Officer Godfrey, who we
25 heard from earlier.

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1 Q. Okay. And did you do that in this case?

2 A. I did.

3 MR. HUNTER: Your Honor, at this time the State would
4 offer State's exhibit 2 into evidence.

5 MR. MORIN: No objection.

6 THE COURT: Without objection, it'll be State's 2.

7 (Whereupon State's exhibit 2 was admitted into
8 evidence)

9 MR. HUNTER: May Mr. Morin and I approach briefly?

10 (Whereupon a bench conference was held off the record
11 in the presence of the jury, but out of their hearing)

12 (Whereupon the bench conference was ended)

13 Q. Just so we can do this a little quicker, I'm going to
14 show you State's exhibit 4, 5 and 6. Do you recognize those
15 items?

16 A. Yes, sir. This is the picture of the crack in its
17 packaging, a picture of the crack. That was number 5.
18 Number 4 is the crack being weighed on a digital scale. And
19 number 6 is a picture of a positive field test with the
20 recovered drugs..

21 Q. Were you present when those pictures were taken?

22 A. Yes, sir.

23 Q. And do those pictures fairly and accurately depict the
24 items on the day they were taken?

25 A. Yes.

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1 Q. And did you and Sergeant Blackwell put the information
2 that's listed on the top of those pictures?

3 A. Yes, sir.

4 Q. All right. Who actually put that information up there?
5 The lettering?

6 A. The lettering? I would -- I will tell you that that'd
7 be Sergeant Blackwell probably printed that off for me. And
8 I conducted the field test and the weight.

9 MR. HUNTER: Your Honor, at this time the State would
10 offer State's exhibit 4, 5 and 6 into evidence.

11 MR. MORIN: No objection.

12 THE COURT: Without objection.

13 (Whereupon State's exhibits 4, 5 and 6 were admitted
14 into evidence)

15 Q. Start with State's exhibit 5, can you describe what
16 that picture is?

17 A. That is approximately one gram of crack cocaine,
18 packaged in a very common corner bag, basically, corner of a
19 Ziploc bag that was turned over to me from the informant,
20 Mr. Robinson.

21 Q. So that's what you received from Mr. Robinson?

22 A. Yes, sir.

23 Q. Why is it common for the plastic bag?

24 A. That seems to be either a Ziploc bag or a grocery bag.
25 It just seems to be a very inexpensive way -- almost every

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1 search warrant we do we find an open -- sandwich bags. And
2 so it's dumped in the corner and pulled off. And it's just
3 a quick, inexpensive way to package drugs.

4 Q. State's exhibit 6.

5 A. So this is a positive field test. If you see -- these
6 are wipes specifically designed for crack cocaine or for
7 cocaine, correction. So whether it's powdered cocaine or
8 crack cocaine, if a portion of the drugs is placed onto the
9 pink pad and there is the presence of cocaine, this field
10 test indicates a positive test when it turns blue. You'll
11 see around the 9:00 portion of it.

12 We try not to break off anymore than we have to, but it
13 only takes a small amount. Once it touches that pink
14 chemical, then it turns blue. And here we have a positive
15 test.

16 Q. So you actually have to break off a little bit in order
17 to perform this test?

18 A. Correct.

19 Q. Okay. And this is similar to that blue that we heard
20 Mr. Harris speak about?

21 A. Correct.

22 Q. Lastly, State's exhibit 4. Is this also the items in
23 State's exhibit 2, the BEST bag?

24 A. Yes, sir. And this is just a weight on a digital scale
25 to get -- this is mostly to confirm that the informant did,

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1 in fact, purchase what they said they would purchase. So in
2 this case we were told we would get one gram for fifty
3 dollars. Our scale showed one gram. So we were -- that was
4 just more confirmation that the informant cooperated and
5 followed instructions.

6 Q. That's kind of hard to see.

7 A. It says one point zero (1.0).

8 Q. And this is prior to it being presented to the
9 Spartanburg County Sheriff's Office chemist's lab?

10 A. Yes, sir.

11 Q. Okay. Is it common for you to refer to suspects in an
12 investigation as a target?

13 A. Yes.

14 Q. All right. Is that just for Mr. Jones or is that for
15 every investigation?

16 A. I would say more often than not we are doing an
17 offender-based targeting, which just means that whether it's
18 patrol or investigations, it's most beneficial to the City
19 to target individuals who impact the quality of life in
20 Greer more than others.

21 Q. Now with narcotics, especially an investigation like
22 this, you're being more proactive as opposed to waiting for
23 a crime to happen?

24 A. Absolutely. My job is almost one hundred percent --
25 when we do get complaints, it's almost to initiate

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1 investigations.

2 Q. So that's why you have targets of an investigation?

3 A. Correct.

4 Q. Did you recognize the gentleman at the beginning of
5 this video that's hanging out at the window right when Mr.

6 Robinson first comes up to the car?

7 A. Yes, sir.

8 Q. Okay. What was his name?

9 A. Latravis Britney (ph).

10 Q. Did you also recognize the vehicle that was in this?

11 A. Yes, sir.

12 Q. How do you recognize that vehicle?

13 A. I had observed that vehicle on multiple occasions
14 driven ---

15 MR. MORIN: Objection, Your Honor. I think we need to
16 approach.

17 (Whereupon a bench conference was held off the record
18 in the presence of the jury, but out of their hearing)

19 (Whereupon the bench conference was ended)

20 Q. All right. You recognize that vehicle?

21 A. Yes, sir.

22 Q. Do you recognize who it was that drives that vehicle?

23 A. Yes, sir.

24 Q. And would that be Mr. Jones?

25 A. That's correct.

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1 Q. So that is Mr. Jones' vehicle that we see in this
2 video?

3 A. That's correct. While it's registered to his mother,
4 he was the primary driver at the time of his ---

5 Q. That's the Lincoln Navigator that ---

6 A. Yes, sir.

7 Q. In fact, he was driving that when you arrested him?

8 A. That's correct. When I arrested him in August he was
9 driving that with Mr. Britney in the passenger seat.

10 Q. Okay. I just want to make crystal clear that State's
11 exhibit 2, this crack rock, who did you receive that from?

12 A. I received that from Willie Robinson.

13 Q. Okay. Did Mr. Robinson have anything on his person
14 prior to going to the shop to purchase drugs for the Greer
15 Police Department?

16 A. Nothing illegal, absolutely not.

17 Q. Did he have any money on him that you remember?

18 A. No.

19 Q. Okay. When he came back to your -- the church?

20 A. Yes.

21 Q. Did he have anything on him other than this crack rock?

22 A. He brought back that crack rock and fifty dollars
23 change from the hundred we gave him.

24 Q. Okay. And that fifty dollars change that's granted,
25 through your training and experience is that how much this

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1 would normally cost?

2 A. Yes, with the caveat of -- generally when it's being
3 sold to users, it's a little bit more expensive. But when
4 it's done supposed dealer to dealer, they give each -- if
5 they say, I need to flip it, they'll give them a lesser
6 price. But that's a, in my opinion, was a great deal to get
7 a full gram of crack cocaine for fifty dollars.

8 Q. But that's what the deal was from the beginning?
9 That's what you understood from the beginning?

10 A. Yes.

11 Q. Okay. And you received that fifty dollars back from
12 Mr. Robinson?

13 A. That's right.

14 Q. All right. Nothing else illegal?

15 A. Absolutely not.

16 Q. All right. Please answer any questions that Mr. Morin
17 may have for you.

18 **Cross Examination by Mr. Morin:**

19 Q. When Mr. Robinson left to go over there he had a
20 hundred dollars. And it was understood that he was going to
21 buy a hundred dollars worth of drugs, is that right?

22 A. Correct. Two grams.

23 Q. But in the video he says, you saved me fifty dollars?

24 A. Um-hum (affirmative).

25 Q. I wanted to make sure that I just heard that. Now, the

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1 reason, if I understand you correctly, you don't videotape
2 searches is because you're trying, one of the reasons, is
3 you're concerned about the ID of the informant?

4 A. Yes. It can be very dangerous if the identification of
5 informants was discovered prior to trial.

6 Q. And at the same time he signed several consent forms.
7 He signed a consent form agreeing that he was going to try
8 to work off the charges. He signed a consent form saying he
9 was going to be an informant and that he had to follow
10 certain rules. He signed -- he actually signed one saying
11 that he was using his own car. All that was kept and he
12 signed all of that.

13 A. He signed it, but that is not part of the investigation
14 packet. That's part of our confidential informant sign-up
15 process. All that stuff, it stays confidential, goes into a
16 safe that I don't even have the access to to keep those
17 identities a secret.

18 Q. Okay. And the search was conducted in a public parking
19 lot.

20 A. A -- yes, sir, an empty parking lot off the road. Yes,
21 sir.

22 Q. Okay. Now, when -- did you follow him to where he was
23 going? After you gave him the keys, ---

24 A. Sure.

25 Q. --- how did that go?

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1 A. I always pull out directly behind the informant. And I
2 keep an eye on them as long as I can until we get so close
3 that I feel like it would be a risk to the informant to
4 continue. Obviously, our folks know our unmarked police
5 cars. If we're riding behind someone on the way to a drug
6 deal, that can be detrimental to their safety.

7 Q. But you already knew where you were going to go in
8 relation to him?

9 A. Yes, sir.

10 Q. And you had the video of it. And he wasn't going to --
11 and he'd been told to stop, I mean, not stop. So there was
12 that, right?

13 A. Correct.

14 Q. All right. Well, let me ask you this, then. Is there
15 some reason why you don't use a drug dog to just walk around
16 him and the car and be done?

17 A. Well, for one, it would draw quite a bit more
18 suspicion. If you saw our video, we had actually a rented
19 pick-up truck. We had him park -- okay, so here's highway
20 14, large parking lot, big truck, his vehicle. We did that
21 strategically so that we're not drawing attention to
22 ourselves and to conceal his vehicle.

23 So, (A), we don't want to -- we wouldn't call the K-9
24 out to draw attention to him. (B), our K-9s are on call and
25 have a very high call volume. If we ran drug dogs around

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1 each of our informant's vehicles, not only would it be very
2 obvious to the public, but also those dogs detect the odor,
3 which means if, say, Mr. Robinson had drugs in his vehicle
4 days prior, that scent could be lingering, something that I
5 might not detect, but that a drug dog would. So for several
6 reasons it's not neither practical, nor safe.

7 Q. Well, if I understand you correctly, you said that
8 sometimes your informants have to take their pants down.

9 A. Well, not pants down. I said undo their zipper or
10 button to check the waistband for weapons and drugs. We're
11 not performing strip searches by any means.

12 Q. Right. And all of that has to do with whether or not
13 you're searching him. None of that has to do with the
14 search of the vehicle, does it? I mean, the identity, the
15 privacy, all those things which you're describing as a
16 problem for videotaping go towards the videoing, in this
17 case, of Mr. Robinson, not of his Buick, right?

18 A. Correct.

19 MR. MORIN: One moment, Your Honor.

20 (Pause)

21 MR. MORIN: That's all the questions I have of this
22 witness, Your Honor.

23 THE COURT: Any redirect limited to what he went into?

24 MR. HUNTER: Yes, Your Honor.

25 **Redirect Examination by Mr. Hunter:**

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1 Q. You spoke about dogs alerting. It's my understanding
2 you did arrest Mr. Robinson back in June 11th for
3 distribution of drugs?

4 A. Right around that time-frame, yes, sir.

5 Q. And, again, why would you not run a dog around a
6 vehicle?

7 A. Either availability -- primarily availability and then
8 the safety of the informant, not to draw anymore attention.
9 Our K-9 vehicles are the biggest vehicles we have. They're
10 full-size Tahoes. So they're not inconspicuous by any
11 means. So while dogs do indicate to the presence of drugs,
12 it's not always safe, it's -- or most practical to call them
13 to the scene for a vehicle search.

14 Q. Have you been in a situation where a dog alerted on a
15 vehicle but no drugs were found?

16 A. Yes, sir.

17 Q. Okay. Is that one of the reasons why you don't do that
18 in the informant situation?

19 A. Sure. Yes, sir.

20 Q. And he also asked about the you saving me fifty
21 dollars.

22 A. Yes.

23 Q. The original deal was for two grams at a hundred?

24 A. Correct.

25 Q. But you were able to listen to the video. Can you

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1 explain what a "G" is?

2 A. A "G" is very common street slang for a gram, one gram.

3 Q. And what is hard?

4 A. Hard is crack cocaine. So you have powdered cocaine
5 that is -- we all know kind of shipped in from Colombia, but
6 through process of cooking crack, manufacturing crack
7 cocaine, it's mixed with water and baking soda, usually
8 cooked in a microwave to where it hardens.

9 And this is part of the reason for my appearance, I've
10 been able to do several undercover cases, even this year.
11 And I've purchased crack cocaine. And that's how I've asked
12 for it. I've said do you have any hard?

13 And so the hardness indicates either it's -- sometimes
14 it's purity or if it's been -- just been freshly cooked,
15 it's wet, it doesn't burn well. But if it's been mixed and
16 diluted, then it becomes very light and soft. So hardness
17 indicates quality. And then hard is just a street slang for
18 crack cocaine.

