

**RECEIVED**

**Jan 29 2024**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

Appeal from McCormick County

Honorable William P. Keesley, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

JOHN EDWARD ATWELL,

APPELLANT

APPELLATE CASE NO. 2023-001370

---

RECORD ON APPEAL

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ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

**INDEX**

INDEX ..... i

GUILTY PLEA TRANSCRIPT DATED AUGUST 7, 2023 .....1

RECONSIDERATION HEARING TRANSCRIPT DATED AUGUST 16, 2023.....21

INDICTMENTS .....57

CERTIFICATE OF COUNSEL .....59



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
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STATE OF SOUTH CAROLINA ) COURT OF GENERAL SESSIONS  
) 2022-GS-35-00067  
)  
COUNTY OF MCCORMICK )

STATE OF SOUTH CAROLINA, )  
)  
Plaintiff, )  
)  
) TRANSCRIPT OF RECORD  
vs. )  
)  
JOHN EDWARD ATWELL, )  
)  
Defendant )

August 7, 2023  
Lexington, South Carolina

B E F O R E:

HONORABLE WILLIAM P. KEESLEY, JUDGE

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

Douglas W. Fender, II, Esquire  
Attorney for the State

Jason C. Chehoski, Esquire  
Attorney for the Defendant

Lisa G. Amick  
Official Court Reporter

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INDEX OF WITNESSES

(NO WITNESSES CALLED.)

Certificate of Reporter

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EXHIBITS

(NO EXHIBITS INTRODUCED.)

1                   CLERK: 2022-GS-35-0067, State versus John Edward  
2 Atwell indicted for distribution of methamphetamine, he is  
3 pleading as charged. The indictment has been true billed, he's  
4 represented by Mr. Chehoski. Raise your right hand, please.  
5 Do you swear or affirm any testimony you give this Court is the  
6 truth, the whole truth, and nothing but the truth so help you  
7 God?

8                   MR. ATWELL: I do.

9                   CLERK: Thank you.

10                  THE COURT: You're John Edward Atwell, sir?

11                  MR. ATWELL: Yes, sir.

12                  THE COURT: This indictment charges that in McCormick  
13 County on or about March 18, 2022 you unlawfully sold or  
14 distributed methamphetamine upon your arraignment on this  
15 charge. It appears you wish to waive jurisdiction and venue in  
16 McCormick County and plead guilty here in Lexington County to  
17 the charge, is that correct?

18                  MR. ATWELL: Yes, sir.

19                  THE COURT: Mr. Chehoski, have you fully explained to  
20 your client the nature and elements of the offense, possible  
21 punishment and his Constitutional Rights including trial by  
22 jury?

23                  MR. CHEHOSKI: Yes, sir.

24                  THE COURT: You're satisfied there's a factual basis  
25 for the plea?

1 MR. CHEHOSKI: Yes, sir.

2 THE COURT: Do you agree with his decision?

3 MR. CHEHOSKI: Yes, sir.

4 THE COURT: Alright. Mr. Atwell, today are you under  
5 the influence of any substance or do you have physical or  
6 mental problems affecting your thinking?

7 MR. ATWELL: No, sir.

8 THE COURT: When you plead guilty, you give up  
9 important rights including your right to remain silent and your  
10 right to a jury trial, you know that?

11 MR. ATWELL: Yes, sir.

12 THE COURT: If you want a jury trial, you're presumed  
13 innocent, the State has to prove you guilty beyond a reasonable  
14 doubt to convict you. You get to see, hear, and have your  
15 lawyer cross examine every witness against you, you understand?

16 MR. ATWELL: Yes, sir.

17 THE COURT: By pleading guilty, you give up all those  
18 rights, you give up defenses and challenges to evidence, you  
19 admit the charge is true, you know that?

20 MR. ATWELL: Yes, sir.

21 THE COURT: You want a jury trial?

22 MR. ATWELL: No, sir.

23 THE COURT: This is a felony, it carries up to 15  
24 years in prison and a \$25,000.00 fine, do you understand?

25 MR. ATWELL: Yes, sir.

1 THE COURT: Drug offenses are graduated, if you  
2 violate drug laws again, you face higher punishment, do you  
3 understand that?

4 MR. ATWELL: Yes, sir.

5 THE COURT: This case is a McCormick County case,  
6 obviously, we're not in McCormick County. You have a right to  
7 have a Judge sitting in McCormick County preside over your  
8 case, you have a right to have a McCormick County jury consider  
9 your case. You have a right to have the McCormick County Clerk  
10 of Court witness or attest your signature on any documents that  
11 require that. The only way we can forward today anywhere other  
12 than in McCormick is if you tell us to, you know all that?

13 MR. ATWELL: Yes, sir.

14 THE COURT: Do you want the case handled in McCormick  
15 or you want to do it today in Lexington?

16 MR. ATWELL: Today in Lexington, Your Honor.

17 THE COURT: Thank you, sir. Listen to the State,  
18 please.

19 MR. FENDER: Your Honor, this case is currently up  
20 for trial next week in McCormick, he's here today entering a  
21 guilty plea to one count straight up to distribution of  
22 methamphetamine. The factual basis of that case is that on  
23 March the 18th, 2022 that he did sell meth to a confidential  
24 informant. We do have some folks with us here today from the  
25 McCormick County Sheriff's Office, Melvin Brock, Chad Cox, and

1 the elected sheriff, Clark Sterns. Your Honor, that is the  
2 factual basis of this plea. The State would prove that he sold  
3 meth to a CI on March 18th, 2022. There are a couple other  
4 related cases to this where he sold meth on different occasions  
5 to different individuals, those cases are being dismissed as  
6 part of this plea. And when he was arrested on April the 6th,  
7 he also had meth in his possession in individual baggies, that  
8 is being dismissed as part of this plea to one count straight  
9 up to distribution of methamphetamine. Judge, we would like to  
10 address the Court at the appropriate time in regards to the  
11 sentencing.

12 THE COURT: Does he have a record?

13 MR. FENDER: He has no prior criminal history.

14 THE COURT: Do you admit you're guilty of these  
15 charges, Mr. Atwell?

16 MR. ATWELL: Yes, Your Honor.

17 THE COURT: Anybody forced you, threatened you,  
18 coerced you in any way to get you to plead against your will?

19 MR. ATWELL: No, Your Honor.

20 THE COURT: Any plea bargain the State might have  
21 made with you including dropping charges, reducing charges,  
22 recommending sentences, they have to tell me about it on the  
23 record or you lose what they haven't told me, you know that?

24 MR. ATWELL: Yes, Your Honor.

25 THE COURT: Mr. Chehoski, is everything on the

1 record about plea agreements?

2 MR. CHEHOSKI: Yes, sir.

3 THE COURT: So other than what's on the record, Mr.  
4 Atwell, has anybody promised you anything to get you to plead?

5 MR. ATWELL: No, Your Honor.

6 THE COURT: Are you fully satisfied with your lawyer?

7 MR. ATWELL: Yes, Your Honor.

8 THE COURT: Anything you want him to do on the case  
9 he hasn't done?

10 MR. ATWELL: No, Your Honor.

11 THE COURT: Have you had enough time to meet with him  
12 and discuss things so that he can represent you properly?

13 MR. ATWELL: Yes, Your Honor.

14 THE COURT: Have you had enough time to make up your  
15 own mind about all this?

16 MR. ATWELL: Yes, Your Honor.

17 THE COURT: Do you have complaints against anybody  
18 who's dealt with your case, law enforcement officers or anyone  
19 else?

20 MR. ATWELL: No, Your Honor.

21 THE COURT: Mr. Atwell's made a free, knowing,  
22 voluntary, and intelligent decision to waive jurisdiction and  
23 venue and plead guilty, he's done so upon the advice of counsel  
24 with whom he's fully satisfied. There's a factual basis for  
25 the plea. Alright. Who wishes to be heard?

