

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

RECEIVED

May 12 2025

Appeal from Jasper County

Honorable Carmen T. Mullen, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DERRICK LEDDISSE TUTEN,

APPELLANT

APPELLATE CASE NO. 2024-000904

RECORD ON APPEAL

WANDA H. CARTER
Deputy Chief Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

MARK R. FARTHING
Senior Assistant Deputy Attorney General
P.O. Box 11549
Columbia, SC 29211-1549
(803) 734-4117

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRANSCRIPT DATED MAY 13, 2024	1
JURY VOIR DIRE	3
JURY SELECTION.....	16
TRANSCRIPT DATED MAY 15-16, 2024.....	26
PRE-TRIAL MOTION TO SEQUESTER WITNESSES	31
PRE-TRIAL <u>LYLE</u> MOTION.....	32
PROFERRED TESTIMONY (IN-CAMERA HEARING)	
COREY PICKERING.....	33
COUNSEL’S ARGUMENTS.....	42
COURT’S RULING	53
OPENING REMARKS BY THE COURT.....	55
OPENING STATEMENT BY SOLICITOR.....	62
OPENING STATEMENT BY DEFENSE COUNSEL.....	65
TRIAL TESTIMONY	
AARON AGER	67
COREY PICKERING.....	92
ARTHUR THIBEAULT.....	114
ANDREW J. WOODS.....	120
MARY BETH MCCORMICK	123
STATE RESTS	130
DIRECTED VERDICT MOTION	130

COURT’S RULING	132
RIGHT TO TESTIFY (COLLOQUY WITH APPELLANT)	133
JURY CHARGE CONFERENCE	137
DEFENSE RESTS	142
DEFENSE MOTIONS RENEWED	142
CLOSING ARGUMENT BY THE SOLICITOR	142
CLOSING ARGUMENT BY DEFENSE COUNSEL	150
JURY CHARGE	154
VERDICT	174
POLLING OF THE JURY	175
SENTENCING	209
INDICTMENT	216
CERTIFICATE OF COUNSEL	218

State of South Carolina	)	
	)	In the Circuit Court
County of Jasper	)	
	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	2020-GS-27-00455
	)	
vs.	)	
	)	
Derrick L. Tuten,	)	
	)	
Defendant.	)	
_____	)	

Jasper County Courthouse
May 13 2024

TRANSCRIPT OF JURY SELECTION

B E F O R E

The Honorable Carmen T. Mullen

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

James Sharpe, III, Esquire
Assistant Solicitor
Attorney for State of South Carolina

Jaleesa Wilson, Esquire
Will Bryant, Esquire
Attorneys for Defendant Derrick L. Tuten

FOR COPIES CONTACT: Melissa R. Singletary
Certified Verbatim Court Reporter
msingletary@sccourts.org

I N D E X**WITNESS (ES)****PAGE**

Certificate of Service

25

E X H I B I T S

(There were no exhibits marked during this hearing)

The State of South Carolina v Derrick L. Tuten

3

1 Ladies and Gentlemen, now I'm going to go ahead
2 and ask the solicitor to call the second case. If that's
3 acceptable to everyone. You okay to keep going? I know
4 it's 1:15 and I know it's pass the lunch hour but people
5 like to get out of here. So, I appreciate that. All right,
6 solicitor, Mr. Sharpe, call your next case.

7 MR. SHARPE: This is the State of South Carolina vs
8 Derrick Leddisse Tuten, who is charged under indictment number
9 2020-GS-27-0455 for possession with intent to distribute
10 methamphetamine.

11 THE COURT: Thank you. Ladies and Gentlemen, as you
12 have heard the State has called their case. It's entitled The
13 State vs. Derrick Tuten who is charged by the bill of indictment
14 with possession with intent to distribute methamphetamine. Mr.
15 Sharpe, I'm going to ask you to introduce yourself again at the
16 table and then I'm going to ask the defense counsel to introduce
17 themselves as well as their client.

18 MR. SHARPE: My name is James Sharpe. I'm the
19 assistant solicitor in the 14th Circuit. Tracy Campbell, also an
20 assistant solicitor. To her right is Matt Bracey

21 THE COURT: All right. Ms. Wilson.

22 MS. WILSON: Thank you, Your Honor. My name is
23 Jaleese Wilson, I'm the assistant public defender with the 14th
24 Circuit Public Defenders office. Sitting with me is another
25 attorney with my office, Mr. William Bryant. This is my client

The State of South Carolina v Derrick L. Tuten

4

1 Derrick Tuten.

2 THE COURT: Thank you. Thank you Mr. Tuten. All
3 right. Just like I asked the last jury, I have a number of
4 questions. You need to respond to these questions if they are
5 appropriate. Ladies and Gentlemen to begin with is there anyone
6 here related by blood or connected by marriage with the
7 defendant, Mr. Derrick Tuten? If so, please stand.

8 Is there anyone here who has a special relation,
9 close relationship, professional relationship with the defendant
10 in this case, Mr. Tuten? Is so, please stand.

11 Ladies and Gentlemen, you have been introduced to the
12 attorneys trying this case. As you know it's James Sharpe,
13 Jaleesa Wilson and Will Bryant. Ladies and Gentlemen, is there
14 anyone here related by blood, connected by marriage or has a
15 close special relationship, special friendship or professional
16 relationship with any of the attorneys that are trying this
17 second case? If so, please stand.

18 Additionally, Ladies and Gentlemen --- oh, yes, sir.

19 JUROR: Sorry, Your Honor.

20 THE COURT: Give me your number if you know it.

21 JUROR: 275.

22 THE COURT: Thank you, sir.

23 MR. TAYLOR: Sidney Taylor

24 THE COURT: Yes, sir.

25 MR. TAYLOR: I knew Derrick and his father ...

The State of South Carolina v Derrick L. Tuten

5

1 THE COURT: You knew Mr. Tuten's father?

2 MR. TAYLOR: I knew Derrick and his father from
3 Harleyville. I just wanted to ...

4 THE COURT: I appreciate that. My question to you is
5 could you be fair and impartial in a trial in this case?

6 MR. TAYLOR: Yes ma'am.

7 THE COURT: Do you feel comfortable listening to
8 the evidence in this case?

9 MR. TAYLOR: Yes ma'am.

10 THE COURT: When you say you are acquainted with
11 him or just his father?

12 MR. TAYLOR: More his father. He is a couple of
13 years younger. He is younger than I am. He was young.

14 THE COURT: Back in Harleyville?

15 MR. TAYLOR: Yes I've know him as a child.

16 THE COURT: Give me your number again.

17 MR. TAYLOR: 275.

18 THE COURT: Ladies and gentlemen. Again, has
19 anyone ever been prosecuted by, worked for any of these
20 attorneys offices, have any kind of relationship with any
21 of these attorneys? If so, please stand.

22 Ladies and gentlemen, the following is a list of
23 potential witnesses in this case, and if any are here I'm
24 going to ask them to stand.

25 Aaron Ager, Michael Humbert, Rhonda Watson,

The State of South Carolina v Derrick L. Tuten

6

1 Arthur Thibeault, Scott Melnick, A.J. Woods, Corey
2 Pickering, Maribeth McCormack and Derrick Tuten.

3 Again, is anyone here related by blood, connected
4 by marriage, have a special relationship, friendship or
5 know these people. If so, please stand.

6 Alright, ma'am. I'm going to start with you in
7 the front, give me your number again.

8 JUROR: 144.

9 THE COURT: Who do you know?

10 MS. HORTON: I think I dated his brother.

11 THE COURT: You think you dated Mr. Tuten's
12 brother?

13 MS. HORTON: Yeah.

14 THE COURT: Was this in the past or ...

15 MS. HORTON: Recently.

16 THE COURT: All right. What was his name?

17 MS. HORTON: James Tuten.

18 THE COURT: Is that his brother? Is that your
19 brother, sir?

20 MR. TUTEN: (Nods head affirmatively)

21 THE COURT: Ma'am. I'm going to excuse you from
22 the trial of this case. Thank you. That's number 144. Yes
23 ma'am.

24 JUROR 114: Amy Graven.

25 THE COURT: Yes.

The State of South Carolina v Derrick L. Tuten

7

1 MS. GRAVEN: Did you say Corey Pickering?

2 THE COURT: I did.

3 MS. GRAVEN: That's my niece.

4 THE COURT: Corey Pickering is your niece. Mr.
5 Sharpe, what is her connection to this case?

6 MR. SHARPE: She is a co-defendant who will
7 testify.

8 THE COURT: Okay. Ma'am. I am going to go ahead
9 and excuse you from the trial of this case. Okay. Thank
10 you. Your number again, ma'am.

11 MS. GRAVEN: I don't know my number, I'm sorry.

12 THE COURT: Your last name?

13 MS. GRAVEN: Graven.

14 THE COURT: Graven.

15 MS. GRAVEN: G-R-A-V-E-N.

16 THE COURT: Give me a second.

17 COURT REPORTER: 114, Your Honor.

18 THE COURT: 114. Okay. Sir?

19 MR. LUCAS: Clay Lucas. Previous professional
20 relationship with Scott Melnick.

21 THE COURT: What's Mr. Melnick's connection to
22 this?

23 MR. SHARPE: Mr. Melnick is likely not to be
24 called. He is the evidence custodian for Harleyville
25 Police Department.

The State of South Carolina v Derrick L. Tuten

8

1 THE COURT: Okay. Sir, as far as his role in this
2 case it's very minimal, attached to his job, sir. My
3 question to you is understanding that he may testify can
4 you be fair and impartial in the trial of this case?

5 MR. LUCAS: (Nods head affirmatively)

6 THE COURT: Is that a yes?

7 MR. LUCAS: Yes.

8 THE COURT: Thank you, sir. We got his number
9 correct? Ladies and Gentlemen is there any member of the
10 jury panel that has ever been in law enforcement. If so,
11 please stand. And gentlemen I just need you to repeat it
12 for the record if you don't mind for this specific case.

13 JUROR: Yes, ma'am. I work for the Chatham County
14 Sheriff's Department.

15 THE COURT: Give me your number.

16 JUROR: 221.

17 THE COURT: Thank you.

18 JUROR: Bobby Patton.

19 THE COURT: Thank you, sir. Yes, sir. Right in
20 front.

21 JUROR: 275 Sidney Taylor. Department of
22 Corrections for about two years.

23 THE COURT: Thank you, sir. Yes.

24 JUROR: For Shaw Air Force Base.

25 THE COURT: Thank you, sir. You may be seated.

The State of South Carolina v Derrick L. Tuten

9

1 Okay.

2 JUROR: Craig Jones with the Sheriff's Department.

3 THE COURT: Thank you, sir. Again, Ladies and
4 Gentlemen is there any member of the jury panel that is
5 related by blood or marriage to anyone that has worked at
6 the South Carolina Attorney General's office, the 14th
7 Circuit Solicitor's Office or any state prosecution office?
8 If so please stand.

9 Again has anybody in the jury ever been employed
10 by any civilian or military law enforcement agency that has
11 not already disclosed? If so, please stand.

12 Is any of the jury panel a member of a financial
13 contributor to any group which has as it's primary concern
14 the promotion of law enforcement or victim's rights? Again
15 that would include such groups as citizens against violent
16 crime, CAVE, Mothers Against Drunk Driving or something
17 like citizens advocating a return to ethics. Again, is
18 anyone a member of or financial contributor to any of those
19 types of groups? If so, please stand.

20 Is any member of the jury panel every been a
21 witness in a criminal trial? If so, please stand.

22 Is any member of the jury panel or a member of
23 your close family ever suffered from a drug addiction or
24 passed away from a drug overdose? Is so, please stand.

25 All right, ma'am. I'm going to start with you. I need you

The State of South Carolina v Derrick L. Tuten

10

1 to give me your juror number if you know it or your name.

2 JUROR: 85.

3 THE COURT: 85. And your last name, please.

4 JUROR: Faraci.

5 THE COURT: Ms. Faraci was it you or someone else
6 in your family?

7 MS. FARACI: It was my brother.

8 THE COURT: It was your brother, all right.

9 MS. FARACI: He was addicted for a long time and
10 he got murdered in Florida.

11 THE COURT: How long ago was that, ma'am?

12 MS. FARACI: 2001.

13 THE COURT: Thank you, ma'am. You may be seated.
14 Sir, in the front.

15 JUROR: Clay Lucas. My family member.

16 THE COURT: Is it an addiction or a overdose?

17 MR. LUCAS: Addiction.

18 THE COURT: Thank you, sir. You may be seated.
19 Yes, ma'am.

20 JUROR: 57.

21 THE COURT: Yes.

22 MS. CHARBONNEAU: My brother and three nephews.

23 THE COURT: All right, ma'am. An addiction or
24 overdose?

25 MS. CHARBONNEAU: Both.

The State of South Carolina v Derrick L. Tuten

11

1 THE COURT: Okay. Thank you, ma'am. You may be
2 seated. Sir?

3 JUROR: 221. Niece an addiction and another
4 family member passed away from a drug overdose

5 THE COURT: Thank you, sir. You may be seated.
6 Yes, sir.

7 JUROR: 2004 my cousin committed suicide after
8 taking drugs.

9 THE COURT: Thank you sir. Give me your number
10 again?

11 JUROR: 97.

12 THE COURT: Thank you, sir. I appreciate it.
13 Yes, ma'am.

14 JUROR: 196, I think. My stepson, I think has a
15 problem ...

16 THE COURT: Has a problem.

17 MS. MCDANIEL: ... years ago.

18 THE COURT: Thank you. Yes, ma'am.

19 JUROR: 256. Stepbrother, addiction; nephew
20 addiction; multiple family addiction.

21 THE COURT: Thank you, ma'am. You may be seated.
22 Yes sir?

23 JUROR: 298. Brother in law, addiction, overdose.

24 THE COURT: Thank you, sir. Yes, sir?

25 JUROR: 167. My cousin Rachel she od'd and died

The State of South Carolina v Derrick L. Tuten

12

1 in 2015.

2 THE COURT: Thank you, sir. Yes, ma'am.

3 JUROR: Joyce Kraft. I'm not sure of my number.
4 My sister overdosed.

5 THE COURT: Do we have a number?

6 CLERK: What was the last name?

7 JUROR: Kraft.

8 CLERK: 173.

9 THE COURT: Yes, ma'am.

10 JUROR: 124, Your Honor.

11 THE COURT: Yes.

12 MS. HALL: My aunt struggles with addiction.

13 THE COURT: Thank you. You may be seated. Yes,
14 ma'am.

15 JUROR: 109. My sister had a boyfriend who got
16 her addicted.

17 THE COURT: Thank you, ma'am. You may be seated.
18 All right. Yes, ma'am in the black.

19 JUROR: 264.

20 THE COURT: Yes?

21 MS. SNYDER: My parent and a sister.

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

23 JUROR: Stehanie Brodski. I don't remember my
24 number. I have a brother who od'd and I have a sister who
25 has a drug addiction.

The State of South Carolina v Derrick L. Tuten

13

1 CLERK: 36.

2 THE COURT: Thank you, ma'am. I appreciate it.

3 Sir?

4 JUROR: I'm sorry 221, again. I have a nephew who
5 committed suicide while under the influence of a overdose.

6 THE COURT: All right. Thank you, sir. All right.
7 Ladies and Gentlemen given the nature of this case, it's a
8 allegation involving drugs, does anyone know of any reason
9 whatsoever that you cannot be fair and impartial to both
10 the State of South Carolina and the Defendant in this case?
11 If so, please stand. Number 221?

12 MR. PATTON: Yes, ma'am.

13 THE COURT: All I want to know is can you be fair
14 and impartial?

15 MR. PATTON: I believe I can; yes, ma'am.

16 THE COURT: The question was if you can be? So, I
17 need to know ...

18 MR. PATTON: I will say no, ma'am. I can't be.

19 THE COURT: You cannot?

20 MR. PATTON: I can't.

21 THE COURT: All right. I'm going to excuse you
22 from the trial of this case. Keep your seat, you're
23 staying with me for a little bit just stay here. What was
24 his --- 221. I know that. Okay. Ma'am.

25 JUROR: I don't believe I can be.

The State of South Carolina v Derrick L. Tuten

14

1 THE COURT: Fair and impartial?

2 JUROR: No, ma'am.

3 THE COURT: I appreciate your candor. Give me a
4 ...

5 CLERK: 36.

6 THE COURT: 36. Ma'am I'm going to excuse you
7 from the trial of this case. Just take a seat, okay. Sir,
8 give me your number again.

9 JUROR: 167.

10 THE COURT: Okay.

11 MR. KARAGIOZIS: There's no chance I can be.

12 THE COURT: Thank you. All right, sir. You are
13 excused from the trial of this case. Bear with me ladies
14 and gentlemen. Ladies and gentlemen are there any members
15 of the jury that are conscious of any interest or any bias
16 or prejudice for or against the defendant, Mr. Tuten, in
17 this case? If so, please stand.

18 Is there anything further requested from this
19 panel from the State?

20 MR. SHARPE: No, Your Honor.

21 THE COURT: From the defense?

22 MS. WILSON: Nothing, Your Honor.

23 THE COURT: All right, Ladies and Gentlemen just
24 like we did with the last group. Those of you that have
25 qualified, your names have been place in the computer and

The State of South Carolina v Derrick L. Tuten

15

1 it's going to draft a random list. We hope.

2 Mr. Sharpe, who is the arresting agency in your
3 case?

4 MR. SHARPE: Harleyville Police Department.

5 THE COURT: Okay. What I'm going to do is ask
6 that those of you that got chosen on the second jury I'm
7 going to have you call back every night after 6:00 p.m. and
8 it is going to be a recorded message that tells you as jury
9 number 2 you are to report or to call back Tuesday after
10 6:00 p.m. Ladies and Gentlemen, don't call before 6:00. I
11 can tell you we don't always put the message on at 6:00
12 p.m. because we don't always know what is happening at that
13 point. We do everything we can to reduce you from coming
14 back and forth to the courthouse. I will always tell you
15 that Mondays are difficult. It is always hurry up and wait
16 is what Mondays are like when we pull juries but after that
17 ladies and gentlemen this afternoon the lawyers and I will
18 work through some matters of law that we need to take up
19 and when we get you in here to start your trial it will
20 move pretty fluently, all right. So I appreciate it and I
21 appreciate your dealing with us.

22 Those of you for the second trial I'm going to go
23 ahead and let you go now. Okay. There are a couple of
24 you, yes, sir, yes ma'am in the green and yes, sir, 221.
25 So I'm going to go ahead and excuse you all. Thank you for

The State of South Carolina v Derrick L. Tuten

16

1 being here. I appreciate it.

2 CLERK: Okay.

3 THE COURT: You good to go. All right. Ladies and
4 Gentlemen again just stand in place when your name is
5 called.

6 CLERK: Juror 109, Jasmine C. Gomez. How says the
7 state?

8 MR. SHARPE: Please seat the juror.

9 CLERK: How says the defense?

10 MS. WILSON: Please excuse this juror.

11 CLERK: Juror Number 180, Bruce Lewis. How says
12 the state?

13 MR. SHARPE: Please seat the juror.

14 CLERK: How says the defense?

15 MS. WILSON: Please seat this juror.

16 CLERK: Come forward, sir and have a seat in the
17 juror box. Juror number 255, Quanell Simmons. How says
18 that state?

19 MR. SHARPE: Please seat the juror.

20 CLERK: How says the defense?

21 MS. WILSON: Please seat this juror.

22 CLERK: Come forward. Juror number 188, Angela
23 Malphrus. How says the state?

24 MR. SHARPE: Please seat the juror.

25 CLERK: How says that defense?

The State of South Carolina v Derrick L. Tuten

17

1 MR. SHARPE: Please seat this juror.

2 CLERK: Come forward ma'am. Have a seat in the
3 jury box. Juror number 70, Diaz Flor Cruz. How says the
4 state?

5 MR. SHARPE: Please seat the juror.

6 CLERK: How says the defense?

7 MS. WILSON: Please seat this juror.

8 CLERK: Come forward ma'am and have seat in the
9 juror box. Juror number 232, Williams Ramos. How says the
10 state?

11 MR. SHARPE: Please excuse this juror.

12 CLERK: Thank you, sir. Please have a seat.
13 Juror 164, Craig Jones. How says the state?

14 MR. SHARPE: Please seat this juror.

15 CLERK: How says the defense?

16 MS. WILSON: Please excuse this juror.

17 CLERK: Thank you sir. Juror number 243, Clint
18 Ross. How says the state?

19 MR. SHARPE: Please seat the juror.

20 CLERK: How says the defense?

21 MS. WILSON: Please seat this juror.

22 CLERK: Please come forward, sir. Have a seat in
23 the jury box. Juror number 10, Ty'quan Jenkins. How says
24 the state?

25 MR. SHARPE: Did you say Juror number 10?

The State of South Carolina v Derrick L. Tuten

18

1 CLERK: I'm sorry, did I say 10.

2 THE COURT: 159.

3 CLERK: 159.

4 MR. SHARPE: Please seat the juror.

5 CLERK: How says the defense?

6 MS. WILSON: Please seat the juror.

7 CLERK: Come forward, sir. Have a seat in the
8 jury box. Juror number 105, James Gibson, III. How says
9 the state?

10 MR. SHARPE: Please seat the juror.

11 CLERK: How says the defense?

12 MS. WILSON: Please seat this juror.

13 CLERK: Come forward sir and have a seat in the
14 jury box. Juror number 128, Agnes Harris. How says the state?

15 MR. SHARPE: Please seat the juror.

16 CLERK: How says the defense?

17 MS. WILSON: Please excuse this juror.

18 CLERK: Thank you, ma'am. Juror number 163, Annie
19 Jones. How says the state?

20 MR. SHARPE: Please seat the juror.

21 CLERK: How says the defense?

22 MS. WILSON: Please seat this juror.

23 CLERK: Come forward. Have a seat in the jury box.
24 Juror number 261, Lisa Smith. How says the state?

25 MR. SHARPE: Please seat the juror.

The State of South Carolina v Derrick L. Tuten

19

1 CLERK: How says the defense?

2 MS. WILSON: Please seat this juror.

3 CLERK: Come forward. Have a seat in the jury box.

4 Juror number 169, Sterling Kelson. How says the ...

5 MR. SHARPE: Please excuse this juror.

6 CLERK: Thank you. Juror number 264, Julie Synder.

7 How says the state?

8 MR. SHARPE: Please seat the juror.

9 CLERK: How says the defense?

10 MS. WILSON: Please excuse this juror.

11 CLERK: Thank you, ma'am. Juror number 275, Sidney

12 Taylor. How says the state?

13 MR. SHARPE: Please excuse this juror.

14 CLERK: Thank you, sir. Juror number 76, Travers

15 Davis. How says the state?

16 MR. SHARPE: Please seat the juror.

17 CLERK: How says the defense?

18 MS. WILSON: Please seat this juror.

19 CLERK: Come forward, sir. Have a seat in the jury

20 box. State three, defense four. Juror number 127, Joseph

21 Hansen. How says the state?

22 MR. SHARPE: Please excuse this juror.

23 CLERK: Thank you, sir. Juror number 114, Amy Graven.

24 Was she ...

25 MR. SHARPE: I think she was excused.

The State of South Carolina v Derrick L. Tuten

20

1 CLERK: Yes. Juror number 202, Robert Miller. How
2 says the state?

3 MR. SHARPE: Please seat the juror.

4 CLERK: How says the defense?

5 MS. WILSON: Please seat this juror.

6 CLERK: Please come forward sir and have a seat in the
7 jury box. Juror number 251, Rita Seago. How says the state?

8 MR. SHARPE: Please seat this juror.

9 CLERK: How says the defense?

10 MS. WILSON: Please seat this juror.

11 CLERK: Come forward, ma'am. Have a seat in the jury
12 box. Alternate one. Juror number 144 Lisa Horton.

13 MR. SHARPE: I believe she was excused also.

14 CLERK: Okay. Juror number 90, Eric Fleisher. How
15 says the state?

16 MR. SHARPE: Please excuse this juror.

17 CLERK: Thank you. Juror number 122, Lyla Guthrie.
18 Does the state has cause for strike?

19 MR. SHARPE: No, ma'am, madam clerk.

20 CLERK: How says the defense?

21 MS. WILSON: Please seat this juror.

22 CLERK: Come forward to the alternate number one
23 chair. Juror number 11, Scott Aurand. How says the state?

24 MR. SHARPE: Please seat the juror.

25 CLERK: How says the defense?

The State of South Carolina v Derrick L. Tuten

21

1 MS. WILSON: Please seat this juror.

2 CLERK: Alternate chair number 2. Juror number 64,
3 Marcus Colon. How says the state?

4 MR. SHARPE: Please seat the juror.

5 CLERK: How says the defense?

6 MS. WILSON: Please seat the juror.

7 CLERK: Alternate chair number 3.

8 THE COURT: All right. Are there any matters of law
9 that we need to take up regarding the jury selection process
10 from the state?

11 MR. SHARPE: No, Your Honor.

12 THE COURT: From the defense?

13 MS. WILSON: Very good. Ladies and Gentlemen just
14 hold tight with me. The rest of you I get to excuse you with my
15 thanks. We appreciate it. If you need a work excuse you need to
16 go down to the clerk of court's office downstairs. All right.
17 Thank you again.