19 Q. Thank you.

20 **MR. MORIN:** No further questions from the Defense.

21 **THE COURT:** Thank you, sir. You may step down.

22 **MR. HUNTER:** May I have one second, Your Honor?

23 (Pause)

24 **MR. HUNTER:** Your Honor, at this time the State would
25 rest.

1 **THE COURT:** All right, ladies and gentlemen, I need to
2 take up a couple of matters with the lawyers outside of your
3 presence. Again, I need to instruct you not to have any
4 discussions among yourselves about anything involving the
5 case. We'll get you back just shortly. You may retire back
6 to the jury deliberation room.

7 (Whereupon the jury exited the courtroom at 3:58 pm)

8 **THE COURT:** Yes, sir.

9 **MR. MORIN:** Your Honor, the Defense is going to rest.

10 **THE COURT:** Are you going to make a motion?

11 **MR. MORIN:** I am going to make a motion. I don't
12 always make a motion. I know some of my colleagues think
13 that it has something to do with an appeal, but nobody's
14 ever said that.

15 So I don't -- but in this particular instance, Your
16 Honor, I would make a motion for a directed verdict in that
17 while we have the video there's no -- there's no credible
18 connection to whatever it is that happened out there to
19 whatever it is that he brought back. I would just simply
20 say that in a light most favorable to the Defense, they
21 haven't connected Mr. Jones. They've shown that Mr. Jones
22 -- that Mr. Robinson visited Mr. Jones, but beyond that,
23 they haven't proven that. So for that reason I move for a
24 directed verdict.

25 **THE COURT:** Well, ...

1 **MR. HUNTER:** Your Honor, I'd just put on the record,
2 the light most favorable to the State in that there is
3 testimony that he purchased crack cocaine from the
4 Defendant.

5 **THE COURT:** The testimony of the ---

6 **MR. HUNTER:** Of the informant, Your Honor.

7 **THE COURT:** --- informant alone would be enough to
8 survive a directed verdict motion. Okay.

9 **MR. HUNTER:** And, Your Honor, I need to renew my motion
10 for a mistrial and objection to his question. I'm just
11 renewing that motion at this point.

12 **THE COURT:** And I would deny that motion.

13 **MR. HUNTER:** Thank you, Your Honor.

14 **THE COURT:** Are you in a position to where you'd know
15 if -- that your client is going to testify?

16 **MR. MORIN:** I am. I don't know if you want to do that
17 now or tomorrow, whichever one suits the Court.

18 **THE COURT:** Probably do it now ---

19 **MR. MORIN:** Okay.

20 **THE COURT:** --- if y'all are going to rest.

21 **MR. MORIN:** All right. We are going to rest.

22 **THE COURT:** All right.

23 **MR. MORIN:** My client has informed me that he does not
24 wish to testify.

25 **THE COURT:** All right. Mr. Jones, I have some

1 questions I need to ask you. If you will, please stand and
2 raise your right hand, and I'll let the clerk swear you in.

3 **MADAME CLERK:** Do you solemnly swear or affirm the
4 testimony you're about to give will be the truth, the whole
5 truth and nothing but the truth so help you God?

6 **MR. JONES:** Yes, ma'am.

7 **MADAME CLERK:** Thank you.

8 **THE COURT:** All right. Mr. Jones, at this time I'm
9 going to explain to you certain of your rights. And if you
10 do not understand anything that I say, I want you to please
11 let me know that. If you want me to explain anything in
12 more detail, please let me know that as well. Do you
13 understand?

14 **MR. JONES:** Can you repeat it again?

15 **THE COURT:** Yes, sir. I'm now going to explain to you
16 certain of your constitutional rights. And so if ever I say
17 something to you that you do not understand, just please ask
18 me, and I will try to -- I'll try to explain it to you,
19 okay?

20 **MR. JONES:** Yes, sir.

21 **THE COURT:** And, also, if ever during this process you
22 want to speak with your lawyer, you just let me know, and
23 I'll allow you to talk to your lawyer in private as well,
24 okay?

25 **MR. JONES:** Okay.

1 **THE COURT:** All right. Sir, we've now reached the
2 stage of the trial where you may present a defense. And you
3 have the right to claim the protections given to you by the
4 Fifth Amendment to the Constitution of the United States.

5 Now, this Amendment says in part that no person -- no
6 persons shall be compelled in any criminal case to be a
7 witness against himself. This means that you cannot be
8 required to testify in this case. You have the right to
9 testify on your own behalf, however, no one can make you
10 testify. This is a personal right, and no one can waive
11 this right except you.

12 If you decide to testify, you will be subject to the
13 same rules that govern other witnesses, and you may be
14 examined and cross examined on any relevant issue in the
15 case. In addition, if you have any convictions involving
16 dishonesty, or false statement or for crimes punishable by
17 imprisonment for more than one year and this Court
18 determines that the probative value of admitting this
19 evidence outweighs its prejudicial effect to you, this
20 solicitor will be able to introduce your record to attack
21 your credibility.

22 If you decide to testify, this decision on your part
23 must be freely, voluntarily and intelligently made with
24 knowledge of the protections given to you by the Fifth
25 Amendment and the consequences of your decision to testify.

1 If you decide not to testify, I will instruct the
2 jurors that they cannot give the fact that you did not
3 testify any consideration whatsoever and that there is to be
4 absolutely no prejudice to you because you did not testify.
5 It is entirely up to you whether or not you testify.

6 You may talk with your attorney, your family, and your
7 friends, or anyone else, but the final decision will be left
8 entirely up to you. Now do you understand what I've just
9 explained to you?

10 MR. JONES: Yes, sir.

11 THE COURT: All right. And do you have any questions
12 of me about what I've explained to you?

13 MR. JONES: No, sir.

14 THE COURT: All right. Have you discussed this issue
15 of testifying with your lawyer?

16 MR. JONES: Yes, sir.

17 THE COURT: All right. And, sir, at this time do you
18 wish to testify or not testify?

19 MR. JONES: No, sir.

20 THE COURT: You do not wish to testify?

21 MR. JONES: Yes, sir.

22 THE COURT: Okay. All right. And, sir, has anybody,
23 perhaps, threatened you in any way or promised you anything
24 in order to get you to make the decision not to testify?

25 MR. JONES: No, sir.

1 **THE COURT:** Am I correct to conclude that your decision
2 not to testify is a free and voluntary decision on your
3 part?

4 **MR. JONES:** Yes, sir.

5 **THE COURT:** All right. Then I will find that his
6 decision is made freely and voluntarily and with knowledge
7 of the right of testifying as well as the consequences that
8 if he did testify as to what those consequences would be.
9 Okay. Thank you very much.

10 **MR. JONES:** Thank you, sir.

11 **THE COURT:** All right. We will stand at ease. I have
12 got the jury charges, that if y'all will give us about five
13 minutes I'll give you each a set of them. All right. And
14 then ask the jury to come back by 10:00 in the morning to
15 receive -- to continue the case because at 9:30 I've got to
16 do pleas.

17 But they can be dismissed. Remind them not to have any
18 discussions among themselves or do any type of independent
19 research or investigation.

20 **MADAME CLERK:** Yes, sir.

21 **THE COURT:** We'll come back in just a few minutes.

22 (Whereupon court was in recess at 4:06 pm)

23 (Whereupon the jury charge conference was held off the
24 record)

25 (Whereupon court was in recess at 4:11 pm)

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1 Wednesday, October 18, 2017:

2 **THE COURT:** All right. Anything before we bring the
3 jury in?

4 **MR. HUNTER:** Nothing from the State, Your Honor.

5 **MR. MORIN:** Nothing from the Defense.

6 **THE COURT:** Let's bring them in.

7 (Whereupon the jury entered the courtroom at 10:10 am)

8 **THE COURT:** All right, ladies and gentlemen, the
9 parties have now presented their evidence in the case. And
10 it is now time for the attorneys to make what is called
11 their closing arguments to you.

12 The arguments of the attorneys are not evidence in the
13 case. Their statements and arguments are meant to help you
14 understand the evidence and apply the law to the evidence.
15 You should disregard any remark, statement or argument which
16 is not supported by the evidence presented during the trial
17 or the law that I will explain to you after their arguments.
18 But at this time we will receive the closing arguments.

19 **MR. HUNTER:** May it please the Court? I'm going to
20 turn this off until we need it.

21 Yesterday I stood up here in front of you and told you
22 that Rusty Jones on June 24th, 2015 sold crack cocaine to an
23 informant working in an undercover capacity for the police
24 department. You've seen the video, you've heard and seen the
25 evidence, and I think that you know that he is guilty. I'm

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1 confident that you know he is guilty.

2 You'll hear from the Judge some legal terms. You'll
3 hear about reasonable doubt. You'll hear about presumption
4 of innocence. And the Judge can define those better than I
5 can. And the Judge's definition of those is what you should
6 listen to, not my definition, or if Mr. Morin gets up here
7 and gives a definition, the Judge's definition.

8 But reasonable doubt, as Mr. Morin said, is a doubt
9 that gives you hesitate -- that requires you to hesitate to
10 act. The other definition is firmly convinced. And you'll
11 hear the Judge say those words when describing reasonable
12 doubt.

13 If I have firmly convinced you that Rusty Jones is
14 guilty of distribution of crack, you must find him guilty.
15 You must find him guilty. No matter what your personal
16 opinions or beliefs are on informants, on drugs, on police,
17 if you are firmly convinced that Rusty Jones sold crack on
18 June 25th, 2014 you must find him guilty.

19 Now I want to go a few -- go over a few things that we
20 talked about with the officers. You heard from Sergeant
21 Blackwell. You heard from Corporal McWhite. You also heard
22 from Ashley Harris, Lisa Godfrey and Willie Robinson.

23 I first want to go over Ashley Harris and Lisa Godfrey
24 real quick because their roles in this case were minimal.
25 Lisa Godfrey's sole job is to make sure that the evidence

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1 given to her by the Greer Police Department officers is the
2 evidence from the case, it had not been tampered with,
3 nothing's been added to it, nothing's been taken away.

4 You heard her testify that she received this on June
5 27th from the drug locker. It was put in the drug locker by
6 Investigator McWhite. And on July 7th she took it to Ashley
7 Harris with the Spartanburg County Sheriff's Office.

8 It appeared to be in the same condition as when she
9 took it to Ashley Harris minus the fact that he had placed
10 it in these bags as his policy and procedure. And it had
11 not been tampered with since it had been in her custody.
12 That's her sole job.

13 Then you heard from Ashley Harris. His sole job is to
14 take the substance and test it so that we know that this is
15 crack cocaine and not just a rock or a piece of lime, but
16 that this is, in fact, crack cocaine.

17 You heard that he does a spot test, presumptive test.
18 That's the test that turns it to blue. At first they'll put
19 a chemical on it. If it immediately turns to blue, he knows
20 it's probably the cocaine powder form. He then is able to
21 put a second chemical on it. If it then turns blue, he
22 knows it is most likely crack cocaine. That's most likely.

23 So that's why they perform another test. And that's
24 where they put it on the GC Mass Spec. It's a machine that
25 breaks down the substance and gives him a printout that

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1 tells him exactly what it is. And you heard in his expert
2 opinion that this is crack cocaine.

3 You also heard in his expert opinion that this was
4 point eight three (.83) grams of crack cocaine. Now you
5 know through the video and through testimony that we were
6 going to attempt to buy two grams. We know that we only
7 bought one gram.

8 Investigator McWhite testified, put it on the scale, it
9 weighed one gram. And this is the day of the buy. So how
10 does it weigh one gram here, one [sic] point eight three
11 (1.83) here? Investigator McWhite has to take a sample. He
12 has to take a little bit off that rock to show that it's
13 crack cocaine, because if that's not crack cocaine, we're
14 not here in trial today for distribution of crack cocaine of
15 Rusty Jones.

16 So he takes a little sample. The blue dye, it's crack
17 cocaine. Presumptive, again. Not confirmatory,
18 presumptive. Ashley Harris then has to take another small
19 sample and do his presumptive test, show his blue dot so
20 that he knows it's possibly crack cocaine.

21 After that test turns blue, he then has to take another
22 sample to place into the GS Mass Spec. So now three
23 different samples have been taken from this rock to show
24 that it's crack cocaine.

25 Further you heard from both Corporal McWhite and Ashley

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1 Harris. Crack cocaine is known as hard, but when you cook
2 it, it's cooked in water. And this is where you use your
3 common sense. If you had an item that has water in it,
4 after you ring that water out, after you let it dry is it
5 not lighter because it doesn't have any water? You got rid
6 of the substance. It's going to lose weight.

7 And you actually heard Willie Robinson. You heard him
8 say, where's the rest of it? Because he knew it was bigger
9 than the point eight three (.83). He knew it was bigger
10 than that when he first bought it, but because Investigator
11 McWhite or Corporal McWhite had to take a sample, Ashley
12 Harris had to take two samples and that they had to let it
13 dry out because Ashley Harris wants to give you the exact
14 weight.

15 He doesn't want to give you the weight of the water.
16 He wants to give you the weight of the crack cocaine.
17 That's his job. So three samples had been taken, water had
18 been taken, it's now point eight three (.83) grams. It's
19 now smaller than Willie Robinson -- when he first bought it.

