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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County

Honorable Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MACK ALLEN DAVIS,

APPELLANT

APPELLATE CASE NO. 2025-001964

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA **TRANSCRIPT OF RECORD**
2 COUNTY OF HORRY CASE NO.:2024-GS-26-04187

3 **ORIGINAL**

4 -----
5 September 10th and 12th, 2025
6 **BEFORE:** The Honorable Benjamin Culbertson

7 -----
8 STATE OF SOUTH CAROLINA,
9 Plaintiff,
10 vs.
11 MACK ALLEN DAVIS,
12 Defendant.

13 -----

14 **APPEARANCES:**
15 David Beamer, Esq.
16 Catherine Johnson, Esq.
17 Appearing for the State.
18 Johnny Gardner, Esq.
19 Appearing for Cassandra Dixon.

20 Stenographer: Natalie Dahl, RPR
21
22
23
24
25

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MOTIONS

1 P R O C E E D I N G S

2 THE COURT: Thank you very much. Please be
3 seated.

4 All right. This is State of South Carolina
5 versus Mack Allen Davis. The matter is before the
6 Court regarding Indictments 2024-GS-26-04187 and
7 2024-GS-26-04118. Both indictments charging the
8 defendant with distribution of methamphetamine
9 third or subsequent offense.

10 All right. Anything pretrial before we bring
11 the jury up and select the jury?

12 MR. GARDNER: I have a few matters, Your
13 Honor. The first one is that the defendant was
14 indicted with two drug charges. I think they are a
15 week or maybe two weeks apart. We ask the State to
16 elect on one of them, not go forward on two. It is
17 too prejudicial for him to have both of these in
18 front of the same jury.

19 THE COURT: All right. What is the State's
20 position?

21 MS. JOHNSON: Pursuant to case law State v.
22 Cutro, generally when a defendant is charged in
23 separate indictments and of the same general nature
24 involving connected transactions closely related in
25 kind, place, and character, you do have the

MOTIONS

1 discretion to allow us to try them together.

2 These two cases, they are both confidential
3 informant drug buys. It is the same CI informant,
4 and they occur about nineteen days apart.

5 THE COURT: Okay. So it's -- I mean, the
6 same CI?

7 MS. JOHNSON: Yes.

8 THE COURT: Same witnesses on both
9 transactions?

10 MS. JOHNSON: Yes.

11 THE COURT: Same officers?

12 MS. JOHNSON: Yes.

13 THE COURT: Same analyst who analyzed the
14 drugs?

15 MS. JOHNSON: Yes.

16 THE COURT: Same everything?

17 MS. JOHNSON: Yes.

18 THE COURT: But it occurred approximately two
19 weeks apart?

20 MS. JOHNSON: I think 19 days.

21 THE COURT: 19 days apart, okay.

22 Mr. Gardner, anything?

23 MR. GARDNER: Nothing further, Your Honor.

24 THE COURT: All right. Yeah, I'm going to
25 allow it. If it involved different CIs or

MOTIONS

1 different analysts or different witnesses, it might
2 be something different, but since it is the same
3 confidential informant, same witnesses, just two
4 events 19 days apart, I'm going to allow them to
5 try them together.

6 MR. GARDNER: Thank you, Your Honor.

7 The other motion that I have, Your Honor, is
8 to reveal the deal with the confidential informant.
9 I believe the Solicitor told me awhile ago that
10 there is no deal, and I would like to put whatever
11 it is on the record.