18 (Panel is excused)

19 THE COURT: All right. Ladies and Gentlemen. You all
20 understand that you are my jury for the trial of this second
21 case. I do not know exactly when the other case is going to
22 finish so I need to ask you as I told you before I'm going to
23 need you to call back after 6:00 p.m. tonight. I believe it
24 will tell you that you need to call back Tuesday after 6:00 p.m.
25 Whatever it tells you to do, please do. If it says report

The State of South Carolina v Derrick L. Tuten

22

1 tomorrow at 10:00 report, all right. Keep calling tomorrow
2 after 6:00 and it will tell you. There is a possibility that
3 this case could begin tomorrow afternoon. That's just a
4 possibility though. So, I just wanted you all to know that. I
5 do think it probably will start Thursday but that's my best
6 guess right now. From the state, about how long do we think
7 it's going to take to try this case?

8 MR. SHARPE: Roughly a day to a day and half, Your
9 Honor.

10 THE COURT: Very good. All right. Ladies and
11 Gentlemen that's what we are anticipating. Again, just like you
12 heard me tell some of the other jurors as far as the rules are
13 concerned you can bring your phones into the courtroom you are
14 going to just have to leave it back on the table. I'm just
15 going to ask that you turn them off ladies and gentlemen. I also
16 should have told that earlier jury that if someone needs to
17 reach you emergently while you are sitting here in the courtroom
18 and don't have your phones tell them to call the clerk of
19 court's office and give us your name and we will let you know
20 immediately. I don't want anybody to be concerned. If you have
21 any work issues or family issues or problems. Also, I want to
22 remind you that you are not to do any independent research on
23 this case. Don't use a computer. You are going to have
24 everything that you need to take care of this case and decide
25 the evidence right here in this courtroom. It will be highly

The State of South Carolina v Derrick L. Tuten

23

1 inappropriate for you to do any outside research. Just like I
2 told the other jury, when you go home the only thing you
3 are permitted to say is that you've been chosen as a juror
4 in the trial of a criminal case. You cannot say the
5 defendant's name, name of any witnesses or the charges.
6 Again, they don't know anything about anything and I don't
7 want them to influence you in any way. Also, as I told the
8 other jury, I can't start until all of you are here so
9 whatever time it says to be here, please be here. If you
10 cannot for some reason, if you fall ill or have an
11 emergency I need you to call the clerk's office immediately
12 and let us know so that I can arrange if I have to call an
13 alternate or do something else along those lines. All
14 right. Just like the last jury, when you go back to your
15 jury room right now I'm going to get your phone numbers
16 from everyone just in case something changes as far as our
17 schedule is concerned but I also need you to elect a
18 foreperson. You heard me say before that person who fills
19 out the verdict form in the end is also the person that
20 makes sure that everyone is contributing when you begin
21 your deliberations. All right.

22 Ladies and Gentlemen, I know that when you came
23 in here you had no idea that you would be chosen as a juror
24 in a trial. So for any reason you have any commitments at a
25 specific time Wednesday or Thursday that you have to be

The State of South Carolina v Derrick L. Tuten

24

1 here, I need you to let the foreperson know that. I can
2 break when you need to break. All right. With that said
3 ladies and gentlemen, again, if you are on social media
4 don't post anything on social media. Ladies and Gentlemen,
5 I look forward to seeing you a little bit towards the end
6 of the week. Again, there is a potential that this case can
7 start maybe Wednesday afternoon but right now just call, it
8 will tell you probably Tuesday when we are going to go
9 ahead and begin. Yes sir?

10 JUROR: The number we are suppose to call?

11 THE COURT: Margaret. She's got it right here.
12 Yes, sir?

13 JUROR: Stay off of social media or just not say
14 anything about this case?

15 THE COURT: Do not say anything about being on
16 jury duty, no. You can be on social media if you want to
17 just don't post that you're a juror. Okay. Anything else?
18 No. Ladies and Gentlemen, I'm going to excuse you back to
19 your jury room. We will break during the trial for a
20 decent lunch time. I'm sorry but I was trying to get you
21 out of here today. You are excused back to your jury room.
22 I will see you later in the week. Thank you.

23

24

25

The State of South Carolina v Derrick L. Tuten

25

STATE OF SOUTH CAROLINA)

) CERTIFICATE

COUNTY OF JASPER)

Be it known that I, the undersigned Melissa R. Singletary, Certified Verbatim Reporter, for the State of South Carolina, do hereby certify that the foregoing transcript of the **Jury Selection** represents a true, accurate and complete transcript of record before the Circuit Court for Jasper County, South Carolina, so given on May 13, 2024, 2024, to the best of my skill and ability;

That I am not related to nor an employee of any of the parties hereto, nor a relative or employee of any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action.

IN WITNESS WHEREOF I have here unto set my hand this 21st day of August, 2024.

Melissa R. Singletary

Melissa R. Singletary, CVR
Certified Verbatim Reporter

STATE OF SOUTH CAROLINA	IN THE GENERAL SESSIONS COURT
	2020-GS-27-00455
COUNTY OF JASPER	
-----)	
State of South Carolina)	
	)
Plaintiff,	)
vs.	)
	)
	)
Derrick Tuten,	)
	)
	)
-----Defendant.)	

TRANSCRIPT OF JURY TRIAL

May 15 to May 16, 2024
Ridgeland, South Carolina

B E F O R E:

The Honorable Carmen T. Mullen, Judge Presiding

Kymberlee M. Williams, CSR/RPR
Official Circuit Court Reporter III
Post Office Box 8091
Beaufort, South Carolina 29903

A P P E A R A N C E S

Appearing for The State of South Carolina:

James Sharpe, Esq.
14th Circuit Solicitor's Office
P.O. Box 11449
Beaufort, South Carolina 29211

Appearing For the Defendant:

Jaleesa Wilson, Esquire
Patrick Hall, Esquire
Deputy Publics Defender
Fourteenth Circuit Public Defender's Office
P.O. Box 545
Beaufort, South Carolina 29901

1	INDEX	
2		
3	PROCEEDINGS:	06
4		
5	OPENING STATEMENT BY MR. SHARPE	37
6		
7	OPENING STATEMENT BY MS. WILSON	40
8		
9	WITNESS: AARON AGER	
10	Direct Examination	41
11	Cross-Examination	62
12	Redirect Examination	66
13		
14	WITNESS: COREY PICKERING	
15	Direct Examination	67
16	Cross-Examination	79
17	Redirect Examination	84
18		
19	WITNESS: ARTHUR THIBEAULT	
20	Direct Examination	90
21	Cross-Examination	94
22		
23	WITNESS: ANDREW J. WOODS	
24	Direct Examination	95
25	Cross-Examination	97

1	INDEX - CONTINUED	
2		
3	WITNESS: MARY BETH MCCORMACK	
4	Direct Examination	98
5	Cross-Examination	103
6		
7	CHARGE CONFERENCE	112
8		
9	CLOSING ARGUMENT BY MR. SHARPE	117
10		
11	CLOSING ARGUMENT BY MS. WILSON	125
12		
13	JURY CHARGE	129
14		
15	READING OF THE VERDICT	149
16		
17	SENTENCING HEARING	184
18		
19	PROCEEDINGS CONCLUDED	189
20		
21	CERTIFICATE OF REPORTER	190
22		
23		
24		
25		

1	EXHIBITS		
2	**		
3	ITEM NO.	DESCRIPTION	PAGE
4	S-02	TUBE - BLACK SCALE	50
5	S-03	METHAMPHETAMINE	102
6	S-04	PHOTO	44
7	S-05	PHOTO	44
8	S-06	PHOTO	53
9	S-07	PHOTO	53
10	S-08	PHOTO	53
11	S-09	PHOTO	53
12	S-10	PHOTO	53
13	S-11	PHOTO	60
14	S-12	PHOTO	60
15	S-13	PHOTO	60
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

PROCEEDINGS**WEDNESDAY, MAY 15, 2024****RIDGELAND, SOUTH CAROLINA*********

(The following proceedings were held in open court. All parties were present.)

THE COURT: Thank you.

Good morning. All right. What pre-trials do we have in this case? There are a few pretrial motions. We can address them now.

THE COURT: Okay.

MR. SHARPE: The defense has filed a motion to sequester witnesses. The State does not object to that.

THE COURT: Okay. Who is your lead investigating officer in this case?

MR. SHARPE: Sergeant Ager from the Hardeeville Police Department.

THE COURT: Okay.

Anything else, Ms. Wilson? Mr. Bryant? As far as pre-trials are concerned?

MS. WILSON: Yes, Your Honor. I briefly spoke with Mr. Sharpe regarding some information that may come out if they provide a proffer.

1 Testimony by the co-defendant regarding her
2 witnessing him with the drugs. I would object
3 to that under Lyle. It's more prejudicial than
4 probative.

5 THE COURT: Okay. Well then you would have
6 to do a proffer of your co-defendant so I can
7 make determination of whether or not by clear
8 and convincing evidence he in fact did
9 distribute.

10 I assume it's not a result of the prior
11 conviction.

12 MR. SHARPE: The proffer agreement that we
13 have with the co-defendant needs to be
14 addressed.

15 THE COURT: Okay. It would have to be now
16 before we start or in any way we talk about it.

17 Ms. Wilson, just so I understand and being
18 able to rule on my motions in limine, what is
19 your defense in this case? It was not an intent
20 to distribute? It was just for possession?

21 MS. WILSON: The drugs are not his, Your
22 Honor.

23 THE COURT: They are not his. Okay. Okay.

24 So explain to me very quickly the stop and
25 where the co-defendant was in the car and where

1 Mr. Tuten was in the car.

2 Okay. Is that your client? Thank you.

3 MS. WILSON: Mr. Bryant is going to do the
4 proffer, Your Honor.

5 THE COURT: Come on up. Thank you.

6 MR. HALL: For the record, Your Honor,
7 Patrick Hall here on behalf of Ms. Pickering.

8 THE COURT: Thank you.

9 **COREY PICKERING,**

10 **being first duly sworn testified as follows:**

11 * * *

12 **EXAMINATION BY THE COURT**

13 BY MR. BRYANT:

14 Q What is your name for the record?

15 A Corey Pickering.

16 Q All right. And how old are you, Ms.
17 Pickering?

18 A 26.

19 Q And how do you know the defendant, Mr.
20 Tuten?

21 A We used to date, and he is my son's father.

22 THE COURT: All right. Go ahead, Mr.
23 Sharpe.

24

25

VOIR DIRE EXAMINATION BY MR. SHARPE

BY MR. SHARPE:

Q On June 26, 2020, did you live with Mr. Tuten?

A Yes.

Q Walk me through the beginning of the day all the way up until the traffic stop.

A We went to the Magnolia.

THE COURT: What's the Magnolia?

A It's a hotel. It's no longer that.

Q Here in Ridgeland, or where is it?

A It's right off -- it's across Dollar General in the town of Hardeeville.

THE COURT: Okay. That's what I thought. Okay, keep going.

A I stayed in the car, and he went into a Christie's room. I'm assuming he either fell or something or did something to her.

He had a scale with him, and then he came back out and then we drove towards Barney's house. My windshield was cracked, so we got pulled over.

THE COURT: Who's Barney?

A Barney was a friend of ours.

THE COURT: Okay.

1 A He lived near the dump.

2 THE COURT: Okay.

3 A When we got pulled over -- when we were
4 getting pulled over --

5 THE COURT: And just so I understand, you
6 were driving the car?

7 A Yes, ma'am.

8 THE COURT: Okay. Keep going.

9 A When we were getting pulled over, he handed
10 me the bag and told me to hide it in the vent
11 towards my left. I attempted to do so, but it
12 kept falling and I wasn't doing it right.

13 I started to panic a little bit, so I kind
14 of gave up. He got angry with me and told me
15 that they would be my drugs then.

16

17 BY MR. SHARPE:

18 Q So prior to this incident, did you know who
19 Christy was?

20 A Yes.

21 Q How did you know who Christy was?

22 She was just a friend of his that would like go
23 to her room, and sell her stuff or drop stuff
24 off to her.

25 Q What exactly did you give to her or sell to

1 her?

2 A Meth.

3 Q Approximately how many times did you give
4 or sell meth to Christy?

5 A I was in the car. He did it several times.

6 THE COURT: Did you actually go into the
7 room with him?

8 A Sometimes. Usually I would stay in the car
9 because I didn't really want to go in, but I did
10 go in.

11 BY MR. SHARPE:

12 Q And would he give her or sell her meth?

13 A Yes.

14 Q And in this particular occasion, you stayed
15 in the vehicle, correct?

16 A Right.

17 Q And did you say earlier that you moved to
18 Barney's house after this?

19 A Yes.

20 Q And who is Barney?

21 A Barney is kind of how we met. My friend
22 Tiffany took me to Barney's house and Derrick
23 was there. That's how we met. I gave him a
24 ride somewhere. He was just a mutual friend.

25 Q Did Barney do that?

1 A Yes.

2 Q Did you witness Barney do that?

3 A Yes.

4 Q Did you witness Derrick Tuten give Barney
5 meth or sell Barney meth?

6 A Yes.

7 THE COURT: Did you witness Derrick Tuten doing
8 meth?

9 A Yes.

10 THE COURT: And would you characterize him as an
11 addict?

12 A Yes.

13 THE COURT: And do you do methamphetamine?

14 A Not now. I haven't since I had my son, but
15 I was an addict as well.

16 THE COURT: You were. Give me roughly the
17 time frame that you were an addict?

18 A 2018 to early 2020.

19 THE COURT: And at the time of this
20 incident, I don't know what time period exactly
21 that was in 2020, were you an addict, or had you
22 already gotten pregnant or had your child by the
23 time of this alleged sale? Do you know?

24 A So I had found out a month before we got
25 arrested that I was pregnant. I was a few months

1 along already. I didn't stop doing it until I
2 went to jail that day.

3 THE COURT: So that was your day.

4 A Right.

5 THE COURT: Do you have a prior record for
6 drugs? Criminal record.

7 MR. SHARPE: She does not, Your Honor.

8 THE COURT: Okay. And she doesn't have a
9 subsequent record for drugs, correct?

10 MR. SHARPE: No, Your Honor. The one
11 instance where she had a possession-level
12 offense, it was nolle prossed.

13 THE COURT: Okay. And what is your
14 agreement under this proffer, as far as she is a
15 co-defendant in this case? She's also charged
16 with what?
17 Possession with intent to distribute?

18 MR. SHARPE: Yes, Your Honor.

19 And so what have you given her as far as
20 any kind of deal if she testifies and proffers?

21 MR. SHARPE: She has not been given an
22 offer.

23 THE COURT: Okay. That's correct, Mr.
24 Hall?

25 MR. HALL: That's correct. You're her

1 attorney?

2 MR. HALL: That's right.

3 THE COURT: Okay. Thank you.

4 BY MR. SHARPE:

5 Q And can I ask you this?

6 You said that you were also an addict,
7 correct?

8 A Yes.

9 Q Okay. Did Derrick give you meth?

10 A Yes.

11 Q All the times that you did that, did he
12 provide it to you each time?

13 A Yes.

14 Q Did he assist you in using meth?

15 A Yes.

16 Q How did he assist you?

17 A He would hold it for me to do that.

18 THE COURT: What does that mean, when he
19 would hold it for you?

20 A Light the pipe.

21 THE COURT: It was by pipe.

22 A Yes.

23 Q THE COURT: Okay. You would smoke it.

24 A I never touched it. He would light it for
25 me.

1 THE COURT: Okay. So he just hold the pipe
2 to your mouth, or is that how you ingest it?

3 A Yes.

4 BY MR. SHARPE:

5 Q Were you living with Derrick Tuten during
6 this time frame?

7 A Technically, yes. We would live at
8 friends' houses, or we would live in my car, but
9 we were always together.

10 MR. SHARPE: I have no further questions.

11 THE COURT: Any questions, Ms. Wilson or
12 Mr. Bryant?

13 **

14 **VOIR DIRE EXAMINATION BY MS. WILSON**

15 BY MS. WILSON:

16 Q You testified that you were an addict
17 between roughly 2018 and 2020?

18 A Yes.

19 Q What part of 2018 did you meet Mr. Tuten?

20 A August or September. It was right after my
21 21st birthday. My birthday is [REDACTED]. I
22 believe it was August.

23 Q When you say, um, when the lights went off,
24 um, this was probably when the car was pulled
25 over?

1 A I knew where to pull over. I was trying to
2 kill time so I could hide it correctly.

3 But, um, yes, we don't.

4 Q What were you doing? Um, what were you,
5 what were you up to?

6 A I was panicked, yes.

7 Q Um, what was the thing? How, what was, how
8 was the thing at the time?

9 A Um, there was like, he had it like framed
10 in a certain way, um, where you can reach your
11 hand inside of it, um, and there was some place
12 that I was supposed to put it to where it would
13 stay in there, but I couldn't get it in that
14 place, and I kept falling to the floorboard. Q

15 What kept falling to the floorboard?

16 A The mat.

17 Q Did the, did the tech? He said yes, the,
18 what he handed me. What did he give you? A mat
19 and a mat. What did you give that lady? What do
20 you mean? Um, he said that she, that she never
21 gave it to you. Right. Did he give you anything
22 out of it?

23 A No, I'm probably the only one.

24 Q And was the car real?

25 A Yes, ma'am.

1 Q So you didn't share anything with anyone?

2 A No.

3 Q Thank you.

4 THE COURT: Okay, I'm ready to hear an
5 argument, if you'd like. Oh, I'm sorry, you can
6 step down. I apologize. Go ahead and step down.

7 Well, Mr. Sharpe, you need to talk to me
8 because I do think it's distinguishable from the
9 Wilson case because what she was testifying to
10 in the Wilson case was that that was a search
11 warrant case of a house. And she said that she
12 had witnessed him sell drugs from that house
13 from that room. And in this case, we have drugs
14 in a car.

15 And the problem I have with that is that we
16 don't know what his intent was to sell those
17 drugs that were in the car that could have been
18 for personal use. I mean, looking at a 404B
19 analysis, I understand your argument of what's
20 the intent with those drugs. But his defense is
21 not that he was going to use the drugs. His
22 defense is that they weren't his at all. So I
23 have a bit of a concern.

24 Now, if he opened the door and said,
25 listen. And yeah, I had the drugs, but I wasn't

1 going to sell them. I was just going to smoke
2 it myself, and we were just going to use it.

3 I think for impeachment purposes,
4 absolutely, you could have her testimony. But I
5 don't know that we leap to that beyond him
6 saying that as his argument or them arguing that
7 he had no intent to sell it, that it was hers.
8 And then you go to a 403 analysis, obviously,
9 probative versus prejudice.

10 I mean, we all know, once you say that she
11 said, you know, I've seen him sell drugs 100
12 times, I mean, they convict him right then and
13 there.

14 Obviously, I have to find it by a clear and
15 convincing, you know, evidence. She hasn't told
16 me of specific instances of him selling. And if
17 you notice in the case that you had before me,
18 one of the things she testified to in the King
19 case was that two days before this search, she
20 saw him sell.

21 And she's talking about in general. I've
22 seen him over 100 times. So I'm concerned about
23 this, too. So why don't you address those for
24 me.

25 MR. SHARPE: It doesn't require it. If he

1 just gives it to her, she doesn't have to pay
2 for it. If he gives it to her, that's
3 distribution. If it happens to be receiving that
4 from him only two days prior, as well as him
5 going to the motel itself, Magnolia.

6 Here in this particular case, she's
7 familiar with Christy. So without getting into
8 who Christy is or what Christy's prior dealings
9 are with Mr. Tuten,
10 it would be very hard to explain that she knew
11 why Mr. Tuten was going to meet with Christy.

12 So in order for him to get to the res
13 gestae in this case, which is again, they began
14 the morning by going to the Magnolia.

15 THE COURT: Why can't she just testify that
16 she saw him go in on that day to the Magnolia
17 Hotel with a scale?

18 MR. SHARPE: Your Honor, I can certainly do
19 that. I just don't want the jury wondering who
20 this Christy person is. In order to show the
21 intent to actually distribute meth, I have to
22 show he was actually trying to distribute.

23 THE COURT: I thought he got it from
24 Christy. Did he sell it to Christy?

25 MR. SHARPE: Yes.

1 THE COURT: He sold it to Christy.

2 MR. SHARPE: Yes. That's correct Your
3 Honor.

4 THE COURT: But he's not charged for the
5 distribution to Christy. He's charged for the
6 bag of methamphetamine that was found in his
7 car.

8 MR. SHARPE: That's correct, Your Honor.
9 That is absolutely correct. Because law
10 enforcement didn't witness that distribution.

11 Ms. Pickering not only witnessed this
12 distribution -- I don't want to get into this.
13 I just want to get into the fact that it's sold
14 to Christy to build that res gestae of who
15 Christy is and why they were coming from
16 Magnolia.

17 My intent is not to go into how many times
18 Mr. Tuten has sold meth, but that he did
19 distribute the meth. It is a thing. With that
20 meth and with the scale, he was going to
21 distribute that meth.

22 So the argument itself is still going to be
23 based on intent.

24 THE COURT: So, Mr. Sharpe, I think you can
25 testify -- if you're telling me that the

1 methamphetamine that was found at the stop, they
2 had just first gone to Christy and he had given
3 her some or whatever he did. Is that what
4 you're saying? And she and Ms. Pickering knows
5 that that's what they did.

6 They went there to -- she saw him go with a
7 scale and take -- I'm going to assume she's
8 testifying that he took the drugs with him?

9 Is that what she said?

10 MR. SHARPE: Well, that's part of the
11 issue, Your Honor. Her testimony is going to be
12 that she saw the defendant with a scale and she
13 knew what he was going to do. He left that
14 morning with the methamphetamine, with the scale
15 in pocket, but she didn't see the meth in his
16 hands on this occasion going to Christy.

17 THE COURT: Well she can't testify then.
18 She can't testify as to that that's what she
19 knew he was going to do, but she doesn't know.
20 It's very possible he could have just got up
21 there for some completely different reason.

22 So my next question is. He comes back,
23 okay, and then they're going, to go to Barney's
24 right and did he say to her in any way we're
25 going to Barney's to smoke meth or can she

1 testify to anything specific as to that day as
2 to what the intent was with that
3 methamphetamine.

4 That's just action and conformity with
5 that's just saying because he sold to her five
6 other times that that must be what he was doing
7 he could have been out there like you said
8 having a slice of pizza having sex whatever it
9 could have been something different.

10 I think unless you can talk about only the
11 specific day and what she knows and what she saw
12 that he was doing with the meth, that she can
13 testify to that. But I don't think she can say,
14 I've seen him a hundred times sell meth. And she
15 can't say, and he provides me meth as well.
16 Now, if they open up the door, if this whole
17 case becomes a, it was for my simple possession,
18 it wasn't to use, then I think that opens up the
19 door that she can say, yeah, he gives me meth.
20 So right then and there, that's where your
21 possession with intent to distribute comes in.

22 But I don't think you can use all these
23 other bad acts to say that, so because he sold
24 Christy meth five other times means he was doing
25 that today because she didn't go in and she

1 didn't see it.

2 Now, it's different if she went in and saw
3 it. If she walked in on this day and saw him
4 sell meth to Christy. She could testify to
5 that. And then they get back in the car and
6 then they're driving to whatever his name is.
7 Again, it sounds like the stop occurred before
8 they got to Barney's.
9 Is that correct?

10 MR. SHARPE: Well, she can't speculate.

11 THE COURT: Again, though, Mr. Sharpe,
12 unless he told her specifically that that's what
13 he was doing that day, again, just because he's
14 done it before doesn't mean that's what he was
15 doing with her that day.

16 That's the problem I have. If he looks at
17 her and says, yeah, I'm going to go give some
18 meth to Christy, that's a totally different
19 story. That's an admission by him, and that's
20 what he said. However, if -- I mean, she can
21 testify, and it's circumstantial evidence. If
22 she says he gets out of the car, he goes with a
23 scale. The question is, did you see him go with
24 drugs? No, but he goes with a scale.

25 The jury can put it together that he comes

1 back out, there's a stop and there is drugs and
2 they just have to believe her testimony that
3 was, listen, I was a user and he told me to take
4 it.

5 I mean, that's really gonna come down to
6 whether or not the jury believes Ms. Pickering.
7 Limited to that, because he, in fact, didn't
8 distribute to Barney or whatever his name was,
9 Barry, because he got stopped before that.

10 So he didn't get there. So he wasn't able
11 to distribute. Again, I understand you're
12 looking for intent. I just think you need to be
13 very careful. I just think this comes back on
14 an appeal if you aren't specific because
15 basically what you're trying to say is because
16 all these other times he was selling, he must
17 have had the intent to sell.

18 You can't do that. The law absolutely does
19 not allow you to do that. This is not action in
20 conformity with what you're doing. Just because
21 he always does something doesn't mean that's
22 going to happen on this date.

23 MR. SHARPE: I get that. That's not
24 entirely what I'm trying to argue. Although I
25 know it sounds similar. I can respect your

1 ruling and can move forward as it is. Thank you
2 very much.