1 MAJOR BROCK: Your Honor?

2 THE COURT: Yes.

3 MAJOR BROCK: I'm Major Brock, I'm with the McCormick  
4 County Sheriff's Office. During this investigation, as stated  
5 by the solicitor, we have made several buys with the Defendant.  
6 He has also gone back within the last week and approached one  
7 of the UCs and made contact with them in which the police  
8 department had to be called out to take a report on harassing  
9 them about this matter. McCormick's not like any other county,  
10 we've had a lot of issues with methamphetamine in our county  
11 and it's caused a great deal of problems throughout our county.  
12 All I can tell you is that we have approached Mr. Atwell,  
13 making several purchases from him, this one is the one that's  
14 up front now due to the plea.

15 THE COURT: Thank you, sir.

16 MAJOR BROCK: Alright.

17 MR. FENDER: And Judge, we appreciate you listening  
18 to us here today. Obviously, this is a very important case for  
19 McCormick, I don't think the sheriff would be here with us if  
20 it was not. You know, Judge, just to reiterate some of the  
21 seriousness, I mean, this is a case that the DEA was involved  
22 in, that SLED field agents were involved in. This Defendant,  
23 he was a high priority target for law enforcement based on the  
24 meth that he was selling into that community, poisoning that  
25 community, terrorizing that community. I mean, you heard from

1 law enforcement that he was out threatening the CI as late as  
2 last week. I'm sure Your Honor knows from Drug Court, you  
3 know, what meth does to people, it robs them of their jobs,  
4 their families, some cases their lives. And we're just asking  
5 the Court to consider all that here today, it's a very serious  
6 case, what he's done to the community in McCormick, we're  
7 asking you to take him out of that community as long as you  
8 can, we're asking for a prison sentence. Thank you, Judge.

9 THE COURT: Thank you, sir. Alright. Mr. Chehoski?

10 MR. CHEHOSKI: Thank you, Your Honor. Up front I'll  
11 tell you that we're going to be asking for probation. We feel  
12 that is in the best interest of all parties, that, that someone  
13 who is 67 years old and has no prior record and is not pleading  
14 to a violent charge would remain in the community. As I said,  
15 Mr. Atwell, he's 67 years old, he's a high school, he graduated  
16 high school in 1974 from Seabreeze High School in Daytona,  
17 Florida. He came to South Carolina in 2008 during the height  
18 of the recession to find work. Professionally, Your Honor,  
19 he's worked for organizations ranging from Hardee's to Bell  
20 South, he's a licensed real estate agent for, for more than 10  
21 years, Your Honor. He worked for a local company in McCormick  
22 known as Cable and Other Things Too where he still maintains an  
23 active friendship with the owner of the company, and most  
24 recently he worked for Cigna in the post-acute care  
25 administration where he was promoted multiple times and then

1 ultimately, when they ran his most recent background check,  
2 they found this charge and were forced to terminate him.  
3 Socially, Your Honor, before moving to South Carolina, he was  
4 very active in his church as a practicing catholic, he also  
5 became a founding member of, of Christ Community Church in New  
6 Smyrna Beach. Volunteer wise, he had been active and  
7 volunteering to both the blind where he would read to them, and  
8 the intellectually disabled where he would provide sick care,  
9 safety, and counseling to those who are, who suffer from that  
10 affliction. In addition, he also volunteered for several years  
11 for the Humane Society where they had practiced a no kill  
12 policy to abandoned animals. Lastly, of course, Your Honor,  
13 he's also been active in the Toys for Tots Campaign for the  
14 majority of his time in South Carolina. Since he moved to  
15 South Carolina, he's been active in his church, Shepard  
16 Catholic Church, where he served as a minister of the youth for  
17 2009 to 2019. In the years, from the years 2009 to 2010, Your  
18 Honor, he's very proud that he worked for the United States  
19 Census Bureau. It was through his efforts in providing such an  
20 accurate count that McCormick and Abbeville Counties were  
21 upgraded into a higher threshold making them eligible for  
22 higher grants and additional federal funding. He's divorced  
23 with one child, Your Honor, and one grandchild who, they  
24 currently live in Florida. His son is here in the Courtroom in  
25 his support. If he is granted probation, Your Honor, he will

1 seek to relocate back to Florida in the Sarasota area where he  
2 will, where he looks to be closer with them. Your Honor, we  
3 maintain that Mr. Atwell is not a danger to the community, he's  
4 not a threat to society. He, as you heard, there was a bit of  
5 a relationship, the confidential informant is not so  
6 confidential to Mr. Atwell as we maintain this is the only  
7 person he ever sold to. We also maintain, and it's my belief  
8 that mister, that the confidential informant took advantage of  
9 Mr. Atwell's generosity towards him during the pandemic. And  
10 while Mr. Atwell did benefit from the comforts of the  
11 companionship, we believe he was used as, for, for the CI and  
12 law enforcement to make this case. That said, Your Honor, Mr.  
13 Atwell is acknowledging that he did break the law, he's here to  
14 accept responsibility for what he's done. He has told me that  
15 he tried to live his life and instill in his son's life two  
16 ideals, the first is to be cognizant of your surroundings at  
17 all times, and the second is to remember who you are and whose  
18 you are. He regrets to confess that he forgot the latter of  
19 these two that resulted in this charge. He has spent two days  
20 in custody, Your Honor, before making bond. In addition to his  
21 son, Chris, his brother, Don, are here in the Courtroom and  
22 they would like to address the Court in a moment. Your Honor,  
23 we maintain that Mr. Atwell has lived a long and productive  
24 life, we maintain that this charge and his actions are in  
25 aberration from the way that he has lived his adult life. He

1 does acknowledge the, the confrontation that happened in the  
2 past couple of weeks. Your Honor, we, I feel that a, a no  
3 contact order will be more than sufficient. Mr. Atwell knows  
4 who the people are, he knows to stay away from them. We do not  
5 feel that an active prison sentence would benefit the community  
6 of McCormick, it certainly would not, would not benefit Mr.  
7 Atwell. Your Honor, we did engage in plea negotiations prior  
8 to coming here today, and the State had previously made a very  
9 generous offer to Mr. Atwell, but Mr. Atwell declined due to  
10 wanting to see all of the evidence. That decision now cost him  
11 that offer, so there are consequences to his, to what he did,  
12 but I do not feel that it changes one iota the appropriateness  
13 of suspended sentence of probation. With that, Your Honor,  
14 I'll turn over to, to his family. Mr. Don Atwell who would  
15 like to address the Court first, followed by his son, Chris  
16 Atwell. Stand right here.

17 MR. DON ATWELL: Your Honor, I'm Donald Atwell, I'm  
18 John's oldest brother, obviously, I've known him all his life.  
19 For the last 60 plus years he's been a contributing member to  
20 society with a spotless record. He's been a benefit to any  
21 community that he's lived in. If he has a fault, it is that he  
22 will help anyone in need even if it is to his own detriment.  
23 Thank you, sir.

24 THE COURT: Thank you. What's your name,  
25 sir?

1 MR. CHRIS ATWELL: Good afternoon or morning, Judge  
2 Keesley, I'm Christopher Atwell.

3 THE COURT: Yes, sir, what would you like to say?

4 MR. CHRIS ATWELL: First, Judge, if it's alright with  
5 you, I'd like to just share a little bit about myself since I'm  
6 essentially the biproduct of John. I'm, was a criminal justice  
7 major in college, transitioned into business supervision and  
8 management and eventually found myself in the real estate  
9 industry where I now serve as a fiduciary to one of the largest  
10 trade organizations in the country, and that would have not  
11 been possible at 31 years old if I'd had a father who wasn't  
12 active in my life. If it's okay with you, Judge Keesley, I'd  
13 like to bring you through three points that I think are very  
14 relevant to this case, kind of related to each decade of my  
15 life, sir. The first thing that I remember my dad teaching me  
16 at a young age was when you shake a man's hand, you look him in  
17 the eye, you greet him with a firm handshake and a warm smile,  
18 something that if you're anything like me, Judge, you'd agree  
19 maybe our country would be a little bit better if more fathers  
20 in the '90s had taught their children this. The second thing  
21 moving into 10 to 20, my dad taught me the importance of  
22 service and being active in the community, not just hanging out  
23 with my friends, but being active and engaged in my community  
24 whether if it was Relay For Life at the American Cancer Society  
25 or the Humane Society or any other one of the alphabet soups of