20 But the weight ultimately doesn't matter. It doesn't
21 matter if he distributes point zero one (.01) grams, less
22 than point zero one (.01) grams, eight grams, nine grams,
23 it's still distribution of cocaine base.

24 You all saw the video. And, in fact, you'll be able to
25 take that video -- I'm not sure if this Judge will have you

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1 come back out here if you want to watch it. I have a
2 computer that can go back and you can watch the video. You
3 can watch both videos because they're both in evidence.

4 And in that video you'll see Mr. Robinson approach a
5 group at what he calls the shop. Open air, you'll see
6 trees. There's no building.

7 He approaches a black SUV, an SUV that Corporal McWhite
8 identified as belonging to Mr. Jones' mother and that he
9 knows Mr. Jones to be the primary driver. He knows that
10 through surveillance. He also knows that because in August
11 when he arrested Mr. Jones for this offense, he was driving
12 that car.

13 He approaches that car, he says some words I'm not
14 going to repeat in here, but basically he says that his
15 people like it when it's hard. You heard Corporal McWhite
16 when he asked for crack cocaine as an undercover operative,
17 he asked for hard.

18 Now, there is a gentleman in the video when he first
19 approaches, Latravis Brittany. But after a second you'll
20 see a gentleman on a cell phone come into view. You hear
21 him talk. And he says he only has a "G". He only has a
22 gram.

23 In fact, he even says after that, he's fixing to go get
24 some more because he knows that Mr. Robinson usually buys
25 two grams and he only has a gram for him. A gram is fifty

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1 dollars. They actually talk about the purchase price on
2 video. You heard it.

3 And if you want to, you can go back and listen to it
4 again because you'll have that video. You have that option.
5 Everything in evidence will be back there with you. You can
6 listen to testimony again if you want to, but that's the
7 evidence you can listen to. You won't be able to listen to
8 our closing arguments or opening statements again, but the
9 evidence that you heard, the evidence that's here in front
10 of you, as well as this video and audio, you'll be able to
11 listen to and watch if you would like.

12 You heard him approach Mr. Jones. Mr. Jones laughs a
13 little bit, said he only has a "G", going to get some more.
14 Then they talk about how it's going to be fifty dollars and
15 that he needs to give him another twenty so he can give him
16 a ten in change.

17 We know that both Sergeant Blackwell and Corporal
18 McWhite gave Willie Robinson one hundred dollars in Greer
19 funds, funds that they had that they wrote down and they
20 copied. That's the only money he had.

21 We know that when he gets back from this buy the only
22 money he has is fifty dollars. How do we know that? One,
23 because they said so. And, two, because they searched him
24 before, a thorough search. They searched his car.

25 In fact, they did it twice that day because they

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1 thought they were going to be able to do a buy earlier in
2 the day, but it didn't happen. It was thorough. He didn't
3 have any crack or any money on him when he went to the shop.

4 When he gets back from the shop he has almost a gram of
5 crack cocaine and fifty dollars, exactly what the purchase
6 was for, exactly what they talked about on the video with
7 him and Mr. Jones.

8 You'll also have the recorded phone call that happened
9 just prior to him going to the shop. Listen to it. Listen
10 to that voice. Now Mr. Robinson's pretty loud on that, Mr.
11 Jones is not. But then listen to that voice, that same
12 voice when he gets to the car, that quiet voice. It's Mr.
13 Rusty Jones. You see him in the video. You hear his voice
14 on the video and you hear his voice in the car. The call is
15 the same -- the same voice.

16 Mr. Jones was identified by Mr. Robinson as the one
17 that sold the drugs. In the video Mr. McWhite identifies a
18 gentleman with the phone in his hand reaching in the car as
19 Mr. Jones. Sergeant Blackwell does, too. They know Mr.
20 Jones.

21 Mr. Jones looks a little different today. We're
22 talking about three years later. Gained a little weight,
23 grown out his hair. But three people have identified that
24 gentleman in that video as Mr. Jones in 2014.

25 I want to talk a little bit about informants. I wish

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1 every case we could have Jonathan McWhite as the person who
2 bought the drugs. I wish we could have Trey Gowdy as the
3 person who bought the drugs. I wish we could have pastors
4 and people that you respect in the community to buy drugs.
5 Not saying that Mr. Robinson isn't to be respected, but we
6 have to use people in the drug game to buy drugs ninety-nine
7 percent of the time.

8 You heard from them, they know Mr. Jones. Mr. McWhite,
9 Ms. Blackwell, they can't go buy drugs from Mr. Jones.
10 They're police officers. He knows them. The only people we
11 can get to buy drugs from Mr. Jones are people in the game.

12 And when Mr. Robinson is caught selling drugs in a very
13 similar situation -- you heard Mr. -- you heard Corporal
14 McWhite, he always likes to give someone the benefit of the
15 doubt and go talk to them afterwards to see if they're
16 willing to help themselves, see if they want to climb the
17 ladder. They want to find out who is supplying drugs to
18 Greer.

19 When they asked Mr. Robinson if he would cooperate, he
20 agreed. They asked him who the supplier was. You heard him
21 say on the stand that Mr. Jones was one of the suppliers.
22 So, yes, Mr. Morin made a big deal out of the State's got a
23 target. He is a target. That is what narcotics officers at
24 Greer, Spartanburg, Greenville, DEA, anywhere, they get
25 targets. They target the people that are selling poison in

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1 this community. I have no problem saying that.

2 And, yes, Mr. Robinson is the one who gave them that
3 target. And, yes, Mr. Robinson had his charges dismissed
4 for cooperating with police, for putting himself on the line
5 to get a target. That's what ninety-five percent of these
6 drug cases -- these vice and narcotics officers do.

7 Yes, there are car stops where they don't know if
8 somebody has drugs, also they search cars and find drugs. A
9 lot of these cases are proactive. When they know someone's
10 selling drugs, how can we get those drugs? How can we get
11 them in a crime and arrest them? That is their job. And
12 they did it well.

13 Mr. Morin came up in open arguments and started arguing
14 -- or opening statements, Greer didn't do this, you're going
15 to hear me ask why did the State not do this, why did Greer
16 not do this? We're not here for what they didn't do. We're
17 here for one sole reason, that's because of what he did do.
18 And he sold a gram of crack cocaine on June 25th, 2014 in
19 the City of Greer, Spartanburg County. That's what he did.

20 We heard talk about why didn't they video the search?
21 You heard an explanation from Investigator McWhite. He's
22 never videoed a search whether it's a Greer case, County
23 case, SLED State case, or even a Federal DEA case that he's
24 been involved in. You don't video the search of the
25 informant or the car. You want to protect the identity of

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1 that informant at all costs.

2 Now, ultimately, when we go to trial, we have to tell
3 Mr. Morin and Mr. Jones who the informant is because he's
4 going to have to come and testify. So they find out who the
5 informant is before trial. But you try to protect the
6 identity of that informant for as long as you can. So
7 you're not going to videotape them. You're not going to
8 videotape the car.

9 He asked, well, why didn't you have a drug dog come
10 around and search the car prior to sending him on? We have
11 a pretty reasonable explanation. One, they'd have to call a
12 drug dog at every single buy. Those drug dogs -- for the
13 entire county. They can't manipulate and have a drug dog
14 there every single time they do a buy.

15 And even if they did, drug dogs are trained to detect
16 the odor of narcotics. A good example I like to use in this
17 situation is if you've gone and bought a bunch of pizzas for
18 a party, put them in your car, you go home, you take the
19 pizzas inside, you eat them, it's a good time, whether it's
20 a kid's birthday party or you're having somebody to come
21 over and watch football games, you go to the car the next
22 morning, what does it smell like? It smells like the pizza,
23 but is there any pizza in the car? It's gone.

24 So a drug dog is going to say there's pizza in the car
25 when there's no pizza in the car. And even if a drug dog

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1 does alert to the car, what is required? A human search.
2 They do the human search. They are searching as if they
3 know there were drugs in the car in the first place.

4 And they do that to protect the integrity of this case.
5 They do that in every buy. They're going to search the
6 informant, and they're going to search the car.

7 And you've heard how good of a search he does. He
8 searches their pockets. When they empty them out, he goes
9 in them. He searches the waistbands. He searches the
10 socks. He searches the clothes.

11 He doesn't do a strip search. I'm not saying he checks
12 every body cavity. You can't do that in South Carolina. He
13 does a very thorough search to make sure that there's no
14 crack cocaine and there's no money in that car and Mr.
15 Robinson goes.

16 That's not just Mr. Robinson's case or Mr. Jones' case,
17 that's every case. He does that in every single case. And
18 guess what? He does it when he comes back, too. He does it
19 so that when Mr. Robinson comes back he knows that there's
20 going to be fifty dollars coming back.

21 And you'll hear why because you'll watch the video. I
22 didn't play the whole thing yesterday, but it's in there.
23 It's all in there. So you'll get to see it. And I'll play
24 it for you here in a second. You'll actually hear
25 Investigator McWhite call Mr. Robinson on his way back from

CLOSING ARGUMENTS - MR. HUNTER

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1 the buy and they discuss what happened.

2 So Investigator, excuse me, Corporal McWhite knows he's
3 going to be coming back with fifty dollars and a gram
4 because he didn't get the two grams that he wanted. And
5 why? Because we heard Mr. Jones on that video say that's
6 all he had right now, he's going to have to get some more.
7 And, again, we're focusing on what he did. That's the point
8 of this trial, his day in court.

9 I want to go through a little part of the video with
10 you real quick.

11 (Whereupon the DVD was played for the jury)

12 **MR. HUNTER:** That was the buy. That's what we're here
13 for. A simple case. As the Judge said, you're not here for
14 entertainment.

15 You heard him say my people like it when it's hard.
16 You see Rusty Jones come into view saying he only had a "G".
17 He said he's going to go get some more. And then they talk
18 about how it's going to be fifty dollars and fifty dollars
19 in change. You see it on the video. That's what you heard
20 on the testimony. That's why he's guilty.

21 I'm going to show a part of the video you didn't get to
22 see, but it's in evidence. So it is part -- something that
23 you can see.

24 (Whereupon the DVD was played for the jury)

25 **MR. HUNTER:** Again, that's why I asked him what his

CLOSING ARGUMENTS - MR. HUNTER

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1 first name was at the beginning of the case. Every witness,
2 I ask them to state their full name on the record. Jonathan
3 McWhite.

4 You heard him calling me Mr. Eddie. Mr. Robinson calls
5 everybody by their first name. So he tells Mr. McWhite how
6 the deal goes down. You're going to watch the end of this
7 video, too. And you'll see his actual conversation with Mr.
8 McWhite in the video.

9 And I want to get something clear. There's that second
10 video. I did not show it. It's in evidence. You can watch
11 it. Because that second video doesn't show a single face.
12 Shooting up or down, you don't see faces. But it follows
13 along exactly with that video because they're connected. So
14 if you were to watch them second by second, it'll be the
15 same audio, and you'll just have a different view.

16 And in that second video, Mr. Morin asked did he have a
17 drink, you'll see the Mountain Dew can. Not a can, excuse
18 me, a bottle. You heard Investigator McWhite, when he got
19 to the car, he looked to see to make sure there was nothing
20 in it.

21 And you'll see that he does smoke cigarettes. You
22 heard from Investigator McWhite, he searched the cigarettes
23 because he knows that's a place where they can be found.
24 Nothing was found in the car. So he asked did he have a
25 drink. Yes, he had cigarettes. Nothing wrong with that.

CLOSING ARGUMENTS - MR. MORIN

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1 Again, we're here for what Mr. Jones did.

2 Part of the defense, it's kind of funny that I say
3 this, it's to keep your eye off the target. And when I say
4 target, I'm not referring to Mr. Jones. But keep your eyes
5 off the distribution of crack cocaine. Let's focus on Greer
6 here. Let's focus on the CI here.

7 He doesn't want you focusing on that video. He doesn't
8 want you focusing on that evidence 'cause that shows you he
9 distributed crack cocaine on that day.

10 (Whereupon the DVD was played for the jury)

11 **MR. HUNTER:** Same thing. So now -- I'm going to go
12 ahead and turn this off so you don't have to watch it.

13 So you see the video, one gram, fifty dollars. You
14 hear the phone call, one gram, fifty dollars. You hear the
15 conversation there, one gram, fifty dollars. And you heard
16 it on the stand, one gram, fifty dollars.

17 We've gone beyond a reasonable doubt. I've proven this
18 beyond a reasonable doubt that on June 25th, 2014 Rusty
19 Jones sold that crack cocaine to Willie Robinson and turned
20 it into the Greer Police Department. That's what we're here
21 for today. That's what we were here for yesterday. And I
22 am confident that when you come back from deliberations that
23 it will be with a guilty verdict. Thank you very much.

24 **MR. MORIN:** Mr. Hunter, can you play the video and get
25 the video all the way back to the beginning for me, please?

CLOSING ARGUMENTS - MR. MORIN

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1 MR. HUNTER: Why don't we go ahead and turn on the ---

2 MR. MORIN: I don't need ---

3 MR. HUNTER: Okay.

4 MR. MORIN: A lot of times when I do these cases I like
5 to come up with a theme, something that's going to run
6 through the case. And when I stood up here before you
7 yesterday in opening statements or right before I got up I
8 wasn't sure what I was going to say. And it was kind of
9 bothering me.