3 THE COURT: Okay. Okay. Do you have one
4 other? Sure. I'd like to address. when the
5 traffic stop was initiated, a little bit about
6 this, they were leaving Magnolia and they were
7 pulling for a traffic cone shield. They pulled
8 over on the left-hand side of the road,
9 basically coming across the bridge at 95, and
10 they don't want to park anywhere far.

11 They're stopping right at the Welcome to
12 Hardeeville sign and coming forward. Does he
13 come to the driver's side? Okay. Right.
14 Mm-hmm.

15 Open the door to, yeah. That he was
16 arrested, subject, I think you can see that. I
17 think you can see he had an outstanding warrant
18 for him.

19 When they ran his information, there was an
20 outstanding warrant for him. And just so I
21 understand, so the drugs were actually found,
22 did they make it to the vent, or were they just
23 under the seat of the driver's side or where
24 were they? I don't know.

25 THE COURT: Do you have a picture of it?

1 Look at it real quick just so I understand what
2 we're talking about.

3 MR. SHARPE: It was inside the black tube
4 that is tied to the fishing line to go down into
5 the air vent so it's easy to retrieve.
6 Interesting. The part had been rigged to hide
7 things in where there were all kinds of loose
8 compartments. Okay. Show me a picture of what
9 you're talking about.

10 MR. SHARPE: So when Ager approached, the
11 air vent was hanging out like that. So this is a
12 higher air vent? Show me where this is.

13 MR. SHARPE: This is the door handle? The
14 steering wheel is right here so it's really
15 right next to where the left hand would be on
16 the steering wheel.

17 THE COURT: Okay, so it's up here.

18 MR. SHARPE: Yes, ma'am, just below 10pm on
19 the steering wheel. Got it. And then the next
20 photo you can see this black ice air freshener.
21 His body worn camera was right in front of it.
22 The air vent as you can see here, this is how he
23 found it.

24 This is how Sergeant Ager found it. There's
25 this black air freshener shoved in there and in

1 the next photo you can see he's actually pulling
2 this tube out and this tube has a fishing string
3 tied to it and so it's rigged so that you can
4 insert it down into the vent and be able to pull
5 it out easily. And so that in essence is where
6 this was hidden.

7 THE COURT: Okay.

8 So Ms. Wilson, I need to hear from you
9 about as far as he was obviously arrested
10 subsequent to a warrant.

11 MS. WILSON: Typically in that case it
12 would say that you know he had an outstanding
13 warrant and that's all we say. Okay. And so
14 we'll leave it at that unless for some reason I
15 don't know that he's going to testify. If he of
16 course testified and opened the door then it
17 would all be fair game.
18 Okay. Anything else? Sure. Is the jury out here?
19 Very good.

20 What was the warrant for? I think it's
21 better just to say that it's an outstanding
22 warrant.

23 I mean, you could say for failure to appear
24 in court or something along those lines, but I
25 worry when we start doing things like that

1 because it becomes a fiction for the jury, and
2 we're not really being honest with them. So I
3 think it's better off just to say there's an
4 outstanding warrant and that's it.

5 I mean, I'm assuming the officer is going
6 to say he was completely cooperative, and, you
7 know, it was not an issue, correct?

8 MS. WILSON: Correct. He was completely
9 cooperative. Okay. And was all this on webcam?
10 Okay.

11 MR. SHARPE: I will not be introducing the
12 body on the camera. Okay.

13 THE COURT: All right.
14 Anything else? All right, Mr. Hall, you need to
15 make sure that Ms. Pickering knows what she can
16 and cannot say. Okay?

17 Yes, sir. Do you want to make a check? Five
18 minutes. Sure. Okay. Mr. Bryant, what do you
19 have before, don't go anywhere Mr. Sharpe, yes,
20 Mr. Bryant. I told Mr. Sharpe to report to the
21 Court about the damage that he was doing.

22 He's not going to bring it up, I'll
23 determine that afterwards. That's why I asked
24 for the rap sheet. So he's just going to say
25 it's for possession of the intent to distribute

2 THE COURT: Okay. And can I see Mr. Sharpe,
3 do you have the evidence with you right now? Can
4 you bring it in here, I just want to see what
5 we're talking about as far as the amount.
6 Absolutely. Okay, okay. Alright, and take five
7 minutes at the same time, I just wanted to see
8 it once you come back in, okay? Thank you.

14	(Recess.)
----	-----------

15 **

16	PROCEEDINGS CONTINUED
----	-----------------------

18 THE COURTZ; Okay, is the State ready?

22 THE COURT: Got it. So let me step down
23 for one minute, then I'll be right back. You
24 guys are fine. I'll be right back.

25 All right, are we ready to go?

1 MR. SHARPE: Yes, Your Honor.

2 THE COURT: All right, let's bring the jury
3 in. Thank you.

4 (Jury enters courtroom.)

5 THE COURT: Mr. Ross, will you sit in the
6 chair right here? The corporates and you all can
7 always be in the chair.

8 Good morning, ladies and gentlemen. It's
9 good to see you all. At this time, what we are
10 going to do is have Ms. Bostick swear you in as
11 the jury for the trial of this case.

12 I'm going to make a few brief opening
13 remarks and then the lawyers are going to make
14 opening statements.

15 All right, so Ms. Bostick, please swear in
16 our jury.

17 (Jury duly sworn and empaneled.)

18 THE COURT: Ladies and gentlemen, what I am
19 now going to say to you is intended to serve as
20 an introduction to the trial of this case. These
21 remarks are not a charge on the law.

22 I'm going to instruct you on the law that's
23 applicable to this case at the very end of the
24 trial. This is merely an explanation of the
25 procedure that we're going to follow so you can

1 better understand what's happening.

2 Now, ladies and gentlemen, the defendant in
3 this case, Mr. Tuten, is charged by an
4 indictment filed in this court with the offense
5 of possession with intent to distribute
6 methamphetamine, the elements of which I will
7 explain to you later.

8 Now, an indictment is simply the charge by
9 which a case is brought into this courtroom, and
10 it is not in any sense evidence of any of the
11 allegations it contains. Ladies and gentlemen,
12 the defendant, Mr. Tuten, in this case has pled
13 not guilty to this indictment.

14 The State, therefore, has the burden of
15 proving each of the elements of the indictment
16 beyond a reasonable doubt.
17 And it's your duty, ladies and gentlemen, to
18 determine whether or not the state has met that
19 burden.

20 Now, your purpose as jurors is to find and
21 determine the facts. You, the jury, are the sole
22 judge of all facts in this case. If at any time
23 I make any comment regarding the facts of this
24 case, you must disregard it. And you are to
25 determine the facts of this case from the

1 testimony you hear right here from the witness
2 stand as well as any other evidence that's
3 introduced to the Court.

4 Now, it is up to you to determine from the
5 inferences which you may feel be properly drawn
6 from the evidence that's presented.

7 Now, it is especially important that you perform
8 your duty of determining the facts diligently
9 and conscientiously, because ordinarily there is
10 no way to correct an erroneous determination of
11 the facts in a case.

12 Now, on the other hand, and with equal
13 emphasis, the same law that makes you the judge
14 of the facts makes me the judge of the law. The
15 law as given by the Court is the only law you
16 may consider. Ladies and gentlemen, you must
17 accept and follow it, even though you may
18 disagree with it.

19 I cannot tell you what the facts of this
20 case are, and you cannot disagree with me about
21 what the law is or what you think the law ought
22 to be.

23 At the end of this trial, your job is to
24 take the law as I give it to you and apply it to
25 the facts as you find them, and from there,

1 render a true and just verdict.

2 Now, until I tell you to begin your
3 deliberations, you must not discuss this case
4 with anyone, and that includes your fellow
5 jurors, family members, friends, or anyone
6 that's involved in this case. Ladies and
7 gentlemen, as I told you, the attorneys, the
8 parties, the witnesses have been instructed that
9 they are not to talk to you in coming and going
10 during the trial of this case.

11 Again, if you happen to pass them in the
12 elevator or the hall, and they don't even.
13 During the trial, you are not to read, listen
14 to, or watch any news reports about this case.
15 This includes anything that may be in the
16 newspapers, or on the internet, or on the
17 television, or the radio.

18 You must not consider anything that you may
19 have read or heard about this case outside the
20 courtroom, whether before or during this trial.
21 It is important that you keep an open mind and
22 not decide any issue in this case until all the
23 evidence has been presented.

24 The lawyers have made their closing
25 arguments, and I've instructed you on the law

1 that's applicable to this case.

2 Your verdict must be based solely on the
3 evidence as it's presented here in this trial
4 and on the law that I instruct you during and at
5 the end of this trial.

6 Now, I want you to understand that in just
7 a minute, the Solicitor is going to make what's
8 called a an opening statement, in which he's
9 going to explain to you, issues in this case or
10 what he believes the issues are in this case.
11 Then the attorney for the defendant is also
12 going to make an opening statement, although
13 she's not required to do so.

14 What these attorneys tell you during their
15 opening statements is not evidence in this case.
16 Again, it is only their contention as to what
17 the issues are I remind you the evidence in this
18 case comes from the witness stand as well as any
19 other exhibits or evidence that's introduced
20 into the Court record.

21 Now, I also want you to know that from time
22 to time you may hear the lawyers say something
23 like your honor there's a matter of law we need
24 to take up or I may motion them to the bench or
25 I may even send you back to your jury room. I

1 want you to understand something we're not
2 hiding anything from you. Oftentimes when I
3 have to rule as a matter of law whether or not
4 certain evidence is admitted I may make a
5 comment on the facts of the case and because I
6 would never want anything I do to influence you
7 in deciding your case or determination of the
8 facts, in an abundance of caution, we just do it
9 outside your presence.

10 In determining what the truth facts are in
11 this case, you must decide whether or not the
12 testimony of the witnesses is believable. It's
13 my responsibility to rule as a matter of law
14 whether or not certain testimony is admitted,
15 but whether certain testimony is admitted at all
16 or not.

17 You are to decide the believability of that
18 testimony, ladies and gentlemen. In deciding
19 whether to believe the witness, you have the
20 right to consider the interest of the witness,
21 the bias of the witness, the prejudice of any
22 witness, and you can look at the opportunity
23 that witness had to have seen the matters and
24 things about which the witness may testify, and
25 you can also look at the way the witness acts on

1 the witness stand.

2 You have the right to consider anything
3 that is in the record that will help you
4 evaluate the testimony of the witness.

5 Ladies and gentlemen, that means it is your
6 duty to pay close attention to the witnesses, to
7 observe them, to listen to them, so at the very
8 end, at the trial, you can accurately remember
9 the testimony as provided.

10 So ladies and gentlemen in order to
11 preserve everyone's rights, I'm gonna ask the
12 attorneys if there is anything further they want
13 me to instruct you or if they have any
14 objections. If not, ladies and gentlemen, we're
15 going to go ahead and begin the trial of this
16 case.

17 Anything from the State, Mr. Sharpe?

18 MR. SHARPE: No, Your Honor.

19 THE COURT: Miss Wilson.

20 MS. WILSON: Nothing, Your Honor.

21 THE COURT: Thank you. Very good ladies
22 and gentlemen, we will now begin the trial of
23 this case.

24 Mr. Sharpe, whenever you're ready sir.

25 **OPENING STATEMENT BY MR SHARPE**

1 MR. SHARPE: You are all here today, and
2 you're today because the morning of June 26,
3 2020, his co-defendant, Corey Pickering broke
4 into the bag. That's because it's no longer in
5 business, but it was located at 2750 White Party
6 Boulevard, and that's in Hardeeville, which is
7 here in Jasper County.

8 After going to the Magnolia, they basically
9 arrived. Mr. Tuten goes in, meets a friend for
10 a short period of time. We're going to hear
11 testimony that he got a scale in his pocket.
12 And when he came out, he got in the car and said
13 -- and when they drove just a short distance
14 away, and they got pulled over.

15 The lights came on, they got pulled for a
16 cracked windshield. This is all on White Party
17 Boulevard. They pulled over.

18 Sergeant Ager goes up to the vehicle. He's
19 with the Hardeeville Police Department. And he
20 says, I stopped you because you had a cracked
21 windshield.

22 He goes and he runs the license and
23 registration of the driver of the vehicle.
24 And while he's running that, waiting on her to
25 get her insurance, he approaches the vehicle

1 again. And when he approaches that vehicle, he
2 asks the passenger, hey, could you give me your
3 first and last name and your date of birth?
4 And the driver says to the passenger, very cute.
5 It's a bust.

6 He says, here's my name and date of birth.
7 Sergeant Ager goes and runs his name and date of
8 birth and finds that he has an active warrant.
9 Because of that, Sergeant Ager then calls for
10 backup. They pull the defendant, Derrick Tuten,
11 out of the vehicle and they place him in
12 handcuffs.

13 They searched him at this time. They find
14 a scale in his pocket. And then they move onto
15 the driver. Before he picked her up, they said,
16 do you have anything that would be illegal in
17 the car? Anything of yours that's illegal.
18 She said, actually, yeah, I've got some
19 marijuana. I've got some marijuana right here.
20 Here you go. I'm sorry.

21 He gets his canine to come into his seat
22 while the officers are standing there. The
23 canine looks to the posse governor for
24 narcotics.

25 At this time, a search is needed for this

1 doctor, and during that search, Sergeant Ager
2 notices that the air vent next to the steering
3 wheel on the left-hand side is cracked open, and
4 it's got a black ice air pressure shut down on
5 top of it.

6 He finds that suspicious, so he removes
7 that air vent. And when he removes it, he finds
8 a tube wrapped in black electrical tape, and he
9 pulls it out. And he finds that there's over 7
10 grams of meth inside that tube.

11 Why is this important? Why am I telling
12 you all this? It's because today I have to show
13 you the air tube that sets that meth shows the
14 distributor.

15 You're going to hear testimony that when
16 they got pulled over, he forced it on her and
17 said, hide it in that air vent, take it to that
18 pipe, because when you get stopped, it's your
19 back.

20 You're going to be in trouble as well.
21 You'll also hear testimony, and see personally,
22 that that tube was not bent down. You're going
23 to hear testimony that the tube was pulled out
24 of the air vent, and they threw the meth inside
25 it, and they threw all the meth.

You'll also hear testimony, of course, that that meth weighed over seven grams. Now, the State has to prove possession was intended to strip your meth beyond a reasonable doubt; meaning, if you're not clearly convinced that Derrick Tuten was in possession of that meth before he was pulled over by blue lights.

If you're not clearly convinced, you will find him not guilty. But the State is confident that once we present all of the evidence that we have against him today, you will find him guilty. Thank you.

THE COURT: Thank you.

Ms. Wilson.

MS. WILSON: Thank you, Your Honor.

May it please the Court.

THE COURT: Yes, ma'am.

OPENING STATEMENT BY MS. WILSON

MS. WILSON: My name is Jalessa Wilson. My client was a passenger in a car that was driven by Ms. Corey Pickering. It was a typical day. They went by Wendy's. Then, they got pulled over by the police on this morning. So basically, they've been pulled over at least two

1 other times for that same type of issue.
2 Some of them came in the morning, some of them
3 came in the afternoon, and the other time, the
4 state claims that they operated on their cars,
5 treated them right. They were ready to go.

6 Now, almost four years later, the kid
7 learned from the study that those girls were on
8 the same team. Neither one of them at the time
9 gave any statement to the school honor board
10 member. But like I said, she told the teacher.
11 And although she might say that there aren't any
12 people who take her on the same class, we all
13 know that nobody does something like that. She
14 had ample time to say that the drugs were there.
15 When she rolled in the car with the arresting
16 officer while she was waiting to be arrested at
17 the time, she never said that those drugs did
18 not belong to her. They belonged to Mr. Tuten.
19 Let's hear it now. Those drugs did not belong to
20 the Mr. Tuten.

21 So if you are not firmly convinced of the
22 case the State presents here today, then you
23 must find Mr. Tuten not guilty.
24 Thank you.

25 THE COURT: Thank you. Call your first

1 witness.

2 MR. SHARPE: The State calls Aaron Ager.

3 **

4 AARON AGER,

5 Being duly sworn testified as follows:

6 DIRECT EXAMINATION

7 BY MR. SHARPE:

8 Q Please state your name for the record.

9 A Aaron Ager.

10 COURT REPORTER: Could you spell it for me,
11 first and last?

12 BY WITNESS:

13 A A-A-R-O-N HOGAN, last name A-G-E-R.

14 Q Sergeant Ager, where are you currently
15 employed?

16 A Hardeeville Police Department.

17 Q How long have you worked there?

18 A About 9 and 1/2, going on two years.

19 Q Were you working there on June 26th,
20 2020?

21 A I was.

22 Q Did you make a traffic stop of the
23 Defendant, Derrick Tuten, seated here today?

24 A I did.

25 Q Okay, and did you make that stop

1 personally?

2 A I did.

3 Q Okay. And was that in Hardeeville,
4 South Carolina?

5 A Correct.

6 Q Is Hardeeville in Jasper County, South
7 Carolina?

8 A It is.

9 Q Okay. Did you make contact with the
10 driver?

11 A I did.

12 Q Did you tell her the reason for the
13 stop?

14 A I did.

15 Q And what was the reason for the stop?

16 A The violation was for a cracked
17 windshield.

18 MR. SHARPE: Your Honor, may I approach?

19 THE COURT: You may.

20 BY MR. SHARPE:

21 Q Sergeant Ager, I'm gonna show you what's
22 been marked State's Exhibits 4 and 5.

23 Do you recognize those photographs?

24 A I do.

25 Q How do you recognize those photographs?

1 A This was the vehicle on the traffic stop
2 I made on that day.

3 Q Okay. Has it been altered or
4 manipulated in any way?

5 A No.

6 Q Okay.

7 MR. SHARPE: Your Honor, at this time the
8 State would seek to admit State's Exhibits 4 and
9 5 into evidence and publish for the jury.

10 THE COURT: Any objection?

11 MS. WILSON: No objection.

12 THE COURT: State's 4 and 5 in evidence
13 without objection.

14 (State's Exhibits 4 - 5 were admitted into
15 evidence.)

16 THE COURT: All right, ladies and
17 gentlemen, it's also over here too for those of
18 you who are craning your neck.

19 BY MR. SHARPE:

20 Q Sergeant Ager, can you see on that
21 monitor next to you?

22 A No, but I can see there.

23 Q Sergeant Ager, can you tell me what do
24 you see at the top left of that windshield?

25 A That is the cracked windshield that they

1 were stopped for.

2 Q Okay. Now I'm going to show you State's
3 Exhibit 5. Can you see what's at the top of
4 that left windshield in State's Exhibit 5?

5 A I can.

6 Q Okay, and what is it?

7 A The same crack.

8 Q The same crack?

9 A Right.

10 Q All right, sir. Now, who was the driver
11 of the vehicle on June 26th, 2020.

12 A The driver of the vehicle at that time
13 was Courtney Green.

14 Q Okay. And how could you identify her?

15 A I identified her by her driver's
16 license.

17 Q Okay. Did you end up making contact
18 with the passenger, the Defendant?

19 A I did.

20 Q Okay. And how did you identify him?

21 A Name and date of birth.

22 Q Okay. And he's in the courtroom today;
23 is that right?

24 A He is.

25 Q Okay. Could you point to him and tell

1 the Court what he's wearing?

2 A Like a green plaid shirt.

3 Q Okay. Did you end up asking him to exit
4 the vehicle?

5 A I did.

6 Q Okay. Why did you ask him to exit the
7 vehicle?

8 A He had warrants.

9 Q Okay. Did you then place him under
10 arrest?

11 A He was detained at the time, and once
12 the warrants were confirmed, he was placed under
13 arrest.

14 Q Was a search of his person done?

15 A It was.

16 Q Okay. Was anything found on his person?

17 A Yeah, a wallet and a black digital
18 scale.

19 Q I'm sorry, could you say the last part
20 again?

21 A The black digital scale.

22 MR. SHARPE: Your Honor, may I approach?

23 THE COURT: yes.

24 BY MR. SHARPE:

25 Q Let me show you what's been marked as

1 State's Exhibit 2. There are two things in this
2 bag. Could you identify the thing on the left?

3 A The left side is going to be the black
4 digital scale that was taken from his person.

5 Q Okay, how can you identify that?

6 A It was taken from his person at the
7 time.

8 Q Did you see them take it from his
9 person?

10 A I did, and it was placed on the hood of
11 my car.

12 Q Okay, was this while you were placing
13 him I handcuffs?

14 A It was afterwards, and then it was
15 placed on.

16 Q Has it been altered or manipulated in
17 any way?

18 A No.

19 MR. SHARPE: Your Honor, at this time the
20 State -- well, I'll hold off, it's in the same
21 bag.

22 BY MR. SHARPE:

23 Q Now, what did you do next when the scale
24 was pulled out of his pocket?

25 A Went back and spoke to Ms. Pickering,

1 and I asked her if there was anything in the
2 vehicle that was illegal.

3 Q How did she respond?

4 A She stated that there was a little bit
5 of weed in the vehicle.

6 Q And what did you do next?

7 A At that point, I had her exit the
8 vehicle and conduct a search of the vehicle with
9 my canine.

10 Q And so are you a certified canine
11 handler?

12 A I am.

13 Q Okay, and did you have your -- what
14 certifications do you hold?

15 A I'm currently a single-master handler
16 with ASCTI.

17 Q Okay, and did you hold your
18 certifications at that time?

19 A I did hold certifications at that time.

20 Q Okay. When you allowed your dog to do
21 the free-air sniff, did you get a positive
22 alert?

23 A He did give a positive alert on the
24 driver's side door.

25 Q Based on that free-air sniff and

1 receiving a positive alert, did you do a search
2 of the vehicle?

3 A I did.

4 Q Okay. Could you tell me about your
5 findings?

6 A During the search of the vehicle there
7 was a lot in the vehicle, several items, and
8 there was a center console that was made out of
9 wood, that was easily removable.

10 And during that search I located on the
11 driver's side a vent that appeared to be broken
12 in between the door and the driver's side by the
13 wheel, and behind the vent was an air freshener,
14 which appeared to be not normal, so I removed
15 the vent and located a black tube.

16 Q Okay. I'm gonna stop you for just a
17 second, okay?

18 A Uh-huh.

19 MR. SHARPE: May I approach, Your Honor?

20 THE COURT: Yes.

21 BY MR. SHARPE:

22 Q I'm going to show you State's Exhibit 2
23 again. Would you identify the item on the right
24 side of the screen?

25 A It's going to be the black tube that was

1 located behind the vent.

2 Q And how can you identify that?

3 A I pulled it out myself.

4 Q All right. Has it been altered in any
5 way?

6 A No.

7 Q Okay.

8 MR. SHARPE: Your Honor, at this time the
9 State would seek to admit State's Exhibit 2 into
10 evidence.

11 THE COURT: Without objection?

12 MS. WILSON: No objection.

13 THE COURT: Without objection moved.

14 (State's Exhibit 2 was admitted into
15 evidence without objection.)

16 BY MR. SHARPE:

17 Q Let me ask you a little bit about
18 State's Exhibit 2. I'll just hand that to you.
19 State's Exhibit 2 is that a transparent tube?

20 A It is not, it is black, and it's wrapped
21 in black electric tape.

22 Q And so you cannot see inside that tube?

23 A No.

24 Q Okay. Is there anything at the top of
25 that tube?

1 A It looks like it's some green in color
2 fishing wire.

3 Q Okay, fishing wire?

4 A Uh-huh.

5 MR. SHARPE: May I approach, Your Honor?

6 BY MR. SHARPE:

7 Q I'm going to show you what's been marked
8 State's Exhibits 6 through 10 at this time.
9 Beginning with 6, do you recognize this photo?

10 A I do.

11 Q Okay. What is that a photo of?

12 A This is the photo of the vent. I just
13 spoke about taking it out.

14 Q Okay. How do you recognize this photo?

15 A I'm the one who took it out.

16 Q Okay, and has it been altered in any
17 way?

18 A No.

19 Q Okay. Was that air vent cracked when
20 you saw it?

21 A Yes.

22 Q Okay, all right. Let me show you
23 State's Exhibit 7 now.

24 Do you recognize State's Exhibit 7?

25 A I do.

1 Q Okay, how do you recognize it?

2 A I'm holding the air vent -- the front of
3 the air vent that I took out with the air
4 freshener behind it.

5 Q And what is State's Exhibit 7 depicting?

6 A It is the vent taken from its place with
7 the air freshener.

8 Q Okay. I'll show you State's 8 now.
9 What is that a photo of?

10 A That is me removing the black tube from
11 the vent.

12 Q And how can you identify that?

13 A The tube is in the picture.

14 Q Been altered or manipulated in any way?

15 A No.

16 Q Okay. State's 9, and the same thing, do
17 you recognize this photo?

18 A I do.

19 Q How do you recognize it?

20 A I'm holding up the black tube by the
21 fish mark.

22 Q Has it been altered or manipulated in
23 any way?

24 A No.

25 Q Okay. Finally, I'll show you 10 here.

1 The same thing, do you recognize this photo?

2 A I do.

3 Q How do you recognize it?

4 A I'm holding the tube.

5 Q And has it been altered in any way?

6 A No.

7 Q All right

8 MR. SHARPE: Your Honor, at this time the
9 State would seek to admit State's Exhibits 6
10 through 10 into evidence.

11 THE COURT: Okay. Without objection?

12 MS. WILSON: Without objection.

13 THE COURT: Admitted without objection.
14 (State's Exhibits 6 - 10 admitted without
15 objection.

16 MR. SHARPE: All right, and may I publish
17 to the jury?

18 THE COURT: You may.

19 BY MR. SHARPE:

20 Q Okay, what do we see at the top left of
21 this photo?

22 A That is the vent that I mentioned, me
23 taking it out.

24 Q Okay. When you arrived on-scene, or,
25 excuse me, when you began searching the vehicle

1 and you noticed that vent, what stood out about
2 that vent to you?