1 the opportunities that you have to serve in the community.  
2 Between 10 and 20 years old, that was one of the things my  
3 father instilled in me. From 20 to 30 and now as I stand  
4 before you, Judge Keesley, at 31, my father taught me the  
5 importance of family, and he was really teaching me throughout  
6 my teenage years as well, but now that I'm a married man with a  
7 two and a half year old son, he's constantly telling me even  
8 through these trials and things to be present in my son's life  
9 and to be a devoted husband. There's a book I read, Judge,  
10 that says that a good man leaves an inheritance to his  
11 children's children, and I believe that this is an inheritance  
12 that my father is leaving my son, not of the monetary  
13 perspective, but of the value and principal things. What you  
14 have seen here, Judge, and what you've heard is not the man  
15 that I've known for 31 years and I'd like to add that any  
16 sentence that you impose in some way, right, wrong, or  
17 indifferent, I'll feel as a proxy to me because in late 2021, I  
18 knew something was not correct, and I didn't do enough to  
19 intervene being caught up in my other things. So in that  
20 sense, Judge, I'm asking for the maximum sentence, the maximum  
21 sentence of mercy that this Court will allow, that you would  
22 maximize your mercy toward my father and allow me the  
23 opportunity to bring him back to Florida which I have to  
24 correct Mr. Chehoski, it's New Smyrna Beach, Florida, Daytona  
25 area, bring him back to Florida under my care and supervision

1 with the assistance of the rest of our family. Thank you for  
2 listening, Judge, and I appreciate your, your consideration.

3 THE COURT: Thank you, sir. Anything else from the  
4 Defense?

5 MR. CHEHOSKI: Your Honor, just again to reiterate, I  
6 think Mr. Atwell's near 50 years of adult life has been one  
7 marked by positive contributions to society. Yes, he did make,  
8 he did make a mistake and broke the law, he's here  
9 acknowledging that today. I feel like a merciful sentence of a  
10 suspended sentence with probation is more than justified in  
11 this case.

12 THE COURT: Thank you. You want to say anything,  
13 sir?

14 MR. ATWELL: No, no, Your Honor.

15 THE COURT: Did they seize money?

16 OFFICER: No.

17 THE COURT: What size were the buys?

18 MR. FENDER: Your Honor, I believe they were  
19 approximately a gram, it ranged from .98 to 1.83. I did want  
20 to reiterate, too, that this was a case the DEA as well as SLED  
21 field agents were involved in. At the time of his arrest, it  
22 was believed that he was a very major supplier of  
23 methamphetamine into McCormick County, and I'm sure that we're  
24 all aware of the effects of that methamphetamine.

25 MR. CHEHOSKI: Your Honor, if I may address that?

1 THE COURT: Yes, sir.

2 MR. CHEHOSKI: At the time of his arrest, law  
3 enforcement recovered less than a gram of methamphetamine. I  
4 firmly believe that if he was such a major supplier, more would  
5 have been found. I'm not here, again, to argue, I do not want  
6 to get into an argument over the minor details, especially of  
7 charges that are being dismissed as a result of this. But,  
8 again, my position is that I think that this, that he was not a  
9 major supplier, not a major distributor, that this was one  
10 because of the relationship that he had with the informant.

11 THE COURT: So what happened with the confidential  
12 informant after the fact, with the confrontation?

13 MR. FENDER: Your Honor, it's my understanding that  
14 he continued to harass that, you know, during the  
15 approximately, you know, one to two years he's been out on  
16 bond, he's attempted to ascertain who that individual is, and  
17 ultimately did and then harassed that person. I think law  
18 enforcement documented that in an incident report. I mean,  
19 that's our concern, Judge, before you today is somebody who has  
20 not taken responsibility for this, and continued to be involved  
21 in this world, continued to be in that community.

22 MR. CHEHOSKI: Your Honor, according to the  
23 reporting, the nature of the confrontation was strictly verbal,  
24 there was nothing physical there, and Mr. Atwell has no desire  
25 -- I feel since, again, that the identities of the informants

1 are known to Mr. Atwell, a no contact order with the informants  
2 without having to name them here, I think would be more than  
3 sufficient to maintain their peace of mind, and especially if,  
4 if given probation, if probation can expedite the transfer of  
5 his case to Florida that would also, would also be a positive,  
6 would also have a positive impact on the community even from  
7 the State's perspective.

8 THE COURT: He's been out on bond for two years?

9 MR. CHEHOSKI: Yes, sir. Let me make sure of that.

10 MR. FENDER: Since April of 2022, Your Honor.

11 MR. CHEHOSKI: Just a little more than a year, Your  
12 Honor, about 16 months.

13 THE COURT: If nothing else, the Court accepts the  
14 plea. The sentence is you be committed to the South Carolina  
15 Department of Corrections for 7 years provided that upon the  
16 service of 18 months plus costs and assessments the balance is  
17 suspended with 5 years probation. You're subject to the  
18 standard conditions of probation, you're given credit for two  
19 days served. When you're released on probation, you are to  
20 pass random drug and alcohol screens, have no contact with the  
21 confidential informants, provide your DNA sample and pay your  
22 Court costs including appointed counsel fee at the rate of  
23 \$50.00 a month beginning September the 1st, 2024. You  
24 understand?

25 MR. ATWELL: Yes, Your Honor.

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THE COURT: You've got an 18 month active sentence.  
(Whereupon the hearing ended at 10:08 am.)

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF MCCORMICK )

I, the undersigned Lisa G. Amick, Official Court Reporter for the Eleventh 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 proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the County of Lexington, South Carolina, on the 7th day of August 2023.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

October 9, 2023

*Lisa Amick*

\_\_\_\_\_  
Lisa G. Amick

Court Reporter

My commission expires: June 30th, 2025

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State of South Carolina ) Court of General Sessions  
County of McCormick ) Eleventh Judicial Circuit

State of South Carolina, ) Transcript of Record  
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vs. ) 2022-GS-35-00067  
 )  
John Edward Atwell, )  
 )  
Defendant. )

August 16, 2023  
McCormick, South Carolina

B E F O R E:

The Honorable William P. Keesley, Judge

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

Douglas W. Fender, II, Assistant Solicitor  
On behalf of the State of South Carolina

Jason S. Chehoski, Esquire  
On behalf of the Defendant

Stacy S. Johnson, RPR  
Circuit Court Reporter

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PAGE

Certificate of Reporter

36

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Two character e-mails

34

1 (The following proceedings were held August 16,  
2 2023, beginning at 12:04 PM.)

3 BAILIFF: All rise.

4 THE COURT: Thank you. Be seated, please.

5 MR. FENDER: May it please the Court, Your Honor?

6 THE COURT: Yes, sir.

7 MR. FENDER: Before you today is John Atwell,  
8 represented by Jason Chehoski. We're here today on  
9 defense counsel's motion to reconsider sentence on  
10 2022-GS-35-00067.

11 THE COURT: Mr. Chehoski.

12 MR. CHEHOSKI: Thank you, Your Honor.

13 We're here to move to reconsider the sentence.

14 There's -- the basis of which, I think there was some  
15 items that were mentioned at the plea that took place on  
16 the 7th that I feel either embellished or misrepresented  
17 Mr. Atwell's involvement in this case.

18 As I mentioned in the e-mail, the -- the State  
19 had said that Mr. Atwell had sold multiple times in  
20 McCormick County. I think that, again, implies that  
21 he sold to multiple people. All the discovery that  
22 has been provided to me stated that he sold to the same  
23 confidential informant and we maintain this is the only  
24 person that he has ever sold to.

25 We're not here arguing Mr. Atwell's innocence or

1 trying to lessen his involvement, but we're trying to  
2 accurately state what -- what it was.

3 The State also mentioned during the plea regarding  
4 an incident that happened within the previous weeks  
5 between -- and I think the -- at least I was led to  
6 believe and the Court was led to believe was between  
7 Mr. Atwell and the informant. During their e-mails,  
8 the State had revealed that the gender of the informant  
9 was female and there was no involvement with any females  
10 in that -- in the incident within the report that was  
11 provided to the Court.