10 And Mr. Hunter used the word target to start with. And
11 I will admit, when he said that I latched onto it. That's
12 what I was trying to put my finger on during this case
13 because I was using the word target as -- one of the
14 definitions is it's an object of scorn. And I knew that
15 these officers were going to tell you that they knew he was
16 driving a Lincoln Navigator.

17 Why is that important in this case? You look at the
18 video. Can you even -- and I looked at it just now when the
19 State played it. Can you even tell what kind of car that
20 is? No.

21 Why is it that they know that that car is owned by his
22 mother and why is that important? It's not. And I thought
23 about it some more. And I thought about what they've
24 proven.

25 And what they've done is the Government has done what

CLOSING ARGUMENTS - MR. MORIN

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1 the Government does a lot of the time, they pick winners and
2 they pick losers. Mr. Robinson's a winner. He can sell
3 drugs near a school, and they'll dismiss his charge. Mr.
4 Jones is a loser. He's out in the woods, and Mr. Robinson
5 goes out there and says he got drugs from him, so he goes to
6 trial.

7 They knew about Mr. Jones. They didn't like Mr. Jones.
8 They knew what he drove. They knew what he sounded like.
9 They knew who owned the car. They wanted Mr. Jones.

10 And yesterday right before Mr. Hunter handed Mr.
11 Robinson this disc that Mr. Robinson was shaky as to whether
12 or not that was his initials on it, he asked him is Mr.
13 Jones your supplier? Now, if this is true and if they're
14 doing their job, if that's what they want, the answer should
15 have been yes, but it wasn't. The answer was, he's one of
16 them, plural. Mr. Hunter just told you in his opening -- in
17 his closing, that's where he confirmed it, he said he's one
18 of them.

19 Now, this isn't a case about winners and losers.
20 There's more than one dealer, and they know it. And they
21 didn't care. They didn't care. They want Jones. We want
22 Jones. We don't care about them. We want Jones.

23 They made a big deal about I don't want you to look at
24 the evidence. I do, okay? The phone call that they put
25 into evidence, is there anything on there where Mr. Robinson

CLOSING ARGUMENTS - MR. MORIN

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1 says anything about drugs to Mr. Jones? There is not. Mr.
2 Robinson says, hey, where are you at? And if it's Mr.
3 Jones, he says, I'm at the shop. And he goes, okay, I'll be
4 there in a minute.

5 How many of y'all had that conversation yesterday with
6 somebody? Hey, where are you? I'm here. Okay, I'm going
7 to be over there in a minute. That's the evidence they put
8 in. I'm not trying to distract you from the evidence. I'm
9 fine with the evidence. They have to prove beyond a
10 reasonable doubt. They have to prove the case in a manner
11 that causes you to hesitate to act.

12 And I'll submit that if Mr. Robinson showed up in your
13 life, if you met him anywhere and he told you anything,
14 based on his demeanor, you wouldn't believe him. You
15 wouldn't.

16 The Judge is going to tell you in his charge that you
17 can consider any witness' prejudice, bias or other motive in
18 this case. If you get some drugs from Mr. Jones, we'll
19 dismiss that charge where you were selling near a school.
20 Now that's a pretty big motive.

21 He's also going to tell you you can consider the
22 appearance and the manner in which the witness appeared on
23 the stand. It was hard to tell because the State, Mr.
24 Hunter, wants to say that Mr. Robinson looked at this and
25 was somehow surprised because it was point one seven (.17)

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1 grams less, that Mr. Robinson can look at this and tell that
2 there's point one seven (.17) grams missing. Because when
3 he said, where's the rest of it, I saw some of y'all --
4 y'all did the same thing I did. I thought, what? Where's
5 the rest of it? Point one seven (.17) grams, that's what he
6 just argued. You can look at that and tell that there's
7 some missing.

8 He said Mr. Robinson was in a similar situation as Mr.
9 Jones. No, he wasn't. Mr. Robinson was selling drugs near
10 the school. Mr. Robinson -- and Mr. Jones, if you believe
11 them, is out working on a car. That's not a similar
12 situation. They don't want Mr. Robinson, they want Mr.
13 Jones.

14 He just played the video. He just played it. And what
15 does he say on the phone? Hey, he didn't have the whole
16 gram. And then when he gets there he goes, he had a gram.
17 Well, which one was it? That's their evidence. Look at it.

18 He's right, there is another video. And I did see it.
19 And I knew that he had a lighter. And I knew he had a
20 drink. And I knew he had cigarettes. But you know what I
21 can't see? I can't see his hands. You know what you can't
22 see on this video? Money. You know what you can't see on
23 this video? Drugs.

24 You know what you can't see? You can't see the
25 cellophane, that Mr. Robinson seemed confused as to why it

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1 was even in here. He's like, what is that? Who put that in
2 there? He didn't testify whether it was packaged in there
3 or not. And then he said, I don't know what that is. So,
4 yeah, I'm okay with the evidence. I'm okay with looking at
5 the evidence.

6 I did go into some stuff about what would be easy, what
7 would make this better, what could make the job easier. I
8 did mention the dog. Well, apparently, the dogs are all out
9 and they don't indicate drugs are there except when they
10 indicate drugs are there because of the smell.

11 And they can't video the car because they can't protect
12 the ID of the witness. And we're in public. That was
13 another thing. Well, you know, we can't have this big thing
14 in public. But we did search his car at the police station,
15 but we can't do it now because we're at a church.

16 Well, I don't know why they're at a church or why they
17 didn't do it at the police station again. They said there's
18 another phone call where they couldn't set it up. Well, I
19 don't know about all that. I don't know.

20 I'm simply asking why these things couldn't be done.
21 One of the explanations he gave was it would be too much
22 data. That's what he said. And I realize they're still
23 using CDs, but we're about ready to go out of that because
24 at my office we use Zip drives. And we use -- use them.

25 And when we're done using that, you know what we do?

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1 We erase that and keep using the same Zip drive. But I'm
2 not a government agency. So maybe I need to get a bunch of
3 discs and keep them all up.

4 Credibility of the witnesses, I go back to Mr.
5 Robinson. And I saw y'all looking at him. And I saw y'all
6 listening to him. The only thing he can say for certain is
7 Jones and drugs. Everything else is it's a long time ago,
8 I'm not really sure, I'm not really sure.

9 They searched his car thoroughly. And I go back again
10 to this. They're saying -- and I asked them how long it
11 took, said ten minutes. And that ten minutes also included
12 to search Mr. Robinson. And they know for certain that in
13 those ten minutes they searched through that whole car and
14 nothing this size was in there.

15 Now, I've got a minivan from where I used to drive
16 around all four kids. So it takes a little longer, but I
17 know I've lost stuff in my car bigger than that. And it's
18 taken me longer than ten minutes to find it.

19 So you're saying, well, all that's good, all that's
20 good, but it's still sitting there. It's still sitting
21 there.

22 Play the tape.

23 **MR. HUNTER:** You've got to turn it on.

24 **MR. MORIN:** I'll hit it, but I don't know where the
25 bulb is.

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1 Now, I've watched this tape a bunch of times. First
2 couple of times I watched it I wasn't sure what this was
3 going on. I mean, it's hard for me to orient myself on what
4 it was, what it was actually showing me.

5 And then I realized what it was. Well, I kind of know
6 what it is. And I want to show it to you. It's their
7 evidence, and I'm pointing to it.

8 (Whereupon the DVD was played for the jury)

9 **MR. MORIN:** He gets the key. Now, me, if I've got
10 keys, I go around, get in the car and drive off. Watch what
11 he does. He opened the door. What is this? Because when I
12 first watched that I was like, what is he doing? I thought
13 they were leaving. Then we see the keys in his hand ---

14 **MADAME COURT REPORTER:** Judge, I can't hear him.

15 (Whereupon the DVD was stopped)

16 **MR. MORIN:** What is that? I'm going -- he just told me
17 we're going to get crack from Mr. Jones. And they did it
18 before. So he knew that's who Mr. Robinson knew, we're
19 going to see Mr. Jones. And we're going to get crack from
20 him.

21 And what am I going to get for that? My selling near a
22 school is going to get dismissed. What is that? I can't
23 see his hands. I don't know what he's doing. They make a
24 big deal about they searched the car, they did all of this.

25 I need my keys, it's his car, he opens the door and

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1 then something happens there. That's his evidence. That's
2 the Government's agents. That's evidence they're saying
3 they're using to prove that Mr. Jones had that. That's
4 their evidence right there.

5 I submit to you that that right there alone is
6 reasonable doubt. That right there causes me to hesitate to
7 act. I thought there was something wrong when I first saw
8 the video. I thought, what is this, did he drop the camera?
9 No. He's doing something right there by the door after he
10 searched him.

11 So I'll submit to you that that right there is
12 reasonable doubt. That caused me to hesitate to act once I
13 realized there's something going on right there. Forget the
14 fact that he's not believable. Forget the fact he can't
15 remember half of the things he was doing. Forget the fact
16 that the State claims that he can look at this and say
17 that's point seven -- one seven grams less when he made that
18 amazing, where's all the drugs?

19 There it is, his evidence. He said, oh, he's going to
20 tell you not to look at the evidence. I'm simply asking
21 them to prove beyond a reasonable doubt that Mr. Jones has
22 done this. That's all I'm asking. And I'm pointing at
23 things that they are wanting you to consider. And we want
24 you to consider them, too.

25 He's one of them, but he's not the target. He's not

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1 the target. His mama owns the car he drives. He's not the
2 target. We're dismissing his charge of selling drugs near a
3 school so we can have this guy, but he's not the target.
4 He's not. Yes, he is. Yes, he is.

5 And they'll do whatever they want. I'm not sure what
6 their thing is with Mr. Jones, but they're willing to do
7 what they've got to do to get a conviction on Mr. Jones.
8 And that is just picking winners and losers. That's them
9 doing it. And they want you to help them pick the winners
10 and the losers. And I submit they haven't done it. It's
11 not beyond a reasonable doubt. Thank you.

12 **THE COURT:** All right, ladies and gentlemen, I remind
13 you -- I tell you what, stand up for two seconds and stretch
14 your legs while they secure the door.

15 **MR. HUNTER:** Your Honor, I'll move ---

16 **THE COURT:** Stand up and stretch your legs.

17 **MR. HUNTER:** I'll move this out of the way so they can
18 see you.

19 **THE COURT:** All right, ladies and gentlemen, now you
20 can be seated.

21 Ladies and gentlemen, I remind you that during this
22 trial you and I have had certain duties to perform. And as
23 the trial Judge it is my responsibility to preside over the
24 trial of this case. And I also -- I have also had the duty
25 to rule on the admissibility of evidence offered during this

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1 trial.

2 You are to consider only the competent evidence before
3 you. You are to consider only the testimony which has been
4 presented from the witness stand, any exhibits which have
5 been made part of the record of the case and any
6 stipulations that have been made by counsel.

7 Now I have the additional duty to charge you the law
8 applicable to this case. As the presiding Judge, I am the
9 sole judge of the law of this case. And it is your duty as
10 jurors to accept and apply the law as I now state it to you.
11 If you already have any idea as to what the law is or what
12 the law ought to be and it does not agree with what I now
13 tell you the law is, you must abandon this idea because you
14 are sworn to accept the law and apply the law exactly as I
15 state it to you.

16 In every case tried in this court before a jury, the
17 jury becomes the sole and exclusive judge of the facts in a
18 case. A trial judge cannot intimate, state, comment on or
19 make any statement to a trial jury about the facts in a
20 case.

21 Since you, the jury, are the sole judge of the facts in
22 this case, you are not to infer from what I have said during
23 the progress of this trial in ruling upon the admissibility
24 of evidence, or otherwise or anything that I say now during
25 the course of this instruction to you that I have an opinion

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1 about the facts in the case. The law does not allow me to
2 have an opinion about the facts in this case.

3 This is a matter solely for you, the jury, to
4 determine. As jurors it is your duty to determine the
5 effect, value, weight and truth of the evidence presented
6 during this trial.

7 The indictment charges the Defendant with distribution
8 of cocaine base. Now, I'll remind you that the fact that
9 the Defendant was arrested, charged and indicted in this
10 case is not evidence in this case and cannot be considered
11 by you as evidence of guilt in this case, nor does it create
12 any presumption or inference of guilt.

13 This document is simply the formal written instrument
14 which contains the charge against the Defendant. It is the
15 formal document by which this case is brought into this
16 court.

17 The Defendant has pled to the -- the Defendant has pled
18 not guilty to the indictment. And that plea puts the burden
19 on the State to prove the Defendant guilty.

20 A person charged with committing a criminal offense in
21 South Carolina is never required to prove himself innocent.
22 I charge you that it is an important rule of law that the
23 defendant in a criminal trial, no matter what the
24 seriousness of the charge may be, will always be presumed to
25 be innocent of the crime for which the indictment was issued

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1 unless guilt has been proven by evidence satisfying you of
2 that guilt beyond a reasonable doubt.