3 A The air freshener being behind the vent
4 itself.

5 Q Okay. And so when you say the air
6 freshener behind the vent, I'm showing you
7 State's Exhibit 7 now. Could you identify it?
8 Are you saying in this photo here can you see
9 that air freshener?

10 A I can.

11 Q Okay. Where is it at?

12 A You can see it, it's like green and
13 yellow. It's going to be behind the actual vent
14 itself.

15 Q Okay. I'm now gonna show you State's
16 Exhibit 8. Now, what's this a photo of for the
17 jury?

18 A It is the photo of the black tube being
19 taken from the vent.

20 Q Okay. State's Exhibit 9 here?

21 A He's holding up the same black tube.

22 Q What are you holding it up by?

23 A It's the fishing wire line that was
24 attached to it.

25 Q That green in color fishing wire?

1 A Correct.

2 Q Okay. And, finally, State's Exhibit 10,
3 is that the same tube?

4 A The same tube.

5 Q What's it covered in?

6 A The black electrical tape.

7 Q Okay. Now, when you pulled that tube
8 out, did you think that there might be something
9 inside it?

10 A I had suspicion there might be something
11 there.

12 Q All right, but what did you do after you
13 pulled it out?

14 A I returned back to both occupants and
15 read them both your rights.

16 Q Okay. Did the co-defendant, Ms.
17 Pickering, say anything to you?

18 A Afterward she did.

19 Q Okay. When you pulled that tube out and
20 started walking towards the co-defendant, you
21 had the tube in your hand, correct?

22 A I did.

23 Q At that time, did the Defendant's
24 demeanor change?

25 A It did.

1 Q How did he react when you held that tube
2 up?

3 A He became frantic and all over the
4 place, very upset.

5 Q What kind of actions were you talking
6 about?

7 A Yelling, screaming, just mad. Not like
8 anybody would act in a situation like that, a
9 traffic stop.

10 Q Okay.

11 COURT REPORTER: I'm sorry, not like
12 anybody what?

13 BY WITNESS:

14 A Would act like at a traffic stop.

15 Q Did you open that tube?

16 A I did.

17 Q Okay. And what was inside that tube?

18 A It was a crystal-like substance in a
19 clear Ziplock bag.

20 MR. SHARPE: Your Honor, may I approach?

21 THE COURT: You may.

22 BY MR. SHARPE:

23 Q Let me show you State's Exhibit 3.

24 Do you recognize that?

25 A I do.

1 Q Okay. What is that?

2 A This is the clear Ziplock baggy with the
3 crystal-like substance in it.

4 Q All right. Did you say that was inside
5 of the black tube?

6 A It was.

7 Q Did you end up weighing that crystal-
8 like substance?

9 A I did.

10 Q Okay. How much did that end up
11 weighing?

12 A Approximately, 7.6 grams.

13 Q 7.6 grams?

14 A Yeah.

15 Q Let's go back to the search of the car
16 for a minute. Was that car kept clean and tidy?

17 A No.

18 Q Was there a lot of belongings in there?

19 A There was a lot of different things in
20 there.

21 Q Okay.

22 MR. SHARPE: Your Honor, may I approach?

23 THE COURT: You may.

24 BY MR. SHARPE:

25 Q I'll show you State's Exhibits 11, 12

1 and 13 at this time. Do you recognize this
2 photo? This is State's 11.

3 A I do.

4 Q Okay, how do you recognize it?

5 A It's the same vehicle just on the inside
6 when I was there.

7 Q Okay, has it been altered or manipulated
8 in any way?

9 A No.

10 Q Okay. I'm gonna show you State's 12.
11 Do you recognize that photo?

12 A That is going to be - yes, yes.

13 Q How do you recognize it?

14 A The same vehicle just behind the driver
15 and passenger seat.

16 Q Okay. And now State's 13. Do you
17 recognize this photo?

18 A I do.

19 Q Okay. What is that a photo of?

20 A That's a photo of the same rear area of
21 the driver and passenger seat, and there's a
22 shoe with what looks like green fishing line,
23 fishing wire.

24 Q Okay. Are there any backseats in that
25 car?

1 A No.

2 Q I'm gonna hold up State's 11 here. What
3 do we see in this photo?

4 A That is the front passenger area with
5 the wooden center console.

6 Q Okay. And just all kinds of valuables
7 in there?

8 A Yes, including makeup, purse and
9 whatever else in there.

10 Q Okay. Let me show you State's 12 now.
11 This is a little darker photo, so I'm gonna see
12 if I can get it lit up for you, but this might
13 be difficult. All right. Now, where is this in
14 the vehicle?

15 A That's behind the driver and the
16 passenger seat.

17 Q And there were no seats in the back?

18 A No.

19 Q So it's just an open space in the back
20 of the vehicle?

21 A Just an open area.

22 Q All right. And, again, what do we see
23 in this photo?

24 A A bunch of stuff, some hats, just a
25 bunch of everything.

1 Q And State's Exhibit 13 here, what do we
2 see in this photo?

3 A Appears to be a hole in a yellow shoe
4 with the green fishing line and wire inside with
5 my hand.

6 Q Just for the record, I don't know. Your
7 Honor, did I ask to admit these?

8 THE COURT: No.

9 MR. SHARPE: Okay, Your Honor, at this time
10 the State would move to admit State's Exhibits
11 11, 12 and 13, since they've been identified by
12 Sergeant Ager at this time, and have not been
13 manipulated or altered.

14 THE COURT: Have you seen them?

15 MS. WILSON: Yes.

16 THE COURT: Okay, thank you, so they're
17 admitted.

18 (State's Exhibits 11-13 were admitted without
19 objection.)

20 MR. SHARPE: My apologies, counsel.

21 BY MR. SHARPE:

22 Q So in those photos did you see hats?

23 A I did.

24 Q Shoes?

25 A Yes.

1 Q Water bottles?

2 A Correct.

3 Q Fishing string?

4 A Yes.

5 Q Makeup?

6 A Yes.

7 Q Cups full of iced coffee?

8 A Yes.

9 Q Okay. I didn't see any photos of any
10 pipes in the car. Were there any pipes in the
11 car?

12 A Not that we located, no.

13 Q Glass pipes?

14 A No.

15 Q Metal pipes?

16 A No.

17 Q Okay. Any needles in the car?

18 A No.

19 Q Syringes?

20 A No.

21 Q Any burnt tinfoil?

22 A No.

23 Q All right. Did you collect that
24 suspected crystal-like substance, scale and
25 tube?

1	A I did.
---	----------

2 Q Okay. Did you take them back to the
3 Hardeeville Police Department after this stop?

4 | A I did.

5 Q Did you end up picking up that meth from
6 SLED on August 13th, 2021, that suspected
7 crystal-like substance?

8	A I did.
---	----------

9 Q Okay. Where did you take it from SLED?

10 | A Straight back to the Police Department.

11 Q Okay, and to your knowledge has it been
12 there since?

13	A Yes.
----	--------

14 Q All right.

15 MR. SHARPE: Beg the Court's indulgence.

16 BY MR. SHARPE:

17 Q No further questions for you at this
18 time. If you would please answer any questions
19 defense counsel has for you.

20 THE COURT: Ms. Wilson?

21	**
----	----

22	CROSS-EXAMINATION
----	-------------------

23 BY MS. WILSON:

24	Q Good morning.
----	-----------------

25	A Good morning.
----	-----------------

1 Q That traffic stop was on Ms. Pickering,
2 because she was driving, right?

3 A It was -- she was the driver, yes.

4 Q Okay. About how long did it take her to
5 pull over?

6 A I don't know, a few seconds.

7 Q Did you notice her driving funny?

8 A No.

9 Q And you were wearing your body camera at
10 the time?

11 A I was.

12 Q And it was functional?

13 A Yes.

14 Q And the photos that you were shown were
15 generated from your body camera?

16 A Correct.

17 Q You mentioned Mr. Tuten was upset. He
18 was upset at the time that you let him know that
19 there was a warrant for his arrest?

20 A No, not at that time.

21 Q At what point did you put Mr. Tuten in
22 the back of the car?

23 A After he was read his rights, he -- the
24 warrant was confirmed, that he did not want to
25 speak with me.

1 Q Okay. So at the time the car was
2 searched Mr. Tuten was in the back of your car
3 at that time?

4 A Correct.

5 Q Okay. So he didn't necessarily see you
6 pull the black tube out of the car, because he
7 was already in the back of your car?

8 A When I pulled it out, he could see the
9 direct line of sight of me walking back to the
10 car with the tube in my hand.

11 Q Did you print the tube?

12 A I'm sorry?

13 Q Did you run any DNA or prints on the
14 tube?

15 A I did not.

16 Q What about the bag?

17 A I did not.

18 Q The vent wasn't easy for you to pull
19 out, was it?

20 A It pulled out, it was broken, it was
21 open --

22 Q Okay. So --

23 A -- or could be pulled out.

24 Q So you don't remember using anything to
25 pop it out?

1 A Yeah, I used a -- like a screwdriver,
2 but it was still easy to remove.

3 Q Okay, but when you initially tried to
4 take it out, you couldn't take it out, so you
5 used a screwdriver?

6 A Yes.

7 Q All right. You stated that the car was
8 in disarray.

9 A Right.

10 Q You didn't find anything identifiable as
11 Mr. Tuten's in the back of the car?

12 MR. SHARPE: Objection, Your Honor, it
13 calls for speculation. He can't testify as to
14 what was Mr. Tuten's in the car.

15 THE COURT: Okay, sustained.

16 BY MS. WILSON:

17 Q Did you find a lot of belongings for a
18 woman in the back of the car, makeup?

19 A There was makeup in there, shoes, hats.
20 I can't say whose was whose.

21 Q And your canine only alerted to the
22 driver's side of the car?

23 A Correct.

24 MS. WILSON: The Court's indulgence, Your
25 Honor.

1 BY MS. WILSON:

2 Q At what point did you realize the
3 cracked windshield?

4 A When they drove by.

5 Q Did you see where they were coming from?

6 A No. Well, they were coming from across
7 the bridge, so they were going south on 17.

8 Q Okay. So you don't remember them coming
9 -- pulling out of Ruby's?

10 A No.

11 Q And your dashcam was operational, wasn't
12 it?

13 A It was.

14 MS. WILSON: No further questions at this
15 time. Thank you.

16 THE COURT: Any redirect?

17 MR. SHARPE: Briefly, Your Honor.

18 THE COURT: Okay.

19 **

20 **REDIRECT EXAMINATION**

21 BY MR. SHARPE:

22 Q I believe it was your testimony a moment
23 ago that you used a screwdriver or something to
24 get the rest of the air vent out?

25 A Correct.

25	A Good morning.
----	-----------------

1 Q Could you please state your name for the
2 record?

3 A Corey Pickering.

4 Q Ms. Pickering, are you currently
5 indicted under 2020-GS-27-00451 for possession
6 with intent to distribute methamphetamines?

7 A Yes.

8 Q Are you currently represented by an
9 attorney?

10 A Yes.

11 Q Is he here today?

12 A Yes.

13 Q Are you under a proffer agreement with
14 the State?

15 A No.

16 Q Has the State promised you anything for
17 your testimony?

18 A No.

19 Q Did the State offer you any plea
20 agreement for this testimony?

21 A No.

22 Q Are you here freely and voluntarily?

23 A Yes.

24 Q Where do you work?

25 A Sunset Pizzeria.

1 Q How long have you worked there?

2 A Three years.

3 Q How old are you, Ms. Pickering?

4 A I'm 26.

5 Q 26?

6 A Uh-huh.

7 Q Do you have any kids?

8 A Yes, I have a 3-year-old son.

9 Q A 3-year-old son? Do you still live in
10 the area?

11 A Yes.

12 Q Do you live with your kid?

13 A Yes.

14 Q Do you know the co-defendant in this
15 case, Derrick Tuten?

16 A Yes.

17 Q How long have you known Derrick Tuten?

18 A Five or six years. We met like in 2018.

19 Q Is he sitting in the courtroom today?

20 A Yes.

21 Q Could you identify him by an article of
22 clothing?

23 A In the plaid shirt.

24 Q All right, I'm gonna jump back in time,
25 okay?

1 A Okay.

2 Q I'm gonna go back to June 26th, 2020,
3 all right?

4 Q Were you in the car with Derrick Tuten on
5 June 26th, 2020, during a traffic stop?

6 A Yes.

7 Q Were you the driver of the vehicle?

8 A I was.

9 Q Do you recall where you were pulled over
10 at?

11 A Asher in Hardeeville going towards
12 Savannah.

13 Q Okay. Where were you coming from?

14 A Magnolia Motel.

15 Q Okay, and what were you doing at the
16 Magnolia, just why did you go there?

17 A Something -- well, I stayed in the car.
18 So Derrick would go there every once in a while.

19 Q Okay, I'm gonna stop you there. Did he
20 go inside the Magnolia that day?

21 A Yes.

22 Q Did you stay in the car?

23 A Yes.

24 Q Okay. When he went into the Magnolia,
25 did he have a scale with him?

1 A Yes.

2 Q Okay. Let me ask you this, in the car
3 on the way to the Magnolia, did you have any
4 meth in the car?

5 A No.

6 Q Did you know if there was any meth in
7 the car at that time?

8 A No, I wasn't aware there was.

9 Q All right. Do you know if Derrick Tuten
10 was meeting anyone at the Magnolia?

11 A Yeah.

12 Q Okay. So at that point when you arrived
13 there, he went into the Magnolia to meet
14 someone, right?

15 A Right.

16 Q Okay. And did you say he had a scale in
17 his pocket?

18 A Yes.

19 Q Okay, and how long was he in there?

20 A I would say 20, 30 minutes --

21 Q 20, 30?

22 A -- not too long.

23 Q A short period of time?

24 A Yes.

25 Q Okay, and this was several years back,

1 so 20 or 30 minutes it could be, give or take,
2 correct?

3 A Right.

4 Q Okay. And when he came out of Magnolia,
5 did he say anything?

6 A He wanted me to drive.

7 Q He wanted you to drive?

8 A Yeah.

9 Q Okay. Did you drive?

10 A Yes.

11 Q Okay. The vehicle that you were
12 driving, was that your vehicle?

13 A Yes.

14 Q Okay, was it registered to you?

15 A Yes.

16 Q Okay, does he drive in it often?

17 A He would drive the majority of the time.

18 Q Okay, all right. So he drove the
19 majority of the time --

20 A Right.

21 Q -- but it was your vehicle?

22 A Right.

23 Q On this occasion he was the passenger,
24 correct?

25 A On the way there he was the passenger,

1 and then he asked me to drive whenever we left
2 and I did.

3 Q You said on the -- I'm sorry, could you
4 clarify that? On the way there was he the
5 driver or the passenger?

6 A The driver.

7 Q He was the driver on the way there?

8 A On the way to Magnolia, yes.

9 Q Okay, and leaving the Magnolia were you
10 driving?

11 A Yes.

12 Q And so by proxy would that mean he was
13 the passenger?

14 A Uh-huh.

15 BY THE COURT:

16 Q Is that yes for the record? Is that a
17 yes for the record?

18 A Oh, yes, I'm sorry.

19 Q Thank you.

20 A Yes.

21 BY MR. SHARPE:

22 Q Were you stopped by Sergeant Ager after
23 leaving the Magnolia?

24 A Yes.

25 Q Okay, and when you leave the Magnolia,

1 you said you were headed south away from
2 Hardeeville; is that correct?

3 A Yes.

4 Q All right. When you saw the blue
5 lights, how were you feeling?

6 A Well, I was panicked, because he handed
7 me something to hide, so -- and I couldn't hide
8 it correctly, so I was panicking and --

9 Q You say he handed you something, what
10 did he hand you?

11 A The meth.

12 Q He handed you meth?

13 A Yes.

14 Q Okay. And what did he say to do with
15 it?

16 A He said to hide it in the vent, which
17 I've never done before, so I didn't know how to
18 do it correctly, so it kept falling, and I would
19 try to do it again, and then the whole time he's
20 yelling at me how to do it, and I wasn't able to
21 do it correctly, so I gave up, and then he told
22 me they were my drugs.

23 Q I'm sorry, he said if you can't hide the
24 meth, they're your drugs?

25 A Yeah.

1 Q Okay. Did you try and hide them?

2 A I tried about three times, but I was
3 also panicking, so I gave up, and I pulled over,
4 because I didn't want to be driving for too
5 long, I wanted to pull over.

6 Q When you finally got pulled over, were
7 you able to get the meth hidden, and get the air
8 vent back into place?

9 A I don't think so. It wasn't hidden
10 right.

11 Q Was --

12 A I know that it wasn't hidden right.

13 Q Okay.

14 A It wasn't the way that he wanted me to
15 do it.

16 MR. SHARPE: Beg the Court's indulgence.

17 BY MR. SHARPE:

18 Q I'm gonna show you what's been
19 previously marked State's Exhibit 6. Can you
20 see this okay?

21 A Uh-huh.

22 Q Yes?

23 A Yes.

24 Q What's that in the top left of the
25 photo?

1 A The vent.

2 Q That's the air vent?

3 A Yes.

4 Q Okay, is that where you tried the meth
5 that Derrick Tuten handed you?

6 A Yes.

7 Q Okay. And you said it was hard for you
8 to get the vent back on?

9 A Yes.

10 Q As far as for you to get the meth
11 hidden?

12 A Right.

13 Q Let me show you State's Exhibit 12 here,
14 can you see that okay?

15 A Yes.

16 Q Do you recognize this photo?

17 A Yes.

18 Q What is this photo of?

19 A It looks like just belongings that were
20 in the vehicle.

21 Q Did you have belongings in that vehicle?

22 A I'm sure I did, yes.

23 Q Did the Defendant have belongings in
24 that vehicle?

25 A Yes.

1 Q Okay. Is that your Oakland Raiders hat
2 on the top right?

3 A No.

4 Q Is this your high-top Nike shoe in this
5 photo?

6 A No.

7 Q Okay. Is that your fishing string?

8 A No.

9 Q Whose shoe is that?

10 A Derrick's.

11 Q And whose fishing string is that, if you
12 know?

13 A I would assume Derrick's, but I'm not
14 sure.

15 Q You're not sure if it is, okay, all
16 right, but you know that shoe is his?

17 A Sorry?

18 Q Do you know that shoe is his?

19 A Yes.

20 Q And so when you arrived at the Magnolia,
21 I'm just gonna take you back, was there any meth
22 on your person?

23 A No.

24 Q Was there any meth in the vehicle?

25 A No.

1 Q And you said Derrick had a scale in his
2 pocket --

3 A Yes.

4 Q -- when he went into the Magnolia?

5 A Yes.

6 Q Did you -- when you were pulled out of
7 the vehicle and you were presented with that
8 tube, did you make any statements to law
9 enforcement?

10 A I said that I didn't know whose it was.

11 Q Okay. Why did you say that?

12 A Because it wasn't mine, and I wasn't
13 gonna say that it was his.

14 Q Why not?

15 A I didn't want to, because -- I don't
16 know I just didn't want to tell on him.

17 Q Were you afraid?

18 A In a way, yes.

19 Q Were you pregnant at the time?

20 A I was.

21 Q And you ended up being arrested that
22 day?

23 A Yes.

24 Q Thank you so much. If you would answer
25 any questions defense counsel may have. Thank

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

79

1 as Mr. Tuten?

2 A Yes.

3 Q And you state that there is no agreement
4 between you and the State regarding your
5 charges?

6 A Correct.

7 Q What do you expect to get for testifying
8 regarding your charge?

9 A I don't really expect anything. I hope
10 for something, but --

11 Q Okay. What would that something be?

12 A That I get to stay home with my son.

13 Q And you stated that you have an
14 attorney, correct?

15 A Yes.

16 Q So you will know not to say anything
17 incriminating during your conversations with the
18 State about this case?

19 A Correct.

20 Q If you were living inside of your car,
21 exactly where would you get your mail at the
22 time?

23 A My mail would go to my mother's house --

24 Q Okay.

25 A -- at [REDACTED] Hummingbird Lane. That --

1 Q And were you working at the time?

2 COURT REPORTER: Sorry, say the address
3 again?

4 BY WITNESS:

5 A [REDACTED] Hummingbird Lane.

6 Q Were you working at the time?

7 A No, ma'am.

8 Q So how would you pay for gas?

9 A I didn't pay for anything.

10 Q You stated that Mr. Tuten would often
11 drive your car, right?

12 A Correct.

13 Q And you were with him for about two
14 years according to your testimony, right?

15 A Correct.

16 Q So you knew that Mr. Tuten didn't have a
17 valid driver's license?

18 A I did.

19 Q All right, and you allowed him to drive
20 your car anyway?

21 A I did.

22 Q Let's talk about the stop, okay? The
23 blue lights go off behind you, you're driving,
24 right? And what's -- you said Mr. Tuten handed
25 you something?

1 A Yes.

2 Q And what condition was the vent in at
3 the time?

4 A I mean it was put together, but it -- I
5 mean it looks a little off --

6 Q Okay.

7 A -- because, you know, it was a hiding
8 spot.

9 Q And according to your testimony, he
10 handed you a bag, right?

11 A He handed me the black thing that had
12 fit in there, yes.

13 Q Okay. So while you're driving with the
14 vent still intact, you take the vent out, right?
15 Removed the air freshener, right?

16 A I don't remember.

17 Q You don't remember --

18 A If I removed the air freshener.

19 Q Okay, but you do know law enforcement
20 found the air freshener in the vent, right?

21 A Okay.

22 Q No, I'm asking.

23 A No.

24 MS. WILSON: May I approach, Your Honor?

25 THE COURT: You may.

1 BY MS. WILSON:

2 Q So there was an air freshener inside the
3 vent?

4 A Yes.

5 Q So you would have had to remove the
6 vent, correct?

7 A Yes.

8 Q And the air freshener?

9 A Yes.

10 Q And dropped the tube in the vent, right?

11 A Yes.

12 Q Put the air freshener back, right? Then
13 try to get the vent in correctly?

14 A Yes.

15 Q Okay, and you dropped it how many times
16 you said?

17 A Two or three.

18 Q And this is going on while law
19 enforcement is behind you?

20 A Yes.

21 Q Okay.

22 MS. WILSON: The Court's indulgence, Your
23 Honor. Thank you, Your Honor.

24 BY MS. WILSON:

25 Q Ms. Pickering, before Court today, did

1 | you review any of the evidence in this case

2 | A I -- yes.

3 Q Okay. So you're aware that your
4 interaction with law enforcement was recorded?

5	A Yes.
---	--------

6 Q Okay. And what would you say your
7 demeanor was at the time of the stop?

8 A I was kind of angry.

9	Q But composed?
---	-----------------

10	A For the most part, yes.
----	---------------------------

11 MS. WILSON: No further questions, Your
12 Honor.

13 THE COURT: Anything further?

14 * *

15	REDIRECT EXAMINATION
----	----------------------

16 BY MR. SHARPE:

17 Q Ms. Pickering, on cross you mentioned
18 you wanted to go home with your son.

19	Who is your son's father?
----	---------------------------

20	A Derrick.
----	------------

21 Q Deerick, Derrick Tuten?

22	A Yes.
----	--------

23 Q You also said you didn't want to say
24 anything incriminating on the stand?

25	A Yeah.
----	---------

1 Q All right. So you admitted to receiving
2 the meth from Derrick Tuten, correct?

3 A Yes.

4 Q Okay, you admitted to taking that meth,
5 and putting it in the air vent, correct?

6 A Yes.

7 Q You admitted to driving to the Magnolia,
8 and knowing he had a scale in his pocket,
9 correct?

10 A Yes.

11 Q Isn't that all incriminating?

12 A Yes.

13 Q Okay, all right, but you wouldn't want
14 to say anything incriminating about yourself,
15 correct?

16 A Yes.

17 Q Were you pregnant at the time of this
18 stop?

19 A Yes.

20 Q Okay, were you using meth at the time of
21 this stop?

22 A Yes, and probably a few days before I
23 had used. I wasn't that day.

24 Q Okay, so how many days before the stop
25 were you using?

1 A I would say a couple, one or two.

2 Q Okay. And you testified that you were
3 angry when you were stopped. Why were you
4 angry?

5 A Because I was pregnant, and that day was
6 supposed to be my first appointment actually,
7 and because of the words he said, saying that
8 the drugs were mine, so I was really angry about
9 that.

