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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from York County

Honorable Daniel D. Hall, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

OCTAVIUS TREMAIN CURRENCE,

APPELLANT

APPELLATE CASE NO. 2024-000106

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STATE OF SOUTH CAROLINA IN THE COURT OF GENERAL SESSIONS
COUNTY OF YORK CASE NUMBER: 2021-GS-46-06011

STATE OF SOUTH CAROLINA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	VOLUME I OF III
OCTAVIUS TREMAIN CURRENCE,	)	
	)	
Defendant.	)	
_____	)	
		January 8, 2024
		York, South Carolina

BEFORE: The Honorable Daniel D. Hall, Judge.

APPEARANCES:

Ms. Austin Smith
Assistant Solicitor
Ms. Leslie Robinson
Assistant Solicitor
Sixteenth Circuit Solicitor's Office
York, South Carolina

Ms. Deondra Sexton
Assistant Public Defender
Ms. Melissa Inzerillo
Assistant Public Defender
Sixteenth Circuit Public Defender's Office
York, South Carolina

Shannon E. McGilberry, CVR-M
Court Reporter

I N D E X

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(REPORTER'S NOTE: All exhibits admitted into evidence during this trial were duly filed with the York County Clerk of Court's Office.)

1 THE COURT: Before we bring the jury up, as far as the
2 State's voir dire, has the defense seen a copy of the
3 State's voir dire?

4 MS. SEXTON: We have it, Your Honor.

5 THE COURT: You have or haven't?

6 MS. SEXTON: I have it here.

7 THE COURT: All right.

8 MS. SEXTON: We're just looking over it.

9 THE COURT: And, State, have you received a copy of the
10 defendant's voir dire?

11 MS. SMITH: Yes, Your Honor. We just did.

12 THE COURT: All right. Let's -- all right. Lawyers
13 approach.

14 (Whereupon, a Bench conference was held off the record,
15 out of the hearing of the court reporter.)

16 THE COURT: All right. The next matter before the
17 court is 2021-GS-46-06011 *State versus Octavius Tremain*
18 *Currence*. Mr. Currence has been indicted on this true bill
19 indictment for distribution of Fentanyl. He is represented
20 by Deondra Sexton and Melissa Inzerillo of the York County
21 Public Defender's Office. Representing the State is Austin
22 Smith and Leslie Robinson of the 16th Circuit Solicitor's
23 Office.

24 The first matter before the Court, before we bring the
25 jury in, is to deal with any potential voir dire. I have

1 the -- I met with the lawyers briefly up here at the Bench.
2 I have the defendant's voir dire. It's two pages of
3 questions. It appears that the State has no objection to
4 any of those voir dire questions. I did indicate that I
5 would change number 19 just to include simply has anybody
6 ever volunteered in a jail or prison.

7 Ms. Robinson or Ms. Smith, either one of you have any
8 objection to any of the other defendant's voir dire?

9 MS. SMITH: Your Honor, the only thing we would note is
10 that some of them are very close questions. I don't know if
11 the Court could consolidate, like, for example, 16 and 17
12 are both about displaying the thin blue line. Just ---

13 THE COURT: Yeah, I'll try -- I may condense some of
14 those.

15 MS. SMITH: Yeah, that would be fine.

16 THE COURT: And certainly, if they're also repetitive
17 ---

18 MS. SMITH: Yes, sir.

19 THE COURT: ---as to the defense voir dire as well, but
20 -- and I intend to cover in some form or fashion all those
21 questions. If there's some objection at the end of that,
22 y'all can -- it can be raised properly at that time.

23 All right. Anything else from the defense? Do you
24 have any objection to State's voir dire?

25 MS. SEXTON: No, Your Honor. We don't.

1 THE COURT: All right. Then let's bring the jury up
2 and let's get a jury picked. We'll pick -- we'll have our
3 12 plus 2 alternates and then we'll see where we are then.

4 (Whereupon, the jury pool entered the courtroom at
5 12:05 P.M.)

6 THE COURT: All right. Thank you, ladies and
7 gentlemen. I appreciate your patience. We're ready to
8 begin what I think I explained -- well, maybe a few more.
9 I'm sorry. I need to be more patient.

10 All right. Thank you, ladies and gentlemen. Again, I
11 appreciate your patience. We're beginning -- we're going to
12 start what I call the third part of jury selection. There
13 are three parts in selection of jurors in a jury trial. The
14 first part is this morning the Clerk of Court went through a
15 roll call with you. We got basic information from you and
16 then, secondly, Judge McKinnon, who is the other resident
17 judge here in the Sixteenth Circuit, went through what's
18 called the qualifications, statutory qualifications with
19 you, to determine your fitness to serve and now you're
20 brought up here in this courtroom. I'm Judge Hall. I'm Dan
21 Hall. I'm one of the resident judges in this circuit and
22 it's my responsibility this week to preside over any
23 criminal cases that the State may bring to us for trial and
24 we're also taking care of other matters, pleas and those
25 type things, in this courtroom this week.

1 The third part of jury qualification is what we're
2 getting ready to start is where I'm going to ask you
3 specific questions to determine your fitness to serve here
4 on a jury trial. We call it -- the magic word is voir dire,
5 which is a Latin word for these particular questions that
6 we'll ask you today. So listen to you very -- listen very
7 carefully as I go through the list of questions and
8 introduce this case to you.

9 The case before you this morning is 2021-GS-46-06011.
10 This is *The State of South Carolina versus Octavius Tremain*
11 *Currence*. The indictment before you is an indictment for
12 the charge of distribution of Fentanyl that occurred on or
13 about February the 24th of 2021 here in York County.

14 Is there any member of the jury panel that has any
15 knowledge about this case or the allegation that you know so
16 far, have any direct or indirect knowledge about this case
17 whatsoever? If so, please stand.

18 (No one stands)

19 THE COURT: Thank you. No one stands. The defendant
20 in this case, Mr. Currence, is exercising his constitutional
21 right to have a trial by jury. We guarantee that right to
22 any individual who's charged with a crime. That's an
23 important right and we and y'all should hold that sacred.
24 That's what he's here for. He is being represented by -- he
25 has entered a plea of not guilty and asked for a trial.

1 He's being represented by Deondra Sexton and Melissa
2 Inzerillo, lawyers from the York County Bar. If y'all would
3 introduce yourselves and anyone else at your table.

4 MS. SEXTON: I'm Deondra Sexton and I represent the
5 defendant, Octavius Currence. You may or may not hear from
6 him today.

7 MS. INZERILLO: My name is Melissa Inzerillo. I'm an
8 attorney with the Public Defender's Office. With us as well
9 is Investigator Barton O'Kelly.

10 THE COURT: Is there any member of the jury panel
11 related by blood or marriage or have a close business or
12 professional relationship with either Deondra Sexton,
13 Melissa Inzerillo or anyone that works within the York
14 County Public Defender's Office? If so, please stand.

15 (No one stands)

16 THE COURT: Thank you. No one stands. The defendant
17 in this case is Mr. Octavius Currence. Is anyone -- member
18 of the jury panel related by blood or marriage or have a
19 close personal, business or social relationship with Mr.
20 Currence or anyone in his family? If so, please stand.

21 (No one stands)

22 THE COURT: Thank you. No one stands. Representing
23 the State is attorneys Austin Smith and Leslie Robinson.

24 Ms. Robinson, and Ms. Smith, if y'all would introduce
25 yourselves?

1 MS. SMITH: I'm Austin Smith. I work with Sixteenth
2 Circuit Solicitor's Office.

3 MS. ROBINSON: And Leslie Robinson.

4 THE COURT: Is there any member of the jury panel
5 related by blood or marriage or have any type of business,
6 professional or social relationship with either Austin Smith
7 or Leslie Robinson? Then please stand.

8 (No one stands)

9 THE COURT: Thank you. No one stands. Is there any
10 member of the jury panel close friends with or have an
11 acquaintance or a relationship with anyone who works in the
12 Sixteenth Circuit Solicitor's Office? If so, please stand.
13 That would include those that -- in the -- what we call
14 directly in the Solicitor's Office or any of the programs
15 associated -- victims' programs or diversion programs
16 related to the Sixteenth Circuit Solicitor's Office. If so,
17 please stand.

18 (Juror stands)

19 THE COURT: Yes, sir. If you'd tell me your name?

20 JUROR: Derek Seed, juror 232. I believe one of the
21 investigators in the Solicitor's Office attends the same
22 church I do.

23 THE COURT: And what is that investigator's name?

24 JUROR: Jamie Faulkenberry.

25 THE COURT: Jamie Faulkenberry. Would the fact that

1 you are friends with Jamie Faulkenberry, would that affect
2 your ability to be fair and impartial to both the State and
3 the defense in this case?

4 JUROR: It would not.

5 THE COURT: Thank you. You may be seated.

6 Is there any member of the jury panel, either you or
7 your relatives or close friends connected with law
8 enforcement in any way, whether federal, state, county,
9 city, or private. Have any type of relationship with anyone
10 in law enforcement, then please stand.

11 All right. And then my question simply is for each of
12 and we'll go one at a time, would that fact affect your
13 ability -- tell me what that relationship is and then the
14 answer is either yes, that would affect my ability to be
15 fair and impartial or no, it would not affect my ability to
16 be fair and impartial.

17 Yes, sir. Your number?

18 JUROR: I'm 48.

19 THE COURT: Yes, sir.

20 JUROR: I just have friends in the sheriff's department
21 and stuff like that. It would not affect my ability.

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

23 Yes, sir. Your number?

24 JUROR: 208.

25 THE COURT: Yes, sir.

1 JUROR: I'm friends with the sheriff and I know quite a
2 few officers not only in York County, but in Mecklenburg
3 County as well.

4 THE COURT: Would that fact affect your ability to be
5 fair and impartial to both the State and the defense in this
6 case?

7 JUROR: No, sir.

8 THE COURT: Thank you. You may be seated.
9 Yes. Your number?

10 JUROR: 224. And I've got a close relative who is a
11 U.S. Marshall out of Georgia.

12 THE COURT: Would that fact affect your ability to be
13 fair and impartial to both the State and the defense?

14 JUROR: No, sir.

15 THE COURT: Thank you. You may be seated.
16 Yes, sir.

17 JUROR: 195.

18 THE COURT: Yes, sir.

19 JUROR: I have friends and neighbors who are part of
20 Fort Mill, Sheriff's Department and Police Department.

21 THE COURT: Can you be fair and impartial to both the
22 State and the defense in this case?

23 JUROR: Yes.

24 THE COURT: Thank you. Yes, sir.

25 JUROR: 185. My father-in-law is a -- retired from the

1 City of Charlotte Police Department.

2 THE COURT: Does that fact affect your ability to be
3 fair and impartial?

4 JUROR: No.

5 THE COURT: Thank you. You may be seated.

6 MS. SMITH: Your Honor, may we approach briefly?

7 THE COURT: Yes, you may.

8 (Whereupon, a Bench conference was held off the record,
9 out of the hearing of the court reporter.)

10 THE COURT: I'm sorry. Mr. -- juror number 195, Mr.
11 Palmiotto.

12 JUROR: Palmiotto.

13 THE COURT: Palmiotto. I'm sorry. If you'd stand. I
14 may have misunderstood you. The fact that you have friends
15 or related to or have a social relationship with officers, I
16 believe you indicated several departments, including the
17 sheriff's department, would that fact affect your ability to
18 be fair and impartial to both the State and the defense?

19 JUROR: No, it would not.

20 THE COURT: You can be fair and impartial?

21 JUROR: I can do that.

22 THE COURT: All right. Thank you. You may be seated.
23 Yes, sir. Your number?

24 JUROR: 244.

25 THE COURT: Yes, sir.

1 JUROR: My father-in-law is a retired detective from
2 Nassau County Police Department, Long Island and my brother-
3 in-law is a retired police officer in Naples, Florida, as
4 well as a federal jailor in Naples, Florida.

5 THE COURT: Would that fact affect your ability to be
6 fair and impartial to both the State and the defense in this
7 case?

8 JUROR: No, sir. It would not affect it.

9 THE COURT: Thank you. You may be seated.

10 This case -- and I'll go through the witness list
11 shortly -- involves officers from the York County Drug
12 Enforcement Unit. Is there any member of the jury panel
13 related by blood or marriage or have a close business,
14 professional or social relationship with any officer who
15 works or is employed on the York County Drug Enforcement
16 Unit, sometimes commonly referred to as the DEU. If so,
17 please stand. Yes, sir. Your number?

18 JUROR: 48.

19 THE COURT: And who do you --

20 JUROR: Does it count if they're retired?

21 THE COURT: I'm sorry?

22 JUROR: Does it count if they're retired?

23 THE COURT: That would be important. Who is retired?

24 JUROR: Rayford Ervin.

25 THE COURT: Would the fact that you have a relationship

1 with Rayford Ervin affect your ability to be fair and
2 impartial in this case?

3 JUROR: No, sir.

4 THE COURT: All right. Thank you.

5 Yes, sir. Your number?

6 JUROR: 78.

7 THE COURT: Yes, sir.

8 JUROR: A colleague that I work with, her son, I
9 believe, is on the Drug Enforcement Unit.

10 THE COURT: Do you know that son's name?

11 JUROR: I believe his name is Justin Curtis.

12 THE COURT: Would that fact affect your ability to be
13 fair and impartial to both the State and the defense in this
14 case?

15 JUROR: No.

16 THE COURT: Thank you. You may be seated.

17 Has any member of the jury panel ever served as a juror
18 in a criminal case or a member of a Grand Jury in York
19 County or in any federal or state court? You served as a
20 juror or before in a criminal case in federal or state court
21 here in York County. If so, please stand.

22 (No one stands)

23 THE COURT: Thank you. No one stands.

24 Is any member of the jury panel a relative or a close
25 friend of a judicial officer, a judge, or a probation

1 officer, a prosecutor, or a member of law enforcement?
2 We've already asked the question about officers in general,
3 but if you are a relative or a close friend to anyone
4 involved in the judicial system, including judges or
5 probation officers or other court personnel, then please
6 stand.

7 Yes, ma'am. Your number?

8 JUROR: 96.

9 THE COURT: Yes, ma'am.

10 JUROR: My mom is a bond's judge in the City of Rock
11 Hill.

12 THE COURT: All right. And what is her name?

13 JUROR: Shantay Griffith.

14 THE COURT: And would that fact affect your ability to
15 be fair and impartial in this case?

16 JUROR: No.

17 THE COURT: Thank you. You may be seated.

18 And I'll just move forward. Yes -- I'll start at --

19 JUROR: 31.

20 THE COURT: I'm sorry?

21 JUROR: 31.

22 THE COURT: Yes, ma'am.

23 JUROR: I have a close friend that's a court officer,
24 Bill Aldridge.

25 THE COURT: All right. Would that fact affect your

1 ability to be fair and impartial to both the State and the
2 defense in this case?

3 JUROR: No, sir.

4 THE COURT: Thank you. You may be seated.

5 Yes, ma'am.

6 JUROR: 56.

7 THE COURT: Yes, ma'am.

8 JUROR: My husband and I are friends with Judge
9 McKinnon.

10 THE COURT: Would that fact affect your ability to be
11 fair and impartial in this case?

12 JUROR: No.

13 THE COURT: Thank you. You may be seated.

14 Yes, sir.

15 JUROR: 208.

16 THE COURT: Yes, sir.

17 JUROR: Just from Mecklenburg County, I know a lot of
18 federal judges and officers there, just based on my past as
19 a law enforcement officer.

20 THE COURT: Would that fact affect your ability to be
21 fair and impartial to both the State and the defense in this
22 case?

23 JUROR: No, sir.

24 THE COURT: Thank you. You may be seated.

25 Yes, sir.

1 JUROR: 227.

2 THE COURT: Yes?

3 JUROR: I have one of the magistrates, Mr. Dover.

4 THE COURT: Would that fact affect your ability to be
5 fair and impartial in this case?

6 JUROR: No, sir.

7 THE COURT: Thank you.

8 Yes, sir. You've got to give me your number again.

9 JUROR: Number 232.

10 THE COURT: Yes, sir.

11 JUROR: My wife has two cousins that work for Rock Hill
12 Police Department, Captain Brown and then Sergeant
13 Lousair(ph).

14 THE COURT: Would that fact affect your ability to be
15 fair and impartial?

16 JUROR: No, it won't.

17 THE COURT: Thank you. You may be seated.

18 Has any member of the jury panel, either you or a
19 relative or a close friend ever testified as a victim or a
20 witness from -- for the York County Solicitor's Office or
21 any prosecutor's office? If you or your family or friend
22 ever testified as a victim or a witness in a trial. If so,
23 please stand.

24 (Juror stands)

25 THE COURT: Yes, sir, again?

1 JUROR: 208, Your Honor.

2 THE COURT: Would that fact affect your ability to be
3 fair and impartial to both the State and the defense in this
4 case?

5 JUROR: No, sir.

6 THE COURT: Thank you. You may be seated.

7 Has any member of the jury panel ever contributed money
8 to the Fraternal Order of Police or the South Carolina Law
9 Enforcement Officer's Association, Blue Lives Matter or any
10 law enforcement organization, organization which supports
11 law enforcement or the police? Have you contributed any
12 money to those?

13 (Juror Stands)

14 THE COURT: Mr. 208. We know your---

15 JUROR: 208. No, sir.

16 THE COURT: ---answer. Would that fact be fair -- can
17 you be fair and impartial?

18 JUROR: Yes, sir.

19 THE COURT: All right. Thank you.

20 Has any member of the jury panel, either you or your
21 family, had any experience related to the use or possession
22 of illegal drugs or narcotics? If so, please stand.

23 Yes, ma'am. We'll start on my left. Tell me your
24 number.

25 JUROR: 52.

1 THE COURT: Yes, ma'am.

2 JUROR: Uh, yeah.

3 THE COURT: You don't have to be too specific, but ---

4 JUROR: A sibling.

5 THE COURT: A sibling. Would that fact affect your
6 ability to be fair and impartial?

7 JUROR: No.

8 THE COURT: Thank you. You may be seated.

9 Yes, ma'am on the front.

10 JUROR: 31.

11 THE COURT: Yes, ma'am.

12 JUROR: I have a cousin.

13 THE COURT: Would that fact affect your ability to be
14 fair and impartial?

15 JUROR: No.

16 THE COURT: Thank you. You may be seated.

17 Yes, sir, your number?

18 JUROR: 102.

19 THE COURT: Yes.

20 JUROR: My sibling is a drug addict, both cocaine and
21 Fentanyl.

22 THE COURT: Would that fact affect your ability to be
23 fair and impartial?

24 JUROR: I think it would, sir.

25 THE COURT: And you, again, are 102?

1 JUROR: Yes.

2 THE COURT: You are excused in this case. If you'll
3 just keep your seat, you're just excused for this particular
4 case.

5 Yes, ma'am. Your number?

6 JUROR: 148.

7 THE COURT: Yes.

8 JUROR: My father.

9 THE COURT: Would that fact affect your ability to be
10 fair and impartial?

11 JUROR: No, sir.

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

13 Yes, sir. Your number?

14 JUROR: 157.

15 THE COURT: Yes.

16 JUROR: Daughter-in-law, addiction.

17 THE COURT: Would that fact affect your ability to be
18 fair and impartial?

19 JUROR: I believe so.

20 THE COURT: You're excused in this case.

21 Yes, ma'am. Your number?

22 JUROR: 262.

23 THE COURT: Yes, ma'am.

24 JUROR: My mother-in-law overdosed and passed away from
25 Fentanyl.

1 THE COURT: Would that fact affect your ability to be
2 fair and impartial?

3 JUROR: I think so.

4 THE COURT: All right. You are excused in this case.
5 Your number?

6 JUROR: 226.

7 THE COURT: Yes.

8 JUROR: My cousin was an addict, but I don't think it
9 would affect my ability to serve as a juror.

10 THE COURT: Thank you. You may be seated.

11 Does any member of the jury panel have strong feelings
12 about an accused in a drug case to the degree that it would
13 affect your ability to be fair and impartial when a
14 defendant is charged with a drug offense? Do you have
15 strong feelings because someone has been accused of a drug
16 charge, a drug offense, that would affect your ability to be
17 fair and impartial. If so, please stand.

18 (No one stands)

19 THE COURT: Thank you. No one stands.

20 Does the fact that the allegations in this particular
21 case involves Fentanyl, would you -- is there any member of
22 the jury panel have a strong opinion about Fentanyl that
23 would affect your ability to be fair and impartial? Please
24 stand.

25 THE COURT: Yes, ma'am. Your number?

1 JUROR: 148.

2 THE COURT: Yes.

3 JUROR: Just I don't agree with this.

4 THE COURT: Would that fact that someone has been
5 charged affect your ability to be fair and impartial?

6 JUROR: Yes, sir.

7 THE COURT: All right. You're -- number 148 is excused
8 in this case.

9 Is any member of the jury panel, either you or had a
10 friend ever served as a confidential informant for any law
11 enforcement agency? Please stand.

12 (No one stands)

13 THE COURT: Thank you. No one stands.

14 Is there any member of the jury panel, either you or
15 close friends or relatives belong to or support any
16 organization that advocates for changes in drug laws? If
17 so, please stand.

18 (No one stands)

19 THE COURT: Thank you. No one stands.

20 Is any member of the jury panel have any special
21 experience or training dealing with the treatment of drug
22 abuse or addiction? If you have training in treating drug
23 abuse or addiction, please stand.

24 JUROR: 208, sir.

25 THE COURT: Would that fact affect your ability to be

1 fair and impartial to both the State and the defense in this
2 case?

3 JUROR: No, sir.

4 THE COURT: Thank you.

5 Is there any member of the jury panel ever reported a
6 suspected drug transaction to a law enforcement officer?
7 If so, please stand.

8 THE COURT: Mr. 208?

9 JUROR: Yes, sir.

10 THE COURT: We understand your -- would that fact
11 affect your ability to be fair and impartial?

12 JUROR: No, sir.

13 THE COURT: Thank you. You may be seated.

14 Has any member of the panel ever served on a jury, any
15 type of jury, civil or criminal in any court? If so, please
16 stand.

17 THE COURT: And just -- all right. Let's start with my
18 -- on the front row. Yes, ma'am. Your number?

19 JUROR: 56.

20 THE COURT: What type of case?

21 JUROR: Civil and work comp.

22 THE COURT: Would that fact affect your ability to be
23 fair and impartial?

24 JUROR: No.

25 THE COURT: Thank you.

1 Yes, ma'am.

2 JUROR: 52.

3 THE COURT: Yes, ma'am.

4 JUROR: Civil.

5 THE COURT: Would that -- what type of case?

6 JUROR: It was civil.

7 THE COURT: Civil? Would that fact affect your ability
8 to be fair and impartial?

9 JUROR: No.

10 THE COURT: Thank you.

11 Yes, ma'am.

12 JUROR: 70.

13 THE COURT: Yes.

14 JUROR: It was a child abuse -- child abuse.

15 THE COURT: And where was that?

16 JUROR: In York County.

17 THE COURT: Would that fact affect your ability to be
18 fair and impartial in this case?

19 JUROR: It would not.

20 THE COURT: Thank you. You may be seated.

21 JUROR: 68.

22 THE COURT: Yes.

23 JUROR: It was criminal, possession of marijuana.

24 THE COURT: Would that fact affect -- and where?

25 JUROR: Town of Clover.

1 THE COURT: Would that fact affect your ability to be
2 fair and impartial?

3 JUROR: No, it would not.

4 THE COURT: Thank you.

5 JUROR: Number 91. It was criminal in Winston Salem,
6 North Carolina.

7 THE COURT: Would that fact affect your ability to be
8 fair and impartial?

9 JUROR: No.

10 THE COURT: Thank you. You may be seated.

11 Has any member of the jury panel ever displayed the
12 Thin Blue Line or symbols showing support for law
13 enforcement, either on your vehicles, houses, places of
14 business or involved in any Facebook, Twitter, Instagram or
15 TikTok accounts advocating or supporting that? If so,
16 please stand. Y'all know what I mean, the Think Blue Line.
17 You know, people -- you see them on vehicles.

18 THE COURT: Yes, sir. Your number?

19 JUROR: 232.

20 THE COURT: Would that fact affect your ability to be
21 fair and impartial?

22 JUROR: No, sir. It would not.

23 THE COURT: Thank you. You may be seated.

24 Has any member of the jury panel ever worked for -- in
25 a jail or a prison?

1 (No one stands)

2 THE COURT: No one stands. Has any member of the jury
3 panel ever volunteered to be a volunteer to do volunteer
4 work in a jail or prison? If so, please stand.

5 (No one stands)

6 THE COURT: Thank you. No one stands.

7 Any member of the jury panel had any law enforcement or
8 legal training? If so, please stand.

9 THE COURT: We'll start with 208?

10 JUROR: Yes, sir.

11 THE COURT: Would that fact affect your ability to be
12 fair and impartial?

13 JUROR: No, sir.

14 THE COURT: Thank you.

15 Yes, sir. Your number?

16 JUROR: 18. 18.

17 THE COURT: And how -- what type of training?

18 JUROR: Military police.

19 THE COURT: Would that fact affect your ability to be
20 fair and impartial?

21 JUROR: No.

22 THE COURT: Thank you. You may be seated.

23 Yes, sir, Your number?

24 JUROR: Number 35. I'm an attorney.

25 THE COURT: Would that fact affect your ability to be

1 fair and impartial?

2 JUROR: No, sir.

3 THE COURT: Thank you. You may be seated.

4 JUROR: 64. I'm an attorney. No, I don't think it
5 would.

6 THE COURT: Thank you. You may be seated.

7 Has any member of the jury panel ever sought employment
8 as a law enforcement officer or a prison official? If
9 you've already answered the question you've been employed,
10 have you sought employment? If so, please stand.

11 (No one stands)

12 THE COURT: Thank you. No one stands.

13 Is there any member of the jury panel, either you or
14 immediate family member or acquaintance -- or have
15 acquaintance with an attorney who practices criminal defense
16 work? If so, please stand.

17 THE COURT: Mr. 208, would that affect your ability to
18 be fair and impartial in this case?

19 JUROR: No, sir.

20 THE COURT: Thank you. Is there any member of the jury
21 panel have any belief, religious or otherwise, that would
22 prevent you from entering judgment against another person?
23 If so, please stand.

24 THE COURT: Yes, sir. Your number?

25 JUROR: 64.

1 THE COURT: Yes.

2 JUROR: I'm a pastor also and it would affect my
3 ability, I think.

4 THE COURT: It would affect?

5 JUROR: Yes.

6 THE COURT: All right. Number 64, then, you are
7 excused in this particular case.

8 Potential witnesses in this case are Brandy R. Werner
9 from the Drug Enforcement Unit; Josh Hines from the York
10 County Sheriff's Office; Jimmy Styles formerly York County
11 Sheriff's Office.

12 Any member of the jury panel related by blood or
13 marriage or have any type close personal, business, or
14 professional relationship with any of those potential
15 witnesses, then please stand.

16 (No one stands)

17 THE COURT: Further potential witnesses are Tabitha
18 Peterson; Barbie Traylor of York County Sheriff's Office;
19 Cynthia Mitchum of the York County Sheriff's Office.

20 Any member of the jury panel related by blood or
21 marriage, have a close personal, professional, or business
22 relationship with any of those potential witnesses, then
23 please stand.

24 (No one stands)

25 THE COURT: Thank you. No one stands.

1 Has any member of the jury panel formed or expressed an
2 opinion about any issue or matter involved in this case? If
3 so, please stand.

4 (No one stands)

5 THE COURT: Thank you. No one stands.

6 Is there any member of the jury panel aware of any bias
7 or prejudice toward either the State or the defendant? If
8 you're aware of any bias or prejudice to the State or the
9 Defendant in this case, then please stand.

10 (No one stands)

11 THE COURT: Thank you. No one stands.

12 Does any member of the jury panel know of any reason,
13 any reason whatsoever, why he or she should not serve as a
14 juror in this case, with particular emphasis being placed on
15 your ability to be fair and impartial to both the State and
16 the defendant? If so, please stand.

17 THE COURT: Yes, sir. Your number again?

18 JUROR: Number 18.

19 THE COURT: I'm sorry?

20 JUROR: 18.

21 THE COURT: Lawyers -- let me talk with -- if you'll
22 come up, Mr. Baxley, we'll talk to you more privately.

23 (Whereupon, the juror approached, along with counsel.)

24 THE COURT: Yes, sir.

25 JUROR: I have a brother, when I was about one-year

1 old, who died from an overdose on drugs, was thrown in the
2 back of a police car and he died in his own vomit.

3 THE COURT: All right. Would that fact affect your
4 ability to be fair and impartial to both the State and the
5 defense in this case?

6 JUROR: Possibly.

7 THE COURT: The question was is there any reason why
8 you would not be fair and impartial?

9 JUROR: Because of that.

10 THE COURT: Okay; all right. We'll excuse number 18.
11 You're excused in this case. Thank you. Hold on, ma'am.
12 You can have a seat.

13 THE COURT: Juror number 192, Mr. Odom, would you come
14 forward. Juror 192, Donnie -- okay. He's coming up here.

15 (Whereupon, the juror approached, along with counsel.)

16 THE COURT: You're not in any trouble. Do you know any
17 of the lawyers in this case?

18 JUROR: No.

19 THE COURT: Okay. You're good. That's all we need to
20 know. Thank you. You're all right.

21 Any additional questions from the defense?

22 MS. SEXTON: No, Your Honor.

23 THE COURT: From the State?

24 MS. SMITH: None from the State, Your Honor.

25 THE COURT: All right. Madam Clerk, let's see. Have

1 you provided -- have y'all been provided the list?