3 The presumption of innocence does not end when you
4 begin your deliberation, but it accompanies the Defendant
5 throughout the trial until you reach a verdict of guilt
6 based on evidence satisfying you of that guilt beyond a
7 reasonable doubt. The presumption of innocence is like a
8 robe of righteousness placed about the shoulders of the
9 Defendant, which remains with the Defendant until it has
10 been stripped from the Defendant by evidence satisfying you
11 of the Defendant's guilt beyond a reasonable doubt.

12 The presumption of innocence is not a mere legal
13 theory. It is not just a legal phrase. It is a substantial
14 right to which every defendant is entitled unless you, the
15 jury, are satisfied from the evidence of the Defendant's
16 guilt beyond a reasonable doubt.

17 What is reasonable doubt in the law? A reasonable
18 doubt is the kind of doubt that would cause a reasonable
19 person to hesitate to act. The State has the burden of
20 proving the Defendant guilty beyond a reasonable doubt.

21 Now, some of you may have served as jurors in civil
22 cases where you were told that it is only necessary to prove
23 a fact is more likely true than not true, such as by the
24 greater weight or preponderance of the evidence. In
25 criminal cases the State's proof must be more powerful than

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1 that. It must be beyond a reasonable doubt.

2 Proof beyond a reasonable doubt is proof that leaves
3 you firmly convinced of the Defendant's guilt. There are
4 few things in this world that we know with absolute
5 certainty. And in criminal cases the law does not require
6 proof that overcomes every possible doubt.

7 If, based on your consideration of the evidence, you
8 are firmly convinced that the Defendant is guilty of the
9 crime charged, you must find the Defendant guilty. If, on
10 the other hand, you think there is a real possibility that
11 the Defendant is not guilty, you must give the Defendant the
12 benefit of the doubt and find him not guilty.

13 There are two types of evidence which are generally
14 presented during a trial, direct evidence and circumstantial
15 evidence. Direct evidence is the testimony of a person who
16 claims to have actual knowledge of a fact such as an
17 eyewitness. Circumstantial evidence is proof of a chain of
18 facts and circumstances indicating the existence of a fact.

19 The law makes absolutely no distinction between the
20 weight or value to be given either direct or circumstantial
21 evidence. Nor is a greater degree of certainty required of
22 circumstantial evidence than of direct evidence.

23 You should weigh all of the evidence in the case.
24 After weighing all the evidence if you are not convinced of
25 the guilt of the Defendant beyond a reasonable doubt, you

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1 must find the Defendant not guilty.

2 The rules of evidence ordinarily do not permit
3 witnesses to testify to opinions or conclusions. An
4 exception to this rule exists for witnesses that we call
5 expert witnesses.

6 A witness who by education or experience has become an
7 expert in some art, science, profession or calling may state
8 an opinion as to relevant and material matter in which the
9 witness claims to be an expert and may also state the reason
10 for the opinion. You should consider any expert opinion
11 received in evidence in this case and, like any other
12 evidence, give it the weight you think it deserves.

13 If you decide that the opinion of the expert is not
14 based on sufficient education and experience, or if you
15 conclude that the reasons given in support of the opinion
16 are not sound, or that the opinion is outweighed by other
17 evidence, you may disregard the opinion entirely. An expert
18 witness' testimony is to be given no greater weight than
19 that of other witnesses simply because the witness is an
20 expert. Further, you are not required to accept an expert's
21 opinion even though it is not contradicted.

22 Necessarily, you must determine the credibility of
23 witnesses who have testified in this case. Credibility
24 simply means believability. It becomes your duty as jurors
25 to analyze and to evaluate the evidence and to determine

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1 which evidence convinces you of its truth.

2 In determining the believability of witnesses who have
3 testified in this case you may believe one witness over
4 several witnesses or several witnesses over one. You may
5 believe a part of the testimony of a witness and reject the
6 remaining part of the testimony of that same witness.

7 You may believe the testimony of a witness in its
8 entirety or reject the testimony of a witness in its
9 entirety. You may consider whether any witness has
10 exhibited to you any interest, bias, prejudice or other
11 motive in the case. You may also consider the appearance
12 and the manner of the witness while on the witness stand.

13 The Defendant is charged with distribution of cocaine
14 base. The State must prove beyond a reasonable doubt that
15 the Defendant distributed cocaine base. Distribute means to
16 deliver or to actually -- or to actually, constructively or
17 attempt to transfer a drug other than by administering or
18 dispensing. Delivery means to actually, constructively or
19 attempt to transfer a drug.

20 (Juror coughing)

21 **THE COURT:** A transfer can involve an exchange of
22 money.

23 (Pause)

24 **THE COURT:** Now I'm going to start this section over.

25 The Defendant is charged with distribution of cocaine

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1 base. The State must prove beyond a reasonable doubt that
2 the Defendant distributed cocaine base. Distribute means to
3 deliver or to actually, constructively or attempt to
4 transfer a drug other than by administering or dispensing.

5 Delivery means to actually, constructively or attempt
6 to transfer a drug. A transfer can involve an exchange for
7 money, a barter or a gift. There does not have to be
8 anything given in exchange for the drug for a transfer to
9 constitute distribution.

10 I instruct you and emphasize that the fact that the
11 Defendant did not testify is not a factor to be considered
12 by you in any way in your deliberations and in your
13 consideration on the question of the guilt or the innocence
14 of the Defendant. It must not be considered by you in any
15 manner whatsoever.

16 A defendant has the constitutional right to remain
17 silent. And the assertion of this right must not be
18 considered by you in your deliberations. I repeat, under
19 your oath you are to draw no conclusion whatsoever from the
20 fact that the Defendant in this case did not testify. The
21 fact that this Defendant did not testify should not even be
22 discussed in the jury room.

23 The burden of proof, as I have stated to you, is on the
24 State. The Defendant is not required to prove his
25 innocence. The burden of proof remains on the State to

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1 prove guilt beyond a reasonable doubt.

2 Mr. Foreman, ladies and gentlemen, there are two
3 possible verdicts which you may find in this case. One is
4 not guilty of distribution of cocaine base or guilty of
5 cocaine base. There is no significance whatsoever in the
6 order in which I state these possible verdicts. It is
7 simply that I must state one before the other.

8 Now, Mr. Foreman, all twelve members of the jury must
9 agree on the verdict. Your verdict cannot be based on
10 sympathy, passion, prejudice, emotion or any other
11 consideration not in the evidence in the case.

12 Mr. Foreman, we have prepared a verdict form for your
13 use in the courtroom for -- in the jury deliberation room.
14 Once the jury has made their decision, you will indicate
15 which the decision is. You will sign on the line indicated
16 for your signature, date it.

17 And you must do one other very important thing. You
18 must knock on the door and let the bailiff know you've
19 concluded. We had a jury one time was back there for hours,
20 and hours, and hours. We kept wondering, what's taking them
21 so long? We sent somebody back there and they said, well,
22 you didn't tell us what to do once we decided the case. So
23 be sure you knock on the door and tell the bailiff once you
24 have concluded.

25 But, Mr. Foreman, I need to let you -- instruct you

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1 that during your deliberation if one or two of the jurors
2 have to leave to go to the restroom, or make a telephone
3 call, or do something, you need to stop your deliberations
4 and do not start them again until all twelve of you are back
5 together.

6 We have ordered your lunch. It should be here shortly.
7 I'm going to ask that you go to the jury deliberation room,
8 but do not begin your deliberations yet. The bailiff will
9 bring you the evidence and tell you when to start. But all
10 of you may go with the bailiff at this time.

11 (Whereupon the jury exited the courtroom at 11:07 am)

12 **THE COURT:** Any exceptions to the charge from the State
13 or the Defense?

14 **MR. HUNTER:** Not from the State, Your Honor.

15 **MR. MORIN:** Not from the Defense.

16 **THE COURT:** All right. As to the alternate, we can
17 either -- if y'all will agree to go with less than twelve,
18 we can release the alternate. Or if you will not, we will
19 keep the alternate in a separate jury room.

20 **MR. MORIN:** I'm okay with releasing him, myself.

21 **MR. HUNTER:** I don't see a reason why we need to keep
22 him. I don't think we'll be here for hours, and hours, and
23 hours.

24 **THE COURT:** All right. Okay. Be sure that we've got
25 all the proper evidence over there.

1 **MR. HUNTER:** And, Your Honor, I do have a clean
2 computer that can go back there with them. That way they
3 don't have to come and -- come out while we're taking pleas.

4 **THE COURT:** I'm not going to let that happen.

5 **MR. HUNTER:** We were forced by another judge to have
6 the computer.

7 **THE COURT:** Okay. That's fine. But I am the
8 gatekeeper of all evidence that gets presented to a jury.

9 **MR. HUNTER:** I agree. I just wanted to give ---

10 **THE COURT:** All right.

11 (Pause)

12 **MR. MORIN:** Okay.

13 **THE COURT:** Here's the verdict form. And you may bring
14 the alternate out.

15 **THE BAILIFF:** Yes, sir.

16 (Whereupon the alternate entered the courtroom at 11:11
17 am)

18 (Whereupon the jury began deliberating at 11:11 am)

19 **THE COURT:** All right, Mr. Rolen.

20 **MR. ROLEN:** Yes, sir.

21 **THE COURT:** Fortunately, we did not have any emergency
22 occur with any of the other twelve jurors. And so your
23 service with this -- to this trial is concluded. We want to
24 thank you for your service because sure as the world if you
25 hadn't been there, somebody would have had a sickness or an

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1 emergency, we'd had to start all over.

2 But we have ordered your lunch. It should be here in
3 about twenty minutes. You're more than welcome to stay to
4 get it. You're also welcome to stay and wait for the jury
5 verdict if you want to, but I'm also not going to require
6 you to do that as well. But you are free to go.

7 But I do want to thank you for your service. And if
8 you do want to wait to get your lunch, just have a seat and
9 the clerk of court will bring it to you, okay?

10 **MR. ROLAN:** That's fine.

11 **THE COURT:** Thank you.

12 **MR. ROLAN:** I'll just go ahead and leave.

13 **THE COURT:** Okay.

14 (Whereupon court was in recess at 11:12 am)

15 (Whereupon court reconvened at 12:20 pm)

16 **THE COURT:** I'm told that the jury has reached a
17 verdict. Anything before we bring the jury in?

18 **MR. MORIN:** No.

19 **MR. HUNTER:** Not from the State.

20 **THE COURT:** Bring them in.

21 (Whereupon the jury entered the courtroom at 12:21 pm)

22 **THE COURT:** Mr. Foreman, I'm told that the jury's
23 reached a verdict. Is that correct?

24 **MR. FOREMAN:** Excuse me, sir?

25 **THE COURT:** Is that correct that the jury has reached a

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1 verdict?

2 **MR. FOREMAN:** Yes, sir.

3 **THE COURT:** Please give the verdict form to the
4 bailiff. Madame Clerk, please publish the verdict.

5 **MADAME CLERK:** Yes, sir. The State of South Carolina
6 versus Rusty Antron Jones, on case number 2015-GS-42-949,
7 we, the jury, unanimously find Rusty Antron Jones guilty of
8 distribution of cocaine base, signed by the foreperson,
9 dated October the 18th of 2017. Ladies and gentlemen of the
10 jury, is this your verdict and still your verdict? If so,
11 please raise your right hands.

12 (Whereupon all jurors raised their right hand)

13 **MADAME CLERK:** So say you all.

14 **THE COURT:** Anything before I dismiss the jury?

15 **MR. MORIN:** No, sir.

16 **THE COURT:** Ladies and gentlemen, I want to thank you
17 for your service over the last few days. You've been a very
18 good jury. You've paid very close attention to the
19 testimony as it was being presented and you paid close
20 attention to the Court's instructions as well.

21 I need to now let you know you don't have to not talk
22 to anybody. You can now talk to whomever you want to, as
23 much as you want to about your service in this case. In the
24 event that anyone approaches you and you feel like they
25 begin harassing you and want to talk to you too much about

1 the case, just reach out to the Clerk of Court, to the
2 sheriff's office, and we'll see to it that that type of
3 communication stops.

4 You have -- your service, unfortunately, for the County
5 has ended. We do not have anymore jury trials to do this
6 week. We have, as of a few moments ago when I checked, we
7 have covered ninety-eight different cases just in three and
8 a half days -- just two and a half days. And that is,
9 again, because of people like you and you being willing to
10 serve and come in and serve on jury duty.

11 I'm frequently reminded that the service -- the hardest
12 thing -- the hardest service that a citizen can do for the
13 democracy that we so enjoy in this country, outside of
14 active military service, is for citizens to participate in
15 jury service as you have just done. In every county in all
16 fifty states citizens like you are called upon every day to
17 make that sacrifice so that we have and enjoy the democracy
18 that we do have in this country.

19 If you would recall the Pledge of Allegiance that we
20 give to our flag, the last words are for justice for all.
21 That is what you've been able to accomplish this week by
22 your service, is that you've seen justice can actually take
23 place in America. So I want to thank you for that.

24 You need to retire back to the jury deliberation room.
25 The bailiff is going to give you some documents that you'll

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1 be able to trade in and receive some huge sum of money for
2 your jury service. So he needs to do that.

3 And then, Mr. Foreman, you need to also see the clerk
4 of court. She needs to get your signature on a document as
5 well. But y'all may retire back to the jury deliberation
6 room. Again, thank you very much.