10 Q Did you feel betrayed?

11 A Yes.

12 Q By your child's father?

13 A Yes.

14 MR. SHARPE: Thank you, no further
15 questions.

16 THE COURT: Okay, anything further?

17 MS. WILSON: May we approach, Your Honor?

18 THE COURT: You may.

19 (Bench conference.)

20 THE COURT: All right, ladies and gentlemen
21 of the jury, we're going to take a brief recess.
22 I understand they want to cue up a video, and
23 it's going to take just a couple of minutes to
24 do that.

25 I'm going to send you back to your jury

1 room. Do not discuss this case, it wouldn't be
2 appropriate to do so, you haven't heard all the
3 evidence, ladies and gentlemen, nor the
4 arguments from the lawyers, nor my charge on the
5 law. Grab a cup of coffee, refresh yourselves,
6 and we'll bring you back out here as soon as
7 we're ready to go, all right? Thank you.

8 (Jury exits the courtroom.)

9 THE COURT: Thank you. All right, you guys
10 go ahead and cue things up. We're gonna go
11 ahead and take a 10-minute break as well.

12 Ms. Pickering, you are welcome to step down
13 and refresh yourself, if you need to, the only
14 thing you do not talk about your testimony with
15 anyone, the lawyers, investigators, or anyone,
16 okay, because you're still on the stand, okay?

17 MS. PICKERING: Uh-huh.

18 THE COURT: You're welcome to go use the
19 restroom, if you need to, or whatever you need,
20 okay?

21 MS. PICKERING: Okay, thank you.

22 THE COURT: All right.

23 (RECESS)

24 **

25 PROCEEDINGS CONTINUED

1 THE COURT: Solicitor, just in anticipation
2 that, you know, this case is moving very
3 quickly, are you going to be looking for a jury
4 charge on simple possession, or just possession
5 of methamphetamine as well?

6 MS. WILSON: Yes.

7 THE COURT: You are?

8 MS. WILSON: Yes, ma'am.

9 THE COURT: Okay.

10 CLERK: Go back up on the stand, please.

11 THE COURT: Come on back up. At the next
12 break we'll talk about that and think about
13 that, okay? Because that is a strategy
14 decision, obviously, okay?

15 MS. WILSON: Yes.

16 THE COURT: And it depends on what the
17 State's decision is --

18 MS. WILSON: Yes.

19 THE COURT: -- as well, okay? All right.
20 Do you still have further questions, Ms. Wilson,
21 of Ms. Pickering?

22 MS. WILSON: No further questions.

23 THE COURT: Okay, since the jury's not
24 here, so what we're gonna do is this, we're
25 gonna bring the jury back out, I'm gonna ask you

1 if you have further questions, you're gonna say,
2 no further questions, and then I'm going to ask
3 you, Mr. Sharpe, if you have any more redirect,
4 I don't know if you do or not, but anyway -- and
5 then off to the next person. And you have
6 another witness after this, correct?

7 MR. SHARPE: Yes, Your Honor.

8 THE COURT: Very good. All right, let's
9 bring the jury in.

10 (Jury enters the courtroom.)

11 THE COURT: Ms. Wilson, anything further
12 from this witness?

13 MS. WILSON: No, Your Honor.

14 THE COURT: Any redirect?

15 MR. SHARPE: No, Your Honor.

16 THE COURT: Ms. Pickering, you may step
17 down.

18 Call your next witness, please?

19 MR. SHARPE: The State calls Officer Arthur
20 Thibeault to the stand.

21 **

22 **ARTHUR THIBEAULT,**

23 **BEING DULY SWORN TESTIFIED AS FOLLOWS:**

24 **

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DIRECT EXAMINATION

BY MR. SHARPE:

Q Would you go ahead and state your name for the record?

A It's Arthur Thibeault.

Q And what's your current rank? I see you're in a uniform.

A Corporal.

Q Corporal?

A Yes, sir.

Q Corporal Thibeault?

A Yes.

Q Is that okay to call you?

A Yes, sir.

THE COURT: Could you spell that?

WITNESS: It's T-H-I-B-E-A-U-L-T.

THE COURT: Thank you, sir.

WITNESS: Yes, ma'am.

BY MR. SHARPE:

Q Corporal Thibeault, where are you currently employed?

A The Hardeeville Police Department.

Q How long have you been with the Hardeeville Police Department?

A A little over four years.

1 Q Okay. Were you working for the
2 Hardeeville Police Department on June 26th,
3 2020?

4 A Yes, sir.

5 Q Did you assist Sergeant Ager in a
6 traffic stop of the Defendant, Derrick Tuten?

7 A Yes, sir.

8 Q Okay. Do you recall Sergeant Ager
9 asking the Defendant to step out of the vehicle?

10 A Yes, sir.

11 Q Okay, and did you perform a search of
12 the Defendant?

13 A Yes, sir.

14 Q Okay. Let me show you State's Exhibit 2
15 here. Do you recognize this on the left-hand
16 side?

17 A It's a digital scale.

18 Q Okay, how do you recognize it?

19 A It was in the Defendant's pocket.

20 Q All right, and has it been altered in
21 any way?

22 A It does not appear to be.

23 Q Do you recognize the item on the right-
24 hand side?

25 A Yes, sir.

1 Q Okay, and now do you recognize that?

2 A This is the container that the narcotics
3 were in that Sergeant Ager found inside the car.

4 Q When the Defendant was placed in
5 handcuffs, was he escorted to the back of the
6 squad car?

7 A He was handcuffed and search in front of
8 the patrol vehicle, and once Sergeant Ager
9 explained to him why he was being arrested,
10 which was for warrants, initially, then he was
11 brought back to the back passenger side of
12 Sergeant Ager's patrol vehicle.

13 Q Okay. And when the search of the
14 vehicle began, was he placed in the back of
15 Sergeant Ager's squad car?

16 A Yes, sir.

17 Q Okay. I'm showing you this State's
18 Exhibit 2, which I just brought up to you, the
19 blackish tube that's in here. Were you standing
20 outside of the patrol vehicle when this tube
21 came out of Ms. Pickering's car?

22 A Yes, sir.

23 Q Okay, and the Defendant was in the
24 backseat of Sergeant Ager's car; is that
25 correct?

1 A Yes, sir.

2 Q Okay. When this tube came out, did the
3 Defendant -- did his demeanor change?

4 A When we initially were talking to him,
5 he was pretty calm.

6 Q Okay, and how about when this tube came
7 out?

8 A When this tube came out he was -- like
9 you could tell he was nervous, and started to
10 get a little agitated.

11 Q Okay. Could you hear him from outside
12 the squad car?

13 A He started screaming for Sergeant Ager
14 to come talk to him, wanting some attention on
15 him.

16 Q All right. When Ms. Pickering was
17 placed in handcuffs, did he react to that?

18 A He was upset.

19 Q Yeah? Okay. No further questions at
20 this time. Please answer anything defense
21 counsel has for you.

22 A Yes, sir.

23 MS. WILSON: Court's indulgence. Thank
24 you, Your Honor.

25 THE COURT: Uh-huh.

CROSS-EXAMINATION

BY MS. WILSON:

Q Corporal Thibeault?

A Yes, ma'am.

Q Did you participate in searching the car?

A No, ma'am.

Q But you were familiar that Mr. Tuten had a warrant for his arrest?

A Everybody on-scene was advised, we all had our radios on, Dispatch advised of the warrant.

Q Okay, so by the time that you got there, Mr. Tuten already knew that he was being arrested for something else?

A No, ma'am.

Q Okay, but he found out eventually?

A Yes, ma'am.

MS. WILSON: Nothing further, Your Honor.

THE COURT: Anything further for this witness?

MS. SHARPE: Nothing further, Your Honor.

THE COURT: You may step down, sir, thank you. Call your next witness.

MR. SHARPE: The State would call A. J.

1 Woods.

2 **ANDREW.J. WOODS,**

3 **BEING DULY SWORN TESTIFIED AS FOLLOWS:**

4 *******

5 **DIRECT EXAMINATION**

6 BY MR. BRYANT:

7 Q Good morning.

8 A Good morning.

9 Q Could you go ahead and state your name
10 for the record?

11 A Andrew Woods.

12 Q Were you working for the Hardeeville
13 Police Department back on June 26th, 2020?

14 A Yes.

15 Q Okay. What was your role with the
16 Hardeeville Police Department at that time?

17 A I was an evidence custodian.

18 Q Do you recall department case number 20-
19 00769, dealing with Defendant, Derrick Tuten and
20 Corey Pickering?

21 A I do.

22 Q Okay. Did you receive evidence in that
23 case on July 10th, 2020?

24 A I did.

25 Q Where did you get that from?

1 A A temporary locker.

2 Q Okay, and where did you take that
3 evidence?

4 A Once I removed it from the temporary
5 lockers, I placed it upstairs in the actual
6 vault.

7 Q Let me show you what's been marked as
8 State's 2 and 3 at this time. Do you recognize
9 these exhibits?

10 A Yes.

11 Q All right, how do you recognize them?

12 A Evidence from the case, they were taken
13 from the locker T14, and I placed them in the
14 vault.

15 Q Okay. I'm gonna let you see State's
16 Exhibit 3 again real quick here.

17 A Okay.

18 Q Now, on July 10th, 2020, did you take
19 State's Exhibit 3 from the SLED at Hardeeville
20 Police Department to SLED, excuse me, from the
21 vault at Hardeeville Police Department to SLED,
22 otherwise known as South Carolina Law
23 Enforcement Division?

24 A Yes.

25 Q Okay. And after you took it there, did

25	A Correct.
----	------------

1 Q And what involvement other than putting
2 it in the vault, taking it from the vault, and
3 taking it to SLED did you have in this matter?

4 A None.

5 Q Okay, you know nothing.

6 Actually, you know nothing about what
7 happened at the scene?

8 A Correct.

9 Q Okay, that's it. Officer, thank you for
10 your testimony?

11 THE COURT: Anything further?

12 MR. BRYANT: Nothing further, Your Honor.

13 THE COURT: You're excused, sir, thank you.

14 WITNESS: Thank you.

15 THE COURT: Next witness?

16 MR. SHARPE: The State calls Mary Beth
17 McCormick.

18 MARY BETH MCCORMACK,

19 BEING DULY SWORN TESTIFIED AS FOLLOWS:

20 ***

21 DIRECT EXAMINATION

22 BY MR. SHARPE:

23 Q Good morning.

24 A Good morning.

25 Q Would you go ahead and state your name

1 for the record?

2 A Maribeth McCormack.

3 COURT REPORTER: I need you to spell it for
4 me.

5 WITNESS: M-A-R-I-B-E-T-H M-C-C-O-R-M-A-C-
6 K.

7 BY MR. SHARPE:

8 Q All right, Mc. McCormack, where are you
9 currently employed?

10 A At the South Carolina Law Enforcement
11 Division, commonly known as SLED.

12 Q Okay, how long have you been with SLED?

13 A Over 16 years.

14 Q What is your job title there?

15 A I'm a forensic scientist in the Drug
16 Analysis Department.

17 Q All right, and what exactly is your role
18 as a forensic scientist in the Drug Analysis
19 Department?

20 A I test evidence for the presence of
21 controlled substances.

22 Q How long have you done that?

23 A 16 years.

24 Q Okay, and did being a forensic scientist
25 require any education or training?

1 A Yes.

2 Q Could you walk me through your education
3 and training?

4 A Yes. I have a Bachelor of Science in
5 chemistry, and Master's of science in chemistry
6 both from University of South Carolina.

7 Q Okay, do you hold any certifications?

8 A Yes, I'm certified in the Drug Analysis
9 program with SLED.

10 Q How often are you re-certified?

11 A We undergo proficiency tests yearly.

12 Q And do you regularly conduct tests on
13 narcotics or other substances?

14 A Yes.

15 Q Okay. Have you ever testified about
16 narcotics or other substances in South Carolina
17 before?

18 A Yes.

19 Q How many times have you been qualified
20 as an expert to testify on those prior
21 occasions?

22 A Approximately 49 times.

23 MR. SHARPE: Your Honor, at this time the
24 State would move to qualify Maribeth McCormack
25 as an expert in forensic science, and forensic

1 sciences in drug analysis.

2 THE COURT: All right.

3 All right, ladies and gentlemen, in this
4 case Ms. McCormack is being qualified as an
5 expert witness in the area of forensic science,
6 as well as relating to drug analysis. That
7 allows her to give her opinion and the reasons
8 for her opinion, and that's for you to use as
9 you see appropriate, and as compared to other
10 evidence in this case.

11 BY MR. SHARPE:

12 Q Ms. McCormack, did you issue a written
13 report in this case?

14 A Yes.

15 Q Okay. Do you have a copy of that
16 written report with you today?

17 A I do.

18 Q What is the SLED number on that report?

19 A M20-18293.

20 Q And what is the law enforcement case
21 number on that report?

22 A 20-00769.

23 Q And the incident date on that report?

24 A June 26th, 2020.

25 Q Was this substance tested by you?

1 A Yes.

2 Q Okay. I'm going to direct your
3 attention to item 1.1 in your report. Could you
4 tell me about those findings?

5 A The item was a crystal substance, and
6 the findings were methamphetamine, with a weight
7 of 7.05 grams.

8 Q I'm gonna show you what's been marked
9 State's Exhibit 3. Can you identify this item?

10 A Yes.

11 Q And how can you identify that item?

12 A There is a lab number, and also my
13 initials and date.

14 Q Okay. Has this item been altered or
15 manipulated in any way?

16 A No.

17 Q Okay.

18 MR. SHARPE: Your Honor, at this time the
19 State would seek to admit State's Exhibit 3 into
20 evidence.

21 MR. HALL: Without objection.

22 THE COURT: No objection, it's in evidence.
23 (State's Exhibit Number 3 was admitted into
24 evidence.)

25 BY MR. SHARPE:

1 Q So you said you tested this substance,
2 correct?

3 A Yes.

4 Q And what did you find? What was it?
5 What was the substance?

6 A The substance was a crystal substance
7 found to be methamphetamine.

8 Q Okay, and did you weigh that substance?

9 A Yes.

10 Q What was the weight of that substance?

11 A 7.05 grams.

12 MR. SHARPE: Beg the Court's indulgence.

13 No further questions for this witness at this
14 time.

15 BY MR. SHARPE:

16 Q If you would please answer any questions
17 Ms. Wilson has for you.

18 THE COURT: Or Mr. Bryant.

19 MR. SHARPE: Or Mr. Bryant.

20 **

21 **CROSS-EXAMINATION**

22 BY MR. BRYANT:

23 Q Is it Special Agent, or what is your
24 official title?

25 A Agent.

1 Q Okay, Agent. Agent, you testified about
2 your involvement with testing the drugs, and it
3 came back positive as a crystal-like substance,
4 or, you know, as layman's terms meth. And the
5 date of the incident was on the 20th of June
6 2020?

7 A Yes.

8 Q Were you at the scene that day?

9 A The testing?

10 Q No, no, at the incident location. You
11 were not at the incident location where this
12 happened?

13 A Correct.

14 Q Okay.

15 A Yes.

16 Q So your involvement in this was just to
17 test the drugs, and render your expert opinion?

18 A Yes.

19 Q Okay. Thank you, ma'am, enjoy your
20 drive back.

21 MR. BRYANT: No further questions, Your
22 Honor.

23 THE COURT: Anything further?

24 MR. SHARPE: Nothing from the State, Your
25 Honor.

1 THE COURT: You're excused, Ms. McCormack,
2 thank you.

3 MR. SHARPE: Your Honor, at this time the
4 State rests.

5 **

6 **STATE RESTS**

7 THE COURT: Very good. Ladies and
8 gentlemen, at this time the State rests their
9 case. There's a matter of law I need to take up
10 with the attorneys, so I'm going to send you
11 back to your jury room very briefly, and we'll
12 bring you right back out here, and we'll discuss
13 where we're going from here, all right?

14 Do not discuss this case, it wouldn't be
15 appropriate to do so. You're going to go back
16 to your jury room.

17 (Jury exits the courtroom.)

18 THE COURT: All right, any motions?

19 MS. WILSON: Yes, Your Honor. The defense
20 moves for a directed verdict.

21 THE COURT: Yes.

22 MS. WILSON: They failed to prove that Mr.
23 Tuten was in possession of methamphetamine with
24 the intention to distribute.

25 THE COURT: All right, Mr. Sharpe?

1 MR. SHARPE: Your Honor, as this Court well
2 knows in direct evidence, of course, a good
3 amount of circumstantial evidence showing that
4 the Defendant has committed the crime of
5 possession with intent to distribute
6 methamphetamines presented by the State is
7 enough to survive a directed verdict.
8 Furthermore, the evidence that we have presented
9 being testimony that he was in possession of
10 methamphetamine, gave that methamphetamine to
11 Corey Pickering, got a scale in his pocket, as
12 well as had it hidden in a tube stashed away in
13 a storage compartment in the car. He had gone
14 into a hotel room.

15 We have all of that testimony from Ms.
16 Pickering. We also have testimony verifying
17 from the officers that scale was, in fact, in
18 Derrick Tuten's pocket, as well as when he saw a
19 -- a black tube come out of the vehicle, he
20 acted rather -- I don't know exactly what the
21 officers testified to, but he acted out in back
22 of the squad car, as if to indicate he knew what
23 was in that tube, as well as, Your Honor, put
24 every bit of evidence must be viewed in the
25 light most favorable to the State, and we

1 certainly believe that we showed that he
2 possessed meth, he had intent to distribute,
3 based on the scale and other factors, and at
4 this time we believe it would be proper for the
5 Court to rule and deny a directed verdict from
6 defense counsel.

7 THE COURT: All right. Well, taking the
8 evidence in the light most favorable to the
9 State, there is sufficient evidence, both direct
10 and circumstantial, from which the jury could
11 determine if Mr. Tuten possessed with intent to
12 distribute methamphetamine, and it's appropriate
13 for the jury to consider it.

14 Ms. Wilson, is the defense going to put up
15 a case?

16 MS. WILSON: Your Honor, may I have a few
17 moments with Mr. Tuten, to tell me whether or
18 not he intends to testify?

19 THE COURT: Sure.

20 (Discussion of the record between the
21 defendant and his counsel.)

22 MS. WILSON: Your Honor, he will not be
23 testifying.

24 THE COURT: Pardon?

25 MS. WILSON: He will not be testifying.

1 THE COURT: All right, is now the time for
2 me to go through his Fifth Amendment Rights with
3 him?

4 MS. WILSON: That's fine.

5 THE COURT: I don't know when else it would
6 be, but --

7 MS. WILSON: Yes.

8 BY THE COURT:

9 Q All right, Mr. Tuten, will you please
10 rise and raise your right hand? Sir, do you
11 swear or affirm the testimony you give will be
12 the truth, so help you God?

13 A Yes, ma'am.

14 Q You can put your hand down, Mr. Tuten,
15 just stay standing. Sir, this is the time in
16 the trial where you can present your defense, if
17 you choose to. The Fifth Amendment states, in
18 part, "That no person is required to be a
19 witness against themselves in a criminal trial."

20 That means that the State cannot make you
21 testify, however, sir, you can choose to
22 testify, if you wish to. You just need to
23 understand certain rights you have either to
24 testify or not testify.

25 If you choose not to testify, I'm gonna

1 charge the jury in my jury charge that the fact
2 that you did not testify at trial cannot be held
3 against you and cannot even be talked about in
4 the jury room. And the reason is this, you're
5 not required to prove your innocence, it's the
6 State's burden to prove your guilt beyond a
7 reasonable doubt, all right?

8 Also, sir, I want you to know that you do
9 have the right to testify in your own behalf,
10 and if you choose to testify on your own behalf,
11 then the State will be able to cross-examine you
12 like other witnesses on any information that I
13 deem that's relevant and material to this case.
14 Additionally, under our Rules, if you have
15 certain prior offenses that are relevant to this
16 case, you can be cross-examined about those as
17 well, and I just want to make sure you
18 understand and appreciate the.

19 A Yes, ma'am.

20 Q Sir, in this case, do you choose to
21 testify or not testify?

22 A Not testify.

23 Q And, sir, while I expected you to talk
24 to your attorneys about this, I wanted to make
25 sure you understand that this is a personal

1 right you have, and it is one that you're
2 invoking yourself; do you understand that?

3 A Yes, ma'am, I do.

4 Q All right, and, again, you do not want
5 to testify, correct?

6 A Correct.

7 Q All right, sir, I find that you have
8 intelligently and knowingly understand that,
9 with the protections given to you by the Fifth
10 Amendment, and I appreciate that, so you may be
11 seated, sir.

12 THE COURT: Okay, so it is 12:25, what I
13 propose we do is this, I propose we send the
14 jury to lunch, come back, you will rest for the
15 record, and we go straight into closing
16 arguments. I can say I've pretty much put
17 together the jury charge. At this point it's
18 pretty simple, but does anyone have a problem
19 with that?

20 Does that work for you, Mr. Sharpe?

21 MR. SHARPE: It works for the State, Your
22 Honor.

23 THE COURT: How about you, Ms. Wilson or
24 Mr. Bryant?

25 MS. WILSON: Yes, Your Honor.

1 THE COURT: And are you doing the
2 closing --

3 MS. WILSON: Yes, ma'am.

4 THE COURT: -- Ms. Wilson? Okay.

5 All right, so it is 12:25. I am going to
6 ask the jury to be back by 1:45, okay? That'll
7 give you a little bit of extra time, grab a bite
8 to eat, get ready for your closing arguments,
9 and before we leave for lunch, I'm just gonna go
10 over my charge real quick with you'all, so you
11 know what I'm charging, okay?

12 All right, let's bring the jury back.

13 BAILIFF: Yes, ma'am.

14 (Jury enters the courtroom.)

15 THE COURT: Ladies and gentlemen, as I told
16 you at this time the State has rested their
17 case, and there are a couple of matters of law I
18 need to take up with the attorneys, so I think
19 now is a very good time to go ahead and break
20 for lunch.

21 I will tell you that when you come back
22 from lunch we are going to hear closing
23 arguments from the attorneys, and I'm going to
24 send this case to you. So we will finish this
25 case today, that's just to let you'all know

1 where we are in the trajectory of the trial, all
2 right?

3 So, ladies and gentlemen, I do need to tell
4 you while you are at lunch you aren't to discuss
5 this case with anyone, you're not to do any
6 independent research, ladies and gentlemen,
7 simply go out, get a bite to eat, and I look
8 forward to seeing you'all back in your jury room
9 at 1:45, where we are going to go ahead and
10 conclude this case with the closing arguments
11 and my charge on the law, okay?

12 So, again, it's about 12:27, 28 by the
13 clock back there, it gives you a little over an
14 hour to grab a bite to eat, and then come back
15 and we'll start at 1:45, all right? Thank you,
16 you all are excused.

17 (Jury exits the courtroom.)

18 **

19 **CHARGE CONFERENCE**

20 THE COURT: All right, I want to go through
21 -- go ahead and sit down, you'all, I'm sorry.
22 Let's just go quickly through the charge. First
23 off, as you all know, I charge the presumption
24 of innocence, reasonable doubt, the jury's the
25 judge of the facts, I'm the judge of the law.

1 I charge direct and circumstantial
2 evidence, the credibility of witnesses, expert
3 witnesses. The fact the Defendant did not
4 testify is not to be discussed. I'm going to
5 charge possession with intent to distribute
6 methamphetamine.

7 Obviously, in that charge I charge with
8 actual possession, constructive possession, and,
9 obviously, the mere presence at the scene where
10 the drugs were found is not enough to prove
11 possession.

12 And I also talk about when a substance is
13 found on property under Defendant's control,
14 that it's just an evidentiary fact to be taken
15 into consideration. I define, of course, what
16 distribute means. And then I also charge
17 possession for the 1-gram of meth creates an
18 inference. The Defendant possesses the
19 methamphetamine with intent to distribute.

20 This inference does not relieve the State
21 from proving beyond a reasonable doubt that they
22 had the intent to distribute, it's simply an
23 evidentiary fact to be taken into consideration
24 by you, along with all other evidence in the
25 case, and to be given the weight you decide it

1 should have.

2 So before we broke earlier, Ms. Wilson, I
3 asked you whether or not you wanted me to also
4 charge possession?

5 MS. WILSON: I do not, Your Honor.

6 THE COURT: You do not? What's the State's
7 thought process? Do you want me to charge
8 possession of methamphetamine or not?

9 MR. SHARPE: No, Your Honor, if you'll be
10 including the inference in the charge, then I
11 don't see a point in charging, just simple
12 possession.

13 THE COURT: Okay, all right, so we won't do
14 that.

15 So -- and then after that just, you know,
16 my typical, you know, go in there and rely on
17 the evidence. And that makes it very simple,
18 because the verdict form is one question, is the
19 Defendant guilty of possession with intent to
20 distribute methamphetamine, and that's it, okay?
21 Anything further from the State that I haven't
22 included that you can think of, sir?

23 MR. SHARPE: No, Your Honor.

24 THE COURT: And from the defense?

25 MS. WILSON: No, Your Honor.

1 THE COURT: All right, I will tell you that
2 Jamie in about five minutes, when she takes out
3 the possession of meth charge portion of it,
4 will send you both a copy of the charge.