2 MS. SMITH: Yes, Your Honor.

3 MS. SEXTON: Yes, sir.

4 THE COURT: All right. The State ready to proceed with
5 jury selection?

6 MS. SMITH: We are, Your Honor.

7 THE COURT: All right. Is the defense ready?

8 MS. SEXTON: Yes, Your Honor.

9 THE COURT: All right. Madam Clerk, give us a jury. I
10 believe the strikes are 5 and 5. Is that correct?

11 THE CLERK: Yes, sir.

12 THE COURT: All right.

13 THE CLERK: When I call your name, if you'll come
14 forward and bring any belongings that you have with you.

15 Number 161, Brooke Malley. What say ye for the State?

16 MS. SMITH: Please present the juror.

17 THE CLERK: And the defense?

18 MS. SEXTON: Please present the juror.

19 THE CLERK: Please have a seat in the jury box.

20 Number 182, Crystal Morrow. What say ye for the State?

21 MS. SMITH: Please excuse the juror.

22 THE CLERK: You're excused from this case.

23 Number 226, Beth Sanders. What say ye for the State?

24 MS. SMITH: Please excuse the juror.

25 THE CLERK: You're excused from this case.

1 Number 96, Danielle Green. What say ye for the State?

2 MS. SMITH: Please present the juror.

3 THE CLERK: And the defense?

4 MS. SEXTON: Please present the juror.

5 THE CLERK: Please have a seat in the jury box.

6 Number 81, Patrick Fox. What say ye for the State?

7 MS. SMITH: Please present the juror.

8 THE CLERK: And the defense?

9 MS. SEXTON: Please present the juror.

10 THE CLERK: Please have a seat in the jury box.

11 Number 91, Lisa Goforth. What say ye for the State?

12 MS. SMITH: Please present the juror.

13 THE CLERK: And the defense?

14 MS. SEXTON: Please present the juror.

15 THE CLERK: Please have a seat in the jury box.

16 Number 52, Ti'ERICA Davis. What say ye for the State?

17 MS. SMITH: Please present the juror.

18 THE CLERK: And the defense?

19 MS. SEXTON: Please present the juror.

20 THE CLERK: Please have a seat in the jury box.

21 Number 30, Amy Broome. What say ye for the State?

22 MS. SMITH: Please present the juror.

23 THE CLERK: And the defense?

24 MS. SEXTON: Please excuse the juror.

25 THE CLERK: You're excused from this case.

1 Number 68, David Drum. What say ye for the State?

2 MS. SMITH: Please excuse the juror.

3 THE CLERK: You're excused from this case.

4 Number 192, Donnie Odom. What say ye for the State?

5 MS. SMITH: Please present the juror?

6 THE CLERK: And the defense?

7 MS. SEXTON: Please present the juror.

8 THE CLERK: Please have a seat in the jury box.

9 Number 63, Todd Domer. What say ye for the State?

10 MS. SMITH: Please present the juror.

11 THE CLERK: And the defense?

12 MS. SEXTON: Please excuse the juror.

13 THE CLERK: You're excused from this case.

14 Number 48, Thomas Culp. What say ye for the State?

15 MS. SMITH: Please present the juror.

16 THE CLERK: And the defense?

17 MS. SEXTON: Please present the juror.

18 THE CLERK: Please have a seat in the jury box.

19 Number 136, Kevin Kavanagh. What say ye for the State?

20 MS. SMITH: Please present the juror.

21 THE CLERK: And the defense?

22 MS. SEXTON: Please present the juror.

23 THE CLERK: Please have a seat in the jury box.

24 Number 70, Emily Easterling. What say ye for the

25 State?

1 MS. SMITH: Please present the juror.

2 THE CLERK: And the defense?

3 MS. SEXTON: Please excuse the juror.

4 THE CLERK: You're excused from this case.

5 Number 112, Keith Herr. What say ye for the State?

6 MS. SMITH: Please excuse the juror.

7 THE CLERK: You're excused from this case.

8 Number 248, William Supplee. What say ye for the

9 State?

10 MS. SMITH: Please present the juror.

11 THE CLERK: And the defense?

12 MS. SEXTON: Please present the juror.

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

14 Number 39, Latoya Chisholm. What say ye for the State?

15 MS. SMITH: Please present the juror.

16 THE CLERK: And the defense?

17 MS. SEXTON: Please present the juror.

18 THE CLERK: Please have a seat in the jury box.

19 Number 195, David Palmiotto. What say ye for the

20 State?

21 MS. SMITH: Please present the juror.

22 THE CLERK: And the defense?

23 MS. SEXTON: Please excuse the juror.

24 THE CLERK: You're excused from this case.

25 Number 126, Tuneeshaw Jepsen. What say ye for the

1 State?

2 MS. SMITH: Please present the juror.

3 THE CLERK: And the defense?

4 MS. SEXTON: Please present the juror.

5 THE CLERK: Please have a seat in the jury box.

6 Number 80, Cassie Folden. What say ye for the State?

7 MS. SMITH: Please present the juror.

8 THE CLERK: And the defense?

9 MS. SEXTON: Please present the juror.

10 THE CLERK: Please have a seat in the jury box.

11 And this will be for the first alternate.

12 Number 35, Jordan Calloway. What say ye for the State?

13 MS. SMITH: Please excuse the juror.

14 THE CLERK: You're excused from this case.

15 Number 260, Matthew Waldrop. What say ye for the

16 State?

17 MS. SMITH: Please present the juror.

18 THE CLERK: And the defense?

19 MS. SEXTON: Please present the juror.

20 THE CLERK: Please have a seat in the jury box.

21 Number 282, Brady Srey. What say ye for the State?

22 MS. SMITH: Please present the juror.

23 THE CLERK: And the defense?

24 MS. SEXTON: Please present the juror.

25 THE CLERK: Please have a seat in the jury box.

1 THE COURT: All right. Now, anything further in regard
2 to the jury selection from the State?

3 MS. SMITH: None from the State, Your Honor.

4 THE COURT: From the defense?

5 MS. SEXTON: None from the defense, Your Honor.

6 THE COURT: All right. Ladies and gentlemen, those of
7 you on the jury panel that were not selected in this
8 particular case -- where do they need to go --

9 THE CLERK: They can go downstairs, but -- if they need
10 to, but they just call tonight after 6:00.

11 THE COURT: Okay. If you've got things down in the big
12 jury assembly room, you're free to go down there and get
13 that. If you don't need to go down there, you're free to
14 leave. Call tonight after 6:00?

15 THE CLERK: Uh-huh.

16 THE COURT: Call tonight after 6:00. You'll get
17 instructions on what we'll need to do the remainder of the
18 week, so call tonight after 6:00. Everyone remain seated
19 while this big panel is excused. Y'all are excused.

20 (Whereupon, the jury pool exited the courtroom at 12:50
21 P.M.)

22 THE COURT: All right. Thank you.

23 Ladies and gentlemen, those of you who've been selected
24 as jurors in this particular case, I'm going to release you
25 in just a moment and have you come back tomorrow morning at

1 9:00. We have matters that -- a number of matters that we
2 will take up outside your presence. You'll not be needed
3 until tomorrow morning at 9:00.

4 In the meantime, you're going to hear me -- I'm going
5 to give you this instruction and you're going to hear this
6 throughout the case. You're not to talk about the case.
7 You're not to form an opinion about the case. You're not to
8 do any independent research on anything about this case, the
9 people, the lawyers, the law, any of that. You're not
10 allowed to do that, not permitted to do that while you're
11 out, not to discuss the case and there's a reason behind
12 that. The reason is you've been selected as jurors to be
13 fair and impartial jurors to both the State and the defense.
14 The only way you can do that is if you are -- and you're to
15 base that, your ultimate decision on the case, on what you
16 see and hear in this courtroom. That's where the evidence
17 is going to be presented. That's where you'll hear
18 testimony, you'll see evidence. The law -- the Court will
19 instruct you on what the particular law is in the case.
20 Once all of that is done, then you can begin to form -- then
21 you can form an opinion and reach a conclusion of the
22 matter, but until then, you're not to have any conversation
23 with anybody about the case. When you go home tonight,
24 there'll be people you stay with, it might be very tempting
25 to get into some discussion about the facts -- what you

1 think the case might be about, what the law is. You're not
2 allowed to do that. Do not do that. Even when you're in
3 your jury room, you're not to discuss it among yourselves at
4 all, until all of the evidence is in, in the case. Again,
5 that is the only way that you can keep your oath of being
6 fair and impartial to both the defense and the State in the
7 case in reaching a conclusion to the matter.

8 Tomorrow morning when you come in, the bailiffs will
9 tell you where you need to be. We hope to be starting
10 promptly around 9:00 o'clock tomorrow morning. We generally
11 go for about an hour or hour and a half before we take a
12 break, but I give you some instructions. Tomorrow, anytime
13 you need a break you can raise your hand and we'll promptly
14 take a break and let you take that as needed.

15 When you come back in tomorrow morning, feel free to
16 bring water with you. I ask that you not bring soft drinks
17 or coffee with you. We have all of that water available to
18 us. We this is a relatively new courtroom. It still looks
19 pretty good. We'd like to maintain that. Water won't
20 damage that. Soft drinks and coffee spilling sometimes
21 create problems. It lasts a long, long time. So just feel
22 free to come in, bring water with you.

23 When you come back in tomorrow, throughout the trial,
24 you can sit wherever you want, except the two alternates.
25 Y'all keep these two seats that you're in today. You'll

1 keep those throughout the trial. The rest of you can sit
2 wherever you feel like sitting.

3 At some point tomorrow, I will ask that you elect a
4 foreperson among yourselves. I'll give you some
5 instructions on that. Once that is done, the foreperson
6 would take this end seat on the front throughout the
7 remainder of the trial. Other than that, you can sit where
8 you want.

9 Enjoy your afternoon off. Again, don't discuss the
10 case. Tomorrow morning when you come in at 9:00, we will
11 swear you in and we will begin the case. We hope that we
12 will be through some time on Wednesday at the latest. So
13 with that, I'm going to allow you to leave. Be ready, be
14 back at 9:00 o'clock tomorrow morning. Everyone remain
15 seated while this jury panel is excused. Y'all can go.

16 (Whereupon, the jury panel exited the courtroom at
17 12:55 P.M.)

18 THE COURT: All right. It's about 5 to 1:00. Let's
19 break for lunch and we'll come back. I think they had a
20 plea that I needed to do at 2:00 involving some victims.
21 Once we finish that, we'll go through the pretrial motions
22 and then we'll start with openings tomorrow morning.

23 Does that fit everybody's schedule? We all on the same
24 page?

25 MS. SEXTON: Yes, Your Honor.

1 MS. SMITH: Yes, Your Honor.

2 THE COURT: All right. Anything else.

3 MS. SMITH: If pretrial ends early enough, are you
4 wanting to take some extra pleas after pretrial?

5 THE COURT: Yes. Yes.

6 MS. SMITH: I'll let the office know.

7 THE COURT: All right. We'll be at ease until two
8 fifteen -- well, 2:00 o'clock. I'll be back at 2:00. Well,
9 assuming Dan Porter has something at 2:00, take care of
10 that. All right. Everybody be back at 2:00.

11 (Whereupon, the proceeding was recessed at 12:58 P.M.
12 for lunch and reconvened at 2:21 P.M.)

13 THE COURT: Okay. All right. The State ready to
14 proceed?

15 MS. SMITH: We are, Your Honor.

16 THE COURT: Defense ready?

17 MS. SEXTON: Yes, Your Honor.

18 THE COURT: All right. We're back on the record in
19 2021-GS-46-06011, *The State versus Octavius Currence*. Mr.
20 Currence is before the Court on an indictment for
21 distribution of Fentanyl, in which he's entered a plea of
22 not guilty. The jury has been selected and sent home 'til
23 in the morning. And the next matter before the Court are --
24 it appears to be defendant's pretrial motions. Let's just
25 go down through them one at a time.

1 Ms. Smith, you received a copy of those?

2 MS. SMITH: I did, Your Honor.

3 THE COURT: All right.

4 MS. SEXTON: The only thing, Your Honor, I think my --
5 the motion to sequester the witnesses is a little further
6 down the motion list. So I would ask that we sequester
7 whatever witnesses during pretrial as well.

8 THE COURT: I don't know that I've ever sequestered
9 witnesses for pretrial.

10 MS. SMITH: Your Honor, the only witness we have here
11 is Brandy Werner. She's the case agent and she's entitled
12 under the statute to be here.

13 THE COURT: Right.

14 MS. SEXTON: Okay.

15 THE COURT: Okay. All right. Then that doesn't apply.

16 MS. SMITH: We'd ask to, in response to that, I know
17 the defense said they do not have any witnesses, but if
18 there are any potential witnesses that could come up, we
19 would ask that their witnesses also be sequestered.

20 THE COURT: Well, they've indicated that there are no
21 witnesses. The State -- I mean, the Court read the list of
22 potential witnesses, there were none on there. If that
23 changes, then they would not likely be allowed to testify
24 because we didn't have an opportunity to determine this jury
25 panel about whether relationship -- but we'll deal with that

1 if we have to, but certainly if there are any potential
2 witnesses, -- well, we won't even deal with that. That
3 wasn't even an issue.

4 All right. Let's start with number 1. The State's
5 position on the motion to reveal record and the warrants
6 rescinded for the confidential informant?

7 MS. SMITH: Your Honor, we have not rescinded any
8 warrants for the confidential informant. Also, the next
9 question, the confidential informant was not paid. As to
10 immunity, she was not granted any immunity. We have
11 provided the email that her attorney sent to me conveying
12 the potential plea offer that he communicated to his client.
13 That was a possible plea offer. And this case is a little
14 bit different. The defendant -- it was relayed to me early
15 on that the defendant wanted to plea. At that time, I
16 arranged for the defendant to plea one day that week and
17 the CI to plead later on in the week. The defendant decided
18 not to plead, but the attorney for the CI had already
19 communicated a possible plea to the CI. So we have turned
20 over the exact wording that the attorney provided to me,
21 which is what he communicated to the CI.

22 THE COURT: Ms. Sexton?

23 MS. SEXTON: Your Honor, and we would -- we have quite
24 of a different type view on that. My client had said that
25 he didn't want to take the plea before. In fact, it was in

1 September when he came before Your Honor to reject the plea.
2 I think the email with the confidential informant's attorney
3 and Ms. Smith was sometime in November, after my client had
4 already indicated on the record that he did not want to
5 plea. He rejected the offer on the record.

6 MS. SMITH: Your Honor, the email was sent --

7 THE COURT: Hold on a minute. The question simply is
8 what's -- what was the benefit -- simply put, what was the
9 benefit to the individual who agreed to act as an informant.
10 The State's indicated they didn't give her any -- didn't
11 make any -- there's no benefit. Is that right?

12 MS. SMITH: It says a possible plea. So I can agree
13 there weren't any --

14 THE COURT: Well, that's the defense attorney. Did the
15 State agree to what was in the -- are you telling the Court
16 that the State agreed to that --

17 MS. SMITH: Yes. There's a --

18 THE COURT: Well, let me see that.

19 MS. SMITH: Okay. Also, as far as the date is
20 concerned on this, this email was only created in
21 preparation for trial. This conversation did happen before
22 the defendant -- the same week the defendant rejected.

23 (Whereupon, Ms. Smith handed the referenced item to the
24 Court.)

25 THE COURT: Well, all I'm concerned about is where we

1 are today.

2 (Whereupon, the Court reviewed the referenced item.)

3 THE COURT: I don't -- you're going to have to explain
4 to the Court what that means.

5 MS. SMITH: So --

6 THE COURT: All right. We've got a -- the State has
7 indicated that the informant was not paid, that there was no
8 deal as far as the informant and so I guess the informant,
9 out of the goodness of their heart, decided that they would
10 act as an informant. I'm not saying people don't do that.
11 Is that where we are?

12 MS. SMITH: Your Honor, had this defendant pled, these
13 are the terms that the CI would have pled to that week.

14 THE COURT: All right. Explain to me -- I couldn't
15 quite interpret those terms.

16 MS. SMITH: This email came from Mark McKinnon, so I
17 understand. So she was originally charged with a domestic
18 violence 1st degree. Had the defendant pled, she would have
19 pled to a DV 3rd. She is also charged with possession with
20 intent to distribute Fentanyl 1st offense. Had he pled, she
21 would have pled to a possession 1st for time served.

22 THE COURT: All right. And that was the defendant's
23 attorney's -- that was the informant's attorney's email.
24 Did the State agree that that would be the terms of a plea
25 if they acted as --

1 MS. SMITH: I said that is what she would possibly get,
2 which is how he words it here, but had he pled, that's what
3 she would have gotten.

4 THE COURT: Well, I guess I'm curious. The question,
5 generally, is what was the deal before the person acted as
6 an informant. What you're telling me today ---

7 MS. SMITH: There was none.

8 THE COURT: Okay. There was none. That's an important
9 thing for today that -- what you're telling me today, after
10 the person accomplished the act of the informant and the
11 question is was she promised anything? Was there anything
12 in exchange? And you've indicated to the Court that there
13 was nothing in exchange for the informant doing that. What
14 you've presented to the Court simply is part of plea
15 negotiations about whether she would plea or not and I
16 assume not whether she was going to be willing to testify or
17 not.

18 MS. SMITH: Correct.

19 MS. SEXTON: Your Honor, our position is that the
20 charges that the CI has that are going to be reduced, the
21 domestic violence 1st, the possession with intent to
22 distribute Fentanyl, that -- those charges were reduced
23 because of -- in connection with my client pleading guilty.
24 So the reward and a offer was already out there. As I said,
25 my client rejected the offer for, like, the third or fourth

1 time in September and the email that Mr. McKinnon sent on
2 September 19th, he wrote down what they talked about and he
3 also said that he likely paraphrase -- paraphrased it to
4 his client the same way. So it's our position that there
5 was an award that was out there for the CI if my client pled
6 guilty, for the work that she'd done to bring the charges
7 about.

8 THE COURT: Well, the question, generally, is what was
9 the initial agreement that would entice an informant to
10 perform a task. Now we're simply -- what y'all are talking
11 about is whether the informant is going to testify or not,
12 which is -- but she's laid it all out there regardless of
13 the answer to the question. They said there wasn't
14 anything. There was nothing exchanged, no benefit to her
15 acting as an informant at the time in which she bought --
16 that was used as an informant and allegedly bought the
17 drugs. That's what they put here in court; right? Are we
18 on the same page?

19 MS. SEXTON: Give me one second, Your Honor.

20 THE COURT: All right.

21 MS. SEXTON: Your Honor, our position is, and we want
22 to clarify, the email indicates that she had already spent
23 two summers in prison; right? So we want to clarify that
24 the deal is based on all the work that she's done. That she
25 -- whether or not she's still getting this deal, whether or

1 not the domestic violence in the 1st degree, whether that is
2 going to a domestic violence 3rd degree. We want to clarify
3 whether or not the possession with intent to deliver -- I'm
4 sorry -- possession with intent to distribute the Fentanyl,
5 whether or not it's going to a simple possession. So we
6 need the State to clarify if that's the deal as of right
7 now.

8 THE COURT: All right. Is there anything else you need
9 to clarify as far as the deal?

10 MS. SMITH: Your Honor, when the defendant chose not to
11 plea, all plea negotiations with the CI were ceased.

12 THE COURT: Okay; all right. Well, she's -- I find
13 that the State has complied with the motion for them to
14 reveal on the record any and all, basically, information
15 that was either given or promised to the confidential
16 informant.

17 All right. Let's move on, number 2.

18 MS. SMITH: Your Honor, would you like me to start or
19 would you like --

20 THE COURT: Yes.

21 MS. SMITH: Okay. As far as the text messages in this
22 case, they were brought out about by the confidential
23 informant. She reaches out to the defendant and asks for
24 these drugs. He agrees and they come up with a place to
25 meet. These go to the elements of the crime of distribution

1 that he is charged with.

2 In *Ostrowski*, Ostrowski was charged with trafficking.
3 Text messages about how he's a drug dealer do not go to the
4 elements of trafficking. As you know, trafficking is simple
5 possession.

6 In a distribution case, these text messages would go to
7 the elements of the crime, because he is setting up -- or
8 the CI is setting up the actual crime with the defendant.
9 So we would argue that this is different from *Ostrowski* and
10 that they do get to come in.

11 THE COURT: All right. Ms. Sexton.

12 MS. SEXTON: Okay. Your Honor, our position is that,
13 for one, these text messages, there's no way to tell who
14 these text messages are from. The only person communicating
15 in these text messages is the alleged confidential
16 informant. From the picture that we have of the -- and it's
17 not really even a text message, it's from a Facebook page
18 and we don't know who the owner is of this Facebook page.
19 There's no date on this printout. We don't have the phone,
20 Your Honor, or whatever -- or access to whatever page this
21 is. There's a picture that's alleged, that the State is
22 alleging is my client. A picture of, I think, a kid with a
23 teddy bear and there's no way to -- for the State to connect
24 my client with this Facebook page or the confidential
25 informant at the time. There's no dates, Your Honor.

1 MS. SMITH: Your Honor, in response to that, we do have
2 the CI who will be testifying. This is her phone the
3 pictures are taken of. The -- he -- the defendant brings
4 the exact amount --

5 THE COURT: All right. Let me see the pictures. I
6 need some context.

7 (Whereupon, Ms. Smith handed the referenced items to
8 the Court.)

9 MS. SMITH: It's three pictures. It's a running
10 conversation. He brings the exact amount that are
11 referenced in the text message. He also uses language,
12 talking about ice cream that the CI asks for in the buy
13 video. That would connect him as well.

14 As far as timing is concerned, she reaches out to the
15 defendant and shortly thereafter this deal takes place. It
16 takes place as the text messages describe.

17 MS. SEXTON: Your Honor, the only references to any ice
18 cream or any type of drug deal, is from the person that's
19 going to benefit from this situation. There's no
20 confirmation from this alleged Facebook page that they're
21 alleging that my client had at that particular time. There
22 is no -- no confirmation of anything within this -- within
23 those Facebook pages that my client confirms bringing ice
24 cream or confirms to bring anything in which the CI, who
25 would benefit from this, indicated that she requested. So

1 the conversation is truly one way.

2 THE COURT: All right. Well, I'm going to deny the
3 motion to exclude them. The three -- the three pictures
4 have been provided to the Court. The informant certainly --
5 the State has indicated that the informant testified this
6 was part of a conversation she was having with the defendant
7 to set up the deal and it was back and forth. She can state
8 in her own mind who she believes she's talking to,
9 conversations she had had with them. Certainly, that can be
10 -- she can be cross-examined on that, but I deny your
11 motion, I'll let those in.

12 All right. What's next?

13 MS. SMITH: Your Honor, the next is a motion to quash
14 the indictment. It appears that --

15 THE COURT: Now, hold on. What's about testimony of
16 DE Agent Werner?

17 MS. SMITH: I believe she's referring to the reference
18 to ice cream. We talked when we met with you about ---

19 THE COURT: Okay.

20 MS. SMITH: ---redactions, but this part of their
21 motions could determine what was redacted and what wasn't.

22 THE COURT: All right. So that was number 8 on the
23 list of items that provided and I indicated preliminarily
24 that we would let in. Okay.

25 MS. SMITH: Yes, sir.

1 THE COURT: We've dealt -- already dealt with that. Go
2 ahead.

3 MS. SMITH: Okay. The motion to quash the indictment.
4 It appears that the issue with the indictment they're
5 talking about is in respect to subsection (E) of the
6 statute. That deals with sentencing. That does not go to
7 the elements of the crime of distribution of Fentanyl. The
8 language in the indictment puts him well on notice as to the
9 elements that he is going to have to answer to at trial.

10 In addition, we did cover his sentencing in the offer
11 rejection. So he was on notice of that as well, but
12 regardless, an indictment is not quashed because it does not
13 reference the sentencing for the actual crime.

14 THE COURT: Ms. Sexton?

15 MS. SEXTON: And, Your Honor, we understand that, but
16 we're looking at the four corners of the indictment. We're
17 looking at it as if my client was able to pick up the
18 indictment and determine what he would be sentenced to.
19 And, Your Honor, from our view, the indictment itself would
20 need to read in a way that Your Honor would know what
21 penalties or what punishment that he needed to impose.
22 Certainly, we're raising this motion right now. If things
23 don't go in our favor, we'll raise it again at sentencing,
24 but we feel like the indictment should be squashed -- should
25 be quashed because of the notice -- because the notice of

1 the penalties is not there.

2 THE COURT: All right. I deny your motion to quash the
3 indictment based on that. The indictment -- I have the
4 doc- -- the indictment in front of me. Yes, it doesn't --
5 it does not include the penalty provision; however, the
6 Court's experience is 99 percent of all indictments don't
7 have any penalty provision and they're not required to put
8 those in there. So I deny your motion to quash the
9 indictment.

10 All right. Let's go to Number 4.

11 MS. SMITH: Your Honor, I believe that we dealt with
12 this in chambers as far as redacting the video. I did
13 redact it to the parts that we agreed on in Chambers and to
14 the parts that you ruled on in chambers. Earlier today I
15 listened -- I watched the whole video in its entirety to
16 make sure that those redactions were done. They were all
17 done except for the one "goddamn" reference. That is being
18 corrected. The only problem with that was that's a one-
19 second statement and it was hard for IT to get it out, but
20 they are getting it out and the video that will be presented
21 at trial will have all the redactions that we agreed on and
22 the ones that you ruled on.

23 THE COURT: All right. Anything in regards to that,
24 Ms. --

25 MS. SEXTON: No. Your Honor, we would just renew our

1 motion on those redactions. We feel like that those -- that
2 the -- the parts that were not redacted, that it speaks to
3 future crimes and it speaks to, basically, the person who
4 would benefit from this situation. She's throwing out ice
5 cream. She's throwing out all these things, Your Honor, and
6 you don't hear a response from -- from my client.

7 THE COURT: All right.

8 MS. SEXTON: So we would say that it's highly
9 prejudicial to my client and we would renew our motion for
10 it to be excluded.

11 THE COURT: All right. And I don't think we've had a
12 formal motion until today.

13 Solicitor, I think in our discussion, do you have a
14 copy that you can make the Court's Exhibit---

15 MS. SMITH: I do have --

16 THE COURT: ---of what I was shown on Friday? Okay.
17 Let's have that marked Court's Exhibit so the record to be
18 clear on what we've done. Hand it to Shannon; she'll mark
19 it. What -- the Court met with the prosecutor and the
20 defense attorney Friday and we -- I reviewed Court's Exhibit
21 1, which is the defense request for the following to be
22 redacted on the video. There are 10 different requests for
23 redaction. Number 1, it appeared there was an agreement on
24 whether -- there was no -- there was nothing for the Court
25 to decide on number 1.

1 Number 2, the Court was asked to decide; the Court
2 finds that the number 2 request talking to
3 someone saying baby something, Tabitha talking on the phone
4 to someone saying that, "Baby, something came up. You can
5 still go to church with the kids." The Court ruled that's
6 not relevant. That's not admissible.

7 Number 3, Tabitha saying thank God I have good
8 friends. The Court finds that's not relevant and that's not
9 admissible. That needs to be redacted.

10 Number 4 was the defendant saying he had to meet
11 someone at Walmart is relevant. That is admissible.

12 Number 5, the taking the Lord's name in vain by Mr.
13 Currence, the Court found that's not relevant and would not
14 be admitted.

15 Number 6, Tabitha saying, "Let me know when you get
16 straight with that ice." Currence then saying, "Most
17 definitely will let you know." The Court has determined
18 that is relevant and allow that in.

19 Number 7, is -- I think that was being withdrawn.

20 Number 8, Tabitha on the phone saying she told him let
21 me know about the ice cream. The Court finds that that is
22 relevant and allow that in. I believe number 9 and number
23 10, there was agreement on that. Does that state to the
24 Court what we did on Friday?

25 MS. SMITH: Yes, sir.

1 MS. SEXTON: Yes. Yes, Your Honor.

2 THE COURT: All right. Well, that'll be -- the Court
3 continues to stand by that ruling. That'll be made part of
4 the record.

5 All right. Number 5.

6 MS. SMITH: I believe we've already covered that. That
7 looks like it is the plea bargain's two testifying
8 witnesses. The only person with an open case would be the
9 CI. Everybody else is law enforcement and we have covered
10 the negotiations.

11 THE COURT: Do you wish to be heard on that, Ms.
12 Sexton?

13 MS. SEXTON: Your Honor, I do wish to be heard in that
14 we need to know -- there's an outstanding warrant for a
15 confidential informant for trafficking in Schedule II
16 narcotics. That warrant is still there. Now, the
17 information that we got from the Solicitor is that it's
18 possession with the intent to distribute. So we just need
19 to know what exactly the charge is.

20 MS. SMITH: Your Honor, the charge was made prior to a
21 drug report. She was originally charged with trafficking
22 Oxycodone. The drugs came back as Fentanyl. At the time
23 there was no trafficking in Fentanyl. She was -- she would
24 go forward on possession with intent to distribute Fentanyl
25 1st offense. That's what we previously have told the

1 defense about.

2 THE COURT: So that -- so you're revealing on the
3 record the plea bargain involving what was originally a
4 trafficking charge, which is now a PWID?

5 MS. SMITH: Your Honor, that would not be part of a
6 plea bargain. The trafficking charge was for a different
7 drug altogether. It came back as Fentanyl. So I would not
8 be able to go forward on that charge, even if I wanted to,
9 because that is the incorrect charge. So that is not part
10 of a plea bargain.

11 THE COURT: Okay. Fine. That's the proper answer to
12 the question. All right. Anything else on Number 5?

13 MS. SEXTON: No, Your Honor.

14 THE COURT: Number 6. State, Ms. Smith?

15 MS. SMITH: Your Honor, we do not know of any
16 additional statements that would be any different than what
17 she has.

18 THE COURT: Do you wish to be heard on that, Ms.
19 Sexton?

20 MS. SEXTON: No, Your Honor.

21 THE COURT: All right.

22 MS. SEXTON: Just state for the record that there is no
23 additional statement for the records and we're fine with
24 that.

25 THE COURT: All right. Number 7.

1 MS. SMITH: Your Honor, I have provided the criminal
2 record for the confidential informant. Everybody else is in
3 law enforcement or employed by the sheriff's office. They
4 do not have records, but if you would like me to confirm
5 that, I can.

6 THE COURT: Ms. Sexton?

7 MS. SMITH: Your Honor, the State provided us with a,
8 just a mere Word document that indicated what her prior
9 charge was as well as what her current charges are. We
10 never got an NCIC, so we're requesting that the State turn
11 over a NCIC on the confidential informant.

12 THE COURT: All right.

13 MS. SMITH: Your Honor, we're not allowed to turn over
14 NCIC. That is their own policy, NCIC's policy. If we were
15 to turn that over, we would lose our NCIC accreditation and
16 no one would be able to run raps within our office. I have
17 turned over her one criminal conviction. Her -- she is
18 represented by an attorney in their office. He has received
19 her rap because it belongs to her. So they have -- if they
20 have any questions as to me revealing the correct rap sheet,
21 they can go to him and ask him if there's anything
22 additional in the NCIC, but I cannot turn over NCIC to
23 people that it does not belong to. We will lose all
24 accreditation with NCIC if we do that.

25 MS. SEXTON: And, Your Honor, he's not going to turn

1 that over to us. If they can -- if the State would just let
2 us see it. They don't have to turn it over physically, but
3 if the State would be willing just to let us see what her
4 NCIC is to see what charges are out there.

5 THE COURT: Well, her NCIC has been released to another
6 attorney. Without getting into the requirements of the
7 NCIC, it seems to me like she has the authority to tell her
8 attorney, show them my record. I mean, is she willing to do
9 that?

10 MS. SMITH: Your Honor, it's my understanding from
11 talking to her attorney, which in Mark McKinnon, that she
12 does not want to have any contact with the defense, but they
13 -- but they can ask him.