7 (Whereupon the jury exited the courtroom at 12:25 pm)

8 **THE COURT:** Ready to proceed?

9 **MR. MORIN:** Yes, Your Honor.

10 **MR. HUNTER:** Yes, Your Honor.

11 **MR. MORIN:** Your Honor, I have a motion.

12 **THE COURT:** Yes, sir.

13 **MR. MORIN:** With regard to the sentencing, Your Honor.

14 I've been provided certified copies of my client's prior
15 convictions. Included in these are sentencing sheets
16 indicating that on -- indicating that on November 29th, 2012
17 my client pled to two counts of distribution, first offense.
18 The sentencing sheets both indicated a first offense. That
19 occurred on the same day. The alleged violations occurred
20 eleven days apart.

21 I would submit that that constitutes one conviction and
22 not two and that this is a second offense. Those sentencing
23 sheets were signed by the State.

24 (Whereupon Mr. Hunter and Mr. Morin were conferring off
25 the record)

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1 MR. MORIN: Yeah, that's what I said. They occurred --
2 the incidents occurred.

3 MR. HUNTER: No, they occurred on separate days.

4 MR. MORIN: Yeah, eleven days prior.

5 MR. HUNTER: Okay. You said same day.

6 MR. MORIN: I meant eleven days prior. If I can just
7 hand up what I'm looking at, Your Honor. I think you have a
8 copy, don't you?

9 MR. HUNTER: Your Honor, I saw those copies. Those are
10 the copies Ms. -- the clerk printed out yesterday for us.

11 MR. MORIN: Your Honor, I would argue the State, my
12 client and his attorney at the time all understood that to
13 be one conviction, first offense violations. And I would
14 argue that they're close enough in time to be considered one
15 event and, therefore, this is a second -- distribution,
16 second, not a third.

17 THE COURT: All right. Yes, sir, Mr. Hunter.

18 MR. HUNTER: Yes, Your Honor. The State argues that
19 these are third offenses. Obviously, both offenses happened
20 as shown by the sentencing sheets. They were both agreed
21 to. It occurred eleven days apart.

22 Initially one of the distributions as you can see from
23 the indictment was a trafficking that was lowered to a
24 distribution from the plea. Then eleven days later there's
25 another distribution.

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1 He did plead to them on the same day. And he did plead
2 to both of them as first offenses, however, under the law
3 second and subsequent offenses are defined as second or
4 subsequent violations of the law. While they were pled on
5 the same day, and while they are first offenses, conviction-
6 wise they are two separate violations of the Drug
7 Distribution Statute. Thus, if you're reading the plain
8 meaning of the law, each one is a violation.

9 And while they are -- you don't list it as a first,
10 second, third offense, they are two separate and distinct
11 offenses and equal a third offense. The State does not have
12 to have a linear line where he's convicted of a first
13 offense, then a second offense and then a third offense. If
14 he's convicted of any offenses that violate the Drug
15 Distribution Law as long as they are not considered to be
16 the same offense.

17 So if he's found with crack during a search warrant and
18 heroin and he pleads to those, on a search warrant case
19 that would just be one offense because it's from the same
20 set of facts and circumstances. This is from eleven days
21 apart, two separate, distinct offenses, two separate,
22 distinct violations. Therefore, we'd argue that this is a
23 third offense under the law, Your Honor.

24 **THE COURT:** All right. My understanding is that the
25 State's position is correct. I have been -- I had a similar

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1 case, similar issue addressed encountering burglary offenses
2 before. And I was actually reversed in a case that I was
3 the PCR judge. And they held that they were to be counted
4 separately, even though they occurred close in time, they
5 were separate offenses. So I concur with the State's
6 position in the way that they're counting them and do not
7 find that it's an error for them to say that this is a
8 third.

9 MR. MORIN: I'm now taking care of the sentencing
10 sheets. It'll just be a moment, Your Honor.

11 (Pause)

12 MR. HUNTER: May we approach, Your Honor?

13 (Whereupon a bench conference was held off the record)

14 (Whereupon the bench conference was ended)

15 (Whereupon Court's exhibits 1 - 5 were marked)

16 (Pause)

17 THE COURT: All right. We'll go back on the record in
18 the matter of State versus Jones. Mr. Jones, I've just got
19 a few questions to ask you. How old are you?

20 MR. JONES: Twenty-seven.

21 THE COURT: And how far did you go in school?

22 MR. JONES: Eleventh grade.

23 THE COURT: Did you ever obtain a GED?

24 MR. JONES: No. I was a special class.

25 THE COURT: Are you married, single, divorced or

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1 widowed?

2 MR. JONES: No, I ain't single. I ain't married.

3 THE COURT: Okay. Do you have children?

4 MR. JONES: Yes, sir. I got twelve kids.

5 THE COURT: How many?

6 MR. JONES: Twelve. Three are my sister's.

7 THE COURT: How old is the oldest?

8 MR. JONES: Oldest one, she's twelve years old.

9 THE COURT: And the youngest?

10 MR. JONES: He fixing to be two years old.

11 THE COURT: So you have nine biological children?

12 MR. JONES: Yes, sir.

13 THE COURT: Prior to you being arrested on these

14 charges did you have a job outside the home?

15 MR. JONES: Yes, sir.

16 THE COURT: What were you doing?

17 MR. JONES: Painting cars.

18 THE COURT: Ever serve in the military?

19 MR. JONES: No, sir.

20 THE COURT: And how long have you been in jail on these

21 charges?

22 MR. JONES: I done been in jail now like seventeen,

23 going on eighteen months.

24 MR. HUNTER: Your Honor, Mr. Morin and I can look up

25 the number of days at the conclusion of the plea and ---

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1 **MR. MORIN:** It was thirteen over the last trial, and
2 he's been in since then.

3 **MR. HUNTER:** And he also ---

4 **MR. MORIN:** So I don't know what he did before.

5 **MR. HUNTER:** I have the actual amount of jail time.
6 We'll look it up through the jail system.

7 **THE COURT:** All right.

8 **MR. HUNTER:** 'Cause he's currently in on a bench
9 warrant on these charges as well. So he'll be getting
10 credit for that time.

11 **THE COURT:** Prior record?

12 **MR. HUNTER:** Your Honor, his prior record starts in
13 2007, interference with officers, simple possession of
14 marijuana, DUS; 2008, DUS, hit and run with minor personal
15 injury; 2009, DUS times two; 2010, failure to stop, child
16 endangerment, obstruction of justice, hit and run with
17 property damage; 2011, simple possession of marijuana; 2012,
18 distribution of crack times two, which are the two offenses
19 which Mr. Morin provided you with the sentencing sheets for.
20 Also, pled on that date to a common law robbery, dropped
21 from an armed robbery, Your Honor.

22 As I stated before, one of the distribution of cracks
23 was for more than ten grams. In 2014 he has a petty
24 larceny, malicious injury to personal property. At the time
25 of these offenses he was on probation out of Greenville.

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1 County, Your Honor. If there's anything -- would you like
2 me to continue to go into the -- that's all for the record,
3 Your Honor.

4 **THE COURT:** All right. Anything -- anything from the
5 State on the sentencing?

6 **MR. HUNTER:** Yes, Your Honor. If I may approach, we
7 have Court's exhibit 1 through 5, which are Facebook
8 excerpts from Mr. Jones' Facebook around the time of these
9 distributions. Most of the pictures there are of Mr. Jones
10 and large amounts of cash, some language probably
11 inappropriate for the court.

12 We -- from an investigation, obviously, this is one
13 distribution. He was charged with another distribution.
14 Based on the guilty conviction today, I will be dismissing
15 that other distribution pending pendency of an appeal. If
16 the appeal comes back, we'll bring that back. But that
17 distribution I will dismiss at this point unless this case
18 were to somehow come back before this court, Your Honor.

19 During this investigation officers knew that his job
20 was working at the shop, not earning that much money
21 painting cars. And, obviously, that's a large amount of
22 cash. He is known to be a drug trafficker. He is violent
23 as shown by his record.

24 Your Honor, the State is going to be asking for the
25 upper end of that ten to thirty year sentence range.

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1 Investigator, excuse me, Corporal McWhite and Sergeant
2 Blackwell have been investigating Mr. Jones for quite a bit
3 and would like to speak about what he does to the Greer
4 community.

5 **CORPORAL McWHITE:** Jonathan McWhite.

6 **THE COURT:** Yes, sir.

7 **CORPORAL McWHITE:** Your Honor, I'd just like to share
8 that for my entire career I've been aware of Mr. Jones prior
9 to making this buy, this operation. I was told that if you
10 weren't selling Rusty's crack in Greer, you're not selling
11 any at all because he was believed to be the one running
12 this ---

13 **MR. MORIN:** Your Honor, I'm going to have to object.
14 The State has said that my client has a violent crime --
15 violent history and they haven't alleged one violent offense
16 on his record. They say that he has those, but they've also
17 reduced them all. Now we're talking about stuff that's
18 alleged outside of any evidence whatsoever.

19 **THE COURT:** All right. You'll be able to enlighten the
20 Court.

21 **MR. MORIN:** Thank you, Your Honor.

22 **CORPORAL McWHITE:** I would just add that we did these
23 two operations, and I arrested Mr. Jones. He got out on
24 bond. He did not show up for court. While he was wanted
25 ---

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1 (Whereupon Mr. Hunter was conferring with Corporal
2 McWhite)

3 **CORPORAL McWHITE:** I'll just say I spent quite a bit of
4 time making sure he was arrested. And I would just ask that
5 you take that into consideration during sentencing.

6 **THE COURT:** Just give us your full name again.

7 **SERGEANT BLACKWELL:** Kara Blackwell. I was -- in 2007,
8 that was my interfering charge. I remember Rusty from a
9 long, long time ago. He was always a runner. Marijuana is
10 how it started.

11 And although there are a few of what the State might
12 consider violent convictions, he is known to the police as a
13 dangerous person in our community. There have been multiple
14 offenses where his name is mentioned with gun violence and
15 things like that. So we very much consider him a danger.

16 We do comp stat meetings in our jurisdiction. And when
17 he is in jail for periods of time, we watch our violent
18 crime rate decline. So that is notable in our minds.
19 Always been involved with drugs. We've bought from him
20 twice like Mr. Hunter said. And I guess I wasn't entirely
21 prepared.

22 I did ask Mr. Jones if he wanted to help himself out
23 and work with us and see if we could go above Mr. Jones'
24 head. And he said, nah, I'll sit down and do my time was
25 his exact response. I said, okay. I guess that's all.

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1 **THE COURT:** Anything else from the State?

2 **MR. HUNTER:** Your Honor, just to what Mr. Morin brought
3 up, that common law robbery, which I'm familiar with that
4 case, former prosecutor case. I had it for a short while.
5 That was a drug deal where he ended up robbing a drug dealer
6 of his drugs, Your Honor. Thank you.

7 **THE COURT:** Thank you.

8 **MR. MORIN:** Your Honor, Mr. Jones is twenty-seven years
9 old. As he told you about his children, he has three of his
10 sister's children because she died in a crash.

11 And the family had a large settlement, which is
12 reflected in the money that you see in the pictures. It
13 also paid for his mother's Navigator that he was driving.
14 That's, I think, public knowledge. And the people in the
15 community know that they lost a child and they had a
16 settlement. And that's where a lot of that money comes --
17 that's where that money comes from.

18 I've been doing it a long time, Your Honor. My client
19 has always insisted that he did not provide these drugs. He
20 has been very cooperative. He's been one of the more
21 pleasant people I've had the opportunity to deal with in my
22 profession. It's unfortunate that it's come to this for him
23 being as young as he is, as many children as he has.

24 I know his mother's in the courtroom now. His family
25 was here a good bit all week. And that's what I would like

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1 to tell the Court regarding my client.

2 **THE COURT:** Mr. Jones, do you agree with the statements
3 that were made by your lawyer?

4 **MR. JONES:** Yes, sir.

5 **THE COURT:** Mr. Jones, is there anything else that you
6 would like to say or want me to know?

7 **MR. JONES:** Yes, sir. I would like to say that a lot
8 of them charges that's on my record, they wasn't mine. I
9 just took the charges to get out of jail.

10 Like the destruction of justice, my sister, she had'--
11 well, the baby mama had cut me. My mama, she work in a
12 nursing home. She was at work, she told me just to call the
13 law to come and take her home. Instead, they came and put
14 yellow tape up in the house and my sister tore it down and
15 locked the door. They charged all of us, even my mama with
16 the charge. I pled guilty to the charge for they wouldn't
17 get the charge on they record.

18 And a lot of the -- the driving under suspension, it
19 comes from Ms. Kara where I tried to come outside early in
20 the morning and I'd be sitting in the car, they ride by and
21 then they arrest me for sitting in the car saying I'm
22 operating a motor vehicle. She been knowing me for a long
23 time.

24 Also, since he got hired -- when he first got hired ---
25 (Whereupon Mr. Morin was conferring with his client)

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1 **MR. JONES:** Officer McWhite, when they hired him, she
2 introduced him to come harass me. And he been on me ever
3 since he's been hired.