12 THE COURT: All right. Any promises or
13 agreements between the State and the confidential
14 informant?

15 MS. JOHNSON: No, Judge. The CI is a paid
16 informant by the police department.

17 THE COURT: A paid informant?

18 MS. JOHNSON: Yes.

19 THE COURT: Do you need anything else?

20 MR. GARDNER: He doesn't have pending
21 criminal charges?

22 MS. JOHNSON: No pending criminal charges.

23 THE COURT: Nothing being dismissed or
24 reduced?

25 MS. JOHNSON: No. No.

MOTIONS

1 THE COURT: Does he have pending criminal
2 charges?

3 MS. JOHNSON: So he has a criminal history,
4 but none of those charges carry over one year.

5 THE COURT: And none of those are being
6 dismissed or reduced or anything for his services?

7 MS. JOHNSON: No. He has convictions.

8 THE COURT: Okay.

9 MR. GARDNER: One moment, if I may, Your
10 Honor? If I may consult with my client?

11 THE COURT: All right.

12 (A brief pause in the proceedings.)

13 MR. GARDNER: Your Honor, may I consult with
14 the Solicitor for a moment?

15 THE COURT: That's fine.

16 (A brief pause in the proceedings.)

17 MR. GARDNER: Judge, I think the Solicitor
18 has a motion, and if the Court's okay with this,
19 let her do her motion, and I'll resume a motion
20 that may be in response to that?

21 THE COURT: All right.

22 MS. JOHNSON: We have a motion to amend both
23 the indictments in regards to the date. I have the
24 specific language here, if you want to see it,
25 Judge, or I can do it orally.

MOTIONS

1 THE COURT: If you want to amend the
2 indictments, tell me how you want it.

3 MS. JOHNSON: In regards to the one ending in
4 87, to amend, "Did on or about March 1st, 2023,"
5 to, "Did during the month of March 2023, on or
6 about March 9th, 2023."

7 In regards to the one ending in 88, the same,
8 "Did on or about March 1st, 2023," amend to, "Did
9 during the month of March 2023, on or about
10 March 27, 2023."

11 We did send Mr. Gardner this motion on 8/20.
12 He was aware of the dates. We sent the drug
13 reports with the dates on March 14th, and then he
14 came and watched the buy videos on April 23rd
15 that have the dates.

16 THE COURT: All right. So you want to change
17 both of them from March 1, 2023 to....

18 MS. JOHNSON: First one to March 9, 2023, and
19 the second one to March 27th, 2023.

20 THE COURT: Mr. Gardner, let me hear from
21 you.

22 MR. GARDNER: I consulted with my client
23 about this motion last night, and he would object
24 to it. And he also brings to my attention that he
25 is of the opinion that the discovery -- the

MOTIONS

1 warrants and the supplemental discovery is
2 different from the year 2023 to 2024, and, finally,
3 2025. He is asking that all of that be suppressed,
4 and that the case be continued to allow him to do
5 some more work on that. But I think to be
6 succinct, we object to the motion and alternatively
7 ask for a continuance.

8 THE COURT: Okay. I mean, I'll be honest
9 with you, if I grant your motion, I'll give him a
10 continuance so that they can do it. If they
11 prepared for a March 1, 2023 date, I don't know if
12 he has an alibi or what kind of defense he may have
13 for March 9th and March 27th. So we can go
14 forward with both indictments as March 1st, or
15 we'll continue it.

16 MS. JOHNSON: Judge, the indictments for
17 March 1st are done because that is what is listed
18 in the case report, because that's done to protect
19 the CI. When this is going forward, at the point
20 of trial, we have to amend it to when the specific
21 drug buy dates occurred, but we did not want to do
22 that until we knew for sure, in order to protect
23 the CI.

24 THE COURT: I understand that, but for me to
25 protect the defendant's rights, he is entitled to

MOTIONS

1 an indictment that states when he made these buys,
2 and if for the last two years these indictments
3 have told him it's been on March 1st, and now 30
4 minutes before we pick a jury you are telling him
5 it is March 9th and 27th, I have to protect the
6 defendant.