14 THE COURT: Well, Mr. McKinnon can't turn it over when
15 his client says don't -- I don't want them to see it.
16 That's not Mr. McKinnon's call. If the client's saying I
17 don't want them to see it, at least in the context of what
18 -- another attorney, he doesn't have the liberty to just
19 hand them the NCIC.

20 MS. SMITH: Correct.

21 THE COURT: Well, I guess we're getting into the issue
22 of what is a criminal record. You said you've given her the
23 convictions, all of her convictions?

24 MS. SMITH: Yes, sir. She only has one conviction and
25 then the other charges on her record are the ones that I've

1 also given over. They have no disposition because she has
2 not pled.

3 THE COURT: Okay. But as far as any past record?

4 MS. SMITH: She has one conviction as her past record.
5 I'll have to look at my computer. And that has been turned
6 over.

7 THE COURT: All right. And I'm not -- I'm just --
8 sometimes prosecutors come to court and the judge says, give
9 me their record and they spend 20 minutes talking about 10
10 arrests in other states and here and there are no
11 convictions, but they argue that's the record. Here, the
12 record is convictions. My question simply is, are there
13 other arrests without a conviction on her record?

14 MS. SMITH: Everything on her record has a disposition,
15 except for the ones that are pending---

16 THE COURT: Okay.

17 MS. SMITH: ---as part of this case.

18 THE COURT: All right. Well, then they've provided it.
19 They've indicated they've provided the answer to all that.

20 MS. SEXTON: Okay. Can you repeat what you said,
21 because I'm not sure if she said they all had a disposition.

22 THE COURT: Well, let me make it -- the Court needs to
23 be sure they understand. The Court's understanding is that
24 they have provided you with everything where she has a
25 conviction. In addition, the only other charges that are on

1 that record, past or present, are the ones that you are
2 aware of that are still pending in this circuit. Am I
3 correct? Is that the right way to understand it, Solicitor?

4 MS. SMITH: Yes, Your Honor.

5 THE COURT: All right.

6 MS. SEXTON: And, Your Honor, our position is that
7 there could be other charges that's not pending in this
8 circuit, in which --

9 THE COURT: Well, and she says there's nothing else
10 pending and that's where they're the keeper of the gate and
11 we -- that's the way the rules are. So they've complied
12 with Number 7.

13 All right. Number 8. Any potential impeachment of the
14 defendant should he decide to testify. Generally, y'all
15 have already provided that to him. On the other hand, when
16 the Court -- when we get to the point in the trial and the
17 Court informs him of his right not to testify, then the
18 State has to go through their list of impeachable offenses,
19 if any.

20 MS. SMITH: Your Honor, can we briefly go back to
21 Number 7, just so I can have some clarity?

22 THE COURT: Yes.

23 MS. SMITH: She lists the law enforcement officers.
24 Would you like for me to run that?

25 THE COURT: No. I -- the Court doesn't need to be

1 satisfied that the---

2 MS. SMITH: Okay.

3 THE COURT: ---law enforcement officers in York County
4 don't have criminal records.

5 MS. SMITH: Perfect. As far as number 8 is concerned,
6 he does have a failure to stop, which is within the 10
7 years.

8 THE COURT: Okay. And certainly that would be limited
9 to an offense that carries more than a year. The question
10 would simply be isn't it true you've been convicted of a
11 crime that carries more than one year. All right. That's
12 Number 8.

13 Number 9.

14 MS. SMITH: Yes, Your Honor. We would verify that we
15 have provided all *Brady* material as far as this case is
16 concerned. He does have other pending distributions. Those
17 -- that CI information and those videos have not been
18 provided to the defendant, though the -- his attorney has
19 seen those, but as far as this case, and only this case,
20 they have *Brady* on everything in this case.

21 THE COURT: Ms. Sexton.

22 MS. SEXTON: Your Honor, if the State is verifying on
23 the record that they provided all discovery information,
24 then, okay.

25 THE COURT: You've seen the video. You have a copy of

1 the video?

2 MS. SEXTON: I do, Your Honor.

3 THE COURT: All right. And your client has seen the
4 video as well?

5 MS. SEXTON: Yes, Your Honor.

6 THE COURT: All right.

7 MS. SEXTON: There is another matter, Your Honor, that
8 I'm not sure if it's listed on a motion or not, but we would
9 request that the State reveal any and all *Lyle*, any and all
10 prior bad acts that they're going to use at trial.

11 THE COURT: All right.

12 MS. SMITH: Your Honor, I don't believe we could get
13 into that, nor do we have any. We would not be getting into
14 any of the other distributions that he did. I assume that's
15 what she's referencing. I don't believe that those come in.

16 THE COURT: Yeah. I mean, just cursory analysis is
17 that they're not admissible.

18 MS. SMITH: No.

19 THE COURT: If he's got other pending -- pending drug
20 charges, they're not admissible. The only thing that
21 they've indicated that they could potentially use would be a
22 failure to stop for a blue light. That would be the only
23 thing that he has to decide whether he's going to testify or
24 not, whether he's going to be cross-examined as to -- and be
25 impeached and the only thing on his record is a failure to

1 stop for a blue light and that's a very limited question.

2 MS. SEXTON: And we would also ask, Your Honor, that
3 any testimony -- since he has not been convicted on any
4 prior charges, we're asking that any testimony that the
5 confidential informant knows him as a drug dealer, knows him
6 to be someone who sells drugs, we're asking that that
7 testimony be excluded under Rule 404, that it would be
8 highly prejudicial to my client.

9 THE COURT: We're taking this as a motion in limine to
10 exclude any testimony from the informant about her knowledge
11 of the defendant's drug dealing or past drug dealing.

12 Solicitor, do you want to respond to that?

13 MS. SMITH: Your Honor, the informant has been
14 instructed to only testify as to this incident. She is not
15 to testify to any prior knowledge or any knowledge after the
16 fact of the defendant being a drug dealer.

17 THE COURT: All right.

18 MS. SEXTON: Okay. And, Your Honor, we would extend
19 that also to Officer Werner or any other witnesses that are
20 testify, that any type of prior acts or investigations that
21 they not be testified to in this particular matter.

22 THE COURT: All right. And, Solicitor?

23 MS. SMITH: I've instructed them as to the same thing.

24 THE COURT: All right. Thank you.

25 MS. SEXTON: Give me one second, Your Honor.

1 THE COURT: All right. Is that it? That moves us down
2 to the sequestering witnesses. The Court will sequester all
3 witnesses except the case agent, who will be allowed to be
4 present throughout the course of the trial. Any other
5 pretrial matters?

6 MS. SEXTON: Beg the Court's indulgence, Your Honor.

7 (Whereupon, Ms. Sexton and Ms. Inzerillo conferred of
8 the record.)

9 MS. SEXTON: Your Honor, that is all of the defense
10 pretrial issues at this time, Your Honor.

11 THE COURT: Thank you. Anything else from the State?

12 MS. SMITH: No, Your Honor.

13 THE COURT: All right. Lawyers approach.

14 (Whereupon, a Bench conference was held off the record
15 and out of the hearing of the court reporter.)

16 THE COURT: We're through with all the pretrial.

17 (Whereupon, court was adjourned for the day at 3:44
18 P.M. and reconvened on January 9, 2024 at 9:08 A.M.)

19 (END OF VOLUME I OF III)
20
21
22
23
24
25

STATE OF SOUTH CAROLINA IN THE COURT OF GENERAL SESSIONS
COUNTY OF YORK CASE NUMBER: 2021-GS-46-06011

STATE OF SOUTH CAROLINA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	VOLUME II OF III
OCTAVIUS TREMAIN CURRENCE,	)	
	)	
Defendant.	)	
_____	)	
		January 9, 2024
		York, South Carolina

BEFORE: The Honorable Daniel D. Hall, Judge.

APPEARANCES:

Ms. Austin Smith
Assistant Solicitor
Ms. Leslie Robinson
Assistant Solicitor
Sixteenth Circuit Solicitor's Office
York, South Carolina

Ms. Deondra Sexton
Assistant Public Defender
Ms. Melissa Inzerillo
Assistant Puublic Defender
Sixteenth Circuit Public Defender's Office
York, South Carolina

Shannon E. McGilberry, CVR-M
Court Reporter

1 THE COURT: All right. We're back on the record in
2 2021-GS-46-06011 *The State versus Octavius Currence*, a
3 trial. He's been indicted for distribution of Fentanyl.

4 Is the State ready to proceed?

5 MS. SMITH: We are, Your Honor.

6 THE COURT: Defense ready?

7 MS. SEXTON: Yes, Your Honor.

8 THE COURT: One thing, I talked to the attorneys at the
9 Bar yesterday briefly about the issue brought up on -- on
10 the -- as to the admissibility, I believe, it was either a
11 text messages or Facebook and the Defense in their motion
12 had cited *State v. Ostrowski*, as a reason to keep that out.
13 Again, I reviewed that overnight. It appears that even in
14 the wording of *Ostrowski* that the facts in that case the --
15 I believe the evidence that was sought to admitted were
16 either text or Facebook messages that were not directly
17 related to the incident and that case indicated that the
18 closer you get in time with those type messages to the
19 particular incident, they raised a legitimate issue about
20 their admissibility. I find that what was presented to the
21 Court, at this point, was that the information that was
22 being -- sought to be admitted via the text message or
23 actually, in essence, we'd call is res gestae, they were
24 part of the -- part of immediately before transaction. I
25 believe there's some during the transaction and some post-

1 transaction. So, again, I stand by my ruling on that.

2 (Whereupon, a Bench conference was held off the record
3 in regard to another matter not pertaining to this trial.)

4 THE COURT: All right. Anything further from the State
5 before we bring the jury in?

6 MS. SMITH: Nothing from the State, Your Honor.

7 THE COURT: From the defense?

8 MS. SEXTON: Nothing from defense.

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

10 (Whereupon, the jury entered the courtroom at 9:14
11 A.M.)

12 THE COURT: All right. Thank you, ladies and
13 gentlemen. I appreciate your promptness this morning. I
14 did get word from the Clerk of Court this morning that juror
15 number 52, Ti'ERICA Davis, called and indicated that she was
16 sick and would not be able to be here, at the earliest, 'til
17 this afternoon so she has been excused from the case. So
18 the alternate, the first alternate, I believe, was Mr. --
19 was juror number 260, Mr. Waldrop. You'll move over, which
20 you've done. You can sit anywhere you wish for the
21 remainder of the trial. You're now one of the 12 jurors and
22 we still have one other alternate.

23 Anything in regards to the dismissing of that juror
24 from the State?

25 MS. SMITH: Nothing from the State, Your Honor.

1 THE COURT: From the defense.

2 MS. SEXTON: Nothing from the defense.

3 THE COURT: Madam Clerk, please swear the jury in.

4 (Whereupon, the jury panel was duly sworn.)

5 THE COURT: Thank you. Ladies and gentlemen, as I
6 stated to you yesterday when we were -- started jury
7 selection that we are about to try the case of *State versus*
8 *Octavius Tremain Currence*. I'm going to give you some
9 preliminary instructions and a general charge, just sort of
10 give you an outline of where we're headed and so listen very
11 carefully. In just a few moments when I finish that, the
12 attorneys will be given an opportunity to make opening
13 statements to you. Those statements are not evidence in the
14 case. They are their contentions about what they believe
15 the case and the facts show; however, that is not the
16 evidence in the case. Once they complete their opening
17 statements, then we will begin to take testimony in the
18 case.

19 After all the testimony and the evidence is in, the
20 attorneys will be given the opportunity to make closing
21 statements to you. Again, that's not evidence in the case,
22 but they're advocating for their particular positions in
23 this case. After the closing statements, closing arguments
24 from the attorneys, I will then charge you on the particular
25 law of the case. That is, I will tell you what the law is

1 that you're to consider. Once I finish the charge at the
2 end of the case, then you'll be allowed to go back to your
3 jury room and deliberate.

4 In the meantime, any time we take a break or any time
5 when we go to lunch or go home tonight and we haven't
6 resolved the case, you're not to discuss the case with
7 anyone. You're not to do any independent research on
8 electronic devices of people, places, the law, anything
9 remotely related to the case. Don't engage in that until
10 the case is over. As I stated to you yesterday, there's a
11 reason for that. The reason is you've taken an oath to be
12 fair and impartial to both the State and the defense. The
13 only -- in reaching a verdict in the case and the only way
14 you can do that is after you have heard all the evidence in
15 the case and that's what's going to be heard here in this
16 courtroom and nowhere else and I charge you on what the law
17 is.

18 The elements of this particular crime will be explained
19 to you later. The indictment is the paper, or the official
20 document, that brings the Defendant into the courtroom. It
21 is not in any sense evidence of any allegations. It is
22 merely a charging document. The burden's on the State to
23 prove their case beyond a reasonable doubt on each element
24 of this -- of the indictment, of the charge. And it will be
25 your duty, ladies and gentlemen, to decide whether the State

1 has met that burden.

2 Your purpose as jurors is to find and determine the
3 facts in the case. You're the sole judges of the facts. If
4 at anytime I make a comment or any comment regarding the
5 facts, you must disregard that comment. You're to determine
6 the facts from the testimony you hear and other evidence
7 that's introduced in court. It's up to you to determine the
8 inferences which you feel may be properly drawn from the
9 evidence.

10 The law that makes you the judges of the facts of the
11 case, makes me the judge of the law. The law that you're
12 going to follow is the law that I give you here in the
13 courtroom and that's the only law that you may consider.
14 You must accept the law and follow it, even though you may
15 not -- you may disagree with it. I cannot tell you what the
16 facts are and you cannot disagree with me about what the law
17 is or should be.

18 If at anytime anyone should approach you or want to try
19 to talk to you about the case before you reach a verdict in
20 the case, one, you need to stop that conversation, let the
21 bailiff know and they'll bring that to the attention of the
22 Court and I'll deal with that appropriately.

23 In just a moment, as I stated to you that the
24 solicitor's going to -- will make an opening statement. The
25 defendant will have an opportunity to make an opening

1 statement, the defense attorney as well, if they wish.

2 From time to time during the trial, because I'm the
3 judge of the law, you might hear the lawyers object. They
4 may stand up or they may say objection, Your Honor. Don't
5 hold that against them. They're doing their job. That's
6 what they're supposed to be doing. When they make
7 objections, however, I may be able to deal with that
8 objection immediately on the spot. On the other hand, I may
9 ask the lawyers to come forward up here to the Bench and
10 talk to them privately about a particular objection or a
11 particular issue in the case. That's because whatever we're
12 talking about would involve an issue of law that's not
13 within your purview to determine. That's something that I
14 would need to do outside your presence.

15 In fact, there may be times when they object and I need
16 to send you out of the courtroom for us to take up matters
17 of law. I assure you whenever you're out of the courtroom
18 -- sometimes those are short, sometimes they're long, but
19 we'll be working to resolve those issues. Once those are
20 resolved, then you'll be brought back in the courtroom to
21 resume the case, but I encourage you and instruct you, don't
22 hold that against the attorneys when they have a question or
23 a matter of law or an objection that needs to be made,
24 they're, in fact, doing what they're supposed to do in
25 representing their particular clients.

1 In determining what the true facts are in the case, you
2 must decide whether or not the testimony of witnesses is
3 believable. Again, it's my responsibility, as a matter of
4 law, to determine whether certain testimony is admissible at
5 all or not. Once the testimony is admitted, whether or not
6 you believe it is solely for you to determine.

7 In deciding whether to believe a witness, you have a
8 right to consider the interest of any witness, the bias of
9 any witness, the prejudice of any witness, the opportunity
10 for the witness to have seen the matters and things about
11 which a witness may testify and the way the witness acts on
12 the stand. You have a right to consider anything that's in
13 the record that will help you to evaluate the testimony of
14 the witnesses. That means it's your duty to pay close
15 attention to your witnesses, listen to them. Pay close
16 attention to the attorneys and the Court. Once -- sometime
17 today -- well, when we take the first break, if you would
18 elect a foreperson from among yourselves. A foreperson has
19 no greater say in the outcome of a particular case, no
20 louder voice in determining the issues in the case. The
21 foreperson is simply someone that the Court needs to
22 communicate with the jury with and someone who will see that
23 the instructions of the Court are carried out. So when we
24 take our first break, if you would just elect a foreperson
25 from among yourselves. The foreperson who's elected, if --

1 there's a pad and paper in the jury room, if you'd write
2 your name and your juror number on that, hand it to the
3 bailiff, they'll bring that -- they'll give that to the
4 Court. When you come back in the courtroom, I'd ask that
5 the foreperson take the end seat on the front row and keep
6 that seat throughout the remainder of the trial.

7 With that, is there anything further as far as
8 preliminary instructions from the State?

9 MS. SMITH: Nothing from the State, Your Honor.

10 THE COURT: From the defense?

11 MS. SEXTON: No, Your Honor.

12 THE COURT: All right. Ladies and gentlemen, we're
13 ready to begin the trial.

14 Ms. Smith.

15 MS. SMITH: Thank you, Your Honor.

16 On February 24th of 2021, a confidential informant gets
17 in touch with the drug enforcement unit of the York County
18 Sheriff's Office and tells them that they can buy drugs from
19 an individual known as Octavius Currence. That individual
20 is this man seated right here. He is the defendant.

21 A confidential informant is somebody who is, basically,
22 undercover. So they come to the drug enforcement unit.
23 Usually, they have been charged with a crime themselves.
24 Usually, it's a drug crime. And in order to try and help
25 themselves, they say I can buy from this other individual.

1 They meet with the drug enforcement unit. That's what
2 happened in this case. This confidential informant, you
3 will hear from her, she messaged the defendant. She told
4 the defendant that she wanted to buy 50 roxies from him,
5 which in this case are Fentanyl pills. She sat up that deal
6 for a location, gave him an address. He agreed to that.
7 She had a vehicle that she was driving. She drove it to the
8 drug enforcement unit. They equipped that vehicle with
9 video surveillance and sound equipment. She got into the
10 vehicle. She drove to the location that they had originally
11 talked about. He isn't there. She calls him. You will
12 hear that phone call. You will hear his voice. He changes
13 the location. He had been at the Walmart previously. He
14 wants to change it to a different location. She agrees to
15 that location and she goes to that location. During this
16 entire time, this whole thing is video recorded and sound
17 recorded. You will get to see the actual video in this
18 case. During that time there are officers with the Drug
19 Enforcement Unit, they are monitoring the scene. She goes
20 to the second location and that is on Shiloh Road, that is
21 the Dollar General parking lot. She pulls into the parking
22 lot. This happens at night where the parking lot is very
23 well lit. You will see the defendant, he opens up the door.
24 He gives her the Fentanyl pills. You will see them in his
25 hand and she gives him the money. You'll see the money in

1 her hand go over to his hand. He then leaves the scene.
2 She drives away from the scene. She gets in touch with the
3 officers who are monitoring the scene, and then she comes
4 back to the drug enforcement unit. They search her at that
5 time. She turns over the drugs that she got from this
6 defendant. They search her to make sure that she has
7 nothing else on her. They also, prior to her going,
8 searched her vehicle and searched her to ensure that there
9 was nothing on her. Then the officer turns the drugs over
10 to the chemist. You'll hear from a chemist. She tests the
11 drugs and they come back as Fentanyl.

12 The defendant in this case is charged with distribution
13 of Fentanyl. That is because he met with this individual.
14 He agreed to sell 50 Fentanyl pills. He went to that scene.
15 He sold the Fentanyl pills to the confidential informant.

16 In order to find him guilty of distribution of
17 Fentanyl, he has to have sold Fentanyl to another
18 individual. That's exactly what you will see on the video
19 today.

20 We ask that you listen to the officers in this case,
21 you listen to the confidential informant, she will come to
22 testify in front of you and we ask, most importantly, that
23 you watch that video. On that video you will see exactly
24 what he is charged with, distribution of Fentanyl. We would
25 ask you at the end of the case, that you find him guilty of

1 distribution of Fentanyl. Thank you.

2 THE COURT: Thank you.

3 Ms. Sexton.

4 MS. SEXTON: Octavius Currence is not guilty. Let me
5 say that again. The evidence will show right here and right
6 now that Octavius Currence is not guilty. The State of
7 South Carolina, they're going to call Tabitha Peterson as a
8 material witness in this case. Tabitha Peterson will walk
9 through those doors, place her hand on this Bible and take
10 that witness stand. One, the evidence is going to show she
11 doesn't want to go to jail. Two, the evidence is going to
12 show she's desperate. Three, the evidence is going to show
13 she can't be trusted and that evidence is going to come from
14 this witness stand. Tabitha Peterson is going to tell you a
15 story that she wants and needs you, the jury, to believe and
16 the evidence is going to show, in the details, why she needs
17 you to believe her.

18 One of the most important concepts of our judicial
19 system is the credibility and believability of a material
20 witness. Credibility and believability, it doesn't sit with
21 the judge. It doesn't sit with the defense and it doesn't
22 sit with the State of South Carolina. It sits with you, you
23 12 jurors.

24 Your duty is to listen to all the evidence in its
25 entirety that's presented during this trial and make a

1 decision that's not influenced by sympathy or prejudice
2 toward anyone and the Judge is going to tell you that later
3 in this trial. Listen and pay close attention to what law
4 enforcement's investigation reveals. See what exhibits the
5 State has admitted for you to review, because we, the
6 defense, we're going to ask a lot of questions, hard
7 questions, detailed questions, because we believe that what
8 you see is just as important as what you don't see. The
9 burden of proof is right here. What do I mean when I say
10 that the State has the burden of proof? That means the
11 State has to prove each and every element, prove that
12 Octavius Currence distributed Fentanyl.

13 Now, the State is going to show you a video and it's
14 going to be all around you, below you on those monitors.
15 It's going to be on the monitors beside you, in front of
16 you. It's going to be all over. And I'm telling you, this
17 video is going to look good on the surface, clear on the
18 surface, unblemished on the surface. And Webster dictionary
19 has defined unblemished as not having a fault, no flaw,
20 perfect, but wait until you see beyond that surface.

21 Ladies, gentlemen, I ask you please focus, study and
22 analyze the images that you see in the video and the images
23 that you don't see and ask yourself why and when you do,
24 you'll see that Octavius Currence is not guilty.

25 THE COURT: Thank you, Ms. Sexton.

1 State, call your first witness.

2 MS. SMITH: Your Honor, the State would call Brandy
3 Werner to the stand.

4 (BRANDY WERNER, being first duly sworn, was examined
5 and testified as follows):

6 DIRECT EXAMINATION

7 BRANDY WERNER BY MS. SMITH:

8 Q. Can you please introduce yourself to the jury?

9 A. My name is Brandy Werner and I've been employed at the
10 sheriff's office for about 12 years now, York County
11 Sheriff's Office.

12 Q. What do you do with the sheriff's office?

13 A. Currently, I'm in the crime suppression unit, which is
14 under the detective division.

15 Q. Were you previously on the drug enforcement unit?

16 A. I was.

17 Q. And how long were you on the drug enforcement unit?

18 A. About a year and a half, two years.

19 Q. Can you explain to us what the drug enforcement unit
20 is?

21 A. The drug enforcement unit is a specialized unit. It's
22 a multi-jurisdictional unit comprised of deputies from the
23 York County Sheriff's Office, as well as officers from other
24 agencies within York County and they primarily focus on drug
25 related activity and crime.

1 Q. So how many drug cases have you been involved with,
2 just as an estimate?

3 A. Numerous. Over a hundred.

4 Q. And were you involved in this case on February 24th of
5 2021?

6 A. I was.

7 Q. This case involves Fentanyl in particular. Are you
8 familiar with Fentanyl specifically?

9 A. I am.

10 Q. And what is Fentanyl?

11 A. Fentanyl is a synthetic Opioid. It is 50 times more
12 stronger than Heroin and a hundred times stronger than
13 Morphine.

14 Q. Can you explain to the jury what controlled buys are?

15 A. Controlled buys, they're a law enforcement monitored
16 operation using an informant to purchase illegal narcotics
17 from another person.

18 Q. So when you say a confidential informant, what is a
19 confidential informant?

20 A. A confidential informant is somebody that we send
21 undercover to buy illegal narcotics from another individual.

22 Q. Did you do that in this case?

23 A. We did.

24 Q. Who is the confidential informant that you used in this
25 case?

1 A. Her name is Tabitha Peterson.

2 Q. And how is it that you became to use Tabitha Peterson
3 as an informant?

4 A. At some point we were notified that she wanted to,
5 potentially, work and so we set up a meeting to discuss the
6 process.

7 Q. Since you first began using her as a confidential
8 informant, how many individuals has she bought from for the
9 DEU?

10 A. She's bought from three different offenders.

11 Q. And was one of those offenders this defendant?

12 A. It was.

13 Q. Before we talk about the actual deal, can you take the
14 jury through how the February 24th deal was set up?

15 A. Okay. So we have the information in this case, which
16 is Tabitha Peterson, she meets us at a predetermined
17 location. Once she arrives, she sets the deal up with Mr.
18 Currence through messages on her cell phone. She's
19 searched. Her person is searched very thoroughly. Her
20 vehicle is searched very thoroughly. We're looking
21 primarily for any- -- anything illegal, specifically,
22 illegal narcotics. She is given identifiable government
23 funds to be able to make that purchase and she is also
24 equipped with audio and video recording that allows us to
25 further monitor the situation as it occurs, the buy, if you

1 will and then at that point, she will drive to the buy
2 location.

3 Q. When you say she was searched, what do you mean? How
4 thoroughly was she searched?

5 A. So our searches are very, very thorough. When I was in
6 the drug unit I searched most females because those are so
7 in depth. We search, you know, every pocket, every -- if
8 they're wearing a hood, we check the hood, under their
9 clothes. Females, we have to check really, really well
10 around their bra area. Normally, they'll pull it out and
11 shake it, make sure that there's nothing that could be
12 anywhere under the straps. You know, it's a very, very
13 thorough, in-depth search and they're well aware that it's a
14 little uncomfortable due to such, but we have to make sure
15 that there's absolutely nothing that could be stashed or
16 stuffed anywhere on their person that would jeopardize the
17 case. So --

18 Q. If you found anything during that search, what would
19 have happened?

20 A. If we had found anything, then the -- then the
21 operation would have ceased at that point and she would have
22 been charged.

23 Q. You talked about searching the vehicles. How thorough
24 are the vehicle searches?

25 A. The vehicle searches are very thorough as well. We'll

1 search the dash, the middle console, the trunk, every crack,
2 crevice, nook, cranny. We also go over the outside of the
3 vehicle as well. Anything that any -- anything could be
4 stored, stuffed, we check.

5 Q. And in these searches what are you looking for in
6 particular?

7 A. Any illegal narcotics.

8 Q. And if you had found anything in her vehicle, what
9 would have happened?

10 A. She would have been charged.

11 Q. When you searched her person, was anything found prior
12 to the deal?

13 A. No.

14 Q. Prior to the deal when you searched her vehicle was
15 anything found?

16 A. No.

17 Q. Where did this particular deal take place?

18 A. This particular deal took place at the Dollar General.
19 That's located at 120 S. Shiloh Road right there in the
20 corner of S. Shiloh and 161, headed towards Newport, Rock
21 Hill. Originally, it was set up at the Dollar General, but
22 the confidential informant went to the Dollar General on
23 Highway 5. And then it was later changed into the other one
24 on S. Shiloh, because the Defendant was coming from the
25 Walmart in York and it was on his way to Charlotte, so it

1 was easier for him to be able to make that stop.

2 Q. Are you familiar with that area?

3 A. I am.

4 Q. What city is that in?

5 A. That's in Rock Hill.

6 Q. And what county is that in?

7 A. York County.

8 Q. Now, as to the actual deal, I talked in my opening
9 about a surveillance team. Were you part of the
10 surveillance team in this case?

11 A. I was.

12 Q. And what does that mean? Can you explain that to us?

13 A. So we had a surveillance team that follows the
14 confidential informant closely to monitor their safety as
15 well as to provide quality control for the case, to make
16 sure they don't make any stops or talk to any other
17 individuals or that nothing else -- it's just a straight --
18 straight line there and then a straight line back.

19 Q. In this case, other than the first Dollar General that
20 she went to, did she make any stops prior to the deal?

21 A. She did not.

22 Q. Did she talk to any other individuals, other than you
23 and the defendant during this?

24 A. I don't believe so. I don't think so. I'm trying to
25 remember if her husband called or not, but I don't -- I

1 can't remember. I'm not sure.

2 Q. Were any other officers part of this surveillance team?

3 A. Yes. We always have multiple officers that are
4 involved, just so that we can monitor the situation more
5 closely. So we had an Investigator Hines, and then we had
6 Investigator Sierra as well.

7 Q. Were you listening to the audio feed during this deal?

8 A. I was.

9 Q. So the confidential informant goes and does the deal.
10 What happens to the confidential informant directly after
11 the deal?

12 A. So directly after the deal, they go back to the
13 predetermined meeting location without making any stops.
14 Once she arrived, I immediately seized the Fentanyl and
15 secure it to be placed into evidence and then she's searched
16 again, very thorough search, to include every pocket, every
17 part of her person, shoes, take the soles out, check the
18 hair, everywhere. Her vehicle is searched in the same
19 manner that it was previously to make sure that there's no
20 illegal narcotics present, other than the evidence that was
21 turned in from the operation.

22 Q. So who searched her vehicle?

23 A. Investigator Hines searched her vehicle both before the
24 operation and after the operation.

25 Q. And who searched her person?

1 A. I did.

2 Q. Was anything found in her vehicle or on her person,
3 other than the drugs that she bought from this defendant?

4 A. No.

5 Q. If you had found anything after those searches, after
6 the deal, other than the drugs that have been ---

7 MS. SEXTON: Objection, Your Honor.

8 THE COURT: Okay.

9 MS. SEXTON: Objection to two things, Your Honor, to
10 the witness calling it Fentanyl.

11 THE COURT: Lawyers approach.

12 (WHEREUPON, a Bench conference was held off the record,
13 out of the hearing of the court reporter.)

14 THE COURT: Thank you. I sustain the objection.
15 Solicitor, rephrase your question.

16 MS. SMITH: Yes, sir, Your Honor.

17 Q. When I said it's Fentanyl, do you know for certain that
18 it is Fentanyl? Did you test these drugs?

19 A. They were tested.

20 Q. But you did not test them---

21 A. No. They were --

22 Q. ---yourself?

23 A. Right. I did not test them myself.

24 Q. So at the time of this deal, you -- did you believe
25 them to be Fentanyl?

1 A. Yes.

2 Q. But you did not know for sure?

3 A. I can say not 100 percent definitively, but through --
4 through my knowledge and experience, yes, I believed it to
5 be Fentanyl.