5 I typically like to do that, I wasn't able
6 to do it in the case yesterday, because they
7 were still cleaning it up right when we were
8 starting. I usually do it, if you have enough
9 time to look at it, now you have an hour and 15
10 minutes, so you can appreciate it and look at
11 it.

12 I will even tell you too just for anyone
13 else's edification, if you really are interested
14 in what the charges, even if there may be
15 changes, you can ask me to send it before it's
16 even complete. You'll just hear me be very
17 careful, or I'll probably write rough draft
18 across the top, just so you know that isn't the
19 final, final.

20 I just don't want anyone penning that to
21 the appellate, you know, anything, and say, I
22 thought this was gonna be charged, she charged
23 something else, okay? So anyway, and I send my
24 jury charge back to the jury, just if anyone
25 else has questions about it, okay? So let's go

1 have some lunch you'all, and then Jamie, if
2 you'll take care of this too. And she's going
3 to send you -- send them the verdict form as
4 well. So she's gonna send you the actual charge
5 and the verdict form, look it over, if there's
6 any objections, let me know when we come back
7 from lunch, okay?

8 MS. WILSON: Thank you.

9 THE COURT: Absolutely.

10 (Luncheon Recess)

11
12 **PROCEEDINGS CONTINUED**

13 THE COURT: You both got a copy of the jury
14 charge?

15 MS. WILSON: Yes.

16 MR. SHARPE: Yes.

17 THE COURT: And you saw the verdict form.
18 Any objections from the State?

19 MR. SHARPE: No, Your Honor.

20 THE COURT: Any objections from the
21 defense?

22 MS. WILSON: No Your Honor.

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

25 (Jury enters courtroom.)

1 THE COURT: Welcome back, ladies and
2 gentlemen.

3 Ms. Wilson, call your first witness.

4 MS. WILSON: The defense rests, Your Honor.

5 THE COURT: Ladies and gentlemen, the
6 defense has also rested its case. What we
7 have left to do is to hear the closing
8 arguments and my charge on the law and then
9 send it to you for your deliberations.

10 I will just note for the record you renew
11 your prior motions and based on the same
12 arguments. I have the same ruling and
13 respectfully deny the motion and they are
14 preserved for the record.

15 MS. WILSON: Thank you, Your Honor.

16 THE COURT: So at this time we will go
17 ahead and hear closing arguments.

18 Mr. Sharpe.

19 **

20 **CLOSING ARGUMENT BY MR. SHARPE**

21 BY MR. SHARPE: Now, possession with intent
22 to distribute requires possession. The
23 possession can be both actual or constructive.
24 Actual possession would be if Mr. Tuten had the
25 meth in his hand, in his pocket, on his person.

1 But the in South Carolina doesn't require that
2 the meth actually be on his person.

3 There is also constructive possession,
4 which is what we have here, which is when a
5 person charged has dominion or control over the
6 disposition of that substance.

7 The State has presented to you
8 circumstantial and direct evidence showing you
9 that he controlled the disposition of that meth.

10 So let's take a closer look at what was
11 presented to you.

12 First, we know that Derrick Tuten had a
13 scale in his pocket when he was arrested, and
14 that scale was used for weighing meth.

15 Second, Tuten began to act out as soon as
16 he saw that little black tube. This little
17 black tube right here, when he saw that come out
18 of the vehicle, he went nuts, because he knew
19 what was inside of it, because you can't see
20 through this tube.

21 He went nuts, because he knew there was
22 meth inside of it, because that was his meth.

23 Third, and most importantly, you heard
24 testimony from Corey Pickering, he clearly had
25 dominion and control over this meth, and he

1 controlled the disposition, because he made her
2 take it.

3 She was made to take that meth and to hide
4 it, and as you heard her say, if she didn't hide
5 it and law enforcement found it, he was gonna
6 let her take the charge.

7 Now, he also controlled the disposition of
8 that vehicle. If you follow the testimony, what
9 was said is that Ms. Pickering told us he drove
10 to the Magnolia that morning, he was the driver.
11 He told her to drive from the Magnolia, because
12 he didn't have a valid driver's license, and he
13 knew that he was getting the large quantity of
14 meth and a scale in his pocket.

15 And so if he knew that if he got pulled
16 over, and he didn't have an ID, his car was
17 going to get searched, so he made her drive, he
18 made his baby mama drive.

19 Now, it's also important to note that
20 possession must be done knowing, meaning that
21 Tuten actually knew that there was meth in the
22 vehicle. Now, how can that be proved?

23 Well, it's simple, here he handed the meth
24 to Corey, we have testimony from her under oath,
25 that he handed it to her, and he told her to

1 hide it. He also knew what was inside of a
2 completely blacked out tube.

3 You wouldn't react that way, if you didn't
4 know what was in there. You heard testimony
5 that those men's Nike shoes that were in the
6 back, the men's Nike shoes that I showed you a
7 photo of, and you'll have all this back in the
8 jury room with you, that men's Nike shoe
9 belonged to Derrick Tuten, because they had been
10 living in that car together.

11 And inside that men's Nike shoe was that
12 green fishing line, which is the same fishing
13 line that's used to tie that tube, it's hanging
14 on that tube, and you'll be able to see that.
15 You heard testimony that Ms. Pickering didn't
16 want the father of her baby to get in trouble,
17 so she did that, but that was Derrick Tuten's
18 meth.

19 You heard about the demeanor with the tube,
20 you heard about how, you know, if they were
21 found, she'd be in trouble, but also let's add
22 in the fact that the scale was in his pocket.
23 Well, why would there be a scale in his pocket,
24 if that wasn't the meth.

25 It was already in there from the time they

1 left Magnolia. He had that scale in his pocket,
2 and he had the meth in his pocket, but he made
3 Corey Pickering take the meth.

4 He just kept the scale, because he knew --
5 I can't go to jail for possession of a scale.
6 The elements are all met her, folks, to the
7 knowingly possessed meth.

8 The last part of this is that intent to
9 distribute. Let's discuss this a little bit.
10 The intent to distribute aspect has been proven
11 by the State, because distribution does not
12 require that we show you that the Defendant
13 actually sold any meth, we don't have to prove
14 to you that he sold meth. Distribution only
15 requires that meth be delivered to someone else.
16 That means for possession with intent to
17 distribute, the State only needed to show you
18 his intention to share that meth with other
19 people.

20 Now, let's take a look at that
21 inference, and see if the State proved it.
22 Yeah, there were seven grams of meth. You're
23 gonna be instructed that less than one gram of
24 meth is going to be the inference weight for
25 simple possession. He had seven times that,

1 we'll put a check next to that one. You heard
2 from Pickering about the hiding spots in that
3 vehicle that was in the vent. He tore that car
4 apart.

5 You even heard from Ager that there were hidden
6 compartments all over the place. That's because
7 Tuten had been hiding meth in there, and using
8 Corey Pickering as a mule to get it delivered,
9 since he didn't have a driver's license to be
10 able to drive, so he used her car.

11 Now, you can also infer, based on any
12 evidence we presented to you, even if it's
13 circumstantial, that intent to distribute. What
14 I'm about to tell you is circumstantial
15 evidence. It holds as much weight as you decide
16 to give it. Intent to distribute, as opposed to
17 personal use.

18 We heard testimony that there were no
19 pipes in that car, there were no needles in that
20 car, there's no burnt tinfoil in that car.
21 There's nothing to show that Derrick Tuten had
22 that meth for personal use. There's not a
23 single piece of evidence that shows he had that
24 for personal use.

25 Again, over seven grams, and he's in a

1 car that allegedly, according to Ms. Pickering,
2 they both have been living in, and there's
3 nothing tying him to personal use, saying that
4 he smoked or used meth in that car. And if
5 you're a meth addict, and you have meth, you're
6 gonna smoke it, and there was nothing in that
7 vehicle that tied him to using meth, that's
8 because he was distributing it.

9 I briefly mentioned beyond a reasonable
10 doubt in my opening. Let's talk a little bit
11 about what that means. I am sure you have all
12 heard the expression, beyond a reasonable doubt,
13 it's a very common expression here.

14 You've probably heard it on TV, maybe
15 read it in a book. What exactly does it mean?
16 It means that the State must leave you firmly
17 convinced that the Defendant committed the
18 crime. The doubt involved is the type of doubt
19 that would cause you'all to hesitate to act and
20 find him guilty of the charge.

21 Plainly put, the State does not have to
22 prove to you beyond all doubts that Corey,
23 excuse me, that Derrick Tuten is guilty of
24 possession with the intent to distribute meth,
25 just beyond any reasonable doubts.

1 There will always be doubts. We can't get
2 inside of Mr. Tuten's head. I can't get inside
3 of his head, and say he knew he got that meth
4 and was gonna distribute it.

5 I can't show you that, we can't get in
6 there, but what you can do is, you can take all
7 of the circumstantial evidence that we presented
8 you and decide whether or not it's enough to say
9 that he knew there was meth in that tube, and
10 that he intended to distribute it. You can
11 consider testimony that they found a scale in
12 his pocket. You can consider testimony that he
13 told Pickering to hide that large quantity of
14 meth when they got pulled over.

15 You can consider testimony that when they
16 got pulled over, he said, "You'd better hide
17 this, or you're getting popped for it." You can
18 also consider the fact that it weighed seven
19 grams, over seven grams, which is more than
20 seven times what you're going to be directed by
21 Your Honor, is that simple possession of meth.

22 Folks, I'm going to remind you very, very
23 briefly that you took an oath when you became a
24 juror in this case, and that oath is that you
25 shall well and truly try and render a true

1 verdict according to the law and the evidence.
2 Folks, we have presented substantial evidence
3 showing that Derrick Tuten possessed the meth
4 with intent to distribute it, and we are
5 confident that you will find him guilty of
6 possession of meth, with intent to distribute.
7 Thank you.

8 THE COURT: Ms. Wilson?

9 MS. WILSON: May it please the Court?

10 THE COURT: Yes, ma'am.

11
12 **CLOSING ARGUMENT BY MS. WILSON**

13 MS. WILSON: Solicitor, ladies and
14 gentlemen of the jury, let's talk about Ms.
15 Corey Pickering's story. She testified that she
16 picked up Mr. Tuten from the Magnolia Hotel,
17 that he was in there about 20, 30 minutes, all
18 while she was in the car.

19 What was she doing in that car for 20 to 30
20 minutes all by herself? Nobody knows, because
21 she was in there alone. They say that Mr. Tuten
22 wants his baby's mama to take the fall for this
23 case. That same baby mama is the one who sat on
24 that stand and testified to you about using
25 methamphetamine.

1 Let's talk about how she said Mr. Tuten
2 handed her the tube of methamphetamine while
3 she's driving, okay? She testified that she
4 dropped it two to three times. Let's think
5 about that, you're driving along, law
6 enforcement is behind you, you're dropping
7 something, trying to pick it up off, all the
8 while trying to keep your eyes on the road.

9 You didn't hear Officer Ager testify that
10 she was driving funny. We all know what it's
11 like when you're trying to change the radio in
12 the car, we quickly find out what the strip on
13 the road is like, because you can't take your
14 eyes off the road.

15 She testified that she took the vent off,
16 she took the air freshener out, she took the
17 tube out, she put the methamphetamine in, she
18 put the tube back in, she put the air freshener
19 back in, she put the vent back in, in a way that
20 Officer Ager testified that he had to use a
21 screwdriver to pick it out.

22 What does the State have? A bunch of
23 uncorroborated evidence by Mr. Tuten's baby
24 mama, who testified that she wants to go home to
25 her child. She had the same charges that Mr.

1 Tuten does right now, and she will say, and she
2 will do anything in order to be able to go home
3 to her child.

4 The State's burden is beyond a reasonable
5 doubt, which is the highest weight of proving,
6 and I submit to you that they have not proven
7 that burden.

8 Ms. Pickering has something to lose. She
9 could possibly sit where Mr. Tuten's sitting
10 today, and she, like I said, will say and she
11 will do anything.

12 Let's back up a little bit. We're here
13 today for a cracked windshield, that's it. The
14 State wants you to believe that Mr. Tuten acted
15 erratically, because he knew what was inside of
16 that tube. No, he had just been arrested for a
17 warrant he knew nothing about, and then they
18 pull out something, and he doesn't know what's
19 in it, but he sees Ms. Pickering getting
20 arrested.

21 I would act erratically too, he loves her,
22 she's pregnant, right? Wouldn't you have liked
23 to have seen some body-worn camera. There was
24 plenty of it. Officer Ager testified that his
25 body-camera was functional. You saw the video

1 from his body-camera.

2 There was also dashcam. If a picture is
3 worth a thousand words, what would that body-
4 camera have been worth to you? More than just
5 the still-shots of what the State wants you to
6 believe is Mr. Tuten trying to manipulate the
7 mother of his child, and that's definitely not
8 what he did.

9 She admitted to using meth. The car is
10 hers, the meth was found on her side of the car.
11 "He had the scale in his pocket, I didn't have
12 it." It doesn't make any sense. It was a
13 normal traffic stop, no reason to panic. If
14 your license is good, which she testified to,
15 her registration was good, which Officer Ager
16 testified to, and she even provided a copy of
17 her insurance card, what is there to freak out
18 about? He doesn't know at the time there's a
19 warrant for his arrest, so there's no need to
20 panic.

21 There's no need to try to hide something.
22 What's the reason? There is none. That meth
23 did not belong to Mr. Tuten then, just like I
24 told you this morning, and it's not his today,
25 just because she's saying that it's his. She

1 would do -- she did do, and she did say anything
2 and everything that would prevent her from
3 having to face the consequences of her own
4 actions.

5 I submit to you the State has not proven
6 their burden beyond a reasonable doubt, and
7 because of that, I urge you to find Mr. Tuten
8 not guilty. Thank you.

9 THE COURT: Ladies and gentlemen, does
10 anyone need a break before I charge you on the
11 law? Is everyone okay? Very good.

12 **JURY CHARGE**

13 THE COURT: Mr. Foreperson, members of the
14 jury you followed very patiently and listened
15 very attentively to the presentation of the
16 evidence in this case, and I want to thank you
17 for that. It now becomes the duty of the trial
18 judge to charge and instruct you on the law
19 that's applicable in this case, and it's your
20 job, as jurors, to accept and apply the law as I
21 will now state it to you.

22 As jurors, it is your exclusive duty to
23 decide all the issues of fact in this case. You
24 must determine the effects, the values, the
25 weights and the truth of the evidence. Both the

1 State of South Carolina and the Defendant, Mr.
2 Tuten, have a right to expect that you will
3 carefully consider and evaluate the evidence,
4 and apply the law of the case to the evidence.
5 And by doing that, both the State and Mr. Tuten
6 will receive a fair and impartial trial in this
7 matter.

8 Now, the State of South Carolina by the
9 Bill of Indictment in this case charges the
10 Defendant, Derrick Tuten, with the offense of
11 possession with intent to distribute
12 methamphetamine. I remind you that the
13 Defendant was arrested, charged and indicted in
14 this case is not evidence in this case, and
15 cannot be considered by you as evidence of guilt
16 in this case, nor does it create any presumption
17 or inference of guilt.

18 An indictment is simply the formal written
19 instrument, which contains the charge that's
20 made against the Defendant. It's the formal
21 document by which the case is brought into the
22 courtroom.

23 Now, in this case the Defendant, Mr. Tuten,
24 has pled not guilty to this indictment, and that
25 plea puts the burden on the State to prove the

1 Defendant guilty. A person charged with
2 committing a criminal offense in South Carolina
3 is never required to prove himself innocent. I
4 charge you that it's an important of law, that
5 the Defendant in a criminal trial, no matter
6 what the seriousness of the charges may be, will
7 always be presumed to be innocent of the crime
8 for which an indictment is issued, unless guilt
9 has been proven by evidence satisfying you, the
10 jury, of that guilt beyond a reasonable doubt.

11 This presumption of innocence does not end
12 when you begin your deliberations, but it
13 accompanies the Defendant throughout the trial
14 until you reach a verdict of guilt, based on
15 evidence satisfying you of that guilt beyond a
16 reasonable doubt. Presumption of innocence is
17 like a robe of righteousness that's placed about
18 the shoulders of the Defendant, and it remains
19 with the Defendant until it's been stripped away
20 by evidence satisfying you of the Defendant's
21 guilt beyond a reasonable doubt.

22 The presumption of innocence is not a mere
23 legal theory, it's not just a legal phrase we
24 use, it is a substantial right to which every
25 defendant is entitled, unless you, the jury, are

1 satisfied from the evidence of the Defendant's
2 guilt beyond a reasonable doubt.

3 So what is a reasonable doubt? A
4 reasonable doubt is the kind of doubt that would
5 cause a reasonable person to hesitate to act in
6 their most important decisions. The State has
7 the burden of proving the Defendant guilty
8 beyond a reasonable doubt.

9 The term reasonable doubt must be given in
10 its plain and ordinary meaning, again, to the
11 extent that I may define it for you, a
12 reasonable doubt is the kind of doubt that would
13 cause a reasonable person to hesitate to act in
14 the most important of their personal decisions.

15 The Defendant is entitled to every
16 reasonable doubt arising in this case. If upon
17 any issue of fact essential to a conviction you
18 have a reasonable doubt, as to how that issue
19 should be resolved, you must resolve that
20 reasonable doubt in favor of the Defendant.
21 Now, some of you may have served as jurors in
22 civil cases, where you were told that it was
23 only necessary to prove that a fact is more
24 likely true than not true, such as what we call
25 the greater weight, or the preponderance of the

1 evidence.

2 In criminal cases the State's proof must be
3 more powerful than that. It must be beyond a
4 reasonable doubt. Suspicion, no matter how
5 strong, is insufficient to convict a person
6 charged with a crime. If the facts and
7 circumstance presented may seem suspicious and
8 the Defendant's guilt may seem probable, this is
9 not sufficient in the law to convict. Proof
10 beyond a reasonable doubt is proof that leaves
11 you firmly convinced of the Defendant's guilt.
12 Now, there are very few things in this world
13 that we know with absolute certainty, and in
14 criminal cases the law does not require to prove
15 it overcomes every possible doubt.

16 If, based on your consideration of the
17 evidence, you are firmly convinced that the
18 Defendant is guilty of the crime charged, you
19 must find the Defendant guilty. If on the other
20 hand, you think there is a real possibility that
21 the Defendant is not guilty, you must give the
22 Defendant the benefit of the doubt and find him
23 not guilty.

24 I'll remind you that during this trial you
25 and I have certain duties to perform. As the

1 trial judge, it's my responsibility to preside
2 over the trial of this case, and I also have the
3 duty to rule on the admissibility of the
4 evidence that's offered during this trial.

5 You are to consider only the competent
6 evidence before you. You are to consider only
7 the testimony which was presented from this
8 witness stand, and any other exhibits, which
9 have been made a part of the record of this
10 case.

11 I have the additional duty to charge you
12 the law that's applicable to this case. As the
13 Presiding Judge, I am the sole judge of the law
14 of this case, and it is your duty, as jurors, to
15 accept and apply the law, as I will now state it
16 to you. If you already have an idea as to what
17 the law is, or what the law ought to be, and it
18 does not agree with what I now tell you the law
19 is, you must abandon this idea, because you are
20 sworn to accept the law and apply the law
21 exactly as I state it to you.

22 In every case tried in this Court before a
23 jury, the jury is the sole and exclusive judge
24 of the facts. A trial judge cannot intimate,
25 comment on, or make any statement to a trial

1 jury about the facts in a case. And since you
2 the jury are the sole judge of the facts in this
3 case, you are not to infer from what I've said
4 during the progress of this trial, in ruling
5 upon the admissibility of evidence, or
6 otherwise, or anything that I say now during the
7 course of this instruction to you, that I have
8 any opinion about the facts in this case.

9 The law does not allow me to have an
10 opinion about the facts in this case. This is a
11 matter solely for you, the jury, to determine.

12 Now, there are two types of evidence which
13 are generally presented during a trial, direct
14 evidence and circumstantial evidence. Direct
15 evidence directly proves the existence of a fact
16 and does not require deduction. Circumstantial
17 evidence is proof of a chain of facts and
18 circumstances, indicating the existence of a
19 fact. Crimes may be proven by circumstantial
20 evidence.

21 The law makes no distinction for the weight
22 or value to be given to either direct or
23 circumstantial evidence. However, to the extent
24 the State relies on circumstantial evidence, all
25 of the circumstances must be consistent with

1 each other, and when taken together, point
2 conclusively to the guilt of the accused beyond
3 a reasonable doubt. If these circumstances
4 merely portray the Defendant's behavior as
5 suspicious, the proof has failed.

6 The State has the burden of proving the
7 Defendant guilty beyond a reasonable doubt, and
8 this burden rests with the State, regardless of
9 whether the State relies on direct evidence,
10 circumstantial evidence, or some combination of
11 the two.

12 Now, necessarily you must determine the
13 credibility of witnesses, who have testified in
14 this case, and credibility simply means
15 believability. It becomes your duty, as jurors,
16 to analyze and to evaluate the evidence, and to
17 determine which evidence convinces you of its
18 truth.

19 In determining the believability of
20 witnesses who have testified in this case, you
21 may believe one witness over several witnesses,
22 or several witnesses over one witness. You may
23 believe a part of the testimony of a witness and
24 reject the remaining part of the testimony of
25 that same witness.

1 You may believe the testimony of a witness
2 in its entirety or reject the testimony of a
3 witness in its entirety. And you may consider
4 whether any witness has exhibited to you any
5 interest, bias, prejudice, or other motive in
6 this case. And you may also consider the
7 appearance and manner of a witness, while on the
8 witness stand.

9 The rules of evidence ordinarily do not
10 permit witnesses to testify to opinions or
11 conclusions. This rule exists for witnesses we
12 call expert witnesses. A witness, who by
13 education and experience, has become an expert
14 in some art, science, profession or calling, may
15 state an opinion as to relevant and material
16 matter in which the witness claims to be an
17 expert, and may also state the reasons for the
18 opinion.

19 You should consider any expert opinion
20 received into evidence in this case, and like
21 any other evidence, give it the weight you think
22 it deserves. If you decide that the opinion of
23 an expert witness is not based on sufficient
24 education and experience, or if you conclude
25 that the reasons given in support of the opinion

1 are not sound, or that the opinion is outweighed
2 by other evidence, you may disregard the opinion
3 entirely.

4 An expert witness' testimony is to be given
5 no greater weight than that of other witnesses
6 simply because the witness is an expert.
7 Further, you are not required to accept an
8 expert's opinion, even though it is not
9 contradicted.

10 Now, I instruct you and emphasize that the
11 fact the Defendant did not testify is not a
12 factor to be considered by you, in any way, in
13 your deliberation and your consideration on the
14 question of the guilt or the innocence of the
15 Defendant. It must not be considered by you in
16 any manner whatsoever.

17 A defendant has the constitutional right to
18 remain silent, and the assertion of this right
19 must not be considered by you in your
20 deliberations. I repeat, under your oath, you
21 are to draw no conclusion whatsoever from the
22 fact the Defendant in this case did not testify.
23 The fact that this Defendant did not testify
24 should not even be discussed in the jury room.
25 The burden of proof, as I've stated to you, is

1 on the State. The Defendant is not required to
2 prove his innocence. And the burden of proof
3 remains on the State to prove guilt beyond a
4 reasonable doubt.

5 Now, in this case the Defendant has one
6 charge, and that is possession with intent to
7 distribute methamphetamine. Now, to prove this
8 charge, the State must prove beyond a reasonable
9 doubt the Defendant possessed methamphetamine
10 with the intent to distribute it.

11 To prove possession, the State must prove
12 beyond a reasonable doubt the Defendant had both
13 the power and the intent to control the
14 disposition or use of the methamphetamine. Now,
15 ladies and gentlemen, possession in a case may
16 be either actual or constructive.

17 Actual possession means that the
18 methamphetamine was in the actual physical
19 custody of the Defendant. Constructed
20 possession means the Defendant had dominion and
21 control, or the right to exercise dominion or
22 control over either the methamphetamine itself,
23 or the property on which the methamphetamine was
24 found. Mere presence at the scene where the
25 drugs were found is not enough to prove

1 possession.

2 The Defendant's knowledge and possession
3 may be inferred when a substance is found on a
4 property under the Defendant's control.
5 However, this inference is simply an evidentiary
6 fact to be taken into consideration by you,
7 along with other evidence in this case, and to
8 be given the weight you decide it should have.

9 Can you get me some water? I apologize,
10 just give me one moment, if you will. Okay, I
11 apologize again, ladies and gentlemen.

12 Ladies and gentlemen, I also charge you
13 that two or more persons may have joint
14 possession of a drug. Now, in addition to
15 possession, the State must also prove beyond a
16 reasonable doubt that the substance was, in
17 fact, methamphetamine, and that the Defendant
18 intended to distribute the methamphetamine.
19 Distribute means to deliver, other than by
20 administering or dispensing a drug.

21 An intent may be shown by acts and conduct
22 of the Defendant in other circumstances from
23 which you may naturally and reasonably infer
24 intent. In determining whether Defendant had
25 the intent to distribute the methamphetamine,

1 you may consider the circumstances surrounding
2 Defendant's alleged possession. You may
3 consider the amount of the substance alleged to
4 have been possessed.