4 When the first time he pulled me over he was looking at
5 me, he had a attitude problem and he didn't even know me. I
6 didn't even know him. And he threatened me. He sent a
7 person out to tell me when he catch me, he was going to
8 shoot me.

9 Also to the solicitor right here, back in 2010 when I
10 had the self-defense charge, I been knowing him since then.
11 I was sitting in the jury with Mr. James Cheeks when I pled
12 guilty to them charges that he was just talking about. I
13 pled guilty to them. And he come up to the box and tell me
14 that I was a murderer and whenever he get a chance he was
15 going to make sure I get a lot of time.

16 And the people in my family, even they know I don't
17 hang around nobody but my grandpas and my kids. Yeah, I
18 done had it bad coming up, but also during my period of
19 time, this coming to jail, and the couple of times I done
20 went to Perry, the prison, I learned from my mistakes.

21 And the last time I was like I wasn't coming back to
22 jail, that's when me and my wife, she's a school teacher.
23 She ain't here. She was here yesterday. We been sitting
24 down trying to get stuff together for us in the path from
25 what -- that's coming now.

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1 But a lot of them charges, like the hit and run, that
2 was my cousin. He just was in my car. When they pulled me
3 over, I was in Greer when this charge occurred in
4 Greenville. I couldn't get to Greenville -- to Greer that
5 fast. They locked me up for the charge.

6 I took the charge. I told him I'd take the charge if
7 he'd pay the ticket. So he paid the ticket. I just went on
8 and took it just to get it out of my record.

9 A lot of them charges, I just take it just to get out
10 of jail to get back to my family. And I ain't saying that I
11 ain't did bad in the past, but I done learned from my
12 mistakes. And the life that they trying to say that I'm
13 living, it ain't the life that I'm living.

14 When I got out of prison, my sister had passed when I
15 was locked up last time in prison. That's when I looked at
16 it, I was like, dang, she the only sister that I -- that I
17 had with the same daddy and the same mama. So I'm like,
18 life too short to be out here playing around and getting --
19 going back and forth to jail. So my choice was I want to
20 stay at home with my family.

21 But Kara, McWhite and -- they don't like me from what
22 happened in 2010 for when the self-defense occurred. I done
23 been receiving threats from these officers. I done received
24 one threat from him. And a few of they officers pulled me
25 over and told me that I need to leave Greer, either I'm

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1 going to come up dead or I'm going to go to jail.

2 They judge -- he even pulled me over down here in y'all
3 courtroom and said that I -- said the same thing, I need to
4 get out of Greer, either I'm going to go to jail or I'm
5 going to come up dead. He was like because them officers up
6 there, they got something against you.

7 He come out of his mouth and said hisself, you's a good
8 kid, you been down the wrong path, but I see you ain't what
9 they trying to make you out to be. All I got to say.

10 I tell you I apologize for the past and apologize for
11 what's going on now. And I accept the consequences of what
12 the jury accepted and what's going on.

13 **THE COURT:** Thank you, Mr. Jones.

14 **MR. JONES:** You welcome, sir.

15 **MR. HUNTER:** Your Honor, since he said that I made a
16 threat, I'd like to put something on the record, that it was
17 our office that actually cleared him in that 2010 shooting
18 as a self-defense shooting. I had nothing to do with the
19 clearing of that shooting. I had nothing to do with talking
20 about that shooting. I had barely worked for this office
21 for a year when that happened.

22 **THE COURT:** I've got that he gets credit for five
23 hundred and seventeen days. If -- once y'all take a look at
24 that, if y'all disagree with that, let me know.

25 On this charge of distribution of cocaine base, third

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1 offense, the sentence of the Court will be a twenty-five
2 year sentence at the State Department of Corrections. He'll
3 receive credit for the five hundred and seventeen days.
4 Good luck to you, sir.

5 **MR. JONES:** Thank you, sir.

6 (Whereupon Court's exhibits 6 and 7 were marked)

7 (Whereupon court was in recess at 12:51 pm)

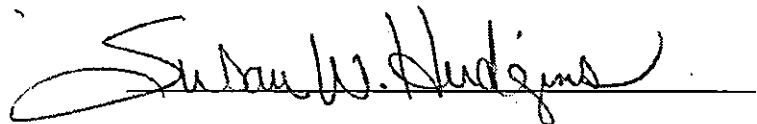
8 (End of Requested Transcript of Record)

Certificate of Reporter

I, the undersigned, Susan W. Hudgins, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Spartanburg County, South Carolina, on the 17th day of October 2017.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

April 14, 2018


Circuit Court Reporter

1 STATE OF SOUTH CAROLINA

2 COUNTY OF SPARTANBURG

COURT OF GENERAL SESSIONS

4 STATE OF SOUTH CAROLINA,

5 PLAINTIFF,

6 VS.

7 RUSTY ANTRON JONES,

8 DEFENDANT.

TRANSCRIPT

OF

RECORD

2011-GS-42-5491

2011-GS-42-5492

2012-GS-42-1040

10 November 29th, 2012
11 Spartanburg, South Carolina

13 B E F O R E:

14 THE HONORABLE THOMAS A. RUSSO, Judge.

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

16 DANNY FULMER
17 ASSISTANT SOLICITOR
18 Attorney for the State

19 MATTHEW SHEALY
20 ASSISTANT PUBLIC DEFENDER
21 Attorney for the Defendant

23 PAMELA E. GREEN
24 Circuit Court Reporter
25 Seventh Judicial Circuit

I N D E X O F W I T N E S S E S

(WHEREUPON, there were no exhibits marked during this hearing.)

P R O C E E D I N G S

(WHEREUPON, Mr. Alan Walker, Mr. James Waltz, Ms. Kayla Snow, Mr. Rusty Jones, Mr. Brandon Sigafoos, and Mr. Rayshon Smith were in the group for the following qualification process.)

THE COURT: There are some of you here that indicate that you wish to resolve your case by way of a guilty plea. If you're one of those folks, I need for you to listen carefully while I go over the Constitutional rights. I'm gonna go over these rights with you as a group because these are rights that are common to all of us. They don't change. It doesn't matter who you are, what kind of charge you're facing, or whether you're facing a charge at all.

All of us in this room have these Constitutional rights. And so they don't change. And rather than bringing you up here individually and go over these rights ten, fifteen times, I'm gonna go over them with you now as a group.

Now, the fact that I'm going over these with you as a group does not bind you or commit you to do anything. In other words, if, when I get done going over these rights, the State calls your case, if you've change your mind and you don't want to go forward, that's fine. You don't have to. But if you do want to go forward, it's important that

1 you understand these rights.

2 Now, these are your Constitutional rights. You need to
3 understand them because, anytime you waive or give up a
4 Constitutional right, you need to be aware of what you're
5 doing. And, and so, the fact that I'm going over these with
6 you as a group, if you have any question about anything that
7 I go over, I will give you whatever time you need to talk to
8 your lawyer to have those questions answered. If you don't
9 have a lawyer, I'll be happy to answer any questions you
10 might have:

11 But, when you come up here or if you come up here, I
12 want to make sure that you understand these rights, and that
13 your questions have been answered.

14 All of us have these rights as I've said. You've
15 probably heard them before. They're -- there's a, a
16 bagillion (sic) police shows and lawyer shows on TV, and you
17 hear these things talked about all the time. But this is
18 real life. This is, this is where the rubber meets the
19 road. This isn't television. So, it's important that you
20 understand each of these rights you have.

21 We all have the right to remain silent, and we all have
22 the right to a jury trial. But when you plead guilty, by
23 entering a guilty plea, you give up those important
24 Constitutional rights. And when you give up your right to a
25 jury trial, you give up rights that are associated with

1 that.

2 For example, if you had a jury trial, you'd be presumed
3 innocent of the charge that you're facing, and that
4 presumption of innocence places upon the State the burden of
5 proof.

6 Since the State is required to prove guilt, they must
7 do it beyond a reasonable doubt. The way they would try to
8 do that is, during the course of that jury trial, they would
9 call witnesses to the stand. Those witnesses would be
10 placed under oath and they would testify. More than likely,
11 they would testify against your best interest.

12 The Constitution of the United States says that every
13 person that is charged with a criminal offense has the right
14 to face or to confront their accusers. What that means is,
15 during the course of that jury trial, through your attorney,
16 you would have the right to question the State's witnesses,
17 cross-examine them about their testimony before the jury.
18 That's your right of confrontation under the Constitution.

19 But, when you plead guilty, by pleading guilty, you
20 give up that presumption of innocence, and you relieve the
21 State of their burden of proof. And since they no longer
22 are required to prove your guilt before a jury, they don't
23 have to bring their witnesses into Court. And so you give
24 up the right to question or to confront those witnesses.

25 Now, if you had a jury trial, the State's not the only

1 one that could call witnesses. You could call witnesses in
2 your defense or you, yourself, could take the witness stand,
3 and testify in your own defense. You could do either one of
4 those things or you could do both of those things, but
5 you're not required to do anything.

6 In this country, no person charged with a criminal
7 offense is ever required to prove themselves innocent. The
8 burden of proof is on the State to prove guilt. You don't
9 have to prove anything. And so, if you had a jury trial,
10 and you chose to exercise your right to remain silent, I
11 would instruct the jury, when I give them the charge on the
12 law, I would tell the members of the jury that they could
13 not hold that against you in anyway. I would explain to
14 them that the State has the burden of proof, and the fact
15 that you chose to exercise your Constitutional right to
16 remain silent could not, in anyway, be considered by them in
17 their deliberations on your guilt or innocence.

18 As a matter of fact, I would, I would tell the members
19 of the jury that the fact that you chose not to testify
20 could not even be discussed in the jury room at all. As I
21 said, the State has the burden of proof, and they have to
22 prove your guilt beyond a reasonable doubt, and to a
23 unanimous decision. In other words, all 12 members of the
24 jury would have to agree that you were guilty or they could
25 not convict you.

1 If you did have a jury trial, and if you were
2 convicted, you could appeal that conviction to a higher
3 Court if you felt that was appropriate.

4 Finally, with regards to this proceeding today, you
5 also have an appellate right. In other words, if, at the
6 conclusion of this proceeding, if you come before the Court
7 and enter a plea, if, at the end of that plea, you wish to
8 appeal my decision in this case, then you may do so, but you
9 must file a Notice of Intent to Appeal within ten days of
10 today's date.

11 Now, these are the rights that we all have. As I said
12 earlier, the fact that I've gone over these with you as a
13 group doesn't bind you or commit you to do anything. If
14 your case is called, and you've changed your mind, that's
15 fine. If your case is called and you want to go forward,
16 that's fine too. You come on up, and we'll go through the,
17 go through the plea. If you have any question about these
18 rights, and you need to talk to your attorney, I'll give you
19 whatever time you need to do that.

20 All right. So, Solicitor, whatever order you want to
21 call them in.

22 (WHEREUPON, other guilty pleas were completed at this
23 time.)

24 SOLICITOR FULMER: May it please the Court, Your Honor?

25 THE COURT: Yes, sir.

1 SOLICITOR FULMER: Before you is Rusty Antron Jones.
2 He's represented by Mr. Matt Shealy. He's here on three
3 indictments.

4 2011-GS-42-5492. That's a true billed indictment for
5 trafficking in crack cocaine. He's pleading guilty to the
6 lesser included of distribution of crack cocaine.

7 He's here on Indictment Number 2011-GS-42-5491, a true
8 billed indictment of possession with intent to distribute
9 crack cocaine.

10 On Indictment Number 2012-GS-42-1040, a true billed
11 indictment for armed robbery. He's pleading guilty to the
12 lesser included of common law robbery.

13 There's a recommendation from the State of concurrent
14 sentencing on these, Your Honor.

15 THE COURT: Thank you, sir.

16 Sir, you're Rusty Jones?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Mr. Jones, Indictment 2011-GS-42-5492 is an
19 indictment, true billed indictment, for trafficking in
20 cocaine base or crack cocaine. However, it is my
21 understanding that you're before the Court on the lesser
22 charge. That being, excuse me, distribution of crack
23 cocaine, a first offense. It carries a maximum penalty of
24 up to 15 years.

25 Do you understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And then Indictment 2011-GS-42-5491 is a
3 true billed indictment for possession with intent to
4 distribute methamphetamine or cocaine base. Again, a first
5 offense. It carries a maximum penalty of up to 15 years.

6 You understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And then 2012-1040 is a true billed
9 indictment for armed robbery, and possession of a weapon
10 during a violent crime. It is my understanding that you're
11 before the Court on the lesser charge to the armed robbery
12 as a common law robbery, which carries a maximum penalty of
13 up to 15 years.

14 You understand, sir?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And then my understanding is the Count Two
17 of that indictment, possession of a weapon, is going to be
18 dismissed pursuant to your plea.

19 You understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Okay. Mr. Jones, understanding the nature
22 of the charges against you, and the possible punishment that
23 is associated with these charges, how do you plead to these
24 charges, sir, guilty or not guilty?

25 THE DEFENDANT: Guilty.

1 THE COURT: Thank you.

2 Mr. Shealy, you represent Mr. Jones?

3 MR. SHEALY: I do, Your Honor.

4 THE COURT: Have you gone over with him the charges
5 that he's before the Court on, and his Constitutional rights
6 to a trial?