6 Q. Okay. So did you recover what you believed to be the
7 drugs in this case from the confidential informant?

8 A. I did.

9 Q. Okay. Where did you recover them from from her?

10 A. From Tabitha Peterson, the confidential informant.

11 Q. Did she hand them to you?

12 A. I believe she handed them to me or set them on the
13 table right there in between us.

14 Q. When you recover evidence, what do you do with it?

15 A. When we recover evidence normally -- specifically, drug
16 evidence, what we do is we take pictures of it and we weigh
17 it. At that point, we put it in a sealed evidence bag. We
18 seal it and we sign it to make sure that it doesn't get
19 tampered with and then we then take it and we place it into
20 a locked evidence drop box that only the evidence
21 technicians have access to.

22 Q. So you say that only they have access to. Once you
23 drop it off, are you able to take it back?

24 A. No.

25 Q. Is anybody able to obtain that evidence once you drop

1 it off?

2 A. Only the evidence technicians when they pick it up to
3 take it into the York County Evidence Control room.

4 Q. I'm going to show you what's been previously marked as
5 State's Exhibit 1. Do you recognize this?

6 A. I do.

7 Q. How do you recognize this?

8 A. That's the evidence from the case that I placed into
9 the evidence bag and sealed.

10 Q. And did you sign this?

11 A. I did.

12 Q. Are these the items that you seized from Tabitha
13 Peterson on the night of February 24th of 2021?

14 A. It is.

15 Q. After the deal that was done with Octavius Currence?

16 A. Yes.

17 Q. We talked about the CI coming to you and saying that
18 you could buy -- that she could buy drugs from the
19 defendant. Prior to her doing this --

20 MS. SEXTON: Objection, Your Honor.

21 THE COURT: Okay.

22 MS. SEXTON: Objection, Your Honor. We just stated
23 that -- I mean, she's calling it drugs.

24 THE COURT: All right. I sustain the objection.

25 Just -- rephrase your question.

1 MS. SMITH: Okay.

2 Q. We talked about the confidential informant purchasing
3 items from the defendant on the night of February 24th of
4 2021. Prior to that confidential informant doing that deal
5 with the defendant, was she made any promises in order to
6 get her to do that deal?

7 A. No.

8 Q. Did you discuss any lowering of her charges with her?

9 A. No.

10 Q. Did you discuss any dismissals of her charges with her?

11 A. No.

12 Q. Did you discuss any plea deals as to her charges---

13 A. No.

14 Q. ---in order to get her to do this deal?

15 A. No.

16 Q. Did you watch the video in this case after the deal was
17 done?

18 A. I did.

19 Q. Did you see the individual who sold the items to the
20 confidential informant in that video?

21 A. I did.

22 Q. Do you see that individual here today?

23 A. I do.

24 Q. Can you point him out to us?

25 A. It's the gentleman in the black jacket with the

1 dreadlocks.

2 Q. Thank you. That's all I have for you at this time.
3 Can you please answer any questions the Defense may have.

4 A. Yes, ma'am.

5 THE COURT: Ms. Sexton, cross-examination

6 CROSS-EXAMINATION

7 BRANDY WERNER BY MS. SEXTON:

8 Q. Detective Werner, part of your job is handling
9 confidential informants as you stated?

10 A. Yes, ma'am.

11 Q. And confidential informants are people, as you stated,
12 that have agreed to work with the drug enforcement unit for
13 some reason?

14 A. Yes, ma'am.

15 Q. And most often, they do so because they're in trouble;
16 right?

17 A. More often than not, yes.

18 Q. They have pending charges?

19 A. Right.

20 Q. Charges that could result in jail time?

21 A. Right.

22 Q. And those charges can be worked off so they possibly
23 get less punishment?

24 A. There's a possibility of that. It's talked about very
25 briefly.

1 Q. And you have experience working with confidential
2 informants?

3 A. Yes, ma'am.

4 Q. Many of them are criminals themselves?

5 A. Yes, ma'am.

6 Q. And so when you're dealing with confidential
7 informants, you have particular protocols that you follow;
8 right?

9 A. Yes, ma'am.

10 Q. Just like you testified, searching their car?

11 A. Right.

12 Q. Searching them?

13 A. Right.

14 Q. And you stated Tabitha Peterson is a confidential
15 informant?

16 A. Yes, ma'am.

17 Q. Tabitha Peterson has pending charges?

18 A. Yes, ma'am.

19 Q. And are you aware that one of those charges is domestic
20 violence in the 1st degree?

21 A. Yes, ma'am.

22 Q. And the other pending charge is possession with intent
23 to distribute Fentanyl?

24 A. Yes, ma'am.

25 Q. And she's working off those charges; right?

1 A. No, ma'am. I wouldn't say that was accurately phrased,
2 working off the charges. When she agrees to work with us,
3 there's no promise that's made to lead her to believe that
4 those charges are going to be dismissed. So I don't know
5 that working off the charges would -- would be accurate.

6 Q. Was she a paid informant?

7 A. No, ma'am.

8 Q. But you're aware that she had these pending charges?

9 A. Yes, ma'am.

10 Q. Let's talk about February 24th, 2021. Now, you
11 indicated that you searched Tabitha Peterson; right?

12 A. Yes, ma'am.

13 Q. But there's no video of you conducting a search; right?

14 A. I don't believe so.

15 Q. And you stated that you then gave her identifiable
16 governmental funds?

17 A. Yes, ma'am.

18 Q. And you recorded the serial numbers of those bills;
19 right?

20 A. Yes, ma'am. We make copies of them.

21 Q. And if I showed you those copies, you would remember
22 those?

23 A. Yes, ma'am. Uh-huh.

24 Q. And to keeping an accounting of what was given, as you
25 stated you record it; right?

1 A. (No response)

2 Q. And you gave her \$250 to purchase the roxies?

3 A. Yes, ma'am.

4 Q. Okay. And you said that you make copies; right?

5 A. Yes, ma'am.

6 (Whereupon, Ms. Sexton handed documents to the witness
7 for review.)

8 A. I am aware that a review of -- when I
9 review the case, I am aware of the actual -- right. Right.
10 And that it appeared to be maybe a sheet was missing.

11 THE COURT: Hold on a minute. The record needs to
12 reflect what you're showing her. We need to have those
13 marked.

14 MS. SEXTON: We're not entering it. I'm just -- I
15 asked her --

16 THE COURT: Well, she was referring to something, so I
17 -- just --

18 MS. SEXTON: I was --

19 THE COURT: All right. Hold on a second.

20 MS. SEXTON: I'm sorry.

21 THE COURT: Just answer her question.

22 THE WITNESS: Yes, sir.

23 Q. If I showed you a copy of those funds that you took a
24 copy of, would you remember that that's what you gave
25 Tabitha?

1 A. I know that it's documented that that's what I gave
2 her, so that is what I gave her at the time.

3 Q. And if I showed you that would you -- do you need to
4 see that?

5 A. Sure. I would.

6 (Whereupon, Ms. Sexton handed the referenced item to
7 the witness.)

8 Q. And you gave her \$250 to purchase roxies; right?

9 A. Yes, ma'am.

10 Q. But you only copied \$150?

11 A. Right. When I reviewed the case, it appeared that one
12 of the copies of --

13 MS. SEXTON: Your Honor, we have a matter of law that
14 we need to take up.

15 THE COURT: Lawyers approach.

16 (Whereupon, a Bench conference was held off the record,
17 out of the hearing of the court reporter.)

18 THE COURT: Ladies and gentlemen, we have a matter we
19 need to take up outside of your presence. I'm going to
20 allow you to go back to your jury room and we'll have you
21 take a short break and we'll have you back as soon as we're
22 ready to proceed. This will be a good time for you to elect
23 a foreperson from among yourselves. Thank you. Everyone
24 else remain seated. Do not discuss the case.

25 (Whereupon, the jury exited the courtroom at 10:01

1 A.M.)

2 THE COURT: All right. The jury has been dismissed to
3 the jury room. The lawyers approached. The defense had a
4 -- indicated had a matter of law we need to take up outside
5 the presence of the jury. Here at the Bar the defense asked
6 that a mistrial because the answer to a question about the
7 photos of the purchase money had a page missing. I believe
8 that was the last testimony in which you made the objection.
9 I'll be glad to hear from you, Ms. Sexton, here on the
10 record as far as any motions.

11 MS. SEXTON: Give me one second, Your Honor.

12 THE COURT: All right.

13 MS. SEXTON: Your Honor, our basis for a mistrial is
14 that this whole deal was set up on a premises from the State
15 is alleging based on \$250. We asked for discovery. We
16 believe that this is a discovery issue, as well as the fact
17 that there is material evidence that has been withheld from
18 the defense. We've asked for -- we filed a motion back in
19 November, asking for documents. We asked again yesterday in
20 the beginning, asking for any type of discovery that was
21 missing. In fact, Your Honor, we sent the solicitor an
22 email to confirm that the two pages of money, along with
23 some other things that they sent, was all the discovery that
24 they had and that nothing was missing. Now we are here
25 today, Your Honor, and we're hearing from a material witness

1 in this case that there's a page missing.

2 THE COURT: All right. Well, I'm not sure if it's
3 clear. We're assuming that the page missing -- what you're
4 assuming is the money -- that she never really answered
5 that. You stood up and had two pieces of paper in your hand
6 that, from the Court, looked like there was money, photos of
7 money on those two pages, and she indicated that there was a
8 -- that there was a page missing. I don't have enough
9 information to make a decision. Ask her a few more question
10 about what you believe is missing.

11 Q. Officer Werner, you indicated that -- that the buy was
12 for \$250. Is that correct?

13 A. Yes, ma'am.

14 Q. And you indicated that you copied the monies, the
15 governmental monies, that you gave to Tabitha Peterson to do
16 this alleged buy; right?

17 A. Yes, ma'am.

18 Q. And you indicated that it was \$250 that you gave her?

19 A. Right.

20 Q. And that those funds were copied?

21 A. Right.

22 Q. But the information that I just gave you and the
23 information that you gave to the solicitor, it shows \$150;
24 right?

25 THE COURT: What is it?

1 MS. SEXTON: The copies. The photocopies.

2 THE COURT: All right. Let's have those marked as an
3 exhibit. Are they marked?

4 MS. SEXTON: No, Your Honor. We were not going to
5 enter these into evidence.

6 THE COURT: Well, we're not necessarily introducing it
7 in evidence. We have a record of "it," but no -- there's
8 nothing in the record of what that is. You don't have to
9 introduce them into evidence. We just need them marked for
10 an exhibit. I would mark it as a defense exhibit.

11 MS. SEXTON: Give me one second, Your Honor.

12 (Whereupon, Ms. Sexton and Ms. Inzerillo conferred off
13 the record.)

14 MS. SEXTON: Your Honor, I'm going to have the court
15 reporter just to mark this as a Court's exhibit.

16 THE COURT: That's fine.

17 MS. SEXTON: We're not entering into evidence.

18 THE COURT: Well, the rule is you can have anything
19 marked as an exhibit and it doesn't come into evidence.
20 It's simply an exhibit. It's something that's marked as
21 an exhibit. On the other hand, I'm happy with it being
22 marked a Court's exhibit.

23 (Whereupon, the court reporter marked the referenced
24 document as Court's Exhibit Number 2.)

25 MS. SEXTON: For the basis of our motion for a

1 mistrial, Your Honor, is that again, we've asked for
2 discovery in this matter. The missing page for the
3 identifiable funds, which is now marked as Court's Exhibit
4 2, that is material in this case.

5 The State turned over the evidence that they had. It's
6 clear that there's evidence missing. We filed a motion to
7 disclose on November 27th. We filed a motion to disclose
8 November 28th. We asked yesterday for the State to clarify
9 that all discover had been turned over and at this point,
10 Your Honor, there's clear -- it's clear that discovery has
11 not been turned over; right? Because she's testified that
12 there's a page missing. What I'm holding, Your Honor, is
13 \$150.

14 We also sent an email to the State, asking them to
15 confirm that this was all the evidence that they had. We
16 sent that email and the solicitor, Ms. Smith, sent back a
17 reply, indicating that we were correct. That the only
18 evidence that they had was two pages of money. Now we're
19 hearing testimony that there is a page missing. So, Your
20 Honor, we would be asking for a mistrial.

21 THE COURT: All right. Solicitor.

22 MS. SMITH: Your Honor, we did say that that is what we
23 have. That is still what we have. We have turned over
24 everything that the DEU has provided to us. If there is a
25 missing page, she can argue that to the jury with this

1 defendant. An element of distribution is not an exchange of
2 money. We have money in this case, which she is able to
3 talk about, but we have provided everything that we have.
4 Everything that is in -- she -- we got this from the DEU's
5 confidential file on Tabitha Peterson. That is all that is
6 in there. So we have not violated Rule 5 in any way. We
7 have turned over everything we have. That is what we have
8 in this case. That is a perfect thing for her to argue to
9 the jury that the State is missing a page. She can make
10 that argument, but for a mistrial, it has to go to the
11 elements of the case, and an element of distribution of
12 Fentanyl is not an exchange of money. The DEU, as part of
13 this case, did not even -- it's not even a requirement that
14 they photocopy this money. The did in this case.
15 Fortunately for her, there's a missing page and so she can
16 argue that to the jury, but it is not because the State is
17 withholding that page.

18 THE COURT: All right. Anything in response, Ms.
19 Sexton?

20 MS. SEXTON: Yes, Your Honor. This is a material *Brady*
21 violation. Your Honor, we're learning today my client is
22 prejudiced on this matter, because we prepared our defense
23 based on what the State has given us and so, now, today
24 we're learning that there's a page missing. When, in fact,
25 Your Honor, the solicitor had ample time to look at that.

1 She replied on December the 27th. We sent an email with the
2 fact that it was only two pages. She confirmed yes, there's
3 two pages, but now we're hearing from the case agent herself
4 who's saying that there is a page missing. It should not be
5 on the defense to locate this page or find this page. Their
6 whole premise in this whole thing, Your Honor, has been that
7 there was buy set up for \$250. That's the reason they were
8 fighting to get in the Facebook messages that says that it
9 was a buy for \$250, which we objected to and still object
10 to, Your Honor. We feel that this is a material violation
11 of *Brady*. This case has been pending since 2021. 2021,
12 Your Honor. They've had ample time to review the file, find
13 out whether or not there was \$100 missing and they still
14 have not done so and then we learn today, on this day, the
15 trial date, that there's evidence that has not been turn
16 over.

17 THE COURT: All right. Thank you. Well, I deny the
18 motion for a mistrial. Again, the fact that there may be a
19 page missing is not the basis for a mistrial. It certainly
20 is ripe, as the State indicated, you can cross-examine her
21 on that about the photo of that. However, the testimony is
22 is that they gave 250 and I'm sure I haven't heard the full
23 testimony about the result of that, but I do caution the
24 State and the DEU that the burden is on law enforcement just
25 as much as it is on the State. The State can't argue that,

1 well, that's all they gave us. If it's out there, the
2 burden's on law enforcement and DEU to comply. They are the
3 State as well. I am curious. I assume that someone used an
4 electronic device to take photos of money. Generally, those
5 photos on -- at least in my world -- the electronic device
6 maintains those photos forever unless you delete them, but
7 be that as it may, that's not where we are today, whether
8 they exist or not. This witness has indicated that it's
9 missing and that is of some concern if there's evidence in
10 the case that's missing, particularly, in this electronic
11 world we live in where it ought to be easily accessible just
12 by two punches of a computer button, but anyway, that's
13 where you are. I deny the motion for the mistrial.

14 Again, the State is not required to put up photos.
15 That's not, again -- as the solicitor indicated, that's not
16 an element of the offense. However, it does go to the
17 weight of -- that the jury can determine the type of
18 investigation and what has been provided or what's not in
19 this case. She's testified that there's a page -- of a
20 photo -- of a page that would be a photo of money that is
21 missing and has not been provided to the prosecution, to the
22 State or to the solicitor's office and it hasn't been
23 provided to defense because it's missing. All right.

24 We'll take a 10-minute break.

25 (Whereupon, a brief recess was observed from 10:14 A.M.

1 until 10:26 A.M.)

2 THE COURT: All right. We ready to proceed?

3 The State ready?

4 MS. SMITH: The State's ready, Your Honor.

5 THE COURT: Defense ready?

6 MS. SEXTON: Yes, Your Honor.

7 THE COURT: All right.

8 MS. SEXTON: Your Honor, I would like to put on the
9 record, we -- before we had broke the last time, I wanted to
10 make sure that we have on the record the defense objection
11 to the State calling it Fentanyl and drugs. I want to make
12 sure that that's on the record and ask that it be stricken.

13 THE COURT: All right. I note your objection. I
14 overrule the objection, even though she testified she'd been
15 involved in a hundred or so drug cases and the charge is a
16 charge of distribution of Fentanyl. The State still has the
17 burden of actually proving what the contents of that was.
18 The State has cleaned up some of their questioning and tried
19 to get this officer, and any other officer not to testify to
20 what they absolutely know, because they don't. However, I
21 overrule the objection. I note your objection for the
22 record. All right. Anything else?

23 MS. SEXTON: Defense is ready, Your Honor.

24 MS. SMITH: Your Honor, we need to take this off the
25 screen, but other than that, we are ready.

1 THE COURT: All right. I did receive a note from the
2 jury that juror number 161 is the foreperson of the jury.
3 161. All right. Let's bring the jury in.

4 (Whereupon, the jury re-entered the courtroom at 10:28
5 A.M.)

6 THE COURT: All right. Ladies and gentlemen, thank you
7 for your patience. I did receive your note that juror 161,
8 Brooke Malley, is the foreperson. You'll maintain that seat
9 throughout the remainder of the trial.

10 All right. This is your witness, Ms. Sexton.

11 Q. Detective Werner, so you didn't copy the other \$100;
12 right?

13 A. No, I believe the other \$100 was copied as well, but
14 the copy of it from the copy machine was inadvertently left
15 out accidentally.

16 Q. So the evi- -- the money that you possessed was \$150,
17 not \$250; right?

18 A. For the case folder. Yes, ma'am. That's what I put in
19 there.

20 Q. So at some point, after you give Tabitha the \$250
21 dollars, but only copied 150, but at some point after you
22 give Tabitha the money and she's searched, she ends up
23 leaving the Moss; right?

24 A. Yes, ma'am.

25 Q. And the Moss is here; right?

1 A. Yes, ma'am.

2 Q. Okay. So when she leaves she's the only one in her
3 car; right?

4 A. Correct.

5 Q. You're not with her in her car?

6 A. Correct.

7 Q. No agent is with her in her car; right?

8 A. Correct.

9 Q. And it's after 7:00 P.M.?

10 A. I believe the entirety of the operation was from around
11 6:30 in the evening, so around 7:30, somewhere in there.

12 Q. So it's after 7:00 P.M. when she leaves?

13 A. I'm not sure. I would have to look at the
14 documentation that has everything listed with the times
15 beside it.

16 Q. Would you like to see your documentation?

17 A. That'd be fine.

18 (Whereupon, Ms. Sexton handed the referenced item to
19 the witness.)

20 Q. Does that look like a true and accurate copy of your
21 documentation?

22 A. Yes, ma'am.

23 Q. Okay. It's after 7:00 P.M. when she leaves; right?

24 A. The CI leaves the predetermined meeting location to
25 meet the target at 7:00 P.M.

1 Q. And it's dark?

2 A. Yes, ma'am. I believe so.

3 Q. You didn't see the transaction that occurred; right?

4 A. No, ma'am. I didn't personally see it with my eyes.

5 Q. In fact, it was being recorded?

6 A. Yes, ma'am. The overall buy was being recorded.

7 Q. But the video that you testified to seeing, the video
8 doesn't show Tabitha counting the money; right?

9 A. No.

10 Q. The video doesn't show Tabitha counting these alleged
11 pills; right?

12 A. No, ma'am.

13 Q. And this video doesn't show where Tabitha put these
14 alleged pills; right?

15 A. I'm not sure. I'm not sure I understand. They would
16 be with her in her car.

17 Q. Right. But the video doesn't show where in her car or
18 where she put these alleged pills; right?

19 A. I'm not sure.

20 Q. And there's periods on this video that you've seen that
21 it's dark; right?

22 A. Yes, ma'am.

23 Q. But, again, she was given video and audio devices to
24 record; right?

25 A. Yes, ma'am.

1 Q. And she was under surveillance the whole time.

2 A. When you say under surveillance, can you clarify?

3 Q. She was under surveillance.

4 A. We had a surveillance team that was monitoring the
5 operation.

6 Q. Okay. But you testified that you did not see the
7 transaction; right?

8 A. No, ma'am. I did not personally see it with my own
9 eyes.

10 Q. So after this transaction, she doesn't return back to
11 the Moss; right? She doesn't return here; right?

12 A. She does return back to the predetermined meeting
13 location.

14 Q. Does she -- so she turns -- doesn't she turn into the
15 Exxon first?

16 A. No, ma'am.

17 Q. She doesn't turn into the Exxon?

18 A. Not to my -- not to my knowledge, no. They don't make
19 stops coming back and forth.

20 Q. Okay. So she doesn't turn into the Exxon up here on
21 161/Highway 5?

22 A. Not to my knowledge she doesn't.

23 Q. Okay. She goes towards Waffle House?

24 A. Are you speaking in reference to her going to the buy
25 location or coming back from the buy location?

1 Q. Well, coming back.

2 A. Okay.

3 Q. She turns into the Waffle House; right?

4 A. No, ma'am. Not to my knowledge.

5 Q. Okay.

6 A. Not to my knowledge. Not to my recollection.

7 Q. Because she was under surveillance?

8 A. Right.

9 Q. After she turns, you stated that she didn't go into the
10 Waffle House and you're stating that she didn't turn into
11 the Exxon. Give me one second.

12 A. Yes, ma'am.

13 Q. All right. Ms. Werner, no further questions.

14 THE COURT: Any redirect?

15 MS. SMITH: Just briefly, Your Honor.

16 REDIRECT EXAMINATION

17 BRANDY WERNER BY MS. SMITH:

18 Q. She talked about after the deal -- or the confidential
19 informant, she met with the defendant, does the deal and
20 then she drives back to the Moss. Did she make any stops on
21 her way back to the Moss?

22 A. No stops. They're not allowed to make any stops. If
23 for some reason that appear to deviate or maybe get spooked,
24 we're -- that's why we're surveilling them so that we can
25 monitor just to make sure that there's no interaction with

1 any other individuals during that process.

2 Q. So if the confidential informant drives through a --

3 MS. SEXTON: Objection, Your Honor.

4 THE COURT: I'll overrule the objection.

5 MS. SMITH: Sorry.

6 THE COURT: I overruled. She objected to your
7 beginning of that question. You didn't finish the question.
8 I overruled the objection.

9 Q. If the confidential informant drives through any other
10 locations while on the way back to the Moss, are you
11 monitoring her movements?

12 A. Yes. We'd be monitoring to make sure that there's no
13 stops.

14 Q. So, again, if she had made any stops during those
15 movements, would you have known?

16 A. Yes, we would have.

17 Q. And did she make any stops.

18 A. No.

19 Q. Thank you.

20 MS. SMITH: That's all I have.

21 THE COURT: Any recross?

22 MS. SEXTON: No recross, Your Honor.

23 THE COURT: All right. Thank you. Ms. Werner, you can
24 step down.

25 THE WITNESS: Thank you, Your Honor.

1 THE COURT: State, call your next witness.

2 MS. SMITH: The State would call Josh Hines to the
3 stand.

4 (JOSH HINES, being first duly sworn, was examined and
5 testified as follows):

6 DIRECT EXAMINATION

7 JOSH HINES BY MS. SMITH:

8 Q. Can you please introduce yourself to the jury?

9 A. Yes, ma'am. My name is Josh Hines. I work for the
10 York County Sheriff's Office. I'm one of the deputies here.

11 Q. And what do you do for the sheriff's office?

12 A. Now, I'm currently working on the SRO position for
13 Crowder's Creek Elementary.

14 Q. In 2021, where were you employed?

15 A. I was employed with the Clover Police Department. I
16 was on a multi-jurisdictional drug enforcement unit.

17 Q. And what did you do for the drug enforcement unit?

18 A. I was one of the drug investigators for them.

19 Q. Were you on the DEU on February 24th of 2021?

20 A. Yes, ma'am.

21 Q. Did you work a confidential informant buy on that
22 night?

23 A. Yes, ma'am.

24 Q. What was your role on that night?

25 A. My role that night was to search the vehicle to make

1 sure there was nothing located in, before and after the buy.

2 Q. When you say the vehicle, is that the confidential
3 informant's vehicle?

4 A. Yes, ma'am.

5 Q. How thorough are the searches done of the vehicle?

6 A. They're very thorough to -- it has to be absolutely
7 thorough ever time to make sure there's nothing found before
8 and after the buys.

9 Q. And what areas do you search of the vehicle?

10 A. Every department you can find, every crevice, corners,
11 trunks, anyplace that narcotics could be stored. I mean,
12 even under the vehicle, under the hood, trunk, you name it.
13 It all gets searched.

14 Q. What are you looking for during those searches
15 specifically?

16 A. Looking for any narcotics that CI may have brought,
17 hopefully not. I mean, extra cash, to make sure they didn't
18 bring any for their ownselves. Make sure there's no drug
19 paraphernalia that was also inside the vehicle.

20 Q. Did you search the confidential informant's vehicle
21 prior to this deal?

22 A. Yes. Yes, I did.

23 Q. Did you find anything?

24 A. No. No, ma'am.

25 Q. If you had found anything, what would you have done?

1 A. We would have stopped the seizure at that moment. The
2 narcotics would have been seized and the CI would have been
3 charged with those narcotics.

4 Q. After the deal occurred with this defendant, other than
5 what she obtained from this defendant, did you find anything
6 after searching that vehicle?

7 A. No, ma'am.

8 Q. If you had found anything after searching that vehicle,
9 what would you have done?

10 A. We would have stopped it at that point. We would have
11 seized whatever the narcotics that we were sending her to
12 buy, but any other narcotics would have been seized and she
13 would have been charged with that.

14 Q. That's all the questions I have for you. If you could
15 please any the defense may have.

16 THE COURT: Cross-examination.

17 CROSS EXAMINATION

18 JOSH HINES BY MS. SEXTON:

19 Q. Mr. Hines, so are you saying your role was just to
20 search Tabitha's car?

21 A. Yes, ma'am.

22 Q. Because you're dealing with folks who know -- who know
23 where to hide drugs; right?

24 A. Absolutely.

25 Q. And she was in her own vehicle; right?

1 A. Yes, ma'am.

2 Q. Not a DEU vehicle?

3 A. That's correct.

4 Q. And you searched her car?

5 A. Yes, ma'am.

6 Q. And the search that you did of her car, it was not
7 video recorded; right?

8 A. No, ma'am.

9 Q. And there were no pictures taken from the search inside
10 her vehicle?

11 A. No, ma'am.

12 Q. No pictures taken of what you searched in her vehicle?

13 A. No, ma'am.

14 Q. And when Tabitha left the Moss, you were not in the car
15 with her; right?

16 A. No, ma'am.

17 Q. And you didn't see the transaction; right?

18 A. I did not. No, ma'am.

19 MS. SEXTON: No further questions.

20 THE COURT: Redirect?

21 MS. SMITH: No redirect, Your Honor.

22 THE COURT: All right. Thank you. Officer Hines, you
23 can step down.

24 THE WITNESS: Yes, ma'am -- yes, sir.

25 THE COURT: Okay. Call your next witness.

1 MS. SMITH: Your Honor, the State would call Tabitha
2 Peterson.

3 THE COURT: Ms. Peterson, if you would step right here
4 and the Clerk will swear you in.

5 (TABITHA PETERSON, being first duly sworn, was examined
6 and testified as follows):

7 DIRECT EXAMINATION

8 TABITHA PETERSON BY MS. SMITH:

9 Q. Will you please introduce yourself to the jury?

10 A. My name is Tabitha Peterson.

11 Q. And how old are you, Ms. Peterson?

12 A. Twenty-nine.

13 Q. And where are you from?

14 A. Rock Hill, South Carolina.

15 Q. Is it fair to say that you're familiar with drugs?

16 A. Yes.

17 Q. And why is that?

18 A. Because I'm an ex-addict.

19 Q. In 2017, were you convicted of possession of a
20 controlled substance, I through V?

21 A. Yes.

22 Q. And do you have any pending charges right now?

23 A. Yes, ma'am. I do.

24 Q. And what are those charges?

25 A. Pending charges, possession with intent and also

1 criminal domestic violence.

2 Q. When you say possession with intent to distribute, what
3 drug is that?

4 A. Fentanyl, roxies.

5 Q. Okay. Do you know the potential punishments for those
6 crimes?

7 A. Ten years or so, I think. I'm not exactly sure about
8 how long.

9 Q. How is it that you became a confidential informant?

10 A. I got arrested for possession with intent and then I
11 decided to, basically, keep myself out of trouble, if
12 possible.

13 Q. And why did you agree to become a confidential
14 informant?

15 A. Because I did not want to go to prison.

16 Q. Prior to purchasing items from the defendant on
17 February 24th, did anyone from the solicitor's office or law
18 enforcement promise you any particular outcome or resolution
19 on the charges in order for you to do that buy?

20 A. No, ma'am.

21 Q. Were you hoping that you would get something out of
22 that?

23 A. We -- yes, but I wasn't promised anything.

24 Q. After you bought from the defendant, were there
25 possible plea discussions that were conveyed to you?

1 A. Yes.

2 Q. And what were they?

3 A. That I would possibly get it dropped down to time
4 served and criminal domestic violence 1.

5 Q. Okay. So would that be a lower charge on the domestic
6 violence and a lower charge on the Fentanyl?

7 A. Yes. I'm not sure.

8 Q. Okay. But as we speak right now, are your charges
9 still pending?

10 A. Yes, ma'am. They are.

11 Q. Have they been reduced at all?

12 A. No, ma'am. They have not.

13 Q. In working with the DEU, is part of the agreement with
14 them to be truthful?

15 A. Yes.

16 Q. Have you ever been asked to say anything that was not
17 truthful?

18 A. No, ma'am. I have not.

19 Q. Did you buy from any other defendants on behalf of the
20 DEU?

21 A. Yes.

22 Q. How many?

23 A. Two.

24 Q. Are you still working for the DEU?

25 A. No, ma'am.

1 Q. And why?

2 A. Because I have been clean now for three years. I have
3 not done anything other to get myself in any type of
4 trouble.

5 Q. Were you the confidential informant that bought 50
6 pills from Octavius Currence on February 24th of 2021?

7 A. Yes, ma'am.

8 Q. How did you set up that deal with Currence?

9 A. I went to the -- here at the courthouse with Ms.
10 Werner and I met with her. We -- I then contacted Currence
11 and then we said yes. We set a location to where the buy
12 would happen and then I called him, said yes, and then we
13 met together and did the buy.