5 The manner in which it was allegedly
6 possessed, and the place where it was allegedly
7 possessed, and the other factors that you
8 consider to be important.

9 You must find the Defendant did not intend
10 to have the methamphetamine solely for his own
11 use.

12 Ladies and gentlemen, possession of more
13 than one gram of methamphetamine creates an
14 inference of Defendant possessing
15 methamphetamine with intent to distribute it.
16 This inference does not relieve the State from
17 proving beyond a reasonable doubt the Defendant
18 had the intent to distribute it, it is simply an
19 evidentiary fact to be taken into consideration
20 by you, along with other evidence in this case,
21 and is to be given the weight you decide it
22 should have.

23 Mr. Foreperson, members of the jury, as you
24 retire to begin your deliberations in this case,
25 I wish to express the hope that each of you are

1 mindful of your responsibility here today.
2 You're not called upon very often to serve as
3 jurors. And the proper performance of that duty
4 requires that each of you reach the height of
5 freeing your mind of all improper influences.

6 So please don't get the idea that I'm
7 trying to intimate to you how I think you should
8 decide this case. As I've already told you,
9 under the laws of the State of South Carolina,
10 you, the jury, are the sole judge of all facts
11 of this case, and it would be highly improper
12 for me to influence you in your performance of
13 that duty.

14 However, ladies and gentlemen, as the
15 presiding officer of this Court, I am vitally
16 concerned that whatever verdict you reach will
17 be the result of you going back into that jury
18 room, and confining your consideration to the
19 evidence and the law that you've heard here in
20 this courtroom, playing it fairly and
21 impartially, as I have every confidence that you
22 will.

23 Mr. Foreperson, your verdict must be
24 unanimous, it must be the verdict of all 12
25 jurors. And to that end, my Law Clerk, Jamie,

1 has prepared a verdict form. The verdict form
2 in this case has simply one question.

3 It has the case caption, it says the State
4 of South Carolina v. Derrick Tuten, and it says
5 verdict form next to it, and the question reads,
6 "As to Indictment Number 2020-GS-27-00455,
7 possession with intent to distribute
8 methamphetamine, we the jury, find the
9 Defendant, Derrick Tuten either guilty or not
10 guilty, and you will checkmark one of those.
11 Mr. Foreperson, there's also a place below here
12 for you to sign and certify that this is the
13 unanimous decision of the entire jury.

14 Now, ladies and gentlemen, when you have
15 reached a unanimous verdict, I ask that you
16 knock on the jury room door, and we are going to
17 accept you back into the courtroom to take your
18 verdict. Ladies and gentlemen, also for just a
19 few other housekeeping matters, I will tell you
20 that you are going to have this jury charge that
21 I just read to you in full back in your jury
22 room to refer to, so you will have that.

23 You'll have the verdict form, you will also
24 have all the evidence in this case that has been
25 entered into the courtroom. Ladies and

1 gentlemen, I tell you that, because if you are
2 looking for something that is not entered into
3 evidence, and it's not back there with you,
4 you're not entitled to it, because it wasn't
5 entered.

6 Additionally, I know you've seen my Court
7 Reporter's been here taking down everything
8 everyone has said. I want you to know there's
9 no printed version of the court case.

10 Ladies and gentlemen, if there's certain
11 testimony you wish played back, what I can do
12 is, bring you back into the courtroom, and I can
13 play you the backup audio tape of that specific
14 witness' testimony. The only thing I need to
15 tell you is, is that I'm required to play you
16 that entire witness' testimony. In other words,
17 if you ask me for a certain witness, I have to
18 play the direct, the cross, the recross and the
19 redirect and as long as it goes on, all right?

20 So for the very last time I am gonna send
21 you back to your jury room and I'm gonna tell
22 you not to begin your deliberations. If there's
23 something further on the law the lawyers want me
24 to charge you, I'm gonna bring you back out
25 here, and I'm gonna charge you further.

1 If not, Mr. Foreperson, when you receive
2 the verdict form, my charge and all the evidence
3 in this case, you are welcome to begin your
4 deliberations, and I expect you to. Also, sir,
5 when you reach a verdict, I ask that you just
6 leave all the evidence back there, when we
7 receive you back into the courtroom, just make
8 sure it remains on the table.

9 Additionally, if you have any questions, I
10 need you to simply write it on a tablet, that's
11 going to be in either the evidence box, or it's
12 gonna be back on your jury table, so I can
13 address, all right, if necessary, okay? Ladies
14 and gentlemen, I appreciate your attention. I'm
15 gonna send you back to your jury room, don't
16 begin your deliberations. Your signal to begin
17 then is going to be when you get the evidence
18 and the verdict form and the charge, all right?
19 Thank you, you'all are excused.

20 (Jury exits the courtroom.)

21 THE COURT: Any exceptions or additions to
22 the charge or the verdict form from the State?

23 MR. SHARPE: No, Your Honor.

24 THE COURT: From the defense?

25 MS. WILSON: Nothing, Your Honor.

1 THE COURT: If you'll will come through and
2 take a look at the evidence and make sure
3 everything is there. Let's bring the alternates
4 out to excuse them. And make sure you tell them
5 to bring everything with them.

6 (Alternate jurors enter courtroom.)

7 THE COURT: You can bring it back now, it's
8 ready. Sir, come on up right here. You need to
9 sit down, you need to move over a little, you're
10 fine. Come on out. Scoot down just a little
11 bit, you're fine. Right there is good, sir,
12 you're good, okay, that's fine.

13 Ladies and gentlemen, I want to thank you
14 for your service. I did not lose anyone because
15 it was one-day trial. That's not unusual.
16 However, because it was later in the week, we do
17 always have alternates out of a concern, because
18 it is required that we have 12 people to decide
19 any criminal issues, unless the lawyers agree to
20 go with less.

21 I can tell you in a criminal case they
22 don't ever agree to go with less. So at this
23 time I'm gonna go ahead and excuse you from the
24 trial of this case, and for the remainder of the
25 week.

1 I will tell you that you are permitted now
2 when you go home to discuss this case if you
3 would like to. I will also tell you that
4 sometimes the lawyers or the investigators may
5 want to ask you something, maybe about the
6 presentation of evidence or your thoughts.

7 You are permitted to talk about it, if you
8 want to, but if you are not, you can simply say,
9 "No, thank you, I am not interested," and I
10 assure you they will back off and not do or say
11 anything, all right? So, again, thank you.
12 You'all have earned your exemption for the next
13 three years. I will tell you at the beginning
14 of the week, as you know, I tried another case,
15 and we got a verdict on that trial yesterday,
16 and I'm not sure, I think we're doing motions
17 and guilty pleas in some other things for the
18 remainder of the week, but you'all not only
19 helped resolve this case, but many others that
20 are on the docket.

21 Because when people know that there's going
22 to be a jury who's going to decide issues, we're
23 able to dispose of cases and other matters. For
24 instance, by guilty pleas, or by diversionary
25 programs, or other ways. We could never try all

1 the cases before us, unfortunately.

2 I'm sure you've understood and heard
3 there's such a serious backlog, particularly
4 when the Courts were closed during COVID. We
5 are trying our best, I'll tell you this, to try
6 as many cases as we can to get the backlog taken
7 care of, and to move forward.

8 So I want to thank you very much, and I'll
9 excuse you'all. If you need a work excuse, you
10 need to go down to the Clerk of Court's Office,
11 and they will give you just something that says
12 you've been here, okay? You're excused and
13 thank you very much.

14 (Alternate jurors exit the courtroom.)

15 THE COURT: All right, so we're gonna be at
16 ease in this case until we hear back from this
17 jury.

18 (RECESS)

19 **

20 **PROCEEDINGS CONTINUED**

21 BAILIFF: All rise.

22 THE COURT: I understand we've reached a
23 verdict; is that correct?

24 THE CLERK: That's correct.

25 THE COURT: All right, is State ready?

1 MR. SHARPE: Yes, Your Honor.

2 THE COURT: Is defense ready?

3 MS. WILSON: Yes, Your Honor.

4 THE COURT: All right. Let's bring the
5 jury out, and, Margaret, you'll get the evidence
6 and the verdict form.

7 (Jury enters the courtroom.)

8 **

9 **READING OF THE VERDICT**

10 THE COURT: Mr. Foreperson, I understand
11 the jury's reached a verdict; is that correct,
12 sir?

13 FOREPERSON: That is correct.

14 THE COURT: And Ms. Bostick has just handed
15 it to me. Mr. Tuten, if you'll please rise,
16 please, with your counsel. "In the State of
17 South Carolina v. Derrick Tuten, as to
18 Indictment Number 2020-GS-27-00455, possession
19 with intent to distribute methamphetamine, we,
20 the jury, find the Defendant, Derrick Tuten,
21 guilty," and it's signed by our Foreperson.

22 You may be seated, sir. Ms. Bostick, will
23 you go ahead and poll this jury, please? Ladies
24 and gentlemen, Ms. Bostick is going to call your
25 name, and she is going to ask you two questions.

1 I need to make sure that we know who we're
2 talking to when she does it, and the first
3 question is, is this your verdict, yes, is it
4 still your verdict, yes or no, either way,
5 whatever it is, okay? So Ms. Bostick?

6 CLERK: Bruce Lewis.

7 THE JUROR: Yes.

8 CLERK: Is this your verdict?

9 THE JUROR: Yes.

10 CLERK: Is it still your verdict?

11 THE JUROR: Yes.

12 CLERK: Thank you. Simmons. Will you
13 raise your hand? Is this your verdict?

14 THE JUROR: Yes.

15 CLERK: Is it still your verdict?

16 THE JUROR: Yes.

17 CLERK: Thank you.

18 Angela. Was this your verdict?

19 THE JUROR: Yes.

20 CLERK: Is it still your verdict?

21 THE JUROR: Yes.

22 CLERK: Thank you.

23 Diane Cruz. Was this your verdict, and is
24 it still your verdict?

25 THE JUROR: Yes.

1 CLERK: Thank you.
2 Clint. Was this your verdict?
3 THE JUROR: Yes, ma'am.
4 CLERK: Is it still your verdict?
5 THE JUROR: Yes.
6 CLERK: Thank you.
7 Jenkins. Was this your verdict?
8 THE JUROR: Yes, ma'am.
9 CLERK: Is it still your verdict?
10 MR. JENKINS: Yes, ma'am.
11 CLERK: Thank you.
12 James Gibson. Was this your verdict?
13 MR. GIBSON: yes.
14 CLERK: Is it still your verdict?
15 MR. GIBSON: Yes.
16 CLERK: Thank you. Andy Jones. Was this
17 your verdict?
18 MS. JONES: Yes.
19 CLERK: Is it still your verdict?
20 MS. JONES: Yes.
21 CLERK: Thank you. Lisa Smith. Was this
22 your verdict
23 MS. SMITH Yes.
24 CLERK: Is it still your verdict?
25 MS. SMITH: Yes.

1 CLERK: Thank you. Travis Davis. Was this
2 your verdict?

3 MR. DAVIS: Yes.

4 CLERK: Is it still your verdict?

5 MR. DAVIS: Yes.

6 CLERK: Thank you. Robert Miller. Was
7 this your verdict?

8 MR. MILLER: Yes.

9 CLERK: Is it still your verdict?

10 MR. MILLER: Yes.

11 CLERK: Thank you.

12 Rita. Was this your verdict?

13 THE JUROR: Yes.

14 CLERK: Is it still your verdict?

15 THE JUROR: Yes.

16 CLERK: Thank you.

17 THE COURT: Thank you, Ms. Bostick. All
18 right, are you going ahead and printing your
19 verdict form?

20 THE JUROR: Yes, Your Honor, I'm working on
21 it now.

22 THE COURT: Okay. Ladies and gentlemen,
23 what I have left to do is sentence Mr. Tuten,
24 which we're gonna go ahead and do right now.
25 You are welcome to stay for that, or you are

1 welcome to leave, either one.

2 Your job, as jurors, is to bring a verdict
3 of guilty or not guilty, and my job is to
4 sentence them according to the sentencing
5 guidelines, so that is what I will be doing. I
6 will hear a little bit of mitigation, but you
7 are welcome to stay for that or not.

8 If not, I'm going to go ahead and excuse
9 you in just a moment, but I will tell you that
10 when you go home, you are allowed to speak about
11 this case, there's nothing wrong with that.
12 Sometimes also the attorneys or investigator
13 might want to ask you your thoughts. You can
14 talk about it, if you wish to, but you are
15 certainly not required to. If anyone asks you
16 to discuss the case, and you have no interest,
17 say no thank you and keep walking, or hang up
18 the phone, okay?

19 Ladies and gentlemen, you have also earned
20 your exemption for the next three years, and
21 also this is the last jury trial I had for this
22 week, so you are going to be finished for the
23 week when you leave here today, all right? So
24 do you'all have any questions of me?

25 Other than - at this point what I'm going

1 to do is, I'm going to go ahead and dismiss you,
2 however, if you would like to stay for the
3 sentencing, like I said, we're just going to
4 have to print the sentencing form, it's gonna
5 take five minutes at the most.

6 I'm going to go ahead and sentence him, and
7 then we'll be done with it, but you're welcome
8 to stay, or you're welcome to go, but I will
9 just ask you, that if you do not wish to stay,
10 I'd like you to go now before we go ahead and
11 begin. So does anyone have a preference? If
12 you want to leave, you are welcome to go, all
13 right? Absolutely.

14 THE JUROR: Those sheets are being printed
15 right now, Your Honor.

16 THE COURT: Is someone bringing them to
17 you?

18 THE JUROR: Yes, ma'am, Your Honor.

19 THE COURT: So while we're doing that, we
20 can go ahead and begin, if you would like.
21 Obviously, it should just be one sentencing
22 form. They don't need to sign it, obviously,
23 because he was convicted by the jury.

24 So I need to begin with, first, obviously,
25 I've heard the facts of this case, Mr. Sharpe.

1 You provided to me earlier a copy of his prior
2 record. I would like you to go through for me
3 for the enhancement purposes, to show me what
4 you have is verified convictions, making this a
5 third drug offense.

6 MR. SHARPE: Yes, Your Honor. I have
7 Indictment Number 2018-GS-07-00441, possession
8 with intent to distribute methamphetamines, or,
9 excuse me, possession with intent to distribute
10 cocaine base, first offense. It's under the
11 Statute Code 3014 as well -

12 THE COURT: Okay, and the conviction date
13 of that was?

14 MR. SHARPE: The conviction date of that
15 is -

16 THE COURT: It can be the sentencing date
17 as well.

18 MR. SHARPE: Give me one second.

19 THE COURT: Okay.

20 MR. SHARPE: I beg the Court's indulgence.
21 He pled guilty on May 24th, 2018, to the
22 possession of cocaine base.

23 THE COURT: Do you have the sentencing
24 sheet?

25 MR. SHARPE: Yes, your Honor.

1 THE COURT: Can I see it?

2 MR. SHARPE: It's the certified copy from
3 the Clerk of Court.

4 THE COURT: Will you provide this to Ms.
5 Wilson, so she can see that?

6 Okay. All right. I see a certified copy,
7 that's fine. I'll give these over to Ms. Wilson
8 when we're done, okay? What is the next
9 conviction?

10 MR. SHARPE: The next is August 3rd, 2018,
11 and for that one we'll be using -

12 THE COURT: Hold on a second, what did he
13 end up pleading guilty to, or was he found
14 guilty of?

15 MR. SHARPE: There are ten offenses, Your
16 Honor.

17 THE COURT: Okay, what are they?

18 MR. SHARPE: Or, excuse me, nine offenses,
19 Your Honor.

20 THE COURT: I need the drug offenses.

21 MR. SHARPE: The drug offenses is gonna be
22 possession of cocaine, and possession of
23 marijuana.

24 THE COURT: What did he receive as a
25 sentence for those?

1 MR. SHARPE: I have for the possession of
2 cocaine one year, to serve two months with ten
3 months' probation.

4 THE COURT: And those are the only two
5 qualified convictions for drugs on those?

6 MR. SHARPE: Those are - I'll tell you,
7 this is a Georgia conviction, so it's a little
8 confusing, as to what they used for sentencing
9 purposes, other than putting a list at the end
10 of each of the violations. Possession of a
11 controlled substance being, one being in
12 possession of cocaine, in violation of 16-13-30
13 in the State of Georgia.

14 THE COURT: Okay.

15 MR. SHARPE: The other being Oxycodone,
16 under 16-13-30(a), State of Georgia.

17 THE COURT: Okay, and I want you to give
18 this to Ms. Wilson, so she can look at it.

19 MR. SHARPE: Yes, Your Honor.

20 THE COURT: This is a certified copy?

21 MR. SHARPE: This is a certified copy as
22 well, Your Honor, there's the seal on the back.

23 THE COURT: All right, okay.

24 All right, please give this to Ms. Wilson,
25 as well. Ms. Wilson, I want you to take a look

1 at that and ask me if you have any challenges to
2 the two underlined qualifying drug convictions,
3 and they both occurred in 2018, so they're
4 within the 10-year period.

5 All right, for those of you who are sitting
6 over here, so in South Carolina we have enhanced
7 drug penalties. It means if you get picked up
8 for a second or subsequent drug offenses, you'll
9 be facing a harsher penalty.

10 So in this case, for instance, he has a
11 prior conviction in South Carolina for
12 possession with intent to distribute cocaine
13 base, which is crack-cocaine. And then also a
14 conviction in Georgia in 2018 for possession of
15 cocaine. It sounds like possession of
16 Oxycodone. So those would be the first and
17 second convictions. He'll be looking at an
18 enhanced penalty here, which affects the
19 sentencing range that I can sentence him.

20 Do you have any challenges, Ms. Wilson, to
21 the underlying sentences?

22 MS. WILSON: No, Your Honor.

23 THE COURT: Okay, and this conviction
24 qualifies to make this enhancement, so this will
25 be considered his third drug offense -

1 MS. WILSON: Yes, Your Honor.

2 THE COURT: -- in the last ten years?

3 Okay, thank you.

4 Mr. Sharpe, what's the State's position on
5 sentencing?

6 MR. SHARPE: Your Honor, this is a serious
7 offense, and under South Carolina law it is a
8 serious offense. There is no suspended sentence
9 or probation, unless each of the convictions
10 were from possession level offenses.

11 He, in fact, has possession with intent to
12 distribute down in Beaufort from 2018. The
13 sentencing range is ten to 30 years. Your
14 Honor, the State's position is we would be
15 seeking 30 years.

16 THE COURT: Okay, all right. Ms. Wilson?

17 MS. WILSON: Thank you.

18 THE COURT: Yes.

19 MS. WILSON: We would ask for the minimum
20 penalty.

21 THE COURT: Okay, thank you. Ms. Price?

22 MS. PRICE: Yes, your Honor, thank you.

23 So I've known Mr. Tuten for quite a few
24 years now, and I've become very fond of him.
25 He's been a great client, very forthcoming,

1 we've really bonded.

2 I was a paramedic for 12 years and I don't
3 get emotionally involved, I know how to
4 separate, but he is one of a handful of clients
5 that I really deeply come to care about, and,
6 you know, we worked together for a while. You
7 know I usually hand you up a report and have
8 pictures of childhood.

9 Mr. Tuten doesn't have any of that, because
10 he never had a childhood. He started out in
11 Richland, was born at Beaufort Memorial. Went
12 to private school. His family had money. They
13 just didn't have any time for him. There were
14 Christmases that he opened Christmas presents by
15 himself.

16 He does have a brother who's 16 years
17 older, so he wasn't even around to kind of
18 parent him as maybe if he would have been only a
19 few years older, he could have at least got him
20 up for school, and done that. He never had
21 anybody to do that.

22 His parents owned a couple different
23 businesses. His parents were also meth dealers,
24 and at age nine he was introduced on helping the
25 family cook meth, and he was strictly told that

1 you do not talk about family business outside of
2 the home.

3 His dad could be violent. He knew not to
4 step out of line, he knew not to talk about it,
5 and his parents, both of them, were arrested for
6 methamphetamine manufacturing and distribution,
7 and sentenced to over ten years in prison, the
8 both of them.

9 THE COURT: Are they both still living, or
10 are there in prison?

11 MR. PRICE: So his father has passed away
12 about a year after he got out.

13 THE COURT: Okay.

14 MR. PRICE: His mother has remarried, is
15 sort of in the area, but they do not have a
16 relationship. He does not have a relationship
17 with his brother, who also has gotten drug
18 charges.

19 When the parents were arrested, he was 12-
20 years-old. And his brother told the officials
21 that he could leave with him. He had young
22 children, and when it came time to actually take
23 Derrick, he changed his mind and said, "No."

24 The only people that Derrick had were a
25 very elderly grandmother and grandfather.

1 Grandfather ended up in the nursing home right
2 when the arrest happened of the parents. And
3 the grandmother had one arm and one leg, and no
4 one to take care of her, so at 12-years-old he
5 was living on his family compound in the back of
6 an 18-wheeler trailer that he figured out how to
7 rig electricity to.

8 There was no DSS. No school came looking
9 for him. No one came looking for him. No one
10 reported him as a 12-year-old child living in
11 the back of an 18-wheeler trailer. He would go
12 down and take care of his grandmother, and get
13 her to the bathroom, and help her bathe at age
14 12, 13. And that is how he would eat, once a
15 day, make sure she was fed, and he did this for
16 like two years. Grandma ended up dying, that's
17 all he had.

18 He told me that had DSS stepped in, and he
19 was a foster kid, he would not have turned out
20 like this. He would not be living on the
21 streets, going from friend-to-friend, which is
22 really dealer-to-dealer, prostitutes. I know
23 you heard testimony that that was his - she was
24 pregnant with his child. That was not actually
25 his child. He was incarcerated when that baby

1 was born on this charge, and she just put his
2 name on the birth certificate.

3 He actually ended up paying some child
4 support for that child, and she told him,
5 "That's not your baby." So I just wanted to -

6 THE COURT: Did he ever do a blood test to
7 determine whether -

8 MS. PRICE: He offered, but she refused.
9 He is expecting a baby now that's to be born in
10 the end of June -- [REDACTED] [REDACTED], sorry. I mean he
11 wishes DSS had taken him. There was nobody.
12 The school didn't look for him.

13 As his parents were getting more and more
14 down the drug rabbit hole, he was made to stay
15 home a lot. Thomas Hayward has a very strict
16 truancy policy, and he was asked to leave
17 because of that. They were in Hardeeville, and
18 so he did attend briefly prior to the arrest,
19 Hardeeville Middle School, West Hardeeville, so,
20 no, nobody -

21 THE COURT: So how far has he gone for
22 school?

23 MS. PRICE: Sixth grade, Your Honor, right
24 when they were arrested.

25 He left there. He knows this is not where

1 he is some drug king pin running to Miami, and
2 infesting Jasper County with drugs, he is a
3 user. He got exposed at age nine helping his
4 parents cook it. It got in his system.

5 We've heard of cases where parents are
6 manufacturing, and there's a baby sleeping two
7 rooms over that tested positive for meth. He
8 was an innocent child introduced to this, become
9 addicted.

10 He got drugs from a 16-year-old older
11 brother, that was his plight. His parents
12 maintained a very good front for the community,
13 they were well-known. A lot of the community
14 was stunned when they got arrested for what they
15 did. And because of that the friends he had
16 they still had their parents, obviously, at age
17 12, they live at home. His parents said, "You
18 can't play -- be with him anymore."

19 He truly raised himself and was really
20 alone. I don't have any pictures to show you of
21 his childhood, there was just nothing. This is
22 what he has lived.

23 THE COURT: How long has he been addicted
24 to meth?

25 MS. PRICE: I mean --

1 MR. TUTEN: 16 years.

2 THE COURT: Okay, you've been actively
3 using it for 16 years?

4 MS. PRICE: He's not --

5 MR. TUTEN: I'm sorry, Your Honor.

6 THE COURT: It's okay.

7 MS. PRICE: Go ahead.

8 MR. TUTEN: December of 2022 I was -- you
9 granted me drug treatment.

10 THE COURT: Uh-huh.

11 MR. TUTEN: I've been sober ever since.

12 THE COURT: Okay.

13 MR. TUTEN: It's probably the best thing
14 that's happened to me in the past.

15 MS. PRICE: He told me --

16 MR. TUTEN: Thank you.

17 MS. PRICE: -- that his time at Bridges of
18 Hope -- sorry, was the happiest time of his
19 entire life. Rehab was the happiest time of his
20 entire life.

21 That was the first time he ever sat down to
22 a family-style meal was at rehab, with his
23 fellow-addicts in recovery. That was the first
24 time he ever had a family-style meal ever. His
25 parents were never home, and when they were,

1 they were making meth, that's it, that's what he
2 knew.

3 He went to school, he came home. He was
4 either alone, they owned a couple different tow
5 truck companies, they were always out on the
6 road. He'd wake up in the night, nobody would
7 be there.

8 He really -- I mean we have so many clients
9 that don't have a shot in life, he really did
10 not have a shot. At this point, he's got PTSD,
11 he's got anxiety, he's got major depression. He
12 never had the tools to get the help that he
13 needed. There was no one family-wise that
14 stepped in and say, "You're struggling, let me
15 help you, take you to therapy, do what we need,
16 so you don't end up like this."