12 Further, Your Honor, there was no specific threats  
13 that were made, it was entirely verbal in nature, and  
14 there was no indication that there was -- that any --  
15 that there was any -- that there was any sort of an  
16 on-going issue, that it may have just been a one-time  
17 occurrence where they happened to be in the same place  
18 at the same time.

19 Additionally, Your Honor, there are -- in addition  
20 to Mr. Dan Atwell, who's in the courtroom --

21 THE DEFENDANT: Don.

22 MR. CHEHOSKI: -- Don Atwell. I'm going to get  
23 these names right eventually. There are also four other  
24 people who may want to speak on Mr. Atwell's behalf.  
25 In addition, Mr. Charlie DeSaro and Mr. Billy Black,

1 who I believe I mentioned in my original mitigation  
2 presentation, had provided character references that  
3 I've shown to the State.

4 I'm gonna pass those up to the judge -- to the Court  
5 at this time.

6 Your Honor, we're asking the Court to reconsider  
7 the active portion of the sentence based on Mr. Atwell's  
8 lack of prior record, based on what I -- what I believe  
9 and I have not seen any evidence to the contrary, that  
10 Mr. Atwell only sold to this one person, whom he thought  
11 was a friend, who essentially exploited him for, now we  
12 know, her gain.

13 This is a 67-year-old man with no prior record  
14 whose -- again, whose life took a turn sideways once he  
15 -- once he touched methamphetamine. There's no indication  
16 that he is a -- a major supplier, distributor or drug  
17 kingpin that I believe the State was trying to make him  
18 out to be, but rather I think the evidence points to -- I  
19 think the evidence confirms my theory that this, again,  
20 is a transaction that Mr. Atwell thought was between  
21 friends who was providing him comfort, companionship,  
22 that, again, was exploited to his detriment.

23 I feel that the community, the court system and  
24 Mr. Atwell will all -- none of whom are benefitted by  
25 his continued incarceration, and for those reasons, Your

1 Honor, I'm asking the Court to consider -- to reconsider  
2 the sentence and -- and strike through the active part  
3 of the sentence.

4 I don't know if any -- anybody in the crowd would  
5 like to speak on his behalf.

6 MS. CAMERON: Yes, I would.

7 MR. CHEHOSKI: Okay. So come on up and --

8 MS. CAMERON: Do I stand right here?

9 MR. CHEHOSKI: Yes. Say your name for the record.

10 MS. CAMERON: Jean Cameron.

11 THE COURT: What's your name?

12 MS. CAMERON: Jean Cameron.

13 THE COURT: Yes, ma'am.

14 MS. CAMERON: John Atwell worked for Cable and  
15 Other Things, Too, for about seven years. John is a  
16 very good-natured, kindhearted and sometimes gullible  
17 person. We -- when you work at Cable and Other Things,  
18 you become a family member and John became my family  
19 member. John just sometimes listens to, unfortunately,  
20 the wrong people, but he is the most goodhearted,  
21 good-natured, do anything for you guy that I know.

22 Thank you.

23 THE COURT: Yes, ma'am.

24 MR. CHEHOSKI: Anybody else?

25 Your Honor, that's all -- that's all from the

1 defense.

2 THE COURT: All right. There's a few things I want  
3 to follow up on. Why was the DNA involved in this?

4 MR. CHEHOSKI: Your Honor, I've not been given any  
5 documentation that the DEA was involved.

6 THE DEFENDANT: The --

7 MR. CHEHOSKI: The DEA -- yeah, I've not been  
8 given any documentation the DEA was involved. The  
9 only documentation I have is SLED was involved was  
10 their routine duties in testing the materials.

11 MR. FENDER: And, Judge, to reiterate that point,  
12 you know, with our witness list it would be a DEA field  
13 agent, someone who was in the field working on these  
14 kind of cases, as well as SLED field agents. These are  
15 not lab analysts, this was a SLED field agent working  
16 with the DNA and the McCormick County Sheriff's Office  
17 as part of a targeted methamphetamine investigation to  
18 get meth out of this community.

19 And, again, I'd like to speak at length at the  
20 appropriate time.

21 THE COURT: Go ahead, Mr. Fender.

22 MR. FENDER: Your Honor, I appreciate you listening  
23 to me here today. I just want to take a few minutes to  
24 just reiterate some of the points that you heard last  
25 Monday about this case. You know, here today we have our

1 sheriff. We have Melvin Brock with us. The same people  
2 who came to Lexington to be there for this plea.

3 What this case involved, Your Honor, was three buys  
4 from a methamphetamine dealer. These buy levels were at  
5 or around the PWID level. Judge, law enforcement, you  
6 know, worked hard to bring this defendant to justice,  
7 you know, to hold him accountable for his actions. That  
8 is what happened in this case. You know, I know we've  
9 heard about the situation with the CI, the threats,  
10 calling that CI a rat, those sort of things.

11 You know, Judge, the sentence in this case was  
12 appropriate. You know, time and time again we've seen  
13 what methamphetamine does. It ruins people's lives.  
14 They lose their family, they lose their job and in some  
15 cases they even lose their lives.

16 The last numbers we're getting from DHEC is 2,168  
17 people killed in 2021. Those are people who are dead,  
18 people who are no longer with us because of drug  
19 overdoses. That number is up 35 percent from the  
20 previous year. Drugs are bad and law enforcement is  
21 here to put a stop to drugs and the effects that they  
22 have in this community.

23 In regards to this motion that we're here today to  
24 reconsider the sentence, I just want to take a few  
25 minutes and talk about a few important points; the point

1 of the sentence, your sentence, Judge. A good sentence.

2 Number one, deterrence. The threat of prison sends  
3 a message to people who are involved in the drug  
4 community that this kind of behavior will not be  
5 tolerated, that those engaged in the sale and use of  
6 drugs, especially the sale as this defendant before you  
7 today, will be held accountable and they will be brought  
8 to justice, and your sentence, the sentence that you  
9 imposed, holds this defendant accountable and brings  
10 them to justice.

11 The second point, public safety. Those who sell  
12 methamphetamine do so in disregard for the health and  
13 well-being of their customers. The unpredictable nature  
14 of the drug can lead to the people who use it engaging  
15 in violent and unpredictable behavior. We've seen  
16 this time and time again. Methamphetamine use going  
17 hand-in-hand with property crimes, domestic violence and  
18 the other things that really take away from the quality  
19 of life here in McCormick County.

20 Point number three, breaking the cycle. By putting  
21 this defendant in prison, you've broken the cycle of  
22 his use and sale of methamphetamine. While in prison  
23 he has access to rehabilitation and education programs  
24 that will stop him from using methamphetamine, selling  
25 methamphetamine and doing that in the future.

1           Point number four, accountability. Holding those  
2 individuals accountable who sell methamphetamine sends  
3 a clear message that this kind of stuff will not be  
4 tolerated. It reaffirms society's commitment to battling  
5 the drug epidemic and protecting the citizens in this  
6 county, protecting those vulnerable populations. The  
7 sale of methamphetamine, it preys on vulnerable people  
8 who are already struggling with addiction or other  
9 challenges, and by punishing distributors like this  
10 person who is here before you today, society is protected.  
11 Protected from the poison that he sells in these streets.

12           Judge, it's a very serious case. I know law  
13 enforcement takes it very seriously and have so from day  
14 one and we're asking the Court to also take it seriously,  
15 to sentence him accordingly, to sentence him as you did  
16 on the previous Monday. We feel like this sentence is  
17 reasonable, the sentence is just, and this sentence is in  
18 line with the type of sentences you see in other cases  
19 where people are selling poison such as crack cocaine or  
20 other drugs.

21           Judge, for all those reasons we're asking you to  
22 keep the sentence in place.

23           Thank you.

24           THE COURT: Thank you, sir.

25           I still want to know about this informant business.

1 You-all have got me more confused now because of the  
2 female/male thing.

3 What happened?

4 MR. FENDER: Judge, if we may, we do have, you know,  
5 Chad Cox and Melvin Brock from the sheriff's office here.  
6 They could speak and clarify it.