14 Q. When you say you reached out to him, how did you do
15 that?

16 A. By text message and phone call.

17 Q. How much were you going to buy from him?

18 A. 50 Fentanyl roxies.

19 Q. And what was the price?

20 A. \$250.

21 Q. How long had you known the defendant at this point?

22 A. We did go to school together when we were younger.

23 Q. So how many years would you say, approximately?

24 A. Twenty years.

25 Q. Okay. How did you first meet him?

1 A. We first met through elementary school.

2 Q. How did you usually get in touch with the defendant?

3 A. Via Facebook or text message on the phone.

4 Q. Okay. And you previously testified that you did that
5 in this case. Is that correct?

6 A. Yes.

7 Q. Okay. Were pictures taken of your text conversations
8 with the defendant?

9 A. Yes, ma'am.

10 Q. I'm showing you what's been previously marked as
11 State's Exhibit 2, 3, and 4.

12 (WHEREUPON, Ms. Smith, handed the referenced items to
13 the witness.)

14 Q. Do you recognize those items?

15 A. Yes, ma'am.

16 Q. And how do you recognize those items?

17 A. Because the defendant's name, Octane, and it's a
18 Facebook page.

19 Q. And are those the messages that you sent him on
20 February 24th?

21 A. Yes, ma'am.

22 Q. Is that a fair and accurate representation of the text
23 messages that you sent?

24 A. Yes, ma'am.

25 MS. SMITH: Your Honor, at this time the State would

1 seek to enter those into evidence.

2 MS. SEXTON: Objection, Your Honor. We object to those
3 being entered into evidence and we renew our previous
4 objection, but we also want to add to the record improper
5 foundation for those to be entered. There's no one here
6 from Facebook to testify that those are Facebook messages.
7 There is no proof that those messages went to my client.
8 She's named someone named Octane.

9 In addition, the text mess- -- the Facebook screen shot
10 that she has there, it doesn't even show a picture of
11 herself. It's some guy on there, looks like with some type
12 of cap. So we would object, Your Honor, to foundation,
13 laying a proper foundation. We would object to hearsay.
14 And we also renew our previous objection.

15 THE COURT: All right. Thank you. I note your
16 objection and I overrule the objection. State's Exhibit 2,
17 3, and 4 are in.

18 MS. SMITH: Thank you, Your Honor.

19 Q. Can you please read out the messages that you sent the
20 defendant on February 24th?

21 A. At 2:47 I said, "Yo, hit me up. He messaged back
22 promptly, "Yo. What's good, bro? Straight." Sent me a
23 phone number. "Yo, hit me up. I need 50 roxies, and either
24 a half or a whole depending on the price of ice cream."
25 "Where you at?" "Home." "Where you need me to come to?"

1 Do I read them all?

2 Q. Yep?

3 A. Okay. "Where you need me to come to?" "Can you come
4 to Dollar General right here on Highway 5, right across from
5 Adnah Church?" It says at a charge, but it was speech to
6 text. It is actually on Eastview Road. "Yes." "But I
7 left. I'm on my way back from Rock Hill. That's why I was
8 just saying there would be easiest."

9 Q. So when you asked him for 50 roxies, what do you mean?

10 A. Fifty Fentanyl pressed roxies.

11 Q. And there's a reference to ice cream in there that you
12 were asking him for, what is ice cream?

13 A. It's methamphetamine.

14 Q. After you sent those messages, what did you do?

15 A. I waited for him and to get -- basically, say yeah, go
16 ahead and then we got in the vehicle and went to do -- they
17 set up the cameras and stuff in the vehicle and then I went
18 to proceed.

19 Q. Let's talk about. Were you with DEU officers when you
20 set up the buy with Octavius Currence?

21 A. Yes.

22 Q. So they were there when you were messaging him?

23 A. Yes.

24 Q. Where did you meet up with him?

25 A. We met at the end of Shiloh at the Dollar General.

1 Q. And where did you meet with the DEU?

2 A. Oh, here.

3 Q. Okay.

4 A. Sorry.

5 Q. Okay. What did you tell them about what you were
6 planning to do?

7 A. What we were planning to do?

8 Q. Yep.

9 A. Basically, we were just planning to go get the buy, buy
10 50 roxies and then bring them back and turn them into
11 evidence.

12 Q. Who gave you the money for this deal?

13 A. DEU.

14 Q. Were you searched by DEU before you went out to the
15 deal?

16 A. Yes, ma'am.

17 Q. Did they find anything on your person before the deal?

18 A. No, ma'am.

19 Q. Was your vehicle searched?

20 A. Yes, ma'am.

21 Q. Did they find anything in your vehicle?

22 A. No, ma'am.

23 Q. Okay. How did you get to the Dollar General on Shiloh?

24 A. I drove my vehicle.

25 Q. When you went to the deal, were you equipped with a

1 hidden camera?

2 A. Yes, ma'am.

3 Q. Have you watched the video since then?

4 A. Yes, ma'am.

5 Q. I'm handing you what's been previously marked as
6 State's Exhibit 5.

7 (Whereupon, Ms. Smith handed the referenced item to the
8 witness.)

9 Q. Do you recognize that?

10 A. Yes, ma'am.

11 Q. And how do you recognize that?

12 A. My signature is at the top.

13 Q. Have you watched this video?

14 A. Yes, ma'am.

15 Q. And is it a fair and accurate representation of this
16 deal that you did with Octavius Currence on February 24th of
17 2021?

18 A. Yes, ma'am.

19 MS. SMITH: Your Honor, at this time the State would
20 seek to move this into evidence and publish to the jury.

21 THE COURT: Ms. Sexton?

22 MS. SEXTON: Your Honor, subject to our previous
23 objection.

24 THE COURT: All right. I note your objection; however,
25 I'm going to overrule the objection. State's Exhibit 5 is

1 in evidence and you may publish it to the -- you may show it
2 to the jury.

3 MS. ROBINSON: You ready?

4 MS. SMITH: Hold on one second. Okay.

5 THE COURT: Let me be sure. Can everybody on the jury,
6 can you see on the monitors in front of you? Anybody cannot
7 see?

8 (No response)

9 THE COURT: Okay. Great.

10 (Whereupon, the referenced video was published to the
11 jury.)

12 Q. Okay. We saw an individual getting into this vehicle.
13 Who was that?

14 A. Me.

15 Q. And at this time, do you drive for a period of time?

16 A. Yes, ma'am.

17 Q. At some point during that drive do you make a call to
18 the defendant?

19 A. Yes, ma'am.

20 Q. I'm going to skip forward through some of this driving.
21 You're still driving at this point.

22 A. (Nods head affirmatively)

23 (Continuation of video)

24 Q. At this time do you drive to the other location?

25 A. Yes, ma'am.

1 Q. And where is that?

2 A. That's at the end of Shiloh, the Dollar General right
3 there on 161 and toward the end of Shiloh Road.

4 Q. I'm going to fast forward through some of your driving.
5 You're still driving at this point?

6 A. Yes (Nodding head affirmatively)

7 (Continuation of video)

8 Q. Can you tell us what just happened there?

9 A. We just did the transaction. He handed me 50 Fentanyl
10 pressed roxies and I handed him \$250.

11 Q. When you say he, who do you mean?

12 A. Octavius Currence.

13 Q. After this, what do you do?

14 A. I go back -- I come back to DEU, to meet the DEU;
15 sorry.

16 (Continuation of video)

17 Q. Who are you speaking to during that conversation?

18 A. Ms. Werner.

19 Q. And did that --

20 THE COURT: All right. You're going to need to speak a
21 little louder, please.

22 A. Ms. Werner.

23 Q. Did that conversation end at that time?

24 A. No, ma'am.

25 Q. Do you have another conversation with her?

1 A. Yes, ma'am.

2 (Continuation of video)

3 Q. When you're talking about ice cream, who are you
4 talking to?

5 A. I'm talking to Ms. Werner at the time.

6 Q. Okay. Is that the same ice cream that you reference in
7 the text to the defendant?

8 A. Yes, ma'am.

9 Q. And what did you mean when you said ice cream?

10 A. Methamphetamine.

11 Q. When he spoke to you during the deal, did he reference
12 the ice cream?

13 A. He did. We -- I told him to let me know about the ice.
14 He said, yes.

15 Q. After this conversation with the DEU, do you continue
16 to drive back to the Moss?

17 A. Yes, ma'am.

18 Q. Are you still driving here?

19 A. Yes.

20 (Continuation of video)

21 Q. What is that sitting there on the table?

22 A. Fifty pressed roxies.

23 Q. And who did you get those from?

24 A. Octane, Octavius Currence.

25 Q. And where did you get them from him?

1 A. I purchased them at the Dollar General at the end of
2 Shiloh.

3 Q. And was that on February 24th of 2021?

4 A. Yes, ma'am.

5 Q. That Dollar General, what county is it in?

6 A. It's in York County.

7 Q. Okay. And how much money did you give him?

8 A. \$250.

9 Q. Was that the money that you got from the DEU?

10 A. Yes, ma'am.

11 Q. On the way to meeting Mr. Currence, other than the one
12 location that you originally agreed to meet with him at, did
13 you stop your vehicle at any time?

14 A. No, ma'am.

15 Q. Did you get out of your vehicle at any time?

16 A. No, ma'am.

17 Q. Did you interact with anybody at any time?

18 A. No, ma'am.

19 Q. On your way back, after the deal is done, when you were
20 coming back to the Moss, did you stop your vehicle at any
21 time?

22 A. No, ma'am.

23 Q. Did you get out of your vehicle at any time?

24 A. No, ma'am.

25 Q. Did you interact with anyone at any time?

1 A. No, ma'am.

2 Q. I am handing you what's been previously marked as
3 State's Exhibit 1.

4 (Whereupon, Ms. Smith handed the referenced item to the
5 witness.)

6 Q. Do you recognize these items?

7 A. Yes.

8 Q. And what are those items?

9 A. Fentanyl pressed roxies.

10 Q. And where are these from?

11 A. Octavius Currence.

12 MS. SEXTON: Objection, Your Honor. Objection to her
13 calling it Fentanyl. That has not been --

14 THE COURT: I note your objection. I overrule the
15 objection.

16 Q. Did you obtain these from anyone?

17 A. Yes, ma'am.

18 Q. Who did you obtain them from?

19 A. Octavius Currence.

20 Q. And once you obtained these, what did you do with them?

21 A. Turned them in to DEU.

22 Q. Who, specifically?

23 A. Ms. Werner.

24 Q. Do you recognize the individual that you bought those
25 items from in the courtroom today?

1 A. Yes, ma'am.

2 Q. Can you point him out?

3 A. Octavius Currence. He's right there. He's got --

4 Q. That's fine. Will you please answer any questions the
5 defense may have for you?

6 CROSS-EXAMINATION

7 TABITHA PETERSON BY MS. SEXTON:

8 Q. Ms. Peterson, you don't want to go to jail?

9 A. No.

10 Q. And you're aware of your pending charges; right?

11 A. Of course.

12 Q. Pending charges of domestic violence in the 1st degree?

13 A. Uh-huh.

14 Q. And you have the pending possession with intent to
15 distribute Fentanyl?

16 A. Yes, ma'am.

17 Q. And this would be your second time being arrested,
18 right, for drugs?

19 A. Yes, ma'am.

20 Q. Because you already have a criminal conviction
21 involving drugs?

22 A. Yes, ma'am.

23 Q. Possession of a controlled substance?

24 A. Yes, ma'am.

25 Q. And you got time served?

1 A. Yes, ma'am.

2 Q. That was in -- well, time served, that means you didn't
3 go to jail?

4 A. No, ma'am.

5 Q. And that was around February, 2017?

6 A. Yes.

7 Q. Here in this county?

8 A. Yes, ma'am.

9 Q. Let's talk about your pending charges. Let's talk
10 about the penalties. You're charged with possession with
11 intent to distribute Fentanyl, 1st offense; right?

12 A. Yes, ma'am.

13 Q. And you're aware that that carries up to 15 years?

14 A. Yes, ma'am.

15 Q. And you're charged with domestic violence in the 1st
16 degree?

17 A. Yes, ma'am.

18 Q. And you're aware that that carries up to 10 years?

19 A. Yes, ma'am.

20 Q. And you're aware that that domestic violence in the 1st
21 degree, that it's a strike?

22 A. Yes, ma'am.

23 Q. Right? And you know that in South Carolina if you get
24 three strikes, you could be looking at life without the
25 possibility of parole?

1 A. Yes, ma'am.

2 Q. So you're facing 25 years in prison?

3 A. Yes.

4 Q. And with so much time hanging over your head, you
5 started working for the police; right?

6 A. Yes, ma'am.

7 Q. And that was in an effort to work off your pending
8 charges?

9 A. Nothing was promised to me prior to this.

10 Q. But you started working for the police to work off your
11 pending charges?

12 A. Yes.

13 Q. And it's your hope that working with the police keeps
14 you out of jail?

15 A. I hope.

16 Q. So you register with the drug enforcement unit to be a
17 confidential informant?

18 A. Yes.

19 Q. After you register, you're later arrested for domestic
20 violence in the 1st degree?

21 A. No, ma'am. That was not -- that is previous years. I
22 still have not been to court for that. That has nothing to
23 do with this, that last charge, the possession with intent.

24 Q. So -- okay. Now, you registered with the drug
25 enforcement unit to be a confidential informant January

1 28th, 2020; right?

2 A. Yes, ma'am.

3 Q. And then you were arrested for domestic violence
4 February the 8th, 2020; right?

5 A. I don't know. That domestic violence, that was, like,
6 ---

7 Q. Domestic violence 1st degree?

8 A. ---2000 like '18, or something like that---

9 Q. If I showed --

10 A. ---against an Avery Russell.

11 Q. If I showed you a copy of the warrant, would that
12 refresh your memory?

13 A. Yes.

14 (Whereupon, Ms. Sexton handed the referenced item to
15 the witness.)

16 A. Okay.

17 Q. You see any date up there?

18 A. Yeah.

19 Q. Does that reflect a true and accurate copy of the
20 warrant that was served on you on February 8th, 2020?

21 A. Yes.

22 Q. And you see it says domestic violence in the 1st
23 degree?

24 A. Yes, ma'am.

25 Q. Okay. So after you registered as a confidential

1 informant in January of 2020, you then got arrested for
2 domestic violence in the 1st degree; right?

3 A. Yes.

4 Q. And later you got arrested for possession with intent
5 to distribute Fentanyl; right?

6 A. Yes.

7 Q. So your registration is completed to work as a
8 confidential informant; right?

9 A. I got arrested before I even started.

10 Q. Okay. The agreement that you signed with the drug
11 enforcement unit, you specified in the agreement that you
12 have knowledge selling meth; right?

13 A. Not selling it. I have a private usage.

14 Q. Okay. If I showed you a copy of what you completed,
15 your application and the agreement, would that refresh your
16 memory as to what you said?

17 A. Yes, ma'am. I probably need to --

18 (Whereupon, Ms. Sexton handed the referenced item to
19 the witness.)

20 A. (Reviewing document) Okay. You're correct.

21 Q. So Ms. Peterson, you see on your application to be a
22 confidential informant---

23 A. Uh-huh.

24 Q. ---you indicate that you have knowledge in selling
25 meth.

1 A. Yes. I do have knowledge of it.

2 Q. Okay. And you've indicated that you have knowledge
3 selling roxies?

4 A. Yes.

5 Q. And you know how to make fake roxies with Fentanyl;
6 right?

7 A. I don't know exactly how to make it. No, I do not.
8 I've never done it.

9 Q. And you know what a press -- what a pressed-pill
10 machine is; right?

11 A. I know what it looks like.

12 Q. And a pressed-pill machine is what you use to make fake
13 roxies; right?

14 A. I assume that's what they use. As I said, again, I've
15 never actually done it, so I have no idea.

16 Q. And you know also how to use a pressed-pill machine to
17 make fake roxies?

18 A. I've never used it.

19 MS. SMITH: Your Honor, I object. She has answered
20 this question already.

21 THE WITNESS: Three times.

22 THE COURT: All right. That's been -- the objection is
23 that it's been asked and answered. I sustain the objection.
24 Move on.

25 Q. So based on your application here, you have experience

1 selling roxies?

2 A. Yes.

3 Q. And you've sold fake roxies for Fentanyl before?

4 A. I've never actually sold them to anybody. I have
5 purchased them for my own personal usage.

6 Q. All right. So let's talk about February 24th, 2021.

7 A. Okay.

8 Q. When you meet with Investigator Warren -- Werner and
9 the drug enforcement unit. You meet with Investigator
10 Werner and the drug enforcement unit to organize this setup
11 of Wanta(ph); right?

12 A. Yes.

13 Q. And you tell law enforcement that you can buy fake
14 roxies pressed with Fentanyl from Wanta(ph); right?

15 A. Yes, ma'am.

16 Q. Five dollars a pill?

17 A. Yes.

18 Q. That you could buy 50 of these roxies pressed with
19 Fentanyl for \$250?

20 A. Yes, ma'am.

21 Q. They give you a recorder?

22 A. Uh-huh.

23 Q. As a way to video record the deal?

24 A. Yes, ma'am.

25 Q. And those devices were working properly; right?

1 A. Yes, ma'am.

2 Q. Officer Werner then gives you \$250 to purchase these
3 fake roxies; right?

4 A. Yes, ma'am.

5 Q. You leave the Moss Justice Center?

6 A. Yes, ma'am.

7 Q. No one's in the car with you?

8 A. No, ma'am. Just me and myself and the glasses(ph).

9 Q. Okay. Later you return to the Moss Justice Center;
10 right?

11 A. Yes, ma'am.

12 Q. But before you return here, you made a turn into the
13 Exxon Clippers; right?

14 A. No. I do not.

15 Q. The convenience store right up here on the --

16 A. I made -- I made it in front of, yes.

17 Q. You went towards the Waffle House?

18 A. Going right. Yes; sorry.

19 Q. So you didn't come straight back to the Moss ---

20 A. No. I went -- okay. When I left here, I went to ---

21 Q. But my question -- my question, Ms. Peterson, --

22 THE COURT: Hold on a minute.

23 THE WITNESS: I'm sorry. I'm confused.

24 THE COURT: Can't have two people talking at once.

25 THE WITNESS: I'm confused.

1 THE COURT: Let her answer your question and then you
2 can ask your next question.

3 A. Okay. So when we left here initially, I went to --
4 went up out of the Moss, going towards Clippers. Then I
5 made a right. Then me and Wanta, or Octavius, met at the
6 Dollar General to do the sale, okay, then I came directly
7 back here after being on the phone with Ms. Werner. I am on
8 the phone with her for the entire duration of my drive.

9 Q. Okay.

10 MS. SEXTON: I ask for the Court's and the jury's
11 indulgence while we get the ---

12 THE COURT: All right. We'll be at ease.

13 (Whereupon, court at ease.)

14 THE COURT: Let's take a break while they work on the
15 technology. Take a short 10-minute break.

16 Let me ask you, ladies and gentlemen before you take a
17 break, I assume it's still raining pretty good out there.
18 We could order lunch, which in York County usually means
19 pizza for lunch. Would y'all rather be allowed to leave --
20 depending how hard it's raining, or would you prefer the
21 Court have pizza delivered for lunch? Who is opposed? And
22 I'm not offended if you're opposed to having pizza. I'm not
23 a pizza fan myself. But who would rather leave? Is there
24 anybody would rather leave during the lunch break? Anybody
25 opposed to having pizza ordered? All right. We'll take a

1 break. We're not ordering pizza right now, but we'll
2 provide lunch for you today. Everyone be at ease. Don't
3 discuss the case.

4 (Whereupon, the jury exited the courtroom at 11:25 A.M.
5 and a brief recess was observed from 11:25 A.M. until 11:42
6 P.M.)

7 THE COURT: All right. State ready to proceed?

8 MS. SMITH: We are, Your Honor.

9 THE COURT: Defense ready?

10 MS. SEXTON: Yes, Your Honor.

11 THE COURT: Y'all got your -- everything working?

12 MS. SEXTON: Yes.

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

14 (WHEREUPON, the jury re-entered the courtroom at 11:42
15 A.M.)

16 THE COURT: All right. It's your witness, Ms. Sexton.

17 (Whereupon, a portion of the previously referenced
18 video was published.)

19 Q. So, Ms. Peterson, on your way back to the -- to the
20 Moss, you didn't go straight back to the Moss; right?

21 A. I did a circle around a parking lot,---

22 Q. So --

23 A. ---like they asked. That was Ms. Werner's thing.

24 Q. Okay. So, Ms. Peterson, my question is you didn't come
25 straight back to the Moss Justice Center; right?

- 1 A. Before my vehicle was stopped, yes, I did.
- 2 Q. When you left -- did you hear yourself there?
- 3 A. Yes. I said that I'm passing Clippers, going through
- 4 the light now.
- 5 Q. Okay. And when you went through the light, you went
- 6 through Clipper's; right?
- 7 A. Yes.
- 8 Q. And you went toward the Waffle House; right?
- 9 A. Yes.
- 10 Q. Now, that's not straight back to the Moss; right?
- 11 A. No. But again, Ms. Werner was on the phone with me the
- 12 entire way through. She didn't get off the phone with me
- 13 until I touched base here at DEU.
- 14 Q. Okay. Now, Ms. Peterson, we discussed earlier your
- 15 pending charges.
- 16 A. Yes.
- 17 Q. Charges where you're facing 25 years.
- 18 A. Okay.
- 19 Q. Right?
- 20 A. Yes.
- 21 Q. The domestic violence 1st degree that you're hoping
- 22 for, it would be reduced to a domestic violence 3rd degree;
- 23 right?
- 24 A. Yes.
- 25 Q. And the 10 years are gone; right?

1 A. Possibly. There's no guarantee of that.

2 Q. And there's no strike if it's gone; right?

3 A. I still carry a felony. Yes, I do.

4 Q. But your domestic violence 1st degree is going to be
5 reduced to a domestic violence 3rd degree; right?

6 A. Yes.

7 Q. So you wouldn't be facing the 10 years; right?

8 A. I guess not. It's up to the judge whenever I go to
9 court.

10 Q. The possession with the intent to distribute Fentanyl
11 would be reduced to a simple possession; right?

12 A. Yes.

13 Q. For time served; right?

14 A. Possibly. Again, no guarantee.

15 Q. But you're hoping; right?

16 A. Hope is a good thing.

17 Q. So the 15 years you're facing would be gone; right?

18 A. Maybe.

19 Q. And the possibility of the 25 years will be gone;
20 right?

21 A. Yes.

22 Q. And you would be looking at no jail time; right?

23 A. Possibly.

24 MS. SEXTON: No further questions.

25 THE COURT: Thank you. Redirect.

1 MS. SMITH: Just briefly, Your Honor.

2 REDIRECT EXAMINATION

3 TABITHA PETERSON BY MS. SMITH:

4 Q. She talked about you pulling through the Waffle House
5 parking lot. Did you ever stop?

6 A. No, ma'am. I did not.

7 Q. Did you ever speak to anyone?

8 A. No, ma'am. I did not. Again, I was on the phone with
9 Ms. Brandy Werner until the -- until we got here at the
10 facility where I ended the phone call by telling her I'm in
11 the back of the building.

12 Q. Does your hope or possibility that your charges are
13 reduced change in any way your testimony today?

14 A. No, because it doesn't matter if I was or not. It's
15 the truth and truth is truth. That's what I swore on a
16 Bible was to tell the truth.

17 Q. And is the truth today that Octavius Currence
18 distributed this to you on February 24th of 2021 in York
19 County?

20 A. Yes, ma'am.

21 Q. Thank you. That's all I have for you.

22 A. Thank you.

23 THE COURT: Any recross?

24 MS. SEXTON: No, Your Honor.

25 THE COURT: All right. Thank you. Ms. Peterson, you

1 can step down.

2 THE WITNESS: All right.

3 THE COURT: State, call your next witness.

4 MS. SMITH: Your Honor, the State would call Barbie
5 Traylor.

6 (BARBARA TRAYLOR, being first duly sworn, was examined
7 and testified as follows):

8 DIRECT EXAMINATION

9 BARBARA TRAYLOR BY MS. SMITH:

10 Q. Can you please state your name for the jury?

11 A. It's Barbara Traylor.

12 Q. And where do you work?

13 A. I work in the sheriff -- at the sheriff's department in
14 the evidence division.

15 Q. And what do you do?

16 A. I'm an evidence technician.

17 Q. As your role as evidence technician, what are your
18 responsibilities?

19 A. I receive evidence and then store it until it's ready
20 to go to one of the labs or to come to court.

21 Q. When you say you receive evidence, how does that come
22 to you?

23 A. Most of the time it's through one of our drops.
24 Sometimes it's hand-delivered, but most of the time it's
25 through the drops.

1 Q. Can you explain how the drop box works to the jury?

2 A. Okay. We have drop -- a drop. It looks like a
3 mailbox. It's a metal -- it's a metal box and it has a key
4 on it, that we only have custody of the key to open it, and
5 then we also have lockers for bigger items that have
6 padlocks on them and we are the only ones that have the keys
7 to those as well.

8 Q. So if someone drops an item into that box, are they
9 then able to get it back out?

10 A. No.

11 Q. Who is able to get it back out?

12 A. Only the evidence technicians.

13 Q. When an item comes to you, say, for instance, a
14 narcotic, how does it come to you? How is it packaged?

15 A. Okay. Typically, it's in a drug bag like this one
16 (indicating), that has a seal on it that the officer seals
17 and then we check that seal before it comes into us. That's
18 typically the way it comes in.

19 Q. If that seal was broken, what would you do?

20 A. We would not accept it and we would contact the officer
21 to come and correct it.

22 Q. I'm showing you what's been previously marked as
23 State's Exhibit 1, I believe. Yes. State's Exhibit 1.

24 (Whereupon, Ms. Smith handed the referenced item to the
25 witness.)

1 Q. Do you recognize this item?

2 A. I do.

3 Q. And what is this item?

4 A. This is marked Fentanyl pills that we received back in
5 February of '21.

6 Q. And how do you recognize this item?

7 MS. SEXTON: Objection, Your Honor. I would object
8 right now to her calling them Fentanyl pills.

9 THE COURT: All right. I sustain the objection. She
10 cannot call them Fentanyl pills.

11 Q. How do you recognize this item?

12 A. It's one of -- it's in one of our drug bags. And I
13 recognize the officer's name on there and also the
14 signatures on the back.

15 Q. Okay. The signatures on the back, is your signature
16 one of them?

17 A. One of these signatures is mine.

18 Q. Are there any signatures before yours?

19 A. Yes.

20 Q. Who are they?

21 A. The officer that dropped it and then also one of our
22 previous evidence techs.

23 Q. And what's his name?

24 A. Jimmy Styles.

25 Q. And how long have you known him?

1 A. Probably five or six years.

2 Q. Are you familiar with his signature?

3 A. I am. Yes.

4 Q. So is that signature on that bag prior to your
5 signature from Jimmy Styles?

6 A. Yes. I do recognize that signature as his.

7 Q. Okay. And then do you sign that?

8 A. Yes. That's my signature; yes.

9 Q. And then what happens after you sign it?

10 A. In this particular case, I signed it over to our -- one
11 of our drug lab personnel, Cynthia Mitchum.

12 Q. Okay. So when you sign it over, what does that mean?

13 A. It goes from our custody into her custody.

14 MS. SMITH: Beg the Court's indulgence.

15 Q. You testified that prior to your signature, Jimmy's
16 signature is on there?

17 A. Yes, ma'am

18 Q. Would he have followed the same procedures, as you
19 said, in handling evidence that you did?

20 A. Yes. All of our evidence techs would handle it the
21 same way.

22 Q. So if he received a bag that was cut in any way,
23 damaged in any way, what would he have done?

24 A. He would have not accepted it and contacted the officer
25 to come correct it.

1 Q. And do you know that from your five years of experience
2 dealing with Jimmy Styles?

3 A. With him, yes.

4 Q. Thank you. That's all the question I have. If you
5 could answer any for the Defense.

6 A. Okay.

7 MS. SEXTON: No questions, Your Honor.

8 THE COURT: All right. Thank you. Ms. Traylor, you
9 can step down.

10 Solicitor, call your next witness.

11 MS. SMITH: Your Honor, may we approach?

12 THE COURT: Yes.

13 (Whereupon, a Bench conference was held off the record,
14 out of the hearing of the court reporter.)

15 MS. SMITH: Your Honor, at this time the State would
16 call Cynthia Mitchum to the stand.

17 (CYNTHIA MITCHUM, being first duly sworn, was examined
18 and testified as follows):

19 DIRECT EXAMINATION

20 CYNTHIA MITCHUM BY MS. SMITH:

21 Q. Can you please state your name for the record?

22 A. Cynthia Mitchum.

23 Q. And where are you employed?

24 A. I'm employed with the York County Sheriff's Office in
25 the drug analysis laboratory.

1 Q. And how long have you been employed there?

2 A. I've been there now for 23 years.

3 Q. And what are your duties there?

4 A. I receive in evidence from agencies in the County of
5 York and I will analyze those items of evidence for
6 controlled and non-controlled substances.

7 Q. Are you a chemist?

8 A. Yes.

9 Q. What type of education have you had to get to this
10 point?

11 A. I have a Bachelor of Science degree in Chemistry, which
12 I received from Winthrop University in 1990 and prior to
13 being here at the sheriff's office, I worked with the South
14 Carolina Law Enforcement Division, commonly known as SLED,
15 in Columbia, South Carolina for seven and a half years, also
16 in the drug analysis department and I've been through
17 various schools for instrumentation maintenance and
18 operation.

19 Q. What type of training have you had?

20 A. I've been through the different classes through the DEA
21 for instrumentation and identification of drugs.

22 Q. And how long have you been trained or certified as a
23 chemist?

24 A. I've been trained now for -- in February it'll be 31
25 years.

1 Q. Have you ever been qualified as an expert in the field
2 of chemical drug analysis and identification?

3 A. Yes, I have.

4 Q. About how many times?

5 A. I've approximately testified 285 times.

6 Q. As part of your duties, do you analyze substances such
7 as narcotics or illegal drugs?

8 A. Yes, I do.

9 MS. SMITH: Your Honor, at this time the State would
10 offer Ms. Mitchum as an expert witness in chemical analysis
11 and identification of controlled substances.

12 THE COURT: Ms. Sexton?

13 MS. SEXTON: No objection.

14 THE COURT: All right. I find that she is qualified to
15 testify as an expert in chemical analysis and testing and
16 identification of drugs.