7 MR. SHEALY: I have, Your Honor.

8 THE COURT: Thank you, sir.

9 Mr. Jones, you're 23 years of age, sir?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: What type of work do you do or what type of
12 work did you do before you got locked up?

13 THE DEFENDANT: I like do -- I do body work on cars.

14 THE COURT: Okay.

15 THE DEFENDANT: Painting cars.

16 THE COURT: All right. Are you married or single, sir?

17 THE DEFENDANT: I'm single.

18 THE COURT: Any children?

19 THE DEFENDANT: Four.

20 THE COURT: And how long have you been in jail on
21 this -- on these charges, sir?

22 THE DEFENDANT: 360 -- 64 days.

23 THE COURT: 364?

24 THE DEFENDANT: (Nods affirmatively.)

25 THE COURT: All right, sir. Now -- excuse me.

1 When I, went over the Constitutional rights this
2 morning, were you present for that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Did you understand those rights as I went
5 over them, sir?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you have any question about those rights
8 at all?

9 THE DEFENDANT: No, sir.

10 THE COURT: Do you need any more time to discuss those
11 rights with Mr. Shealy?

12 THE DEFENDANT: No, sir.

13 THE COURT: You understand, Mr. Jones, that, by
14 entering a plea, that you will not have a jury trial?

15 You understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right, sir. Now, the State is made a
18 recommendation -- well, a couple things. First, they've
19 reduced some of these charges to lesser offenses, and
20 they've dismissed one charge on the possession of a weapon
21 charge. And they have recommended that any sentence that
22 the Court imposes would run concurrent. That -- in other
23 words, all these would run at the same time.

24 Is that your understanding of their recommendation?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Other than that, has anyone promised you
2 anything, held out any hope of reward, or threatened you in
3 any way to get you to enter these pleas?

4 THE DEFENDANT: No, sir.

5 THE COURT: Are you satisfied with the representation
6 and advice that Mr. Shealy has provided?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Any complaints against him or any member of
9 his office?

10 THE DEFENDANT: No, sir.

11 THE COURT: Are you today, as you stand before the
12 Court, under the influence of any substance that would
13 affect your ability to understand what you're doing?

14 THE DEFENDANT: No, sir.

15 THE COURT: Are you pleading guilty on these charges,
16 Mr. Jones, because you are guilty?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And are these pleas of your own free will,
19 sir?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right, sir. I'm going to ask the
22 solicitor to go over the facts with me, please. If you
23 would, listen carefully, and I'll be back with you.

24 SOLICITOR FULMER: Thank you, Judge.

25 With regard to the drug charges, the trafficking

1 occurred on April 11th, 2011. A confidential reliable
2 informant went to the defendant's residence at ■■■ Elmer
3 Street in Greer and purchased 11.2 grams of crack cocaine
4 from him. That was recorded on audio and video.

5 Based on that distribution, the Sheriff's Office then
6 served the warrant on April the 22nd at that same
7 location, and located 1.79 grams of crack inside the
8 residence in the defendant's possession.

9 With regard to the robbery, that occurred later that
10 same year, November the 13th, 2011. The victim in the case,
11 his name is Andrew Vonable (phonetic). He had just had a
12 baby, and was looking for a way to make some money. So, he
13 contacted a person he knew he thought was in the drug trade.
14 That person gave him a quantity of marijuana, which he then
15 was gonna resell to the defendant.

16 He met him off of Highway 29 in Greer to make that
17 transaction, and said, in purchasing that marijuana, the
18 defendant displayed a weapon and took the marijuana from the
19 victim, and then left the scene. The victim gave chase
20 actually, and, at some point, a shot was fired into the
21 victim's car. It's not clear whether this defendant fired
22 that shot or not. There were more than one person in the
23 vehicle at the time. So, he has an attempted murder charge
24 which is being dropped as part of this plea, Your Honor.

25 THE COURT: All right, sir. Any prior history?

1 SOLICITOR FULMER: Just driving charges. From 2007, no
2 driver's license.

3 2009, hit and run and DUS.

4 2010, failure to stop.

5 THE COURT: All right. I'm trying to get some of this
6 preliminary stuff filled in here.

7 The State is want -- the State has recommended
8 concurrent sentencing. So, I'm trying to make sure that I
9 got concurrent sentencing on these sheets.

10 Mr. Jones, the, the facts that the solicitor gave
11 regarding these various charges, are those facts essentially
12 correct, sir?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. I find that the State has
15 provided a substantial factual basis to support the charges
16 that Mr. Jones has pled guilty to. I think his decision to
17 enter these pleas has been done freely, voluntarily, and
18 intelligently. He's had the advice and counsel of an
19 outstanding lawyer in Mr. Shealy with whom Mr. Jones is
20 indicated he is satisfied with the representation and advice
21 that Mr. Shealy has provided. I'm going to accept his
22 pleas.

23 Mr. Shealy, I'll be happy to hear from you, sir.

24 MR. SHEALY: Thank you. Thank you, Your Honor.

25 Your Honor, this is Rusty Jones. As he's told you, he

1 does have four children. And, as you heard from the
2 solicitor's Office, he doesn't have a particularly long
3 record, and certainly he's never been in jail before now,
4 unfortunately.

5 Your Honor, he spent the whole year now away from those
6 four children, and what he's related to me, Your Honor, is
7 that that has hammered home the problem in his own childhood
8 with his own father who was in and out of jail. And that he
9 doesn't want to be that kind of a father.

10 Your Honor, we can't change what is happened. He was
11 involved in some things we wish that he hadn't.

12 As you've heard, he's worked -- he's always worked so
13 far as I can tell, Your Honor. Different from some of the
14 people you've heard from earlier today. My client's never
15 had anybody take care of him. He's always taken care of
16 himself and his family. He's always worked. He's worked at
17 BMW. He's worked doing this body shop. He only has an
18 eleventh grade education, but, while he was in high school,
19 he was taking up some trade. He tells me he's, he's got at
20 least a layman or a foundation in break -- brick masonry.

21 He would like ultimately, Your Honor, to become either
22 an electrician or a welder he tells me cause he thinks that
23 those will be even better jobs than the body shop job that
24 he had when he got arrested or that two body shop jobs he
25 had when he got arrested.

1 Your Honor, as you've heard, he has been in jail now
2 for 364 days. We'd ask that you consider giving -- these
3 our -- these have been dropped down to nonviolent common law
4 robbery, and two possession with intent to distribute cases.
5 We'd ask that you consider, giving the time he spent, a
6 probationary sentence. If you're not willing to do that,
7 Your Honor, we'd ask that you consider a home detention
8 sentence, again, cause he does have these jobs.

9 He was living with his mother at [REDACTED] South Church
10 Street, which is in Duncan. That's a different address from
11 the Greer address. He can get out of that Greer environment
12 that you heard about that was so poisoning. And he needs to
13 get out of there. He's had other issues with the Greer
14 Police previously, and, Your Honor, he, he just needs to get
15 out of Greer, and he knows he needs to get out of Greer, and
16 he's gonna get out of Greer.

17 Your Honor, so, I think that that would be a, a viable
18 alternative to sending him to the Department of Corrections.

19 Your Honor, I should also put on the record that we
20 have negotiated a -- there was an offer of a negotiated five
21 years in this case. We've decided to go along with this
22 plea in the hopes that you will consider some kind of a
23 probationary sentence. Something more lenient than five
24 years.

25 Judge, I understand that you have some concerns about

1 what he was doing back then. He understands that you -- and
2 he has some concerns about what he was doing back then. But
3 he has a pretty clear eye view of what he wants to do in the
4 future.

5 He wants to get that GED, and, while he's been in jail,
6 he's been able to get into the church at the jail.

7 Your Honor, he's been able to at least start the anger
8 management classes. He's actually going through those anger
9 management classes. He hasn't completed them yet.

10 So, he's been trying to take advantage of the, the
11 circumstances that he's been in, which I think says a lot
12 about him, and his willingness to do better than he has done
13 previously, Your Honor.

14 We'd ask that you take into consideration the fact that
15 he is pleading guilty today, that he's accepting
16 responsibility, and that he does have this, this idea of a
17 future, and allow him to, to become the man his father
18 wasn't unfortunately, and to take care of his children in
19 the way that he wants to as opposed to the way that was
20 going on previously.

21 Your Honor, it's my understanding that his, his -- the
22 mother of his children has had some issues as well. And so
23 that -- that's one of the motivating factors for my client.
24 And so, hopefully, Your Honor, you'll consider, again,
25 either a probationary sentence or a home detention sentence

1 where he just can work.

2 Thank you, Judge.

3 THE COURT: Thank you, Mr. Shealy.

4 Anything further, Mr. Jones?

5 THE DEFENDANT: Yeah, I just wanted to say that I want
6 to tell my, my mama and y'all that I do accept, accept what
7 I done did -- what I done did. And I wanted to apologize to
8 y'all, and let y'all know that I am gonna do better.

9 THE COURT: All right, sir.

10 THE DEFENDANT: That's it, yes, sir.

11 MR. SHEALY: Your Honor, and I should also put on the
12 record that his mother and his uncle are here. They've been
13 involved in this case. He does have family support out
14 there in the community that's outside Greer now.

15 Thank you.

16 THE COURT: It's a fairly decent amount of crack you're
17 working with there, Mr. Jones.

18 Where did you get your crack?

19 THE DEFENDANT: To be honest, I was just working.
20 Somebody wanted some and it was a person at the house at the
21 time that, that had it. And I just turned them onto him,
22 which I did this -- it's, it's changed.

23 MR. SHEALY: Your Honor, I think what he's trying to
24 say is he was the delivery guy basically, which doesn't
25 excuse that, but that he was not the --.

1 THE COURT: Well, I mean that's a pretty, pretty big
2 delivery.

3 Mr. Shealy, I'm just not inclined to put folks that are
4 dealing in drugs on house arrest. There's nothing to
5 prevent that business from continuing. People selling dope
6 out of their house, they get caught. They come before the
7 Court. They get prosecuted. I put them on house arrest,
8 put them back in their house, business as usual. So, I
9 don't, I don't do home detention in that -- under those --
10 that scenario.

11 But I'm, you know, I'm also taking into consideration
12 his, his lack of a prior record regarding this type of
13 activity.

14 But -- so, on Indictment 2011-GS-20, excuse me,
15 GS-42-5492, Sentence of the Court is that you be committed
16 to the State Department of Corrections for a period of 13
17 years. Provided that, upon the service of three years, the
18 balance is suspended. Place you on probation for two years.
19 Give you credit for the 364 days that you have served.

20 It's a nonviolent offense. It's a parolable offense.
21 I don't anything -- and, Mr. Jones, I don't hold out
22 anything to you or tell you anything about release dates
23 cause I can't do that. But, based on the -- giving the
24 credit for the time that you served, you, you -- you're
25 probably, if not already there, pretty darn close to

1 satisfying the active portion of this sentence. But, while
2 you're on probation, I'm gonna require random drug and
3 alcohol testing.

4 Do you, yourself, use drugs?

5 THE DEFENDANT: No, sir.

6 THE COURT: Well then you shouldn't have any problem
7 with that. That should go fine.

8 On Indictment 2011-GS-42-5491, and 2012-1040, Sentence
9 of the Court, on both of those charges, is that you be
10 committed to the State Department of Corrections for a
11 period of 13 years. Provided that upon the service of three
12 years, the balance on those is suspended while on probation.
13 And, again, these are all to run concurrent with each other,
14 and you're to be given credit for the time that you've
15 served under those.

16 Good luck to you, sir.

17 MR. SHEALY: Thank you, Your Honor.

18 SOLICITOR FULMER: Thank you, Judge.

19

20

21 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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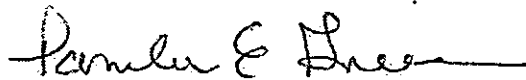
25

C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 29th day of November, 2012.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

October 6th, 2018



PAMELA E. GREEN, Court Reporter

WITNESSES

GREER POLICE DEPT

ma
3/12/15

ARREST WARRANT NUMBER

DIRECT INDICTMENT (2014A2320500558)

ACTION OF GRAND JURY

True Bill

MAR 12 2015

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO.

15-GS-42-0950

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAR 16 2015

TERM

THE STATE
vs.

RUSTY ANTRON JONES

Indictment for

DISTRIBUTION OF COCAINE BASE

SC Code: 44-53-375

RECEIVED
OCT 26 2017
SC Court of Appeals

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on MAR 12 2015 the
Grand Jurors of Spartanburg County present upon their oath:

DISTRIBUTION COCAINE BASE

That Rusty Antron Jones did in Spartanburg County on or about June 20, 2014, manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, distribute, dispense, deliver, or purchase a quantity of Cocaine Base, a schedule II controlled substance under provisions of § 44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.*

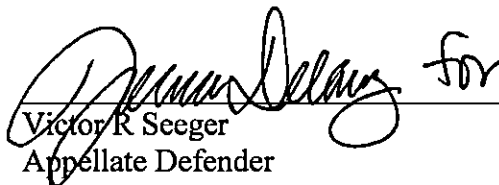
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

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,

 for
Victor R Seeger
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 31st day of December, 2018.

RECEIVED
DEC 31 2018
SC Court of Appeals