7 THE COURT: I could use some.

8 MAJOR BROCK: Your Honor?

9 THE COURT: Yes, sir.

10 MAJOR BROCK: On multiple times during this  
11 investigation that we had completed when Mr. Atwell  
12 was on bond, he had approached the CI's husband and her  
13 while they -- while they were at his employer's business  
14 in town. We did not do a report on it and subsequently  
15 this last time before we appeared before you in Court he  
16 had revisited the CI's husband and made accusations and  
17 harassment to him and threats. We did a police report  
18 through the city about that. Subsequently, he's been  
19 incarcerated. I haven't heard any more from them.

20 THE COURT: What threats?

21 MAJOR BROCK: He had told -- without looking at the  
22 police report, basically he was threatening to ID them  
23 I believe is what he put it to the informant's husband,  
24 then when Major Cox and I went out there to warn him to  
25 say away from the informant and the family, he said fine,

1 I'll just put it on the social media.

2 THE COURT: Do you have any indication that he did?

3 MAJOR BROCK: I do not, Your Honor. I was hoping  
4 that it would just kind of squish it until we got to  
5 court.

6 THE COURT: So the threat was to let the public  
7 know that the female was the --

8 MAJOR BROCK: Informant.

9 THE COURT: -- informant for law enforcement?

10 MAJOR BROCK: Yes, sir.

11 THE COURT: Okay.

12 MR. FENDER: What was the issue with the children?  
13 Was there something directed towards them? That they  
14 weren't their kids, they were taking the kids or something  
15 like that?

16 MAJOR BROCK: Yeah, he mentioned that he -- I can't  
17 remember exactly what he said, but it dealt with something  
18 with the kids. I wish we had the informant here, but...

19 THE COURT: Do you have anything on this,  
20 Mr. Chehoski?

21 MR. CHEHOSKI: Yes, Your Honor.

22 I couldn't help but notice that, again, it feels  
23 like the State is trying to heap the entirety of society's  
24 ills onto the shoulders of Mr. Atwell. It feels like,  
25 again, you know, that they mentioned that, you know,

1 drugs go hand-in-hand with violent crime. It feels  
2 like they're now accusing -- that they're heaping the  
3 scourge of violent crime onto the shoulders of Mr. Atwell  
4 or, again, that by just incarcerating Mr. Atwell and  
5 Mr. Atwell alone that will deter drug distribution sales  
6 throughout the entirety of South Carolina or that this  
7 alone will break the cycle of addiction that is happening  
8 within -- within McCormick County. And I've got, you  
9 know, a couple of hundred files where -- you know, that  
10 are -- several of which are drug-related here in McCormick  
11 County, most of which are since this appearance date.

12 Again, I feel like the State's argument is  
13 disingenuous at best. Accountability -- a felony  
14 conviction is accountability, Your Honor. He came before  
15 you on Monday and is here before you today. We are not  
16 disputing his actions, so it -- it irks me a little bit  
17 and I feel that I would be betraying my oath if I did not  
18 address those points.

19 Mr. Atwell has indicated to me that he would like  
20 to address the Court. Your Honor, I feel like I've done  
21 the best job I can to paint a clearer picture of who  
22 Mr. Atwell is, but Mr. Atwell feels like that -- I feel  
23 like that you need to hear from him to explain what is  
24 going -- what's happening at this moment, and so without  
25 further adieu I will turn it over to Mr. Atwell.

1           THE COURT: All right. Well, there was nothing  
2 wrong with the presentation that was done in court. As  
3 a matter of fact, it was one of the best I've seen. I  
4 was tremendously impressed with his son.

5           Mr. Atwell, you understand that there's a court  
6 reporter here that's taking down everything that's said  
7 and if you implicate yourself in any way that that can be  
8 used against you?

9           THE DEFENDANT: Yes. If I say something in court,  
10 that it can be used against me. Yes, Your Honor. I  
11 understand that.

12          THE COURT: Do you swear to tell the truth, the  
13 whole truth and nothing but the truth so help you God?

14          THE DEFENDANT: Yes, sir, I do, Your Honor.

15          THE COURT: And you want to talk?

16          THE DEFENDANT: Your Honor, I think it would help me  
17 as well as you to get some clarity. Yes, sir, I would.

18          THE COURT: Go ahead.

19          THE DEFENDANT: Your Honor, I'm John Edward Atwell,  
20 and on or about October of 2019, this CI's car broke  
21 down in front of my house and I put him back -- rolled  
22 him back into my house, gave him a jump and away he went  
23 on his way, and I'm became a little bit friendly with  
24 the defendant and with his passenger.

25                You fast-forward to March of -- you fast-forward to

1 February of 2020 and the generosity of my boss, Jean  
2 Cameron, and the owner of the company, Billy Jett Black,  
3 saw the handwriting on the wall economically that we  
4 were gonna have major layoffs at CAOTTI and in February  
5 2020 they gave everyone \$150 bonus and \$150 advance and  
6 said go out and get some food, paper towels, toilet paper,  
7 get it now because things are gonna get real bad real  
8 quick. The \$150 advance was just that, the \$150 bonus,  
9 I don't know, but then in March 2020 I took that \$300  
10 that day and I bought that family of five food; the CI,  
11 the CI's wife -- the CI and the CI's husband and the two  
12 boys and the stepbrother living there of the -- of the  
13 CI, and bought that family \$325 worth of food. \$60 was  
14 paid for by someone else at the register. I paid 270  
15 out of my pocket that day at Food Lion and brought them  
16 food.

17       There was a relationship between myself and the CI.  
18 As I told you, I'd been introduced to methamphetamine  
19 in September or October of 2019. And then at different  
20 times I would see the CI at my home. I never sold her  
21 methamphetamine or anyone that she brought to the home,  
22 but there would be favors for the young ladies that  
23 came to my home. When the CI had problems with their  
24 automobiles, I would loan the CI's husband money and  
25 that is yet to be repaid.

1           The point is, sir, that this family, generationally  
2 the CI's mom and her grand-mom and her godmother up in  
3 Anderson are well-known drug traffickers and dealers  
4 and makers of meth and moonshine from Anderson down to  
5 Abbeville down to McCormick counties. They know everyone.  
6 I can speak with integrity when I say that I've seen for  
7 myself an increase in drugs in McCormick County in meth  
8 since her arrest because they know all of the people at  
9 Lujack City. And by the way, I can speak to SLED at this  
10 time, Your Honor, because my friend Julie Blodgett lives  
11 in the Bell Ridge Place mental health community behind  
12 Lujack City and so I'm sure that's a place where SLED  
13 frequents. Julie does not even smoke pot any more  
14 because of my upcoming -- because of my arrest, so there  
15 is nothing illegal going on at her place, but there could  
16 be in other places in Bell Ridge.

17           THE COURT: Who is she? Who is Julie?

18           THE DEFENDANT: Julie Blodgett is an old friend of  
19 mine from -- I moved here in 2009 -- from South Carolina.  
20 She's been -- we are friends since 2010 and I would see  
21 her. I go up and play a lottery ticket to buy food and  
22 I go home. That's -- that is my life, Your Honor. That  
23 has been my life since my arrest. I associate with no  
24 one else, anyone who I think is doing drugs, but I can  
25 promise you that since my arrest, if anything, it has

1 increased because Cherry Street, the bottom, and Lujack  
2 City and they're doing their business out in front of  
3 Family Dollar off to the side and Dollar General, as well  
4 as the back side of Food Lion. I've seen it, I know the  
5 vehicles, I know what they're doing, and I never dealt in  
6 those realms because I -- the last purchase that I made  
7 was in Greenwood in about November or January of '21 or  
8 November of '20.

9 And, for reference, I did not prosecute the CI when  
10 she stole from my brother on Christmas Day of 2020. I  
11 did not prosecute the CI when she stole my billfold and  
12 charged her cell phone bill in March of '21, so there  
13 was a psychosexual seduction effect that did take place  
14 during that entire period of time if I would have had  
15 a head on my shoulders, which was that effect of meth,  
16 and I've been clean since about April -- I was arrested  
17 in April, so I started my job. I had been clean a little  
18 bit before that because in preparedness for my job, but  
19 certainly the end of April, beginning of May. You can  
20 take hair from me right now, Your Honor, or I'll go for  
21 a blood test or a pee test anywhere. Well, obviously  
22 that's gonna run clean. I've been in jail.