17 Ladies and gentlemen, normally a person cannot give
18 opinion testimony. Normally, when a person testifies, they
19 must testify to what they either saw, heard or sensed by
20 smell or something of that nature. However, there is an
21 exception when someone is qualified because of education or
22 experience. They are permitted to give their opinion in
23 certain areas if the Court qualifies them that way. This
24 witness will be qualified, and is qualified, in the area of
25 chemical analysis and drug detection, is qualified to give

1 an opinion testimony in that area. That does not mean you
2 must accept the opinion, but it's evidence for you to use in
3 any way you see fit and give the weight and credibility that
4 you believe is appropriate.

5 All right. Solicitor.

6 MS. SMITH: Thank you, Your Honor.

7 Q. Do you recognize State's Exhibit 1 that's right there.

8 (Indicating)

9 A. Yes, I do.

10 Q. When did you receive that item?

11 A. I received it on March the 2nd of 2021.

12 Q. Where did you get it from?

13 A. I received this from Barbie Traylor and she would have
14 brought it over to the drug analysis laboratory for me to
15 sign for it.

16 Q. Can you explain what it is like when you receive it?

17 A. So the evidence department will get a list of drug
18 cases that we need to do for analyzing. So they will bring
19 it over to the drug analysis department and what we will do
20 is we will sign for them then and take possession of it.

21 Q. When it comes to you, what is the bag like?

22 A. So the beginning bag that I received is this inner bag
23 here with the blue filigree on the sides and it was intact
24 'cause I've got my initials and okay on it. When I get it,
25 then I will cut it open to get the substance out for

1 analysis.

2 Q. Had it been tampered with when you received it, what
3 would you have done?

4 A. I would have contacted the evidence department and then
5 gone from there to contact the officer to see what we needed
6 to do.

7 Q. How did you know that this bag had not been tampered
8 with in this case?

9 A. So what I'll do is I'll check the top and the sides and
10 make sure none of it's open. This particular bag is one
11 complete seal all the way around. So there's no opening at
12 the bottom until I cut it open and that was intact at the
13 top and it's still intact inside of here today.

14 Q. After you received that bag, what did you do? How did
15 you test it?

16 A. So I would store it until a chance I have to do my
17 analysis on it. Then I take the substance here out and I'll
18 do my analysis on that substance, and then I seal all of
19 that back into this outer bag and that is still intact
20 today, with my initials and the date in the seal.

21 Q. After you placed it into that new bag and seal it, what
22 did you do?

23 A. I kept it until I had the chance to return it back to
24 the evidence department.

25 Q. So was it continuously under your custody and control

1 at that time?

2 A. Yes.

3 Q. Anyone else have access to it?

4 A. No, 'cause I have my own individual locked filing
5 cabinet that's within a lab that's within a locked room.

6 Q. Is this bag today in the same condition that it was in
7 when you sealed it after testing it?

8 A. Yes. It appears to be.

9 Q. Is there any evidence of tampering?

10 A. No, there's not.

11 Q. And how do you know that?

12 A. The seal is still intact right here. This bag is what
13 I put everything in and my initials and date is right there
14 in the bottom still and it's still heat sealed in there.

15 Q. After testing those substances, did you make a
16 determination of what they were?

17 A. Yes, I did.

18 Q. Did you prepare a report of your analysis?

19 A. Yes.

20 Q. I'm showing you what's been previously marked as
21 State's Exhibit 6.

22 (Whereupon, Ms. Smith handed the referenced item to the
23 witness.)

24 Q. Do you recognize that?

25 A. Yes. This is the report that I prepared.

1 Q. And the amount of pills that you received, what does it
2 say on that report?

3 A. It's a tied Ziploc bag containing 50 blue tablets.

4 Q. And what did you determine the substance to be?

5 A. So, this was State's Exhibit Number 1, which is also
6 item number 1 in this case, was determined to contain
7 Fentanyl, a controlled II substance, weighing 6.47 grams.

8 MS. SMITH: Your Honor, at this time, the State would
9 offer the report into evidence and offer the drugs into
10 evidence.

11 MS. SEXTON: Your Honor, we would ask that Your Honor
12 not allow the evidence in to -- to be admitted until we do
13 our cross-examination.

14 THE COURT: Lawyers approach.

15 MS. SEXTON: We have -- we have an objection.

16 THE COURT: Wait a minute. Lawyers approach.

17 (Whereupon, a Bench conference was held off the record,
18 out of the hearing of the court reporter.)

19 THE COURT: Ladies and gentlemen, we need to take up a
20 matter outside of your presence. I'm going to ask that you
21 return to your jury room. Again, do not discuss the case
22 and we'll have you back in here in just a few moments.
23 Thank you.

24 (Whereupon, the jury exited the courtroom at 12:05
25 P.M.)

1 THE COURT: All right. We're at the point in the trial
2 the jury has been sent out. The chemist has testified that
3 she tested what's been marked State's Exhibit 1 and at this
4 point she's testified that it's a controlled II substance
5 and the State has then moved that into evidence and there
6 was an objection from the defense. So I'll hear your
7 objection.

8 MS. SEXTON: May we have a moment, Your Honor? My
9 apologies. May we beg the Court's indulgence?

10 THE COURT: Yes.

11 MS. SEXTON: Your Honor, I'm sorry. We withdraw the
12 objection.

13 THE COURT: All right. Then when the jury comes, I'm
14 going to -- the objection has been withdrawn. State's
15 Exhibit 1 will be admitted into evidence without objection.
16 When the jury comes back in, I will state that on the record
17 in front of the jury and then you can proceed with your
18 questioning.

19 MS. SMITH: Your Honor, we also asked that State's
20 Exhibit 6, which was her report, I asked both at the same
21 time that they be admitted into evidence.

22 THE COURT: Well, let's do that in front of the jury.

23 MS. SMITH: Okay.

24 THE COURT: Let's bring the jury in.

25 (Whereupon, the jury re-entered the courtroom at 12:08

1 P.M.)

2 THE COURT: All right. Thank you, ladies and
3 gentlemen.

4 The objection of introducing State's Exhibit 1 is --
5 has been withdrawn. So, therefore, State's Exhibit 1 is
6 into evidence without objection.

7 MS. SMITH: Your Honor, we would ask that State's
8 Exhibit 6 be entered into evidence.

9 THE COURT: Ms. --

10 MS. SEXTON: No objection, Your Honor.

11 THE COURT: State's Exhibit 6 is also in evidence
12 without objection. All right. Thank you.

13 All right.

14 Q. I would like to talk about the specific drugs that you
15 tested in this case.

16 A. Okay.

17 Q. How many drugs do you test for this case?

18 A. In this particular one, I did three tablets of the 50.

19 Q. And how do you choose which tablets to test?

20 A. It's a representative sample.

21 Q. So would that be that it's random?

22 A. Correct.

23 Q. Is it industry standard to test a large amount of drugs
24 that way?

25 A. Yes.

1 Q. In this case, the three pills that you tested, did they
2 all come back as containing Fentanyl?

3 A. Yes, they did.

4 Q. The specific pills that you tested, do they all come
5 from one location?

6 A. Now, what do you mean they all came from ---

7 Q. Did they all come from one baggie when you received it?

8 A. Yeah. This -- I have this one Ziploc bag here that has
9 all the tablets in it and they came all from that Ziploc
10 bag. Yes.

11 Q. And do those pills all look the same?

12 A. No. There are some that are a little bit darker blue
13 and some that are light blue, but I did do a representative
14 sample that way. I chose, like, the light blue and the
15 darker blue to make sure that they were the same and then if
16 they were not the same when I analyzed them, I would have
17 gone back, separated them and did more testing.

18 Q. But in this case, all of them came back as Fentanyl;
19 correct?

20 A. That is correct.

21 Q. So due to industry standards, since they all came back
22 as the same thing, you were not required to test the
23 additional pills?

24 A. Correct.

25 Q. Is that correct?

1 A. Yes.

2 Q. Thank you. That is all the questions that I have. If
3 you could please answer any that the defense may have.

4 A. Okay.

5 THE COURT: Cross-examination.

6 CROSS-EXAMINATION

7 CYNTHIA MITCHUM BY MS. SEXTON:

8 Q. Hi, Ms. Mitchum?

9 A. Hello.

10 Q. It's nice to put a face with a voice.

11 A. Yes.

12 Q. Ms. Mitchum, so in this case you received 50 pills;
13 right?

14 A. That is correct.

15 Q. Okay. And they're called pressed pills; right?

16 A. That's correct.

17 Q. Okay. And so in this case, it's pressed Roxycodone.
18 Is that right?

19 A. That's what they're supposed to resemble is the
20 Oxycodone tablets, that -- let's see -- yeah, they're the
21 A215 tablets.

22 Q. Gotcha. And so the Roxycodone -- so Roxycodone is an
23 actual drug?

24 A. Yes, it is. It's Oxycodone.

25 Q. Okay. And it's manufactured by a pharmaceutical

1 company?

2 A. That is correct.

3 Q. And so for actual Roxicodone pills, you know what's
4 in it because the company tells us what's in it on their --
5 the back side or what have you?

6 A. That's correct.

7 Q. But pressed pills, they're not manufactured by
8 companies; right?

9 A. No. They're manufactured or pressed in someone's, you
10 know, backyard, even in the garage, in a back shed, in a
11 basement somewhere. They get all the ingredients, pour it
12 into the hopper and there's no quality control on it.

13 Q. Thank you. And so to test pressed pills -- so you
14 would have to test them really to see what's in all of them?

15 A. Correct.

16 Q. And that's what you did in this case?

17 A. Right. I took a representative sample from the whole
18 and did an analysis on those.

19 Q. And so it was the three pills and -- okay. So the
20 three pills that you tested, they were used up in the
21 sample?

22 A. That is correct.

23 Q. Which means they're not in the bag anymore?

24 A. That's correct.

25 Q. Okay. So it's 47 pills left that were not -- there's

1 47 pills in a bag that were not tested; right?

2 A. That's correct.

3 Q. All right. Give me one second.

4 MS. SEXTON: Your Honor, if we could have a small
5 break.

6 THE COURT: All right. Lawyers approach.

7 (Whereupon, a Bench conference was held off the record,
8 out of the hearing of the court reporter.)

9 THE COURT: Ladies and gentlemen, I think we're still
10 going to be waiting for pizza for a while. I'm going to --
11 we need to take up an issue outside your presence. It
12 shouldn't take too long, but I'm going to allow you to go
13 back to your jury room. We'll have you back in here in just
14 a few moments. Do not discuss the case. Everyone remain
15 seated.

16 (Whereupon, the jury exited the courtroom at 12:18
17 P.M.)

18 THE COURT: All right. Y'all do whatever you got to
19 do.

20 (Whereupon, court at ease)

21 THE COURT: All right. Where are we with the --

22 MS. SEXTON: We can't get a -- Leslie counted 48.

23 THE COURT: Well, I mean, here's the thing, neither one
24 of them testified to how many pills are in the bag.

25 MS. SEXTON: Right.

1 THE COURT: The bag -- the evidence is going to go back
2 to the jury room. They can determine for themselves what
3 the amount is. The chemist has not testified as to how many
4 pills are in there. She's not counting them. I'm not sure
5 that's what she's required to do here in court. Y'all can
6 examine them and look at them. However, y'all can't testify
7 what's in the bag.

8 MS. SMITH: Right. Even if she -- even if they counted
9 a different amount,---

10 THE COURT: Right.

11 MS. SMITH: ---they can't testify to that.

12 THE COURT: That's --

13 MS. SEXTON: Your Honor, I think it would go to the
14 weight of the evidence, right, if it's 48 instead of 47.

15 THE COURT: You can argue to the jury what they can do
16 and can't do with the evidence.

17 MS. SEXTON: You can just tell them to count them back
18 there.

19 MS. SMITH: Yeah. Then see what number they get.
20 Okay.

21 THE COURT: All right. Y'all ready to proceed?

22 MS. SMITH: Yes, Your Honor.

23 THE COURT: Defense, ready to proceed?

24 MS. SEXTON: Yes, Your Honor.

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

1 (Whereupon, the jury re-entered the courtroom at 12:21
2 P.M.

3 THE COURT: All right. Ladies and gentlemen we thank
4 you for your patience.

5 Ms. Sexton, this is your witness.

6 Q. Okay. Ms. Mitchum, so to your recollection it was 50
7 pills in the bag when you got it?

8 A. That is correct.

9 Q. And to your recollection there was forty- -- well,
10 there's 47 pills in the bag that haven't been tested?

11 A. Correct.

12 Q. And the 47 pills that were left, would you be the one
13 to count to see if there was 47 left or ---

14 A. Yes. I'm the one that counts and I count the 50 also.
15 Yes.

16 Q. Okay. But you're -- in this case, you didn't weigh the
17 pills; right?

18 A. Yes. I did do a weight on the pills and that was after
19 the three pills had been removed.

20 Q. Okay. And so just to back up a little bit, you
21 testified that the Roxicodone pills, that they're an actual
22 pill; right?

23 A. Yes. They're in the form of a tablet.

24 Q. But these pills that are pressed pills, they're
25 manufactured -- you testified that they're manufactured on

1 the street?

2 A. Correct.

3 Q. And you testified that those pills, that the remaining
4 47 were not tested; right?

5 A. That's correct.

6 MS. SEXTON: No further questions.

7 THE COURT: Any redirect?

8 MS. SMITH: Just briefly, Your Honor.

9 REDIRECT EXAMINATION

10 CYNTHIA MITCHUM BY MS. SMITH:

11 Q. So the pills that you tested came back as Fentanyl; is
12 that correct?

13 A. That is correct.

14 Q. And those were not pharmaceutical grade Roxicodone;
15 correct?

16 A. That is correct.

17 Q. They were in fact street drugs. Is that correct?

18 A. Yes.

19 Q. Thank you. That's all I have.

20 THE COURT: Any recross.

21 MS. SEXTON: No, Your Honor.

22 THE COURT: All right. Thank you. Ms. Mitchum, you
23 can step down.

24 State, call your next witness.

25 MS. SMITH: Your Honor, at this time the State would

1 rest.

2 THE COURT: All right. Ladies and gentlemen, what --
3 the State has indicated they rest. They have presented all
4 the evidence that they intend to introduce at this point in
5 the trial, which means we have some matters we need to take
6 up outside of your presence.

7 Do we have any estimated time of arrival for our lunch?

8 THE CLERK: She ordered it at 11:15. They told her
9 thirty minutes.

10 THE COURT: Okay. Then I'm going to allow you to go
11 back to your jury room. Does anybody need to go to their
12 vehicle or anything while -- I think it's still raining
13 pretty good out there, you may not want to go, but you're
14 free to do that. We're going to take a lunch break. We'll
15 take about an hour. Sort of depends -- we hope the pizza
16 will be here in just a little bit, but you can stay in your
17 jury room or if you need to go out to your vehicle to get
18 something or to make a call, feel free to do that, but do
19 not discuss the case among yourselves, with anybody else
20 until I have charged you on the law at the appropriate time.

21 Again, we should have drinks and pizza provided as soon
22 as they get here. So with that, I'm going to allow the jury
23 to be excused to the jury room. We'll take an hour break
24 and we'll be back and be ready to go about 1:30. Everyone
25 remain seated while this jury is excused.

1 (Whereupon, the jury exited the courtroom at 12:30
2 P.M.)

3 THE COURT: All right. The State has rested. Any
4 motions?

5 MS. SMITH: None from the State, Your Honor.

6 THE COURT: From the defense?

7 MS. SEXTON: Yes, Your Honor. And, Your Honor, we
8 renew all of our previous motions and all of our previous
9 objections, objecting to the screen shot of the Facebook
10 page for it not being authenticated, for no one here to
11 testify that it came from Facebook, not having the actual
12 phone, and the fact that it's mere hearsay.

13 We're also requesting a motion for a directed verdict,
14 in that the testimony -- these -- this situation happened in
15 '21, in 2021. The chemist testified to the fact that it was
16 three pills that were tested for Fentanyl. There was some
17 issue as to whether or not it's 47 pills, 48 pills, even if
18 it's still the 50 pills are still remaining. We feel like
19 the State has not met its burden, Your Honor, in proving
20 that it was actual Fentanyl dispersed and so we would ask
21 for a directed verdict.

22 THE COURT: All right. Thank you. Let me take the
23 first motion as far as the previous ruling on the text
24 messages and Facebook messages. Again, I denied that motion
25 to exclude that evidence and I continue to deny that motion.

1 She did -- I note for the record that the informant
2 testified that she normally communicated with the defendant
3 through text and textbook -- text and Facebook. You can
4 tell how much Facebook I use. Normally, that's the way
5 she communicated with him. The text messages and Facebook
6 messages were messages that she testified to were
7 immediately prior to the actual distribution and, in fact,
8 the messages on the text and the textbook (sic) that were
9 presented were actually text and messages that were setting
10 up the transaction, which, again, goes to the issue that was
11 part of the res gestae of the case. So, again, I will abide
12 by my prior ruling those are admissible.

13 Does the State wish to be heard on the motion for the
14 directed verdict?

15 MS. SMITH: Your Honor, just briefly. We would argue
16 that there's enough in that video alone to show that he did
17 distribute these pills to the confidential informant, then
18 the chemist does test them. As far as distribution is
19 concerned, there is not a weight requirement as I previously
20 said to you. One of those pills could have been Fentanyl,
21 all of them could have been Fentanyl. It does not matter.
22 He distributed those pills to the CI and they did include
23 Fentanyl. So we believe we have met all elements of this
24 crime.

25 THE COURT: All right. Thank you. I deny the motion

1 for a directed verdict. I find that the evidence taken in
2 light most favorable to the non-moving party in this case,
3 the State, is sufficient evidence in which there is an
4 issue, a question of fact for the jury.

5 I will note the Solicitor indicated that the video is
6 very clear about the actual exchange, that the chemist has
7 tested -- testified that three of the pills that was in the
8 bag of 50 are tested positive for a controlled II substance,
9 Fentanyl. Those are, again, issues for -- questions of
10 fact, though, for a jury to take into consideration and
11 there is enough evidence for the State -- for the case to go
12 to the jury. So, again, I deny the motion for the directed
13 verdict.

14 Any other motions?

15 MS. SMITH: None from the State, Your Honor.

16 THE COURT: All right. Let me talk to you, Ms. Sexton,
17 you and your client. Do you intend to present any evidence
18 or testimony? Well, here's what I'm going to do. I'm going
19 to go through his right not to testify, give you the lunch
20 break to talk to him about that, but just, preliminary,
21 where are we as far as logistics? Does the State intend to
22 introduce any evidence -- I mean, defense intend to
23 introduce any witnesses or evidence, other than you need to
24 talk to the defendant about whether he wants to testify.

25 MS. SEXTON: No, Your Honor. That's all we --

1 THE COURT: All right. Let's bring him on around and
2 place him under oath.

3 Mr. Currence, it's simply we've got to talk to you
4 about your right to testify or not. If you'll come around,
5 we'll place you under oath.

6 (OCTAVIUS TREMAIN CURRENCE, being first duly sworn, was
7 examined and testified as follows):

8 THE COURT: All right. You are Octavius Tremain
9 Currence?

10 MR. CURRENCE: Yes, sir.

11 THE COURT: All right. If you don't mind speaking up,
12 Mr. Currence?

13 MR. CURRENCE: Yes, Your Honor.

14 THE COURT: At this time I need to explain to you
15 certain of your rights. If you don't understand anything I
16 say, please let me know and I'll explain to you in more
17 detail.

18 We've reached the stage of the trial where you may
19 present evidence or you may present your defense. You have
20 a right to claim the protections given to you by the Fifth
21 Amendment of our Constitution. That amendment, Fifth
22 Amendment states that no person shall be compelled in any
23 criminal case to be a witness against himself. That means
24 you cannot be required to testify in the case. However, you
25 have a right to testify on your own behalf, but no one can

1 make you testify. That's a right, a personal right that you
2 have and no one can give up that right except you.

3 If you decide to testify, you will be subject to the
4 same rules that govern other witnesses. You might be cross
5 -- you'll be examined under direct examination and you'll
6 cross-examined on any relevant issue in the case.

7 In addition, if you have any convictions involving
8 dishonesty or false statements for crimes punishable by
9 imprisonment for more than one year, and the Court
10 determines that the probative value of admitting this
11 evidence outweighs its prejudicial effect to you, the
12 Solicitor will be able to introduce your record to attack
13 your credibility.

14 And I believe, Solicitor, we had discussed this issue
15 earlier in pretrial, that the only thing that would -- as
16 far as convictions was he had a conviction for a failure to
17 stop for a blue light. Is that correct?

18 MS. SMITH: Yes, Your Honor.

19 THE COURT: And that carries --

20 MS. SMITH: That's the only one that would apply.

21 THE COURT: And that carries up to three years in
22 prison. So they would be limited. The Court would instruct
23 them that they could simply ask you if you took the stand,
24 as far as your record, isn't it true you've been convicted
25 of a crime that carries a term of -- or punishment for more

1 than one year. That's all they could ask you about that.

2 Do you understand that?

3 MR. CURRENCE: Yes, sir.

4 THE COURT: If you decide to testify, it has to be
5 freely, voluntarily and intelligently made with knowledge of
6 protections give you by the Fifth Amendment and the
7 consequences of your decision to testify.

8 If you decide not to testify, then I will instruct the
9 jurors that they cannot give the fact that you did not
10 testify any consideration whatsoever and that there's to be
11 absolutely no prejudice to you because you did not testify.
12 I'll tell the jury to not hold that against you, the
13 defendant in this case, because that's his Constitutional
14 right not to testify, that the burden is on the State to
15 prove your guilt beyond a reasonable doubt with their
16 evidence. However, -- and that's what I would instruct the
17 jury on. However, it's left entirely up to you whether or
18 not you testify. You may -- you can talk to your attorney,
19 your family, your friends, or anybody else, but the final
20 decision will be -- about whether to testify will be left
21 entirely to you. Do you understand what I've just explained
22 to you?

23 MR. CURRENCE: Yes, Your Honor.

24 THE COURT: Do you have any questions about what I've
25 explained to you.

1 MR. CURRENCE: No, Your Honor.

2 THE COURT: All right. Have you discussed with your
3 attorney, Ms. Sexton, about whether you should or should not
4 testify?

5 MR. CURRENCE: Yes, sir.

6 THE COURT: All right. You've discussed it, but I'm
7 not going to require to answer that right now. I'm going to
8 give you during the lunch break to him further and when you
9 come back -- when we come back after lunch, I'll ask you if
10 you've reached a decision about whether you'll testify or
11 not. All right?

12 MR. CURRENCE: Yes, Your Honor.

13 THE COURT: All right. Thank you.

14 MS. SEXTON: Thank you, Your Honor.

15 THE COURT: Anything else that we need to put on the
16 record before we break for lunch from the State?

17 MS. SMITH: Nothing from the State, Your Honor.

18 THE COURT: From the defense?

19 MS. SEXTON: Nothing, Your Honor.

20 MS. SMITH: Your Honor, this isn't so much for the
21 record, but will you be emailing us your intended charges
22 over the lunch break?

23 THE COURT: Yes. Yeah. I think I've gotten them
24 almost completed. I am a little bit -- I'm not sure that
25 I've ever tried a distribution of Fentanyl case, but we'll

1 deal with that.

2 MS. SEXTON: Your Honor,---

3 THE COURT: Yes.

4 MS. SEXTON: ---will we have a charge conference after
5 the lunch break?

6 THE COURT: Yeah. We'll do that. When we come back
7 after lunch, if the defendant decides he's going to testify,
8 we'll take that test- -- we'll have that testimony. If he
9 indicates that he does not wish to testify, then I will
10 bring the jury back out and, in fact, I'll ask the defense
11 -- well, I'll tell the jury that we've now reached the
12 conclusion of the trial and that there's some other matters
13 we need to take up outside their presence before -- and I'll
14 lay out that we're going to go through the closings and
15 instruction, but I'll send them out, then we'll have a short
16 charge conference.

17 MS. SEXTON: Thank you, Your Honor.

18 THE COURT: All right. We'll break 'til 1:30.

19 (Whereupon, the proceeding was recessed at 12:41 P.M.
20 for lunch and reconvened at 1:35 P.M.)

21 THE COURT: Lawyers approach.

22 (Whereupon, a Bench conference was held off the record,
23 out of the hearing of the court reporter.)

24 THE COURT: All right. We're back on the record in
25 2021-GS-46-06011, *State versus Octavius Tremain Currence*.

1 He's been indicted and on trial for distribution of
2 Fentanyl. We ended the morning after the State rested with
3 a discussion with the defendant about his right to testify.
4 Let's bring him back around for the --

5 Ms. Sexton, let's bring the defendant back around,
6 please.

7 (Whereupon, Ms. Sexton and the defendant complied with
8 the Court's request.)

9 THE COURT: All right. Mr. Currence, you don't have to
10 be sworn in again. He was sworn in. He's still under oath.
11 He was sworn in right before the lunch break.

12 Mr. Currence, have you had plenty of time to your
13 attorney about whether you should or should not testify?
14 Have you had plenty of time?

15 MR. CURRENCE: Yes, Your Honor.

16 THE COURT: Do you need -- do you wish to testify?

17 MR. CURRENCE: No, Your Honor.

18 THE COURT: All right. Thank you.

19 Ms. Sexton, you've explained what I explained to him
20 during -- before the break. He understands all of that?

21 MS. SEXTON: Yes, Your Honor.

22 THE COURT: All right. I find that he's knowingly,
23 intelligently and voluntarily waived his right to testify.

24 Does the defense intend to present any other witnesses?

25 MS. SEXTON: No.

1 THE COURT: All right. Thank you. Y'all may be
2 seated.

3 All right. Let's bring -- I'm going to bring the jury
4 in, give them a heads up where we are. I just thought about
5 possibly -- the weather's still pretty bad -- about letting
6 them go and argue and charge in the morning, but it looks
7 like it might be, hopefully, improving a little bit later
8 on. So I don't think we necessarily -- I'm going to keep
9 them. I am going to ask them if there's any strong opinion
10 about whether they feel they need to go home, but I'll deal
11 with that when they come back.

12 All right. Let's bring the jury in.

13 (Whereupon, the jury re-entered the courtroom at 1:37
14 P.M.)

15 THE COURT: Thank you, ladies and gentlemen. I hope
16 you enjoyed your lunch. We have reached the point in the
17 trial where there will be no other testimony or evidence
18 presented to you. We are now at the point where we're ready
19 to do closing arguments and I will charge you on the law.
20 However, there's a few things I will need to take up with
21 the lawyers before we begin that part of the process. So
22 I'm going to excuse you back to your jury room for about 20
23 minutes.

24 Now, let me ask you, does anybody feel the urgent need
25 to go ahead, get on the road and get home? It appears that

1 the weather may be breaking a little bit later on this
2 afternoon. On the other hand, I'm not a glutton for
3 punishment. I don't want to be punishing you for being
4 here. Is everybody comfortable remaining here in spite of
5 the weather? Anybody have a strong desire that you need to
6 leave and be at home?

7 (No response)

8 THE COURT: All right. Seeing no hands, we will
9 hopefully complete the trial this afternoon. With that, go
10 back to your jury room. Again, do not discuss the case yet.
11 When you come back out, you'll hear closing statements and
12 I'll charge you. Everyone remain seated while this jury is
13 excused.

14 (Whereupon, the jury exited the courtroom at 1:39 P.M.)

15 THE COURT: All right. Anything for the record before
16 we talk about jury instructions from the State?

17 MS. SMITH: No, Your Honor?

18 THE COURT: From defense?

19 MS. SEXTON: No, Your Honor.

20 THE COURT: All right. Well, let's talk about
21 instructions. Let's just go -- I think y'all should have a
22 copy of them. We began just the duties of the jury and the
23 trial judge on page 1 and page 2, charge, arrest and
24 indictment; page 3, these are all standard. Presumption of
25 innocence; definition of reasonable doubt on page 4;

1 definition of direct and circumstantial evidence on page 5
2 and 6; credibility of witnesses on page 6 and 7. I have a
3 charge on expert witnesses on page 7 going into 8; a charge
4 on intent on page 8 and 9, and I charge on the defense --
5 the defendant's exercising his right not to testify on page
6 9 and 10; distribution of Fentanyl on the bottom of page 10;
7 the general fair and impartial charge, and then just the
8 general instructions to the jury about this charge and the
9 requirement for a unanimous verdict.

10 Is there any other additions or changes that need to be
11 made to the charge from the State?

12 MS. SMITH: Yes, Your Honor. We would ask that you
13 include a charge on redactions. My last trial with Judge
14 McKinnon, he did a charge on redactions and I have a copy of
15 his charge. I'll pass it up.

16 THE COURT: Well, I had thought about that, but there
17 was not any evidence before the jury that anything was
18 redacted. There was one point -- the only thing that I
19 could possibly hang that on, there was one point -- well,
20 the video -- you didn't play the entire video. I'm not sure
21 whether we call that a redaction or not. There was one
22 little 'ole tiny spot, I think, when they were interviewing
23 or when she was being searched. There was a pause. It was
24 not very long. I did -- sometimes if there's -- and there
25 was no discussion about redactions, other than we had the

1 discussion pretrial on some things that were not coming in,
2 redacted, but I didn't -- it didn't appear to the Court that
3 there was an issue for the jury to be aware of any
4 redactions, but I'll be glad to hear you on this.

5 MS. SMITH: Your Honor, we are sending the video in its
6 entirety back and I am encouraging them, if they have any
7 questions about why I fast forwarded through anything, that
8 they can watch the video in its entirety. There are
9 redactions that are large portions that are missing in the
10 entire video that will become very obvious to the jury
11 should they decide to watch the entire video.

12 THE COURT: Does the defense have a position on the
13 redaction?

14 MS. SEXTON: Your Honor, we're fine with the language.

15 THE COURT: All right. Let me see the --

16 (Whereupon, Ms. Smith handed the referenced item to The
17 Court.)

18 THE COURT: Have y'all seen a copy of the -- well,
19 actually, the redactions is simply a 1, 2, 3, 4, a 5-line
20 redaction. "Ladies and gentlemen, during the presentation
21 of this case you may have noticed that certain parts of the
22 audio and video that were presented in this case were
23 redacted. This is due to the rules of court and that was a
24 decision made by me. Please do not speculate as to what may
25 or may not be contained in these portions and you are not to

1 hold these portions against either party."

2 Any objection to the judge charging that redaction
3 charge?

4 MS. SEXTON: No, Your Honor.

5 THE COURT: All right. I will include it right after I
6 charge on failure to testify and right before the charge on
7 distribution. All right.

8 Anything else from the State?

9 MS. SMITH: Nothing from the State, Your Honor.

10 THE COURT: Anything in regards to the charge from the
11 defense?

12 MS. SEXTON: Your Honor, we would ask for a mere
13 presence charge.

14 THE COURT: I don't see -- I'll be glad to hear from
15 the State. This is not a mere presence case. I mean, the
16 evidence shows or could be determined that he was --
17 approached the car, got in the car with the drugs in his
18 hand and exchanged it for currency. Again, that's a fact
19 for a jury to ultimately decide, but I'll be glad to hear
20 from the State on mere presence.