17 THE COURT: So Ms. Price, when I sent him
18 to Bridges of Hope that was, obviously, at
19 pretrial, and we were looking to get him some
20 drug treatment while he was pending and waiting
21 for his charges. Did he successfully complete
22 that program?

23 MS. PRICE: He -- almost, I will be honest.
24 And I have a letter from them that they would
25 welcome him back. They did not want to let him

1 go. He did - he was so close. I almost feel
2 that all he did know was pain and
3 disappointment, I almost feel that he kind of
4 sabotaged it, because he'd never -- I just feel
5 that he didn't know what to do.

6 He went out on a weekend pass, which
7 they're allowed to do, and he was late, and this
8 girl was - had picked him up. Apparently, she
9 is well-known and was with a few other
10 housemates that were in recovery and took them
11 down as well.

12 I don't know what her story is, but she's
13 from the area, and there have -- other people
14 she has been associated with -- basically, I
15 think she played him, and he is -- I mean he's
16 flat out told me he is extremely co-dependent.
17 If you even look in his direction and say I care
18 about you, he's on you like Velcro, he never
19 had.

20 So these addict girls were using him just -
21 - it's just this vicious cycle that no -- it's
22 like a cyclone that once it gets going on open
23 land there's no stopping it. Nobody stepped in.
24 I mean I just can't imagine at nine and 12,
25 that's it. And he has a lot of family, but

1 everybody left him.

2 THE COURT: So how long did he stay at
3 Bridges of Hope?

4 MS. PRICE: He was there five and a half
5 months, it's a six-month program, and they would
6 take him back.

7 THE COURT: And he says he's been clean
8 since then?

9 MS. PRICE: Since then. Yes. He had never
10 had treatment. This was the first anything,
11 therapy.

12 MR. TUTEN: Your Honor --

13 THE COURT: Don't interrupt her right now,
14 just sit down, and if you need to respond to
15 something afterwards, you may.

16 MS. PRICE: He also -- because he was home
17 alone at such a little age so much, an older
18 neighbor abused him --

19 THE COURT: Okay.

20 MS. PRICE: -- for a while, right about the
21 time he was introduced to the family business.
22 I mean his dad was with him when his nose bled,
23 so he would stay in line and keep the family
24 secrets, and he knew that, so he knew not to.

25 Had I known more of his story than I know

1 now, I probably would have asked that we send
2 him to a place that -- which at the time that we
3 did this, I hadn't used them yet.

4 I have recently become aware of them, but
5 it's a two-year program, and they do like
6 therapy, and life services that's not just
7 focused on the addiction. And just when his
8 parents were taken away, he lost his childhood,
9 his 20s, now we're taking away his 30s.

10 I don't know how you come back from that,
11 like, Your Honor, if we could just do -- I mean
12 I understand his record, the least amount of
13 time to give him a shot. I have offered, and I
14 don't care if I'm here or not, I have a lot of
15 connections, like the second you get out, we
16 will get you into somewhere to help you learn
17 how to grow up, and deal with all this trauma.
18 I mean I'm just, you know, prison causes trauma,
19 it's the last thing he needs, it's just the last
20 thing.

21 He did so well, and you were gracious
22 enough to give him that gift. He might have
23 been there a little less than -- and he stayed
24 in the area. When they asked him to leave, he
25 didn't come right back here, he stayed there.

1 He still went to meetings. He just couldn't
2 stay on property. He stayed up there for quite
3 a while, because he knew that if he came back
4 here, it was done. I just -- I don't get this
5 attached very often, but this is just -- this is
6 not right, it's just not right.

7 THE COURT: Okay.

8 MS. PRICE: And I just -- I mean he took
9 that gift, and he did something with it. It was
10 the first time anybody gave him a break, and
11 here we are for something that happened in 2020,
12 and he's changed.

13 This was in 2022 that he went to rehab, and
14 he's been clean since then. That's all this boy
15 needed was someone to step in and change the
16 direction. You did that, I did that, and he
17 took that gift and he's clean, and now we're
18 sending him to prison. We just ask for the
19 minimal sentence.

20 THE COURT: Okay.

21 MS. PRICE: -- as less as you can, because
22 I think he deserves a shot. I mean, you gave
23 him a gift, and he used it. Thank you.

24 THE COURT: Ms. Wilson, can you tell me how
25 much credit he has between rehab and also jail

1 time?

2 MS. WILSON: I believe between rehab and
3 jail he has -

4 THE COURT: So Ms. Bostick says he's in for
5 child support, so I'm gonna presume that when he
6 was in rehab -- or when he was in jail and the
7 rehab he couldn't pay child support, correct?

8 MS. WILSON: That's correct.

9 MS. PRICE: That is --

10 MS. WILSON: He was put in jail for child
11 support prior to rehab.

12 THE COURT: Uh-huh.

13 MS. WILSON: He came to you, you gave him
14 the opportunity to go to rehab, so they had the
15 Family Court Judge reconsider her order.

16 THE COURT: Uh-huh.

17 MS WILSON: She allowed him to go to the
18 rehab home, but once he finished that he hadn't
19 served his time.

20 CLERK: Because he did not complete it.

21 THE COURT: He did not complete it?

22 MS. WILSON: Right.

23 THE COURT: Okay.

24 MS. WILSON: and she also -

25 THE COURT: Okay.

1 CLERK: Right.

2 THE COURT: Okay.

3 MS. WILSON: It is, Your Honor.

4 CLERK: Yes.

5 MS. PRICE: She gave him I want to say
6 three weeks in rehab, before he started - before
7 she wanted him to start paying again.

8 CLERK: No, ma'am. No, ma'am.

9 MS. PRICE: I think it was.

10 CLERK: No, ma'am. We don't charge when
11 they rehab. He was supposed to complete the
12 program. We didn't send any papers that we had.

13 MS. PRICE: Okay.

14 CLERK: No, we don't send any papers to
15 rehab.

16 THE COURT: Mr. Tuten, is there anything
17 you want to say to me?

18 MR. TUTEN: No, Your Honor.

19 THE COURT: Let me start by saying this, we
20 all know in this room, and, you know,
21 unfortunately, I know a lot of jurors probably
22 don't, but you can get drugs in our jails, we
23 know that. You can get them in the Department
24 of Corrections.

25 MR. TUTEN: Yes.

1 THE COURT: You can get them at Jasper
2 County Sheriff, right here in our Detention
3 Center, and you can get them at any jail in the
4 State. My question is, if I drug tested you
5 right now, are you gonna test positive for
6 anything?

7 MR. TUTEN: No.

8 THE COURT: You sure?

9 MR. TUTEN: Positive.

10 THE COURT: You're absolutely positive?

11 MR. TUTEN: Absolutely.

12 THE COURT: All right, can we drug test
13 him? Do you have the ability to do that? And
14 if we can't do it right this moment, I am
15 holding Court tomorrow, I could bring him back
16 tomorrow. Ms. Price, you don't have to come
17 back, obviously, you said what you need to say,
18 but I would like to drug test him, just to know
19 whether or not -- since he's been in the jail,
20 and since 2022, you know, if he has anything in
21 his system.

22 MR. TUTEN: Please.

23 THE COURT: Does he have to do that
24 overnight? Do you want to do it, and bring him
25 back tomorrow?

1 THE CLERK: Whatever you'all want to do, we
2 can bring him back.

3 THE COURT: Why don't you call her and see
4 if she can drug test him?

5 COURT REPORTER: She is in Columbia today.

6 CLERK: She'll be here tomorrow.

7 THE COURT: Okay, so this is the plan.

8 I'm gonna have someone drug test you. He
9 can get drug tested through the jail, can't he?
10 Can't you do that? Can you drug test him in the
11 jail?

12 THE CLERK: Yes.

13 THE COURT: Okay, well, let's get him back
14 tomorrow, and we're gonna drug test you, and
15 we're gonna bring you over here tomorrow, okay?

16 MR. TUTEN: Yes, ma'am.

17 THE COURT: And at that point I'll listen
18 to whatever else you have to say. Before we do
19 that though, Mr. Sharpe, what was it that you
20 wanted to interject?

21 MR. SHARPE: Your Honor, I'll wait until
22 tomorrow.

23 THE COURT: Okay. All right, so let's do
24 this then, if you'll just bring him back over
25 here.

1 I just want to make sure you have room. It
2 looks like -- I've seen my list for tomorrow and
3 it's not very long, so if you would just bring
4 him back from the Detention Center tomorrow,
5 we'll get him drug tested here, and then we'll
6 go from there, okay?

7 THE COURT: And we'll take care of that,
8 and I'll revisit it tomorrow, okay?

9 MS. WILSON: Yes, your Honor.

10 THE COURT: Are you able to be here, Ms.
11 Wilson?

12 MS. WILSON: I will be here.

13 THE COURT: Okay, all right. You'all can
14 take him. I'm just gonna address these other
15 people that are here just for quick minute, but
16 -- yeah.

17 MR. SHARPE: Your Honor, would you like me
18 to go ahead and pass up the sentencing sheet
19 now?

20 THE COURT: That'd be great, so I have my
21 hand on it.

22 MR. SHARPE: Absolutely.

23 THE COURT: All right.

24 So, ladies and gentlemen, I was hopeful to
25 be able to go ahead and sentence him while you

1 were still here. Obviously, Mr. Tuten is
2 familiar to me, he has been through here, and I
3 know that he has lots of challenges, obviously,
4 but per the sentencing guidelines, and based on
5 the enhancements, that's why he's looking at a
6 mandatory minimum sentence of ten years in the
7 Department of Corrections. I will tell you that
8 at the beginning of this week the first case
9 you'all were here when I pulled that jury, that
10 gentleman was convicted of a few other crimes,
11 but the main one was trafficking methamphetamine
12 first offense, and it we between 100 and 200
13 grams, and that sentence carried a mandatory
14 minimum of 25 years, so that is -- I will tell
15 you that's what he got.

16 So there's ranges, and I really take into
17 account what people have done. It's difficult,
18 because I'm hopeful that he has been clean since
19 2022, and we certainly -- as my job, I take
20 into account the background. And my hope -- and
21 I will tell you this right now regardless,
22 because he's going to get a minimum of a ten-
23 year sentence, I'll order ATU, which is a drug
24 and alcohol floor at the Department of
25 Corrections at certain facilities.

1 The really sad part is there's only 300
2 beds in the entire State, and I have to tell you
3 that I would say 75 to 85 percent of anyone that
4 I send to prison has a drug problem. There is
5 just not even close to space available.

6 And, you know, there is a lot of truth
7 saying that when you go send someone away for a
8 long period of time and institutionalize them
9 and they come back worse, because they're out
10 there with other people who commit crimes, so
11 it's really -- we are hamstrung, that's why we
12 try very hard pretrial before someone is
13 convicted, to send them to places like Bridges
14 of Hope, particularly for people who have not
15 availed themselves, or asked to go. And it's
16 not a -- you know, I often have people
17 characterize it as a get out of jail free card,
18 it's not.

19 They are lock-down facilities, and, again,
20 when I send them, it's -- I think they'll have
21 to come back to jail, which is what happened in
22 his case. So they either decide that this is
23 the time, and they're gonna get better, or -- so
24 anyway, I just wanted to explain that to you,
25 because I know you're not here every day, so

1 that's what the range is for tomorrow. I'm
2 gonna see how his drug test comes out to me,
3 that's very important.

4 And then I just look at the whole totality
5 and circumstances, and I'll hear anything else
6 he has to tell me, and certainly any further
7 mitigation from Ms. Wilson. And I think Ms.
8 Price you're probably done, you've said your -

9 MS. PRICE: I'm looking for that order from
10 Judge Malphrus.

11 THE COURT: Okay, I appreciate that.

12 So - and that's something that so commonly
13 happens in criminal court, because in criminal
14 courts, they get behind on child support, and we
15 have, you know, the ability, our Family Court
16 Judges can put people in for failure to pay
17 child support for up to six months, and it just
18 ends up being a mess, which is really very sad.
19 And as you've heard he's expecting another child
20 in July, so that's gonna be another issue.

21 CLERK: Yes.

22 THE COURT: Any, it's a lot what we do up
23 here, but, again, I want to thank you all for
24 being here, and I know my alternates got there
25 as well. If we don't have people coming willing

1 to do this and sit on these jury panels, you
2 know, we aren't able to move cases, either by a
3 guilty plea or other manners.

4 And like I told you before, we've had quite
5 a backlog, we're working on it, and as long as
6 we have attorneys willing to prosecute,
7 attorneys willing to defend, we're gonna do
8 everything we can to get as much court time as
9 we can, to try to move these cases. But also it
10 tells you why diversionary programs are good,
11 and it tells you why when people plead guilty,
12 and there's other things we can do.

13 The State can, you know, lower a charge,
14 and get rid of some mandatory minimums, or at
15 least less than them, so we're not just, you
16 know, sending people, you know, we call it up
17 the road, and send them up for years and years
18 and years.

19 Our hope is, if we could rehabilitate
20 everyone, that would be great, but I will tell
21 you the common thing I say when I go speak to
22 groups, or I go speak in public for anything, I
23 have been doing this - I've been a Judge for 18
24 years, I've been a lawyer for 28 years, if I
25 could get rid of the drugs, I could get rid of

1 90 to probably 92 percent of crime. It is all
2 drug fueled, drug influenced, and it's just so
3 sad, it really is. It really is the evil part
4 of our society that, you know, we need to get a
5 clamp on, and, you know, I just feel like it's
6 pretty difficult.

7 So, you know, our law enforcement are
8 fighting it every single day. So anyway, I'm
9 gonna go ahead and excuse you, I kept you longer
10 than I expected to, but I want to thank you
11 again. I want to make sure you guys get back to
12 your car, but, again, thank you, we really
13 appreciate your service.

14 All right, anything else in this case
15 before we end? Okay. Can someone tell Ms.
16 Foote, if she's here before I am, and if he's
17 here before I am, or anyone else, she can
18 immediately drug test him, so we can get him
19 back as quickly as possible.

20 CLERK: Yes.

21 THE COURT: You plan on being here
22 tomorrow, Mr. Sharpe, correct?

23 MR. SHARPE: Yes, I will.

24 THE COURT: Okay.

25 THE JUROR: Your Honor, if I may, in terms

1 of prior motions and objections, should we put
2 it on the record now or in the morning?

3 THE COURT: Let's put it in - actually,
4 let's do it now. You mean as far as your trial
5 objections?

6 THE JUROR: Yes, ma'am.

7 THE COURT: Let's go ahead and do it for
8 all purposes, let's do trial objections.

9 MS. WILSON: Judge, if it please the Court?
10 We renew all prior objections and motions, as
11 well as the motion for a directed verdict, and
12 based upon the motion for a directed verdict,
13 and also ask the Court for a new trial as such.

14 THE COURT: All right. Well, taking the
15 evidence as stated, and, obviously, the jury
16 listened to it all, there certainly was more
17 than enough direct and circumstantial evidence
18 that this jury concluded, obviously, that he was
19 guilty, and I'm gonna let everything stand based
20 on my earlier rulings.

21 Anything else you need to put on the
22 record, Mr. Sharpe?

23 MR. SHARPE: No, Your Honor.

24 THE COURT: Okay.

25 MR. SHARPE: No, ma'am, nothing further.

1 THE COURT: All right. And if you don't
2 mind, was this your second trial, or your first
3 trial?

4 MR. SHARPE: This is my first solo trial.

5 THE COURT: That's what I thought. You
6 don't mind if I just talk to him very briefly,
7 just about trial performance? I just want to
8 tell him what he did really well, and he knows
9 I've already commented a little bit about his
10 witness sheet that he gave me.

11 And I will tell everybody, just to make
12 sure you know, when you give me a witness list
13 for a trial, in addition to the indictment
14 numbers, I need you to put what the charges are.
15 Because really, in my head, I know you have to
16 put the indictment numbers down on the record, I
17 can care less about those, I want to know what
18 they're charged with, okay?

19 And then the second thing I asked him to
20 do, and I will always ask the defense to do
21 this, if they have a witness list, which is
22 rare, but is to write what these people are
23 testifying to, because I need to know whether or
24 not they're really significant witnesses.

25 If they're just a 911 operator, they're

1 just the evidence custodian, not that they're
2 not important, but it really doesn't matter if
3 everyone in the community knows who they are,
4 because we're not really worried about their
5 truth and veracity, they're just here to
6 establish the chain.

7 So that's the other thing that I like to
8 know, instead of having to keep asking you.
9 Often times we have longer trials, and if
10 there's big long lists, you know, I have to say,
11 well, what are they gonna testify to, right? So
12 it just helps out and makes it go faster, all
13 right?

14 MR. SHARPE: Yes, Your Honor, thank you.

15 THE COURT: All right, so -- and in
16 addition to that, if you want to come talk to me
17 for a quick minute. I'll tell you what you did
18 really well. And Trasi, if you want to come to,
19 if you guys --

20 THE JUROR: Sure.

21 THE COURT: -- you can listen or not, it
22 doesn't matter, either way.

23 For the next one, you'all, I appreciate it,
24 and go celebrate.

25 MR. SHARPE: Thank you.

1 THE COURT: All right, and I'll see you
2 guys tomorrow, all right?

3 THE JUROR: Yes, Your Honor.

4 (At 5:25 p.m. the trial was continued to
5 the following day without interruption.)
6
7
8
9

10

11

12

PROCEEDINGS

13

**

14

THURSDAY, MAY 16, 2024

15

RIDGELAND, SOUTH CAROLINA

16

(The following proceedings were heard in
17 open court. All parties were present.)

18

**

19

SENTENCING HEARING

20

21

THE COURT: We are back on the record for
the sentencing of Derrick Tuten, who was convicted
22 by a jury yesterday of possession with intent to
23 distribute methamphetamine. It was a third drug
24 offense for him. I was looking to see, as far as
25 the drug testing --

1 MS. FOOTE: I did, ma'am. He was negative
2 on everything.

3 THE COURT: Very good.

4 MS. FOOTE: Yes, ma'am.

5 THE COURT: Mr. Tuten it sounds like -- you
6 have a long road, sir. I am happy to hear anything
7 else you need to say or would like to tell me.

8 THE DEFENDANT: First, I would like to
9 start by thanking you for the P.R. bond rehab. It
10 changed my whole perspective of life. It gave me a
11 whole new outlook. It saved my life.

12 It allowed me to see a lot of my flaws,
13 character defects, and a lot of things going on in
14 my life causing me to continue on with drug abuse.
15 I know that. I hate that it was a once-in-a-
16 lifetime opportunity. I got a full paid scholarship
17 to Bridges of Hope.

18 I don't have a family, so I would not have
19 been able to afford it. It was an opportunity I
20 would have never been presented if it wasn't for me
21 coming before you. It was the best opportunity in
22 my life.

23 Due to taking advantage of that
24 opportunity, I was able since 2022 when you sent me
25 there to right this second standing in front of you.

1 It has been the best time in my life.

2 The only time I have ever been sober-minded. It's
3 the only time I have ever said thanks for
4 everything.

5 I never wanted to be sober. I always
6 wanted to scheme drugs. The lifestyle has led me to
7 where I am right now standing before you is
8 something I wish I could have avoided a long time
9 ago.

10 I am 35 years old. I have 13-year-old, a
11 ten-year-old. I have a good woman that is seven
12 months pregnant.

13 It just sucks that it was an opportunity
14 like that for all the progress I made to have to
15 give it all away.

16 I have to allow someone else to raise my
17 newborn. There is a chance I will be 50 years old,
18 if I make it home. That's a fact. Because I loved
19 drugs so much. Because of my childhood, the rest of
20 my life is over.

21 And I just be wanted to thank you for that. The
22 last few years of my life have been amazing. I
23 really learned a lot about myself.

24 If it would have been explained to me a
25 little better when I went home. I would have rather

1 after getting the taste of what it could be like for
2 myself. I come back home to be told that you can
3 either accept 14 years of your life in prison or
4 take the 50-50 chance of 30 years.

5 I don't know what else to say.

6 THE COURT: Mr. Tuten, I thought a lot
7 about you since yesterday and certainly during the
8 week. Obviously, you have been in front of me
9 before.

10 You have had a very difficult past. I am
11 glad you got taste of what it feels like to be free
12 from drugs and to be joyful and have something to
13 look forward to. I want you to carry that with you.
14 You and I both know there is a mandatory minimum of
15 ten years on the sentence. I can't go lower than
16 that. You know it carries up to 30 years.

17 You can choose when you go to the
18 Department of Corrections to be clean. I know it
19 will be difficult and a fight but knowing how joyful
20 and good you feel now being free of drugs and
21 knowing what life can be and having a new baby
22 coming into this world.

23 You will get out. You will have an opportunity
24 to raise it. You will be able to help.

25 Obviously, you have to do this for

1 yourself, but you also have a new person to do it
2 for as well. It sounds like you have a good person
3 to do it for, especially a child.

4 I just hope that you continue on the route you
5 are on.

6 Your life has become a reality, but you
7 have got two, two-and-a-half years in of sobriety.
8 Keep doing it.

9 THE DEFENDANT: Thank you.

10 THE COURT: All right.

11 The sentence of this Court on Indictment
12 2020-GS-27-00445, possession with intent to
13 distribute methamphetamine, third offense.
14 You will be committed to the Department of
15 Corrections for a period of ten years.

16 I am giving you credit for the 13 months
17 served.

18 I am also putting on there if it is
19 available, you be allotted an ATU bed. Some of the
20 corrections and in some of the prisons there are
21 sober living floors. You need to try very hard to
22 get on one if possible.

23 I wish you the best of luck, Mr. Tuten.
24 I hope I see you somewhere in the next five years or
25 so out and hear that you are doing great.

1 Good luck to you, sir.

2 (At 10:16 a.m. the trial was concluded.)

3 **

4 **END OF TRANSCRIPT**

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

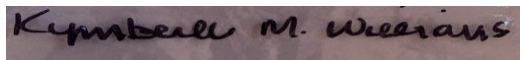
25

CERTIFICATE OF REPORTER*******

I, Kymberlee M. Williams, Certified Shorthand Reporter/Registered Professional Reporter for the 14th Circuit of the State of South Carolina do hereby certify that the foregoing is a true, accurate and complete transcript of the proceedings held in this case, relative to appeal, in the General Sessions Court for Jasper County, South Carolina on the 15th and 16th Days of May, 2024.

I do further certify that I am neither related to, of counsel for, or of any interest to any party hereto.

This, the 3rd day of December, 2024.



Kymberlee M. Williams, CSR/RPR

216 WITNESSES

Franciso Lemus - Hardeeville Police
Department

DOCKET NO. 2020GS2700455

The State of South Carolina

County of Jasper

COURT OF GENERAL SESSIONS

December Term 2022

THE STATE

vs.

DERRICK LEDDISSE TUTEN

Indictment For

PWID Methamphetamine -
3rd/subsequent offense

SC Code: 44-53-375(B)(3), 44-53-
470(A)(3), 44-53-470(A)(4)

CDR Code: 3200

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

ARREST WARRANT NUMBER

2020A2720100130

ACTION OF GRAND JURY

TRUE BILL 17
NO BILL 0
FOREMAN Che B
DATE 12-15-22

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

INDICT

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF JASPER)

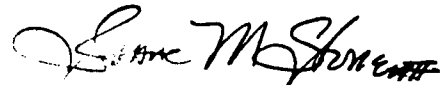
2020GS2700455

At a Court of General Sessions, convened on December 15, 2022, the Grand Jurors of Jasper County present upon their oath:

PWID Methamphetamine - 3rd/subsequent offense

That in Jasper County, South Carolina, on or about June 26, 2020, the Defendant, DERRICK LEDDISSE TUTEN, did manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine and DERRICK LEDDISSE TUTEN had been previously convicted of two or more violations of a controlled substance offense provision, other than a marijuana offense provision, of Article 3, Narcotics and Controlled Substances, or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs, and one of those previous violations was within ten years of a first violation of a controlled substance provision, other than a marijuana offense provision, of this Article or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs, to wit: Defendant was convicted on 5/24/18 of PWID Cocaine Base 1st in Beaufort County, SC and 8/3/18 was convicted of Possession of Cocaine in Chatham County, Georgia, all in violation of Section 44-53-375(B)(3), 44-53-470(A)(3), 44-53-470(A)(4), et al. of the Codes of Law of South Carolina.

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

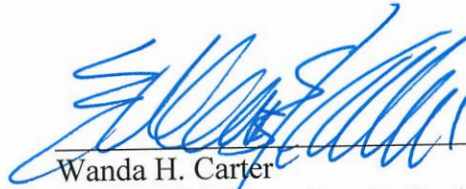


Solicitor

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

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

This 12th day of May, 2025.

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Jasper County

Honorable Carmen T. Mullen, Circuit Court Judge

RECEIVED

May 12 2025

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

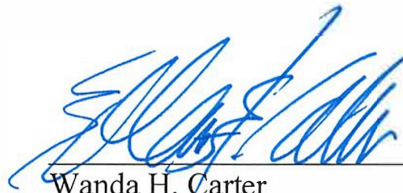
DERRICK LEDDISSE TUTEN,

APPELLANT

APPELLATE CASE NO. 2024-000904

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 12th day of May, 2025.



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