23 But, Your Honor, I have no intention of harassing,  
24 bothering, connecting, outing in any way the CI or her  
25 family. I have no intention whatsoever. If I bump into

1    them -- I won't bump into them because if I see them in  
2    Food Lion or Family Dollar, I'll go the other way.  If I  
3    see a car, I will come back later.  I will not have any  
4    contact.  I will lead my life in the manner of which I  
5    was raised and I was raised well.  My family -- I'm the  
6    first in four generations, Your Honor, to be charged  
7    with any crime; nieces, nephews, grandchildren, and,  
8    Your Honor, I live to see my two-year-old grandson and I  
9    will be an upstanding member of this community I promise  
10   you and I will make up for every single bad thing I've  
11   done to my name since I've been here.  Up until then you  
12   can mention John Atwell -- before April of 2022, you  
13   could mention John Atwell anywhere in this town and they  
14   would smile and if you said John Atwell said I'll -- John  
15   Atwell said I could pick this up and he'll come in and  
16   pay for it, I'd make good on it, Your Honor, and if I  
17   wouldn't, I'd make sure Billy Jett Black or Jean Cameron  
18   would, and that's the truth.

19           THE COURT:  You got drugs from Greenwood?

20           THE DEFENDANT:  The last purchase I made of  
21   methamphetamine was around November of 2020 or January  
22   or February of 2021 from Greenwood.

23           THE COURT:  So where did the drugs come from?  You  
24   don't have to give me a name.  Where --

25           THE DEFENDANT:  That was -- that was where -- I

1 bought \$600 worth. It was a big old rock as they call  
2 it and some other dust as they call it and I bought that  
3 and that lasted me and what -- my place was a mess. My  
4 home was an absolute mess like a lot of drug addicts,  
5 but in June -- in July of '21, a young lady -- I won't  
6 get into it -- my house got clean, I got clean for the  
7 most part, but that was the last purchase of drugs I made.  
8 And I kept finding drugs throughout the house, and to be  
9 quite honest you, Your Honor, when they came to bust me  
10 they found less -- when they came to me on April 6th at  
11 my home, they found less than a tenth of -- or two-tenths  
12 of a gram at my home. Well, since then I've thrown away  
13 at least two eight balls as they say. At least -- at  
14 least six grams of meth I have thrown away. And I have  
15 -- and I have not been stupid enough to flush it down  
16 the toilet. I pick it up. I found a pipe and I pick it  
17 up with two plastic bags and I wrap it up in another two  
18 and I take it out in separate garbage and I have taken  
19 it to the dump and I have witness of that one of those  
20 times.

21 THE COURT: So you were having a sexual relationship  
22 with this lady?

23 THE DEFENDANT: And her friends, yes, Your Honor.

24 I hope I wasn't circuitous, Your Honor. I'll answer  
25 any other questions you may have.

1 THE COURT: At the earlier hearing the solicitor  
2 told me that they found these drugs in baggies. Is that  
3 right or wrong?

4 THE DEFENDANT: That's the little, small baggies.  
5 That is correct, Your Honor.

6 THE COURT: Why were they in baggies?

7 THE DEFENDANT: They were in those little -- little  
8 baggies because that's -- that's how I made sure I didn't  
9 use too much, that's why I weighed it for myself, and  
10 then when she wanted to buy some I'm like what? And that  
11 started in November actually of '21 as I recall. That  
12 started sometime in November when she got out in '21 and  
13 I'm like what? And I had to go -- I had to go buy some.  
14 I didn't know what those -- you know, I ain't around  
15 those people. I know it sounds stupid, but...

16 THE COURT: You had to go buy some? I thought you  
17 said the last you bought was in Greenwood.

18 THE DEFENDANT: No, I had to go buy the little  
19 baggies. I apologize. I had to go buy those little --  
20 those little baggies.

21 THE COURT: Where do these people live, the husband  
22 and the wife?

23 THE DEFENDANT: The husband and wife? I live at  
24 [REDACTED] Jefferson -- okay, they lived approximately one mile  
25 from me on the other side of Greenfield.

1 THE COURT: Do they work?

2 THE DEFENDANT: She's never worked to the best of  
3 my knowledge a day in her life and the husband's a  
4 mechanic.

5 THE COURT: And where is his --

6 THE DEFENDANT: And he's a fair mechanic. He's got  
7 his own shop now that I will never bypass again. I can  
8 take a different road on that part of 378. He works at  
9 his own shop. Before that he worked at the old McCormick  
10 Tire and Battery store.

11 THE COURT: Where's his shop?

12 THE DEFENDANT: His shop currently is across from the  
13 new funeral home on 378 about two blocks from here, but I  
14 don't have to bypass that shop ever again.

15 THE COURT: So they live about a mile from you?

16 THE DEFENDANT: They did.

17 THE COURT: They did?

18 THE DEFENDANT: Currently they live about 1.6 miles  
19 from me, but I don't need to ever bypass their home  
20 again. I don't never need to bypass the shop again. I  
21 will have absolutely no contact either in social media.  
22 I will not out them. I will not do anything. I will  
23 -- I'm gonna work diligently to change criminal justice  
24 in South Carolina, but I will not do so by doxing or by  
25 outing the criminal -- the confidential informant if that

1 will have any positive bearing on getting me released on  
2 probation at all, Your Honor.

3 THE COURT: Solicitor, do you have anything else?

4 MR. FENDER: Your Honor, just briefly on the  
5 timeline. You know, he was discovered in April of 2022  
6 with the methamphetamine and that's when those buys  
7 occurred and he's telling you today that November was  
8 the last time.

9 Now, Judge, he first came to this court on May 26th  
10 of 2022. At that time he was offered, you know, leniency  
11 to go do drug court, to do a plea, to get help. He  
12 tells you he's an addict. Well, he was offered help,  
13 but he didn't take it. You know, he's pushed this case  
14 off. Only on the eve of trial did he decide to take  
15 accountability for his actions after he decided to  
16 threaten the CI, to go to their business. He tells us  
17 that he wants to protect them, but I feel like everyone  
18 here in the court knows a good bit of information about  
19 them. You know, this is somebody, you know, Judge, who  
20 was offered, you know, leniency and a -- and a way to do  
21 better and he chose not to.

22 THE COURT: I see. Mr. Fender, I understand your  
23 argument and I know the realities of why, and that's one  
24 of the things that bothers me. I can't punish somebody  
25 for exercising their constitutional right to a jury trial

1 and as you know, and Mr. Chehoski knows me, I've done  
2 dozens and dozens and dozens of drug cases and, quite  
3 frankly, the sentences that are worked out now are a  
4 whole lot more lenient than what they were when I used  
5 to -- when I was starting out. So I can't punish him  
6 for exercising his right to a jury trial.

7 MR. FENDER: Judge, we just say that only to the  
8 effect that, you know, we -- maybe he's an addict, maybe  
9 he's not, but clearly he was dealing meth and that was  
10 the posture here.

11 THE COURT: I understand and I've got to try to make  
12 a sentence that punishes him, sends a message, all those  
13 things you mentioned. I mean, this ain't my first time  
14 going through something like this, but it was -- just  
15 like most pleas in South Carolina, they happen very  
16 quickly.

17 All right. You-all just have a seat. Give me a  
18 minute.

19 (Pause in proceedings.)

20 THE COURT: All right. Let me ask you one more  
21 thing. You told me he had two days credit for jail in  
22 McCormick County.

23 MR. CHEHOSKI: Yes, sir.

24 THE COURT: But the public index showed he was  
25 arrested and got out the same day. So what's right and

1 what's wrong?

2 THE DEFENDANT: I was arrested on the 6th of April.  
3 I believe I was in the 6th, 7th, 8th of April, I was  
4 released on the 8th of April, and I started work at  
5 Cigna, was on a fast-track to promotion on the 11th of  
6 April, that Monday, the 11th. I was in jail from  
7 April 6th, Wednesday, Thursday, April 7th, released  
8 Friday, April 8th.