21 MS. SMITH: Your Honor, that would be our argument.
22 This is not a mere presence case. This is not a possession
23 case or a trafficking case. This is about one person
24 distributing to another. You do see that on the video.
25 There are no other people that approach the video and

1 distribute anything to her. It is simply one person
2 distributing to the other, so there is no presence.

3 THE COURT: Yeah. I note your objection; however, I'm
4 not going to charge on mere presence.

5 MS. SEXTON: Thank you, Your Honor.

6 THE COURT: Anything else?

7 MS. SEXTON: No.

8 THE COURT: All right. What do y'all need -- how long
9 is going to take y'all to be ready, 15 minutes? 10 minutes?
10 Are y'all ready now?

11 MS. SMITH: Your Honor, I'm ready now.

12 THE COURT: All right. And the defense will get the
13 last argument. In fact, there will only be two arguments.
14 The State will address the jury, and then the defense will
15 have an opportunity to then address the jury in closing.

16 MS. SEXTON: Your Honor, if we can have about 10
17 minutes.

18 THE COURT: All right. We'll take a 10-minute break.
19 Thank you.

20 (Whereupon, a brief recess was observed from 1:45 P.M.
21 until 2:00 P.M.)

22 THE COURT: Is the State ready to proceed?

23 MS. SMITH: We are, Your Honor.

24 THE COURT: Defense ready?

25 MS. SEXTON: Yes, Your Honor.

1 THE COURT: Let's bring the jury in.

2 (WHEREUPON, the jury re-entered the courtroom at 2:01
3 P.M.)

4 THE COURT: All right. Thank you, ladies and
5 gentlemen. Again, thank you for your patience. We're now
6 ready to hear arguments. At this time the State will have
7 an opportunity to present their closing argument, then the
8 defense will have an opportunity. Ms. Smith.

9 MS. SMITH: Thank you, Your Honor. The Judge is going
10 to go over the law in this case on what we have to prove to
11 find the defendant guilty of distribution of Fentanyl, but
12 let's go over that now.

13 We have to prove that the defendant, Octavius Currence,
14 did, in York County, on February 24th of 2021 distribute,
15 dispense or deliver Fentanyl to another individual. I agree
16 with what the defense said at the beginning of this case.
17 She said what you see is important. I'll agree that that is
18 the most important part of this case. The video in this
19 case shows you exactly what you need to know in order to
20 convict this defendant of distribution of Fentanyl. Let's
21 watch the distribution happen one more time.

22 (Whereupon, a portion of the referenced video was
23 published to the jury.)

24 MS. SMITH: That is this defendant sitting right here
25 distributing Fentanyl to the confidential informant in this

1 case. These are screen shots from the video. Let's look
2 and see exactly what is on that video.

3 (Whereupon, the referenced items were published to the
4 jury.)

5 MS. SMITH: On this left-hand side, you will see what
6 the defendant is passing over to the CI in this case. You
7 can see how it's packaged, exactly what it looks like. At
8 the bottom right, you see the same package in the DEU office
9 that the confidential informant has delivered to them after
10 the deal. In the top right-hand corner, you see the money
11 that she gives him in exchange for the Fentanyl in this
12 case.

13 Let's talk about the CI in this case. We can all agree
14 that the CI is an interested party in this case. She has
15 been charged and, in fact, in one case, convicted of having
16 drugs. Nobody is denying that. That is how she is able to
17 go and buy drugs from this defendant. We know that she
18 hopes that something happens after this, but at the end of
19 the day, prior to this distribution, she was given no
20 promises. All she had was hopes, but you see exactly what
21 happens in this video. That doesn't change based on the
22 hopes of the CI. The video is the video.

23 As far as the drug testing is concerned, you heard from
24 the chemist about how many pills were tested. She explained
25 to you why she tests only 3 out of the 50. That is industry

1 standard. It does not matter whether 50 of these pills come
2 back as Fentanyl or 3. All that matters is that any pill
3 that this man distributed to the CI comes back as Fentanyl
4 and that is what we have in this case. She testified that 3
5 pills came back as Fentanyl and you see him giving that to
6 the confidential informant.

7 We also heard a lot about money in this case. You will
8 hear from the judge in his charges that a distribution does
9 not require an exchange of money. That being the case, you
10 still saw it, but whether it was \$150, \$250, that does not
11 matter. He could have simply given it to her because he's a
12 nice guy. He did not have to receive any money in this
13 case. It is distribute, dispense or deliver. There is no
14 requirement for money.

15 We also talked about the video and her driving and her
16 stopping. You did not see the video in its entirety. The
17 reason for that was we were trying to get to the points that
18 something happens in the video. There's a lot of driving in
19 this case. That video that is going to go back there with
20 you has the entire thing. It's about 48 minutes. If you
21 feel, in order to find a guilty verdict in this case, that
22 you need to watch the whole thing, I invite you to do that.
23 I welcome you to do that, but as she testified, there were
24 no stops in this case, other than when she stopped and
25 received Fentanyl from the defendant. There were no

1 interactions, there were no discussions. The only person
2 that she talks to is the defendant and then Brandy Werner
3 when she's on the phone with her, going back to the station.

4 If you want to watch her driving the entire time and
5 make sure that those doors don't open and those lights don't
6 come on, you are more than welcome to do that and I would
7 encourage you to do that.

8 The judge is going to charge you with reasonable doubt.
9 That is not beyond any and all doubt, it is only reasonable.

10 I am speaking to you now, then the Defense will get to
11 speak to you. They will have their arguments. I will not
12 get to respond to those arguments, but I will say that what
13 you viewed today in this video and the other testimony that
14 you have heard is enough to find the defendant guilty beyond
15 a reasonable doubt. That video alone should leave you
16 without reasonable doubt.

17 We ask that you take your time. We ask that you go
18 through all this evidence and at the end of this, based on
19 exactly what you see up here, that you find the defendant
20 guilty of distribution of Fentanyl. Thank you.

21 THE COURT: Ms. Sexton.

22 MS. SEXTON: Ladies, gentlemen, when I came before you
23 this morning, I told you that the evidence from this witness
24 stand, that the evidence was going to show three things;
25 right?

1 THE COURT: Hold on. Let's take down the State's
2 exhibit. All right. Thank you.

3 MS. SEXTON: I told you that the evidence was going to
4 show three things. Tabitha Peterson, one, does not want to
5 go to jail; 25 years she's facing. She's only 28. She's
6 been alive three years more than she would be sentenced to
7 jail. I told you that the evidence was going to show the
8 second thing, she's desperate; and the third thing I told
9 you was that you cannot trust her.

10 You heard the officer that was in charge, the case
11 agent, come up here and testify she went straight back to
12 the Moss. She didn't go anywhere else. You heard Ms.
13 Peterson first testify that she came straight back to the
14 Moss. The officer couldn't trust her to do what she was
15 supposed to do. The officer said she would have pulled it,
16 but she didn't.

17 Let's talk about some things that we don't see. Things
18 that we don't see: we don't see the search. We don't see
19 any search. We don't see the search of the vehicle. She's
20 driving her own vehicle. We don't know how messy it is.
21 She's driving her own vehicle. She knows where to hide
22 things in her own vehicle. We didn't see the search of her,
23 not even a pat down. In fact, we don't even see photos of
24 any search; right? But they want you to be sure that she
25 was searched. The phone. They talk about these Facebook

1 messages; right? And you'll see, because they entered it
2 into evidence, it's a screen shot of a phone. If we're so
3 sure that it was Mr. Currence wanted to distribute Fentanyl,
4 where's the phone? Examine those screen shots. You don't
5 see a phone number on there.

6 If the State was so sure that this deal was set up with
7 Mr. Currence, where's the evidence that it went to his
8 phone? Look at the Facebook screen print. It looks like a
9 guy with a wave(ph) cap on it. That is allegedly Ms.
10 Peterson and then you'll see a picture of a little baby with
11 a teddy bear. That's allegedly Mr. Currence. But the only
12 person who's talking about Fentanyl, the only person who's
13 talking about these roxies is Ms. Peterson and you heard Ms.
14 Peterson testify that when she registered as a confidential
15 informant, she testified that she knows about selling meth.
16 She knows about selling roxy pressed with Fentanyl. She
17 didn't hide it from you.

18 The pills. We don't see the pills being counted;
19 right? I mean, we have a CI who, according to the State,
20 has already put two people in jail, but this confidential
21 informant, she doesn't confirm that it's pills. They gave
22 her video equipment, recording equipment. You'll see it on
23 the video. She doesn't shine the light on that bag. She
24 doesn't count the pills. The money. We don't see the
25 money.

1 Now, you heard the officer that's in charge testify
2 that it was \$250. We don't see her count it before. We
3 don't see that. Then when we talk a little bit more, we
4 learn that, oh, there's a page missing. It's \$150, but
5 where's the other picture?

6 Things we don't know. What happened at the Exxon
7 Station? What happened when she went toward the Waffle
8 House? When you get back there and look at the video, I
9 want you to listen to everything that's going on there;
10 right? There's texting going on. There is moving going on.
11 She drops the phone. There's a lot going on, so take the
12 solicitor up on her challenge to watch the entire video
13 because, see, she has the burden of proof. So hold her to
14 that. Watch the video. Focus on the video. You remember I
15 told you, focus on the images that you see, and focus on the
16 images that you don't see.

17 The chemist. You heard the chemist testify that they
18 are pressed pills. That pressed pills are made on the
19 street, in somebody's basement. She doesn't know what's in
20 those pressed pills. This happened in 2021. If the
21 solicitor wanted to be sure, those pills could have been
22 tested, but there's 47 pills in a bag that we don't know
23 what's in them. They tested 3 pills. That's a pill a year.
24 And so, yeah, we can say industry standards, say this and
25 say that, but at the end of the day, we're talking about

1 charging someone with distribution of Fentanyl and it's 47
2 pills that are not tested that are made in somebody's
3 basement.

4 Detective Werner, again, because after all she's the --
5 she's the person in charge; right? But let's talk about
6 Detective Werner 'cause she's in charge of the confidential
7 informant; right? So think about what actually did
8 Detective Werner testify to? She didn't see anything. She
9 testified to a search, but she still didn't see anything.
10 She didn't even know where her confidential informant was.
11 She didn't see anything. She didn't see the transaction.
12 She didn't have any visual of her car. In fact, you will
13 hear on the video that the solicitor's challenging you to
14 listen to and I hope that you listen to the entire video.
15 The confidential informant has to tell the detective what's
16 going on. She gives her a play by play of what happened.

17 Now, ask yourselves why? Why didn't Detective Werner
18 follow her to the Exxon? Why were the pills not counted?
19 Why was the money not counted? Why was it so dark? We
20 don't see her counting the pills or counting any money.

21 Now, the solicitor will have you to think that it's
22 being recorded the whole time, but the video is dark.

23 Now, people can multitask, right, while they're
24 driving. So just because you can hear -- because you're not
25 going to be able to see -- just because you can hear doesn't

1 mean there's not something going on. You can't see her
2 hands. You can't see what she's doing. You can't see who
3 she's texting, because after all, they're sure that she
4 texting Mr. Currence, but you can't see that.

5 How long was the video dark, black; right? When you
6 get back there, think about that. She sits there for a
7 minute. The screen goes black. And you'll hear Officer
8 Werner have to call her. She doesn't call Officer Werner to
9 report. So after she does this transaction, this alleged
10 transaction with Mr. Currence, she sits there for a minute
11 and then you'll hear Officer Werner call her. What do you
12 think she can do in a minute just sitting there? Let me
13 just play a little bit for you.

14 (Whereupon, a portion of the referenced video was
15 published to the jury.)

16 Now, ladies and gentlemen, this is when she's first
17 leaving the Moss. She gets in her car after this alleged
18 search and she's heading to this predetermined location and
19 you see right there. I'm just going to play it just for a
20 little while. See how that looks there? That's how most of
21 the video looks, before and after; a lot of moving.

22 Now, that was the confidential informant explaining to
23 the officer who's supposed to be surveillaneing (sic) her
24 explaining to her what happened.

25 Now, the officer says that she was under surveillance

1 the whole time, that she was being recorded the whole time,
2 and you'll hear it when you get back there. So why does the
3 confidential informant, Ms. Peterson, why does she need to
4 explain to the person in charge who says she's under
5 surveillance the whole time, why does she need to explain to
6 her what happened?

7 The last part of this that I'll just show, this is
8 after she gets off the phone with her and it just goes for a
9 while. It's dark, can't see anything. You can't see the
10 confidential informant's hands. You can't see her texting.
11 You can't see anything.

12 (Whereupon, a portion of the referenced video was
13 published to the jury.)

14 Now, there's a part in the video -- there's a part in
15 the video when she gets back to the Moss and but you seen --
16 let me back up for just one second. So Mr. Currence gets in
17 the vehicle with her, hands something out of his pocket that
18 had been in his pocket, he hands it to her. You'll see on
19 the video. She cups it. And I want you to compare when she
20 gets to Detective Werner, this is how it looks; right? So
21 you take a crumpled up bag or take a bag from his pocket,
22 gives it to her. It's not confirmed on the video, and then
23 this is what we end up with.

24 So let's talk about reasonable doubt. The bag was not
25 fingerprinted; right? Because, see, Officer Werner trusts

1 her enough to not surveillance her and send her off in a
2 dark car. She doesn't have on her dash cam lights on her --
3 in her car. The confidential informant don't have any
4 lights on in her car, not even dash lights. She doesn't
5 even know how fast she's going because there's no lights on.
6 So the bag is not fingerprinted, not even for a palm
7 print. Government funds.

8 Now, if they gave him government funds, that would have
9 been the perfect time to take him down; right? Because
10 guess what, he would have had the funds on him at the time.
11 It wouldn't be no doubt.

12 So we don't see the pills being counted. Tabitha
13 Peterson does not confirm, don't show the pills being
14 counted on the video. She takes the baggie and Officer
15 Werner ends up with a clean baggie. The money is never
16 recorded -- recovered.

17 Now, let's talk about this deal again. Ms. Peterson is
18 charged with possession with intent to distribute Fentanyl;
19 15 years hanging over her head. She's charged with domestic
20 violence in the first degree; 10 years hanging over her head
21 and a strike. Guess what? She's getting time served.

22 MS. SMITH: Objection, Your Honor.

23 THE COURT: I sustain the objection. The jury can --
24 closing arguments are not evidence. The jury can weigh the
25 evidence that's been presented to them during the course of

1 the trial.

2 MS. SEXTON: But here's the thing, remember this ladies
3 and gentlemen, what's done in the dark, it comes to light.

4 There's one thing that Ms. Peterson didn't count on,
5 with her covering up the video, with the video being black
6 the whole time, with you not being able to see her hands and
7 I challenge you to please look at the video in its entirety.
8 There's one thing she didn't count on. She didn't count on
9 her reflection in her car mirror. I'm not going to play it
10 for you right now, but when you get back there, I want you
11 to look at the last few minutes of the video, right when she
12 leaves -- she's leaving from the Waffle House, and you'll
13 hear her talking about some guy who wants her to roll down
14 her window at the Waffle House.

15 When she leaves from the Waffle House and she's pulling
16 up to the Moss, they'll tell her to pop her trunk; right?
17 And she's got a lot of things going on. She's breathing
18 hard (gesturing), because she's happy that this deal is
19 done; right? She's relieved. But you'll see her reaching
20 from her side towards her bosom and then into a bag. What
21 is she reaching for? It's not on video. It's on the
22 reflection. She didn't count on that part of it.

23 Ladies and gentlemen, I do not believe that the State
24 has met their burden to determine that Octavius Currence,
25 whatever was given, that he distributed Fentanyl. That's

1 what the State has to prove. The State tested 3 pills and,
2 yeah, based on industry standards. They don't know what's
3 in the pills, but they want you to come in and convict a man
4 for distribution of Fentanyl based on 3 pills and not being
5 able to see a confidential informant's hands, what she's
6 doing and at the last minute reaching for something from her
7 person, which she didn't count on them being able to see
8 that.

9 Ladies and gentlemen, she doesn't want to go to jail.
10 She's desperate and you can't trust her. Thank you.

11 THE COURT: Thank you.

12 The last exhibit is on my screen. Is it on the jurors'
13 screen? York County seal is on your screen?

14 Ladies and gentlemen, now I'm going to charge you on
15 the law that applies in this case and that really, simply,
16 means I'm going to read to you the law that applies. So I
17 would ask that you listen very carefully.

18 I remind you that during this trial, you and I have
19 certain duties to perform. As the trial judge, it's my
20 responsibility to preside over the trial of the case and I
21 also have the duty to rule on the admissibility of evidence
22 offered during the trial. You're only -- you're to consider
23 only the competent evidence before you. If there was any
24 testimony ordered stricken from the record in this case
25 during the trial, you must disregard that testimony. You're

1 to consider only the testimony, which has been presented
2 from this witness stand and any exhibits which have been
3 made a part of the record in this case. I have the
4 additional duty to charge you the law applicable in this
5 case.

6 As the presiding judge, I am the sole judge of the law
7 of the case and it's your duty as jurors to accept the law
8 and apply the law as I now state it to you. If you already
9 have an idea of what the law is or what the law ought to be
10 and it does not agree with what I now tell you the law is,
11 you must abandon that idea, because you are sworn to accept
12 the law and apply the law exactly as I state it to you.

13 In every case tried in this court before a jury, the
14 jury becomes the sole and exclusive judge of the facts in
15 the case. A trial judge cannot intimate, state, comment on
16 or make any statement to a trial jury about the facts in the
17 case. Since you're the jury, you, the jury, are the sole
18 judge of the facts in the case. You're not to infer from
19 what I've said during the progress of the trial and ruling
20 upon the admissibility of evidence or otherwise or anything
21 that I say to you now during the course of this instruction,
22 that I have an opinion about the facts in this case. The
23 law does not allow me to have an opinion about the facts in
24 this case. This is a matter solely for you, the jury, to
25 determine. As jurors, it is your duty to determine the

1 effect, value, weight and truth of the evidence presented
2 during the trial.

3 The indictment charged the defendant, Octavius Tremain
4 Currence, with distribution of Fentanyl. I remind you that
5 the fact that the defendant was arrested, charged and
6 indicted in this case is not evidence in this case and
7 cannot be considered by you as evidence of guilt in this
8 case, nor does it create any presumption or inference of
9 guilt. This document, the indictment is simply the formal
10 written instrument which contains the charge made against
11 the defendant. It is the formal document by which this case
12 is brought into this court.

13 The defendant has pled not guilty to this indictment
14 and that plea puts the burden on the State to prove the
15 defendant guilty. A person charged with committing a
16 criminal offense in South Carolina is never required to
17 prove his own innocence. I charge you that is an important
18 rule of law that the defendant in a criminal trial, no
19 matter what the seriousness of the charge may be, will
20 always be presumed to be innocent of the crimes for which
21 the indictment was issued unless guilt has been proven by
22 evidence satisfying you of that guilt beyond a reasonable
23 doubt. This presumption of innocence does not end when you
24 begin your deliberation, but it accompanies the defendant
25 throughout the trial until you reach a verdict of guilt

1 based on evidence satisfying you of that guilt beyond a
2 reasonable doubt. A presumption of innocence is like a robe
3 of righteousness placed about the shoulders of the
4 defendant, which remains with the defendant until it's been
5 stripped from the defendant by evidence satisfying you of
6 the defendant's guilt beyond a reasonable doubt.

7 The presumption of innocence is not a mere legal
8 theory. It is not just a legal phrase. It is a substantial
9 right to which every defendant is entitled unless you, the
10 jury, are satisfied from the evidence of the defendant's
11 guilt beyond a reasonable doubt.

12 So what is a reasonable doubt in the law? A reasonable
13 doubt is the kind of doubt that would cause a reasonable
14 person to hesitate to act. The State has the burden of
15 proving the defendant guilty beyond a reasonable doubt.
16 Some of you may have served as jurors in civil cases where
17 you were told that it is only necessary to prove that a fact
18 is more likely true than not true, such as by the greater
19 weight or preponderance of the evidence.

20 In criminal cases, the State's proof must be more
21 powerful than that. It must prove every element of a crime
22 beyond a reasonable doubt. Proof beyond a reasonable doubt
23 is proof that leaves you firmly convinced of the defendant's
24 guilt.

25 There are very few things in this world that we know

1 with absolute certainty and in criminal cases the law does
2 not require proof that overcomes every possible doubt. If,
3 based on your consideration of the evidence, you are firmly
4 convinced that the defendant is guilty of a crime charged,
5 you must find the defendant guilty.

6 If, on the other hand, you think there is a real
7 possibility that the defendant is not guilty, you must give
8 the defendant the benefit of the doubt and find him not
9 guilty.

10 There are two types of evidence which are generally
11 presented during a trial: direct evidence and
12 circumstantial evidence.

13 Direct evidence directly proves the existence of a fact
14 and does not require deduction -- and does not require
15 deduction.

16 Circumstantial evidence is a proof of a chain of facts
17 and circumstances, indicating the existence of a fact.

18 Crimes may be proven by circumstantial evidence. The
19 law makes no distinction between the weight or value to be
20 given to either direct or circumstantial evidence. However,
21 to the extent the State relies on circumstantial evidence,
22 all of the circumstances must be consistent with each other
23 and when taken together, point conclusively to the guilt of
24 the accused beyond a reasonable doubt. If these
25 circumstances merely portray the defendant's behavior as

1 suspicious, the proof has failed.

2 The State has the burden of proving the defendant
3 guilty beyond a reasonable doubt. This burden rests with
4 the State regardless of whether the State relies on direct
5 evidence, circumstantial evidence or some combination of the
6 two.

7 Necessarily, you must determine the credibility of
8 witnesses who've testified in this case. Credibility simply
9 means believability. It becomes your duty as jurors to
10 analyze and to evaluate the evidence and determine which
11 evidence convinces you of its truth.

12 In determining the believability of witnesses who have
13 testified in this case, you may believe one witness over
14 several witnesses or several witnesses over one witness.
15 You may believe a part of the testimony of a witness and
16 reject the remaining part of the testimony of that same
17 witness. You may believe the testimony of a witness in its
18 entirety or reject the testimony of a witness in its
19 entirety. You may consider whether any witness has
20 exhibited to you any interest, bias, prejudice or other
21 motive in this case. You may also consider the appearance
22 and manner of a witness while on the witness stand.

23 The rules of evidence ordinarily do not permit
24 witnesses to testify to opinions or conclusions. An
25 exception to this rule exists for witnesses we call expert

1 witnesses, a witness who, by education and experience, has
2 become an expert in some art, science, profession or
3 calling, may state an opinion as to the relevant and
4 material matters in which the witness claims to be an expert
5 and may also state the reasons for the opinion.

6 You should consider any expert opinion received into
7 evidence in this case, like any other evidence, give it the
8 weight you think it deserves. If you decide that the
9 opinion of an expert witness is not based on sufficient
10 education and experience or if you conclude that the reasons
11 given in support of the opinion are not sound or that the
12 opinion is outweighed by other evidence, you may disregard
13 the opinion entirely.

14 An expert witness's testimony is to be given no greater
15 weight than that of other witnesses simply because a witness
16 is an expert. Further, you're not required to accept an
17 expert's opinion even though it is not contradicted.

18 In order to establish criminal liability, criminal
19 intent is required. For example, the mental state required
20 to be proven by the State for a particular crime might be
21 purpose, intent, knowledge, recklessness or criminal
22 negligence. Criminal intent must be proven by the State
23 beyond a reasonable doubt. Criminal intent is always a
24 matter that must be determined by the jury from the
25 circumstances surrounding the situation.

1 There is no way to prove intent to a mathematical
2 certainty. There's no way medical science can dissect a
3 person's brain and determine what the person had in mind.
4 So the law says that criminal intent may be inferred from
5 the circumstances shown to have existed. This is how you
6 make a determination of whether or not the element requiring
7 intent was present. It is not necessary to establish intent
8 by direct and positive evidence, but intent may be
9 established by inference, the same way as any other fact by
10 taking into consideration the acts of the parties and all
11 the facts and circumstances of the case.

12 Criminal intent is a mental state, a conscious
13 wrongdoing. It is up to you to determine that what the
14 defendant intended to do based on the circumstances shown to
15 have existed. Criminal intent can arise from action or a
16 failure to act. It may arise from negligence, recklessness
17 or an indifference to the duty or consequences as considered
18 by the law to be the equivalent of criminal intent.

19 I instruct you and emphasize that the fact that the
20 Defendant did not testify is not a factor to be considered
21 by you in any way during deliberation and in your
22 consideration on the question of the guilt or innocence of
23 the defendant. It must not be considered by you in any
24 manner whatsoever. A defendant has a constitutional right
25 to remain silent and the assertion of this right must not be

1 considered by you in your deliberations. I repeat. Under
2 your oath, you're to draw no conclusion whatsoever from the
3 fact that the defendant in this case did not testify. The
4 fact that this defendant did not testify should not even be
5 discussed in the jury room. The burden of proof, as I have
6 stated to you, is on the State. The defendant is not
7 required to prove his innocence. The burden of proof
8 remains on the State to prove guilt beyond a reasonable
9 doubt.

10 Ladies and gentlemen during the presentation of this
11 case, you may have noticed that certain parts of the audio
12 and the video that were presented in this case were
13 redacted. That is due to the rules of court and that was a
14 decision made by me. Please do not speculate as to what may
15 or may not be contained in these portions and you're not to
16 hold these portions against either party.

17 The defendant is charged with distribution of Fentanyl,
18 a controlled substance. The State must prove beyond a
19 reasonable doubt that the defendant distributed Fentanyl.
20 Distribute means to deliver or to actively -- or to
21 actually, constructively or attempt to transfer a controlled
22 substance, other than by administering or dispensing.

23 Deliver means to actually, constructively or attempted
24 to transfer a controlled substance. A transfer can involve
25 an exchange for money, a barter, or a gift. However, there

1 does not have to be anything given in exchange for the drugs
2 for a transfer to constitute distribution.

3 Ladies and gentlemen of the jury, you've been selected
4 as fair and impartial jurors, sworn to impartially try and
5 determine the facts of this case and when you comply with
6 your oath to do so, then no one will have a right to
7 criticize your verdict and you will have fully discharged
8 your duty as jurors.

9 You're to decide this case according to the testimony
10 that you've heard from the -- here in the -- from the sworn
11 witnesses here in this courtroom, along with other evidence
12 introduced during trial.

13 In just a moment, I'm going to allow you to go back to
14 your jury room. We'll send back the verdict form and the
15 evidence that has been admitted in the case. When I send
16 you back, don't begin deliberating, Madam Forelady, until we
17 -- the bailiff knocks on the door, hands you the verdict
18 form, the evidence, and then you can begin deliberating and
19 discuss the case.

20 Anytime -- all 12 jurors must be present in the
21 courtroom (sic) when deliberations are going on. If
22 somebody steps out or goes to the restroom, you must cease
23 deliberations, discussion of the case, and not resume until
24 all 12 jurors are back in the courtroom (sic).

25 The verdict form in this case is fairly straightforward

1 and simple and the order in which I read this has no
2 significance on your verdict. I just have to put one in
3 front of the other. The verdict form says, "We, the jury,
4 find the defendant, Octavius Tremain Currence, guilty of
5 distribution of Fentanyl or, "We, the jury, find the
6 defendant, Octavius Tremain Currence, not guilty of
7 distribution of Fentanyl.

8 Madam Forelady, when you -- when the jury has reached a
9 unanimous verdict, if you would just simply check the
10 appropriate line by the verdict that you have unanimously
11 agreed upon, sign your name and date it. Keep the verdict
12 form in your hand. Knock on the door, let the bailiff know
13 that you've reached a verdict. You can hand him the
14 evidence, but keep the verdict form in your hand. When you
15 come back in the courtroom, I'll ask you if the jury has a
16 reached a verdict. If you have reached a verdict, then I'll
17 ask you to hand the verdict form up to the bailiff who will
18 then hand it up to the Court. Again, your verdict must be
19 unanimous. All 12 jurors must agree on the verdict that you
20 reach in the case.

21 With that, I'm going to allow you to go back to your
22 jury room. Again, do not begin discussing the case or
23 deliberating until the bailiff knocks on the door and hands
24 you the verdict form and any evidence that was submitted in
25 the case.

1 I believe -- is there a computer in the jury room that
2 they could use to play -- all right. We will provide -- we
3 will provide you with a computer. I don't see any 14-year-
4 olds on the jury. They're the only people I know that would
5 know how to really operate a computer, but I gather somebody
6 on here can help work that if that's what you need, but we
7 will send that back, too, once we do that.

8 All right. I'm going to allow you to go back to your
9 jury room. Don't begin discussing the case 'til everything
10 gets back there with you. Everyone else remain seated.

11 (Whereupon, the jury exited the courtroom at 2:46 P.M.)

12 THE COURT: We need the alternate out.

13 (Whereupon, the alternate juror entered the courtroom.)

14 THE COURT: Hold on just a second. This is the awkward
15 part of the trial. You're not in trouble. Just stand right
16 outside the door. Don't go in the jury room. Just stand
17 right outside the door.

18 BAILIFF: Just stand right here for a second.

19 JUROR: All right. Thank you.

20 (Whereupon, the alternate juror exited the courtroom.)

21 THE COURT: Anything further as far as instructions for
22 the jury from the State?

23 MS. SMITH: Nothing from the State, Your Honor.

24 THE COURT: From the defense?

25 MS. SEXTON: Nothing, Your Honor.

1 THE COURT: All right. Let's make sure that we have
2 whatever evidence is in.

3 (Whereupon, counsel and the court reporter reviewed the
4 exhibits admitted into evidence.)

5 Hold on just a second. I've been told that there is a
6 computer already in there. Donna is going to just go in and
7 make sure that it's plugged in. That's fine.

8 MS. FOSTER: Do I need to go ahead and get the CD and
9 start it or just make sure it's working?

10 THE COURT: No. No. You just make sure it's working.

11 MS. FOSTER: Okay.

12 THE COURT: Don't touch anything else.

13 MS. FOSTER: Okay.

14 THE COURT: All right. When Donna comes out, you can
15 tell them they can begin deliberating and let me have the
16 alternate back in.

17 (Whereupon, the alternate juror re-entered the
18 courtroom.)

19 THE COURT: Thank you. Is it Mr. Srey?

20 JUROR: Yes, sir.

21 THE COURT: All right. Thank you. You're -- as you
22 well know, one of the alternates had to move up because
23 somebody didn't -- got sick last night. However, we've got
24 12 jurors in there. You are free to go. You can stay with
25 us if you wish. You're not required to. On the other hand,

1 you can -- you can leave. All right.