9 THE COURT: It took you three days to get in front  
10 of a magistrate?

11 THE DEFENDANT: Sir, there were other charges  
12 because of the marijuana found in my home and the  
13 methamphetamine pipe and the -- whatever tenth of a gram  
14 or whatever they found of meth, but the scale and my cell  
15 phone and -- and then I --

16 THE COURT: You're telling me about stuff I don't --  
17 I don't care about.

18 THE DEFENDANT: I got released the next day. It  
19 took me two days to get released and I went before Judge  
20 John -- oh, Lord. He's our neighbor. He's my brother's  
21 neighbor. I forget his last name.

22 THE COURT: I don't care.

23 THE DEFENDANT: Okay. It took me two days to get  
24 released.

25 THE COURT: I want to know how many days you were

1 in jail and why if you got a PR bond you were in jail for  
2 three days. If you got a PR bond, all you've got to do  
3 is sign your name and you get out.

4 THE DEFENDANT: That's all I did on Friday afternoon,  
5 sir, but there were forthcoming charges found Wednesday  
6 and it took them through Thursday or Friday morning to  
7 find them. I -- I don't know all the ends and outs,  
8 Your Honor. I do not know.

9 THE COURT: All right.

10 THE DEFENDANT: I know that Judge John signed a  
11 bunch of paperwork and my brother brought me home.

12 THE COURT: The name's Long, I think.

13 THE DEFENDANT: Long. Yes, sir. Yes, sir.

14 THE COURT: All right. We're at ease for a few  
15 minutes.

16 (Recess taken at 12:40 PM.)

17 (Back on the record at 12:48 PM.)

18 THE COURT: Let's go back on the record, Stacy.

19 You're housed at Kirkland now? Are you at Kirkland?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Still in R&E? Still in Reception and  
22 Evaluation?

23 THE DEFENDANT: I'm sorry, sir?

24 THE COURT: Are you still in Reception and  
25 Evaluation? R&E?

1 THE DEFENDANT: Yes, sir, Your Honor.

2 THE COURT: Do you still have your home in  
3 McCormick?

4 THE DEFENDANT: In McCormick, South Carolina. Yes,  
5 sir. It's paid for. It needs a new roof, but it's a  
6 good home and I'll make it a better home.

7 THE COURT: Do you plan to go to Florida as your son  
8 stated in Lexington?

9 THE DEFENDANT: I plan on making -- after my  
10 probation to most possibly go back to Florida. That  
11 part honestly is still up in the air. I owe a debt to  
12 bring my good name back to McCormick, but I do plan on  
13 seeing my grandson about every month to six weeks if at  
14 all possible, Your Honor.

15 THE COURT: If you're on probation, you can't leave  
16 South Carolina without permission of probation.

17 THE DEFENDANT: Yes, sir. And I'll be -- and I'll  
18 be in constant contact with the probation people, Your  
19 Honor. I promise you I will not --

20 THE COURT: I don't mean you get to go and then call  
21 tell them and tell them you're in Florida. I mean --

22 THE DEFENDANT: No, sir. No, sir. I'll get  
23 permission to leave the State. I promise you, sir. I'll  
24 get permission to leave the county. I will follow the  
25 letter of the law. I promise you, Your Honor.

1 THE COURT: We're at ease for a minute.

2 (Pause in proceedings.)

3 THE COURT: All right. Let's go back on the record.

4 I've done a detailed written order. I've given  
5 this a lot of thought. I'm trying to be equitable in the  
6 sentencing to match what I've seen as far as sentencing  
7 in other cases and I've taken into consideration such  
8 things as the age of the defendant and his lack of record  
9 and the fact that he was out on bond and apparently did  
10 not violate any other laws with the possible exception  
11 of this issue of approaching a witness.

12 One of the biggest reasons for me giving the  
13 sentence I gave was that somebody who goes out and tries  
14 to intimidate a witness can stand in court all day long  
15 and tell me how good they are and other people can tell  
16 me how good they are, but people that try to intimidate  
17 witnesses there's another side to it. So I wanted more  
18 information about that and I've gotten it today.

19 I learned a long time ago not to try to justify my  
20 sentences and I put what I've got in this order. I think  
21 that you sometimes try to talk yourself out of things,  
22 Mr. Atwell. That's just my opinion. That doesn't mean  
23 it's right or wrong. I think sometimes you should listen  
24 rather than talk. It's hard for me to believe that you  
25 were only involved with this one person. You've now said

1 there were other people apparently all having parties at  
2 your house or something.

3 THE DEFENDANT: I don't --

4 THE COURT: Are you gonna talk now that I told you  
5 to keep your mouth shut?

6 THE DEFENDANT: No, sir.

7 THE COURT: I'm not stopping you from talking.

8 THE DEFENDANT: (Shakes head.)

9 THE COURT: The Court grants the motion as follows.  
10 The amended sentence is that you be committed to the  
11 South Carolina Department of Corrections for a period  
12 of seven years provided that upon the service of ninety  
13 days in the county jail the balance is suspended and  
14 you're placed on probation for three years. You're to  
15 receive credit towards your 90-day jail term for the time  
16 that you've served at the Department of Corrections and  
17 if you have served three days of pre-trial detention --  
18 pre-plea detention, you will get credit on that towards  
19 your 90-day sentence.

20 You're subject to all the standard conditions of  
21 probation, including passing random drug and alcohol  
22 screens, as well as the following special conditions.  
23 You're placed on home detention with electronic  
24 monitoring for a period of six months after release from  
25 incarceration. You may be away from your home during

1 that period only to travel directly to and from meeting  
2 with your probation agent, to and from work or legitimate  
3 volunteer activities at the animal shelter to which  
4 you've indicated you've done work in the past, to and  
5 from medical and dental appointments, including substance  
6 abuse or addiction programs in which you're enrolled, to  
7 and from organized religious services, to and from your  
8 public service requirements that I'm gonna impose on you  
9 in a moment, to and from activities or meetings approved  
10 in advance by the probation agent, and to and from the  
11 grocery store located in McCormick County provided that  
12 you may be away from your home to shop for groceries no  
13 more than one hour and you have to be accompanied by a  
14 responsible adult since you've indicated to me that drugs  
15 are being distributed at the grocery store parking lot.

16 You're not to be outside the State of South Carolina  
17 until you've completed the six months of house arrest  
18 and the public service work that I'm requiring of you.  
19 However, in the event of a medical emergency, you may be  
20 transported by EMS to a hospital in the Augusta, Georgia  
21 area, but you must return immediately to South Carolina  
22 upon your release from hospitalization. The electronic  
23 monitoring may be removed upon successful completion  
24 of your house arrest and you may apply to move to the  
25 state of Florida as proposed at the guilty plea at the

1 conclusion of your house arrest and your public service  
2 work.

3       You're to have no contact directly or indirectly  
4 with the confidential informant. You're not to be  
5 within a 500-mile -- excuse me -- 500-yard radius of the  
6 informant's home or her husband's place of work. If you  
7 encounter the confidential informant at any place that  
8 you're approved to be aside from your probation meetings,  
9 you have to leave immediately.

10       You have to perform 320 hours of public service.  
11 You have to complete addiction treatment as is deemed  
12 appropriate by the probation authority. You are not to  
13 consume any drugs except those prescribed by licensed  
14 medical personnel. You may take over-the-counter drugs  
15 for legitimate medical issues, but you're not to purchase  
16 or possess any drug that includes pseudoephedrine or  
17 which induces euphoria. You're not to consume any  
18 alcohol. You're not to possess any firearm or ammunition  
19 actually or constructively.

20       In all other respects, the sentence remains as  
21 originally imposed. And you must provide a DNA sample  
22 at your expense, pay your court costs as directed, and  
23 a copy of the original sentence sheet will be attached  
24 to this order. The rest of the order goes through the  
25 representations that have been made by the State and the

1 defense.

2 Do you understand all that?

3 THE DEFENDANT: Honestly, Your Honor --

4 THE COURT: Hold on. I'm gonna tell you.

5 MR. CHEHOSKI: I can explain as well.

6 THE COURT: He ain't -- you can explain later, but  
7 he ain't leaving here until he knows it.

8 MR. CHEHOSKI: Okay.

9 THE DEFENDANT: I'm doing the rest of my -- I get  
10 credit for time served and the rest of my time ninety  
11 days in the county jail?

12 THE COURT: Yes.

13 THE DEFENDANT: And then I don't get to see -- I  
14 don't get to leave the State for six months after that?

15 THE COURT: No. You have a 7-year sentence hanging  
16 over your head.

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Suspended on ninety days in the county  
19 jail. You get credit under the law for any time you  
20 served on this charge, so whatever time you served in  
21 the Department of Corrections or any time you served  
22 pre-plea in the McCormick County jail, you get credit  
23 for that toward your 90-day sentence.

24 Now I don't think you're going to the McCormick  
25 County jail right now. They've got to take you back, I

1     assume, to Kirkland and let you go through the process  
2     of getting out.

3             THE DEFENDANT:   Okay, sir.

4             THE COURT:    So I don't know how long that will take.

5             THE DEFENDANT:   Yes, sir.

6             THE COURT:    All right.  You have three years of  
7     probation instead of five years probation.

8             THE DEFENDANT:   Yes, sir.

9             THE COURT:    And you have to -- you're on home  
10    detention.  You're on house arrest for six months.  You  
11    have to have an electronic monitoring device.  Most  
12    likely a GPS device.  You can only be away from your  
13    house for the things that are listed on this order that  
14    I read to you.

15            THE DEFENDANT:   For six months after I get out of  
16    jail?

17            THE COURT:    While you're on house arrest.

18            THE DEFENDANT:   While I'm on house arrest.

19            THE COURT:    After you get off house arrest, they  
20    can take the electronic monitor off and you can apply to  
21    move to Florida if you want to if you've finished your  
22    house arrest and if you've finished your public service  
23    employment.  You've got to do 320 hours of public service  
24    work.

25            THE DEFENDANT:   Yes, sir.

1           THE COURT: You don't leave South Carolina except  
2 in case of a medical emergency and that's only to the  
3 Augusta area if you go by EMS. They may take you to  
4 Greenwood, I don't know, but I didn't want to limit that.

5           THE DEFENDANT: Heaven forbid.

6           THE COURT: Well, you know, I don't know. If you  
7 have to go to a trauma center or something. I hope you  
8 don't.

9           You have to complete drug addiction treatment in  
10 the discretion of the probation office. Wherever they  
11 tell you you've got to go, you've got to do it. You're  
12 not to consume drugs except those prescribed for you by  
13 licensed professionals. You can take over-the-counter  
14 drugs for a legitimate medical issue, but you can't buy  
15 any drug that has pseudoephedrine in it because they use  
16 that to make crack -- or meth.

17          THE DEFENDANT: Yes, sir.

18          THE COURT: And you can't buy any over-the-counter  
19 drug that causes euphoria. You're not allowed to consume  
20 alcohol.

21          THE DEFENDANT: So I can't buy beer. Don't drink  
22 beer.

23          THE COURT: Why don't you listen to me?

24          THE DEFENDANT: Yes, sir.

25          THE COURT: If you're in drug addiction treatment,

1 they're not gonna let you consume alcohol anyway. You  
2 can't have a firearm or ammunition and all of the other  
3 conditions that were originally imposed upon you still  
4 apply. The law requires you provide a DNA sample.  
5 They're gonna charge you to do that. You have to pay  
6 court costs. You're gonna be charged with your court  
7 costs. You've got to pay supervision fees to probation  
8 and you're gonna have to pay for this electronic  
9 monitoring. And the public defender fee has got to be  
10 paid as part of your court costs.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: I don't -- now you understand all that?

13 THE DEFENDANT: Yes, Your Honor, I do.

14 THE COURT: Madam Clerk, I need one, two, three --  
15 four copies of this, please, ma'am.

16 THE CLERK: Yes, sir.

17 THE COURT: And also I'm going to need a copy --  
18 attach this to each copy.

19 THE CLERK: Yes, sir.

20 THE COURT: Court's adjourned.

21 MR. CHEHOSKI: Thank you, Your Honor.

22 THE COURT: Oh, Madam Court Reporter, make these a  
23 Court's exhibit.

24 (Court's Exhibit Number 1 was marked for  
25 identification.)

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(Whereupon, the proceedings were concluded at  
1:01 PM.)

## C E R T I F I C A T E

1  
2  
3 I, Stacy S. Johnson, Official Court Reporter  
4 for the Eleventh Judicial Circuit of the State of  
5 South Carolina, do hereby certify that the foregoing  
6 is a true, accurate and complete transcript of record  
7 of all the proceedings had and the evidence introduced  
8 in the hearing of the captioned case in Circuit Court  
9 on the 16th day of August, 2023.

10 This transcript may contain quoted material.  
11 Such material is reproduced as read by the speaker.

12 I do further certify that I am neither of kin,  
13 counsel, nor have an interest to any party hereto.  
14

15 November 14, 2023  
16

17 1st Stacy S. Johnson  
18 STACY S. JOHNSON  
19 CIRCUIT COURT REPORTER  
20  
21  
22  
23  
24  
25

DOCKET NO. 2022GS3500067

**The State of South Carolina**  
County of McCormick

McCormick County Sheriff's Department  
Christopher E Motes

Law Enforcement Case #: 2022-3440

DWF

**COURT OF GENERAL SESSIONS**

**MAY TERM 2022**

**ARREST WARRANT NUMBER**

**2022A3510100077**

**THE STATE**

**ACTION OF GRAND JURY**

**vs.**

**John Edward Atwell**

*True Bill*

**CDR #: 3198**

*Clint Anderson*  
Foreperson of Grand Jury  
Date: **MAY 25 2022**

**Indictment for**

Distribution of Methamphetamine

§ 44-53-0375 (B) (1)

**VERDICT**

**S.R. Hubbard III, SOLICITOR**

Foreperson of Petit Jury  
Date:

**A TRUE COPY**  
*[Signature]*  
By: \_\_\_\_\_  
Clerk of Court, McCormick County

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF MCCORMICK )  
 )

INDICTMENT FOR  
Distribution of Methamphetamine  
§ 44-53-0375 (B) (1)

At a Court of General Sessions, convened on May 2022, the Grand Jurors of McCormick County present upon their oath:

That in McCormick County, South Carolina, on or about March 18, 2022, the Defendant, **John Edward Atwell**, did unlawfully sale or distribute methamphetamine; in violation of 44-53-375 of the South Carolina Code of Laws (1976) as amended.

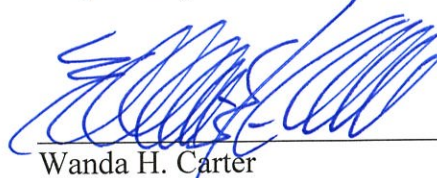
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
\_\_\_\_\_  
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,



Wanda H. Carter  
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

**RECEIVED**

**Jan 29 2024**

**SC Court of Appeals**

This 29th day of January, 2024.

**RECEIVED**

**Jan 29 2024**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from McCormick County

Honorable William P. Keesley, Circuit Court Judge  
\_\_\_\_\_

THE STATE,

RESPONDENT,

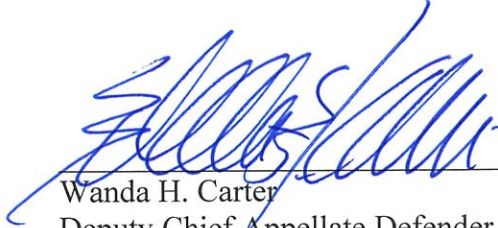
V.

JOHN EDWARD ATWELL,

APPELLANT

\_\_\_\_\_  
CERTIFICATE OF SERVICE  
\_\_\_\_\_

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Mark R. Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), and on John Edward Atwell at 1519 Jefferson St., McCormick, SC, 29835, this 29th day of January, 2024.

  
\_\_\_\_\_  
Wanda H. Carter  
Deputy Chief Appellate Defender