2 JUROR: Thank you.

3 THE COURT: Let me do this as far as -- where'd the
4 Clerk go?

5 LAW CLERK: I think she went back there with Donna.

6 THE COURT: Call tonight after 6:00--

7 JUROR: Yeah.

8 THE COURT: ---the number and you'll get some
9 instructions on what to do.

10 JUROR: Okay.

11 THE COURT: All right? Thank you.

12 (Whereupon, the alternate juror was excused at 2:46
13 P.M.)

14 THE COURT: All right. We'll be at ease.

15 (Whereupon, court at ease at 2:50 P.M.)

16 (Whereupon, the jury entered the courtroom at 3:24
17 P.M.)

18 THE COURT: All right. Thank you, ladies and
19 gentlemen, Madam Forelady, has the jury reached a verdict?

20 MADAM FORELADY: We have.

21 THE COURT: If you'd hand the verdict form to the
22 bailiff and he'll pass that up to the Court.

23 (Whereupon, the verdict form was handed up to the
24 Court.)

25 THE COURT: Madam Clerk, If you'd publish the jury's

1 verdict.

2 THE CLERK: All right. Starting with *The State of*
3 *South Carolina versus Octavius Tremain Currence*, indictment
4 2022-GS-46-06011, on the charge of distribution of Fentanyl:
5 we, the jury, find the defendant, Octavius Tremain Currence,
6 guilty of distribution of Fentanyl.

7 THE COURT: Let me have the verdict form.

8 (Whereupon, the Clerk hands the verdict form to the
9 Court.)

10 THE CLERK: Ladies and gentlemen of the jury, if that
11 be your verdict, say so you all by raising your right hand.

12 (Whereupon, all jurors raised their right hand.)

13 THE CLERK: All right.

14 THE COURT: All right. Thank you.

15 THE CLERK: Let the record show all jurors affirm this
16 verdict.

17 THE COURT: I am editing the verdict form and should
18 have said -- that was our mistake. It should have read
19 2021-GS-46. I have made that change on the verdict form.

20 Anything further from the State?

21 MS. SMITH: Nothing from the State, Your Honor.

22 THE COURT: From the defense?

23 MS. SEXTON: No, Your Honor.

24 THE COURT: All right. Thank you, ladies and
25 gentlemen. That concludes your service in this case. In

1 fact, that's all the jury trials we have this week. We do
2 have -- we'll be conducting General Sessions business all
3 day every day for the rest of this week; however, we will
4 not need a jury to be able to do that. So your jury service
5 is now ended for the next three years. I appreciate your
6 weathering -- literally, weathering the storm of being here
7 today. Be very careful going home. I think we've heard
8 that there's some areas where the power is out. Of course,
9 it flickered here a little bit and so be careful going home.

10 Your service has been completed and you are excused.
11 What will happen next is that in just a few moments the
12 defendant will come in front of the Court and he will be
13 sentenced. You're free, if you wish, to come for -- be here
14 for the sentencing, when you go out the door, just tell the
15 bailiff and he'll escort you around back into the courtroom,
16 into the normal seating area. With that, everyone remain
17 seated while this jury panel is excused.

18 (Whereupon, the jury panel was excused at 3:28 P.M.)

19 THE COURT: We need the Foreperson, the Forelady. Go
20 get -- go around and get -- I need to get he to sign the --
21 if somebody can catch the Foreperson going out the other
22 door, they've got to sign the actual indictment. And does
23 the State have a sentencing sheet prepared?

24 MS. ROBINSON: I'm going to get it right now.

25 THE COURT: All right.

1 (Whereupon, the Forelady entered the courtroom.)

2 THE COURT: I'm sorry. I forgot to ask you if you
3 would just handwrite in the verdict and sign and date it.
4 This is the indictment and then sign our name and then date
5 it 1/9.

6 (Whereupon, the Forelady complied with the Court's
7 request.)

8 THE COURT: Great. Thank you.

9 (Whereupon, discussion was held off the record and
10 court was at ease.)

11 THE COURT: We're back on the record in 2021-GS-46-
12 06011, *State versus Octavius Tremain Currence*. The jury has
13 returned a verdict of guilty. We are awaiting the
14 appropriate sentencing sheet for the sentencing portion of
15 this case. Are there any motions that the defense wish to
16 make?

17 MS. SEXTON: Yes, Your Honor. I would like to renew
18 our previous motions and objections and also ask for -- that
19 based on the motions that we had previously, that during
20 sentencing that the defendant be sentenced under the zero to
21 -- I think it's zero to 5 years, under (b)(2) as opposed to
22 the zero to 15.

23 Arguments on that is, Your Honor, this was during 2021.
24 There was some testimony ---

25 THE COURT: Well, I'll hear you on sentencing and your

1 position of sentencing when we get to that point. So any --

2 MS. SEXTON: And we're also moving for a new trial.

3 THE COURT: All right. I note your motions and the
4 Court's going to abide all its previous rulings and so we'll
5 stand by those. On the issue of sentencing, we'll -- you
6 can make that argument when we get ready, when we have
7 everybody up here at the Bar. Anything else?

8 All right. All right. Here comes my sentencing sheet.

9 All right. Let's bring the Defendant on around and
10 take our places as far as sentencing.

11 (Whereupon, Ms. Sexton and the defendant complied with
12 the Court's request.)

13 THE COURT: All right. Solicitor, I'll be glad to hear
14 from you.

15 MS. SMITH: Yes, Your Honor. He does have a record.
16 It's in 2013 he has a PDC(ph) and in 2016 he has a failure
17 to stop. If this -- if he was arrested for this today, the
18 weight that he had was over 6 grams, that would be
19 trafficking Fentanyl. That would carry a no parole,
20 mandatory minimum of 7 years. Because of that, the danger
21 of Fentanyl has not changed between 2021 and now. It is
22 just as dangerous. It is killing just as many people. We
23 would ask for double digits in this case. I understand she
24 said something about zero to 5. At the time that he was
25 arrested, this offense carried zero to 15.

1 THE COURT: All right. Thank you.

2 Ms. Sexton, I'll be glad to hear from you.

3 MS. SEXTON: Yes, Your Honor. There's been people in
4 this very courtroom that has had quantities of five --
5 anywhere from 100 to 500 doses of what we do know is
6 Fentanyl. My client allegedly -- he supposedly had the 50
7 Fentanyl pills is what he had. There was testimony that
8 they're not even really sure what all was in the pills.

9 So, Your Honor, he has -- he has two children. He
10 lives with his 67-year-old grandmother. This is a first
11 offense and, Your Honor, we would be asking that he be
12 sentenced under the zero to 5 years based on the indictment,
13 based on the warrant that was issued, and based on how
14 previous people that have come before the Court with 100
15 doses, with 500 doses of Fentanyl. My client had 50,
16 allegedly, roxies and, Your Honor, we're asking that he be
17 sentenced to a minimum, Your Honor, of maybe 2 years, 3
18 years, Your Honor. We're definitely not asking for him to
19 be sentenced to double digits. He's a young man. He wasn't
20 afforded the same opportunity that the confidential
21 informant pretty much was afforded in order to work off all
22 of that time. My client never got that opportunity. I'm
23 not saying that he would have, but he never got that
24 opportunity. The one thing is, we have one person whose
25 charge with just about the same thing and she had 48 roxies

1 and there's been testimony that she's, basically, going
2 home.

3 We have our defendant with two more pills and, Your
4 Honor, we're asking for zero to 15, the same zero to 15 that
5 the confidential informant is going to get time served on.

6 So we're just asking, Your Honor, that you take into
7 consideration that he is a young man. He's young. He's in
8 his twenties. His grandmother is 67 years old, there were
9 50 pills, there were three pills that were tested. He has
10 two children and a 67-year-old grandmother. So we're
11 asking, Your Honor, that since this is his first offense,
12 that he not get any double digits and that Your Honor take
13 all of that into consideration and sentence him as low as
14 Your Honor would be willing to do.

15 THE COURT: All right. Thank you, Ms. Sexton.

16 Mr. Currence, is there anything you wish to say?
17 You're not required to speak. On the other hand, you have a
18 right to speak if you wish.

19 MR. CURRENCE: No, Your Honor.

20 THE COURT: How far did you go in school?

21 MR. CURRENCE: I graduated.

22 THE COURT: What's the longest you've worked in one
23 place?

24 MR. CURRENCE: About four or five years.

25 THE COURT: Where was that?

1 MR. CURRENCE: Performance Friction.

2 THE COURT: In Clover?

3 MR. CURRENCE: Yes, sir.

4 THE COURT: When's the last time you worked there?

5 MR. CURRENCE: I had a job after that. I was working
6 at Flowmat in York, South Carolina off of 321.

7 THE COURT: All right. How many days was he in jail?

8 MS. SMITH: Your Honor, on this offense --

9 MR. CURRENCE: I think I may have 2 or 3 days.

10 MS. SMITH: He says 3 days. I'll give him credit for 3
11 days.

12 Indictment 2021-GS-46-06011, *The State versus Octavius*
13 *Tremain Currence*, having been convicted by a trial by jury
14 of distribution of Fentanyl, 1st offense, the sentence of
15 the Court he be committed to the Department of Corrections
16 for seven years, that is he's given credit for three days.
17 Thank you.

18 MS. SMITH: Thank you, Your Honor.

19 MS. SEXTON: Thank you, Your Honor.

20 THE COURT: All right. Anything else this afternoon?

21 MS. SMITH: No, Your Honor.

22 THE COURT: All right. We'll crank back up at 9:30 in
23 the morning.

24 THE COURT: The last case before the Court, 2021-GS-46-
25 06011, the Court sentenced Mr. Currence -- well, let's have

1 him back here. I mean, I can still do it. Let's get him in
2 the courtroom.

3 (Whereupon, the defendant entered the courtroom.)

4 THE COURT: All right. Let me put this on the record.
5 The Court, by its own review of the law on the last case,
6 21- -- 2021-GS-46-0601, in which *State versus Octavius*
7 *Currence* was found guilty at a jury trial of distribution of
8 Fentanyl. The Court sentenced him to 7 years.

9 The Court listened to argument, a brief argument from
10 the defense request a zero to 5. The Court took that as the
11 defense was asking for a range of zero to 5. The Court and
12 the solicitor, I believe, at the time agreed or believed
13 that the law is that he was subject to zero to 15.

14 After he was sentenced, my clerk brought to my
15 attention 44-53-370 (2)(b)(2), because Fentanyl is any other
16 controlled substance that is classified as a Schedule II
17 controlled substance. That statute says that under
18 subsection (a) that it is unlawful to distribute a
19 controlled substance. Under 44-53-370(a) under (2)(b)(1),
20 clearly states that any Schedule I controlled substance or
21 LSD, they are subject for a first offense is zero to 15
22 years. Under 44-53-370(b)(2) states that any other
23 controlled substance classified as Schedule I, II or III is
24 up to 5 years for a first offense. The chemist testified
25 that Fentanyl was a Class II controlled substance, and so I

1 am going to reconsider the sentence; however, we're going to
2 -- we'll have another hearing tomorrow morning at 9:30.
3 I'll give the State an opportunity to tell me where and why
4 in the statute he is subject to 15 years and I'll give the
5 defense an opportunity to state where and why the statute is
6 limited to zero to 5. So we will resume. I will -- I'm
7 going to reconsider my sentence based upon what's presented
8 before the Court tomorrow. We'll resume at 9:30 in the
9 morning. All right. Thank y'all.

10 MS. SEXTON: Thank you, Your Honor.

11 THE COURT: Thank y'all.

12 MS. ROBINSON: Your Honor, may I ask a point of
13 clarification?

14 THE COURT: Yes.

15 MS. SMITH: Is your consideration based on your
16 position that the chemist never said the word narcotic or is
17 it based on the reading of the statute on (b) (1) and (b) (2)?

18 THE COURT: I believe -- well, and the indictment
19 simply has 44-53-370. It does not -- the indictment does
20 not outline any other subdivision in the indictment. The
21 sentencing sheet has 44-53-370. No other subsections were
22 attached to the code section on the sentencing sheet. The
23 State -- Ms. Smith has argued that the CDR code listed on
24 the sentencing sheet was subjecting to 15 years. If that's
25 your argument tomorrow, my concern would be we don't

1 sentence people according to CDR codes. We sentence them
2 under statutory requirements. A CDR code is simply a CDR
3 code for administrative purposes, but if that particular CDR
4 code can be traced to a particular statute that subjects him
5 15 years, then I'll understand that argument.

6 MS. ROBINSON: Yes, Your Honor, that and I would also
7 note that on the back of the indictment it says Fentanyl,
8 and in parenthesis it says a Schedule II narcotic. It does
9 not just simply say it's Fentanyl.

10 THE COURT: Well, y'all going to have to explain to me
11 the difference between -- well, okay. What you're arguing
12 is that a controlled substance under (b)(1) is a narcotic
13 drug. It says a controlled substance classified in Schedule
14 I (b) and (c), which is a narcotic drug. Is your argument
15 tomorrow going to be that Fentanyl is listed as a controlled
16 substance classified in Schedule I?

17 MS. ROBINSON: It is a Schedule II narcotic.

18 THE COURT: I know, but I'm reading number 1 where it
19 lists -- where it says narcotic.

20 MS. ROBINSON: It also says and in Schedule II, which
21 is a narcotic drug.

22 THE COURT: I don't see that. Okay. And in -- I'm
23 sorry. You're correct. In Schedule II, which is a narcotic
24 drug.

25 MS. SMITH: And, Your Honor, I would argue that he was

1 sentenced correctly because it does include Schedule II.

2 THE COURT: Okay. That makes sense to me, but we will
3 have a full hearing tomorrow morning and they pointed out
4 the difference is that Fentanyl is a Schedule II narcotic
5 drug, which would place it under (b)(1).

6 MS. SEXTON: Yes, Your Honor. And we'll be prepared
7 tomorrow for argument, because that's not the testimony,
8 that's not what was in the evidence, what the chemist
9 testified to.

10 Your Honor, my client is asking that since he's been
11 coming to all docket calls since 2021, he's here today,
12 hasn't tried to run, not attempting to try to run, wanted to
13 answer these charges. He's asking that he be released until
14 final sentencing tomorrow.

15 THE COURT: All right. Well, I deny that request.
16 He's taken into custody. All right. We'll --

17 MS. SEXTON: Your Honor, --

18 THE COURT: Y'all be prepared to enlighten Judge Hall
19 on the correct interpretation of the law at 9:30 in the
20 morning. Thank you. We just want to follow the law.

21 (Whereupon, court was adjourned at 3:57 P.M. and
22 reconvened on January 10th at 9:38 A.M.)

23 (END OF VOLUME II OF III)
24
25

STATE OF SOUTH CAROLINA IN THE COURT OF GENERAL SESSIONS

COUNTY OF YORK

CASE NO. 2021-GS-46-06011

STATE OF SOUTH CAROLINA,

Plaintiff,

-vs-

OCTAVIUS TREMAIN CURRENCE,

Defendant.

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TRANSCRIPT OF RECORD
VOLUME III of III

January 10, 2024
York, South Carolina

B E F O R E:

Honorable Daniel D. Hall, Judge.

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

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Shannon E. McGilberry, CVR-M
Court Reporter

1 THE COURT: All right. We're back on the record in
2 2021-GS-46-06011, *State versus Octavius Tremain Currence*.
3 Mr. Currence was found guilty after a jury trial on
4 distribution of fentanyl, first offense. The Court -- there
5 was an argument before the Court that the Court, as far as
6 sentencing, would -- by the defense, would be limited to a
7 sentence of a zero to five under 44-53-370(B)(2) and the
8 State argued that he was subject to a sentence of zero to
9 fifteen years under 44-53-370(B)(1).

10 The trial -- one of the issues during the trial was the
11 sufficiency of the indictment. There was a motion to quash
12 the indictment because it lacked any sufficiency to fully
13 inform him of the exact -- of the penalty of his offense or
14 the exact code section and the penalty, that was not listed
15 on the indictment; however, the face of the indictment did
16 say that he did on or about February 24th, 2021, all the
17 wording, distribution, distributed fentanyl, a schedule II
18 controlled substance narcotic, all in violation of 44-53-
19 370.

20 The Court denied the motion to quash the indictment.
21 The wording, A schedule II control substance narcotic, is in
22 fact the exact wording from 44-53-370(B)(1), which places
23 him and the -- he was on notice on the indictment that he
24 would be subject to zero to fifteen years.

25 During the course of the trial there was never any
26 testimony elicited from the chemist that it was a narcotic.

1 The chemist -- the Court's notes indicate that the chemist,
2 and this is what the chemist stated in court, was that
3 fentanyl was a -- was a controlled substance, was a schedule
4 II controlled substance. That's what -- there's no
5 reference to narcotic during the trial. There was not --
6 the drug report that was submitted into evidence simply
7 indicates that it's a schedule II controlled substance.

8 So the issue that was presented yesterday is whether he
9 should be sentenced under sub- -- under (B)(1) or (B)(2). I
10 don't believe I need to hear any argument this morning.
11 I'll be glad to hear you. I'm going to tell you where the
12 Court's heading and give you an opportunity to respond,
13 either one of you.

14 I find that the indictment spelled out that it was a
15 controlled II narcotic. The -- we've asked the jury, just
16 like any other drug case, simply to find whether the
17 defendant distributed a particular drug and the defendant --
18 the jury found that he distributed fentanyl and so it
19 becomes a matter of sentencing.

20 There was notice to the defendant that it was a
21 schedule II controlled substance narcotic pursuant to the
22 indictment. In fact, I think the Court can take judicial
23 notice that fentanyl is a schedule II controlled substance
24 narcotic and so my -- I think the Court was proper in
25 sentencing within the range of zero to fifteen.

26 Ms. Robinson, do you wish to add any more to the

1 Court's reasoning?

2 MS. ROBINSON: Your Honor, the State obviously would
3 agree with the Court on this. I would just say in agreeing
4 with you that 44-53-110 defines narcotic drugs and in that
5 subsection it includes opiates and 44-53-210 is schedule II
6 drugs and it lists, under subsection (C), the following
7 opiates and fentanyl is number 6 and so it's the State's
8 position that Ms. Mitchem can't designate narcotics, even
9 though she's a chemist, of her own accord if she wanted to.
10 It is simply a legal definition and that is why the State's
11 proof is sufficient in this case.

12 THE COURT: All right. Thank you.

13 Ms. Sexton, I'd be glad to hear from you.

14 MS. SEXTON: Thank you, Your Honor. I'll be happy to
15 address that issue in just a second. I don't think any of
16 us have the education to testify or to even argue what
17 exactly a narcotic is at that particular time versus the
18 opioid. I'll get to that in just a second. But, Your
19 Honor, I would like to renew our motion to -- renew our
20 motion for a directed verdict.

21 The testimony in this particular case was for a
22 schedule II controlled substance. The chemist testified to
23 --

24 THE COURT: Well, I think procedurally we're not at the
25 place where we're arguing a renewed motion for a directed
26 verdict. I heard that motion at the -- or a motion to renew

1 all previous motions at the conclusion of the State's case
2 yesterday.

3 Now, if you're asking me to reconsider the motion for a
4 directed verdict, I think we are beyond that procedurally
5 because the jury found -- I'll just -- I'm trying think
6 through where we are procedurally, but go ahead and make the
7 motion.

8 MS. SEXTON: Well, my motion, Your Honor, is to renew
9 or have the Court to reconsider directed verdict. The
10 instruction, the jury instruction that was given to the jury
11 was for a controlled substance. In the Court's instruction
12 to the jury, it indicated the defendant is charged with
13 distribution of fentanyl, a controlled substance.

14 That language from this very Court goes along with what
15 was testified to, it goes along with what was in the drug
16 report. The only difference here is that the indictment
17 itself indicates a schedule II narcotic, but all evidence
18 that was submitted in this case, all the testimony from the
19 officer to Hines to Barbi, to the chemist, all the way down
20 to the CI itself -- herself indicated that it was a
21 controlled substance. At no time was there any mention of
22 narcotic.

23 Now, Your Honor, if we -- if that is an element of the
24 charge and certainly it is, then I feel like the State would
25 need to have someone in here to interpret and explain the
26 difference between a controlled substance and a narcotic,

1 because as the Court stands today and this week, we're not
2 in a position to determine what a narcotic is and what a
3 controlled substance is.

4 From my understanding, the DEA is the one who sets the
5 definition of what a controlled substance and a narcotic is.
6 When the definition, when it's time to explain it in legal
7 terms or what the solicitor charges or what law enforcement
8 intends to be a narcotic versus a controlled substance,
9 those definitions are different from what the
10 drug -- I'm sorry, from what the DEA says that a narcotic is
11 and a controlled substance. None of that was specified and
12 I don't think that the Court, although we are very
13 intelligent, all of us in here together, I don't think that
14 we have the scientific background to determine, without
15 testimony, what a narcotic is versus a controlled substance,
16 when all the testimony including the instructions from this
17 Court was to find that the defendant distributed a
18 controlled substance.

19 THE COURT: Thank you. You wish to respond?

20 MS. ROBINSON: Your Honor, we don't need testimony for
21 that, where the legislature has taken it upon themselves to
22 define the term.

23 THE COURT: All right. I deny the motion for directed
24 verdict, a renewed motion for -- I think that's probably the
25 third motion for directed verdict; I deny that motion.

26 All right. Ms. Sexton, anything else you wish to

1 offer?

2 MS. SEXTON: Yes, Your Honor. In regards to the
3 sentencing, we did file a motion to quash the indictment.
4 We filed that, Your Honor, and that has been our very
5 argument.

6 The mere fact that we are here today, Your Honor, shows
7 that the indictment within itself was insufficient. One
8 can't merely quote an entire statute and then wait until we
9 have a trial and decide, from what evidence is presented,
10 the penalty that they're going to ask the Court or the
11 defendant to understand how they're going to be sentenced.
12 It's not fair to the defense, it's not fair to this Court to
13 have to assume the burden of reading an entire statute and
14 then get to Court and have the Court to determine what
15 penalty to put in place and, again, Your Honor, the mere
16 fact that we're here today showed that there was confusion.
17 So I don't know if the Court itself is confused, how in fact
18 the defendant would have notice of how he's supposed to be
19 sentenced and I think that the ramifications of not having a
20 notice of how he's going to be sentenced brings up
21 ramifications, not only for the defense, but for this Court.
22 The solicitor had ample time to get this indictment correct.
23 This indictment is over fourteen months old. The charge
24 itself is over three years old and so now we stand here
25 today confused about the penalty and having to be educated
26 by the solicitor's office, the very office that is bringing

1 these charges, for us to determine what's a narcotic drug
2 versus a controlled substance drug when the elements not
3 only -- and not going back to my motion, but when the
4 elements of the crime, the elements of the indictment wasn't
5 even met yesterday. So now we're here again trying to give
6 the solicitor's office another opportunity to get it right.
7 The ambiguity in this case should be afforded to the
8 defendant. The solicitor's office has had ample time to get
9 it right. All the grace has went to the solicitor's office
10 and I think in this particular situation, it needs to go to
11 the defendant.

12 THE COURT: All right.

13 MS. SEXTON: And we would ask that he be sentenced
14 under (B) (2).

15 THE COURT: All right. Thank you. Well, I deny that
16 motion. Again, there's certainly things that -- some
17 wording that could have been used in the indictment and
18 possibly through the trial that might have relieved some of
19 the angst; however, I find that the indictment, again,
20 itself states that he is charged with distribution of
21 fentanyl, a schedule II controlled substance narcotic. That
22 is the exact wording under 370(B)(1), which states, A person
23 who violates subsection (A), which is the wording on
24 distribution, with respect to a controlled substance
25 classified as a schedule I, which is a narcotic drug, and in
26 schedule II, which is a narcotic drug, is guilty of a

1 felony.

2 There was no ambiguity what charge he was being brought
3 for, so he's being charged with distribution of fentanyl --
4 -- I'm reading again from the indictment -- fentanyl, a
5 schedule II controlled substance narcotic. That's the exact
6 wording of 370(B)(1). So I find that the sentence -- he was
7 aware of the potential penalty of up to fifteen years, that
8 the sentence of seven years is appropriate under the
9 circumstances of the case, facts of the case, and as applied
10 to this particular defendant, so I deny the motion.

11 In fact, in essence, the motion to reconsider was
12 brought on the Court's own motion to reconsider. It was not
13 brought by the defense or the State, because the Court did
14 have -- was not clear, however, after overnight research and
15 reading through what's been the indictment, the particular
16 statute, the Court's clear that and believes there's no
17 ambiguity and the sentence was appropriate under, again,
18 370(B)(1). Thank you.

19 MS. SEXTON: Your Honor?

20 THE COURT: Yes.

21 MS. SEXTON: Can I add one other thing, Your Honor.
22 And I know the Court has made its ruling, but Your Honor,
23 again, under (B)(1) it says, Controlled substance narcotic
24 and then (B)(2) it says, Schedule II controlled substance.
25 And so, Your Honor, what we're saying, what we're merely
26 arguing is that because of the evidence that was presented

1 that it was a controlled substance schedule II, that
2 language, the very evidence was -- that was presented in
3 this court goes along with the language under subsection
4 (B) (2).

5 We understand that Your Honor is saying that --

6 THE COURT: All right. I understand that argument. I
7 mean, the argument says the word narcotic was not used and
8 the word narcotic was not brought out during testimony at
9 trial; however, again, I'll take judicial notice that it is
10 -- it is generally known, easily proved. I think the rules
11 require in judicial notice that fentanyl is a schedule II
12 narcotic. There is no -- there is no legitimate argument
13 that fentanyl is anything but a schedule II narcotic. All
14 right. Thank you.

15 MS. ROBINSON: Your Honor, may I just, for purposes of
16 preserving the record, I just want to note in (B) (2) it says
17 any other schedule II and that's the important word and I
18 also just want to note for purposes of actual notice, Mr.
19 Currence was advised in advance of his plea offers and what
20 the repercussions would be by both Ms. Sexton and Mr. B.J.
21 Barrowclough, so it is the State's position that he was on
22 actual notice.

23 THE COURT: All right. Thank you.

24 MS. SEXTON: Your Honor, if --

25 THE COURT: There's nothing else for the -- we can go
26 on all day. That concludes this hearing. Thank you.

1 MR. CURRENCE: Your Honor, may I say something?

2 THE COURT: Yes, sir. Hold on a minute. I'll be glad
3 to hear from the defendant.

4 MR. CURRENCE: All right. I just been, like, honestly,
5 like the whole time, like, this is my first offense, like,
6 I'm in a position, like, I'm fighting first offense zero to
7 five. Last minute, that's when she noticed -- she come in
8 front of you say, well, it's zero to fifteen.

9 THE COURT: That --

10 MR. CURRENCE: We asked them, like, which one is it
11 going be before --

12 THE COURT: All right. That's the issue that you can
13 deal with later. That's not an issue to be considered
14 today. Thank you.

15 (END OF REQUESTED TRANSCRIPT)

16

17

WITNESSES

DEU

Witnessing Officer: *Curtice*

ARREST WARRANT NUMBER

1021A4610101106

ACTION OF GRAND JURY

TRUE BILL

Heather Behinski 3/17/2022
Foreperson of Grand Jury
Date:

VERDICT

*Guilty**P*
Foreperson of Petit Jury
Date:*1/9/2024*

DOCKET NO. 2021-GS-46-06011

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MARCH 17, TERM 2022

THE STATE

VS.

OCTAVIUS TREMAIN CURRENCE

INDICTMENT FOR

DISTRIBUTION OF FENTANYL

SC Code: § 44-53-370
CDR Code: 0183

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

ANGEL BRYANT
CLERK OF COURT
YORK COUNTY, SC
2024 JAN 18 AM 8:52
CERTIFIED TRUE COPY

STATE OF SOUTH CAROLINA
COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on March 17, 2022, the Grand Jurors of York County present upon their oath:

DISTRIBUTION OF FENTANYL

The defendant, Octavius Tremain Currence, did on or about February 24, 2021, in York County, South Carolina, manufacture, distribute, dispense, deliver, purchase, aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase, or possess with the intent to manufacture, distribute, dispense, deliver, or purchase fentanyl, a schedule II controlled substance narcotic, all in violation of Section 44-53-370, Code of Laws South Carolina (1976, as amended).

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


AUSTIN N. SMITH
ASSISTANT SOLICITOR

YORK COUNTY, SC
COURT OF GENERAL SESSIONS
JAN 18 AM 8:52
CERTIFIED TRUE COPY

STATE OF SOUTH CAROLINA

COUNTY OF YORK

STATE

VS.

OCTAVIUS TREMAIN CURRENCE

AKA:

Race: B Sex: M Age: 29

DOB: [REDACTED] SS# [REDACTED]

Address: [REDACTED]

City, State, Zip: York, SC 29745

DL#* [REDACTED] SID# SC02107453

CERTIFIED TRUE COPY
2024 JAN 10 PM 3:00
ORIGINAL
CLERK OF COURT
YORK COUNTY

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2021-GS-46-06011A/W#: 2021A4610101106Date of Offense: 02/24/2021S.C. Code §: 44-53-370CDR Code #: 0183

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
In disposition of the above indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADSTO: Distribution of Fentanyl 1st Offense (NMT 15 YEARS &/OR \$25,000)In violation of § 44-53-370 of the S.C. Code of Laws, bearing CDR Code # 0183

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

/s Austin N. Smith	102332	/s Octavius Tremain Currence	/s Deondra Sexton	104787
Solicitor	SC Bar #	Defendant	Attorney for Defense	SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 7 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.3 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

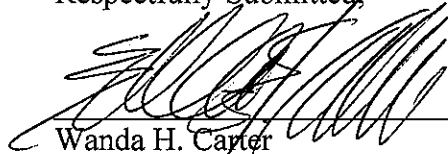
Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

Dec 04 2024

CERTIFICATE OF COUNSEL FOR APPELLANT SC Court of Appeals

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted?



Wanda H. Carter
Deputy Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

This 4th day of December, 2024.

RECEIVED

Dec 04 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from York County

Honorable Daniel D. Hall, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

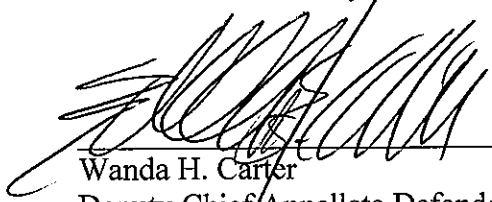
OCTAVIUS TREMAIN CURRENCE,

APPELLANT

APPELLATE CASE NO. 2024-000106

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 Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); this 4th day of December, 2024.



Wanda H. Carter
Deputy Chief/Appellate Defender

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

ATTORNEY FOR APPELLANT