7 MS. JOHNSON: Judge, we did notify Mr.
8 Gardner, and on 8/20 he was aware of the dates, on
9 March 14th, and he was aware of the dates on
10 April 23rd. I would say it is not a surprise
11 because we gave him --

12 THE COURT: So why didn't you go ahead and
13 move to amend the indictments back in March and
14 April?

15 Did you know about it, Mr. Gardner, back in
16 March?

17 MR. GARDNER: The date she told me, which I
18 think was last month --

19 MS. JOHNSON: 8/20.

20 MR. GARDNER: Yeah, last month. Today is
21 9/10, so less than a month ago. She sent me a
22 motion she was going to try to do it. But what
23 compounds it, Your Honor, is that my client was --
24 his warrants are for simple possession, and now
25 he's been indicted for third offense distribution.

MOTIONS

1 That's completely different. Not even in the
2 ballpark. I mean, that's a different world.

3 THE COURT: But he was indicted in July of
4 2024, so he knows what charges are pending.

5 MR. GARDNER: Yes, sir.

6 THE COURT: My question is: When did he find
7 out that their allegations were that these buys
8 occurred on March 9th and March 27th, as opposed to
9 March 1st?

10 MR. GARDNER: I'm not -- if she said it was
11 August 20th of this year, then I would --

12 MS. JOHNSON: August 20th I sent the
13 motion, but the dates were provided
14 March 14th and April 23rd of this year.

15 THE COURT: All right. Did they -- how did
16 you provide them?

17 MS. JOHNSON: So the dates were provided in
18 the drug report, which is the day the drugs were
19 collected, and Mr. Gardner came in and watched the
20 buy videos that are timestamped with the dates.

21 THE COURT: So that was in March and April of
22 2025?

23 MR. GARDNER: Hold on now. March of this
24 year?

25 MS. JOHNSON: We sent discovery with the drug

MOTIONS

1 reports.

2 MR. GARDNER: I've only been on this case
3 about four months.

4 MS. JOHNSON: The same week you were
5 appointed.

6 THE COURT: When were you appointed?

7 MR. GARDNER: I was appointed on a Wednesday,
8 and he had already had a hearing scheduled Friday.

9 THE COURT: What month? They said they are
10 giving you the information, the drug report, in
11 March -- gave you -- when did you give Mr. Gardner
12 the drug reports?

13 MS. JOHNSON: Discovery was sent
14 March 14th.

15 THE COURT: March 14th. And the drug
16 reports of March 14th of 2025 show the dates of
17 the buy or buys, the alleged buys.

18 MR. GARDNER: Court's indulgence.

19 (A brief pause in the proceedings.)

20 THE COURT: Do you have it when he was
21 appointed? He said four months, which have been --

22 MR. GARDNER: February.

23 THE COURT: Oh, in February? Okay.

24 MR. GARDNER: I don't have the appointment
25 order. We were just trying to figure that out. I

MOTIONS

1 didn't know it was going to be an issue.

2 THE COURT: Well, February is about seven
3 months ago, and they said they gave it to you in
4 March.

5 MR. GARDNER: I'm not disputing discovery,
6 but I don't think the dates were an issue until
7 August 20th of this year.

8 THE COURT: But what she's saying is that in
9 March she gave you the drug reports that had the
10 dates on them. Then, in August, she notified you
11 of the motion to amend the indictment to reflect
12 the dates that were contained in the drug report.
13 So did you get the drug report in March that showed
14 the dates? That means you had since March, which
15 is different than just a week or so ago.

16 MR. GARDNER: I think that falls -- I will
17 take the Solicitor at her word. If she said she
18 sent it to me in March, but that falls in line with
19 what -- if she's finished. I don't want to --

20 THE COURT: It's okay. Go ahead.

21 MR. GARDNER: Part of the -- part of our
22 objection to that, Your Honor, is that my client
23 has lined up these dates where the discovery has
24 changed over the course of the year, including as
25 late as 2025.

MOTIONS

1 THE COURT: What do you mean it's changed?

2 How has discovery changed?

3 MR. GARDNER: Well, I think we're starting
4 with his original warrant for simple possession and
5 then --

6 THE COURT: He was charged with simple
7 possession. I'm assuming that would have been....

8 MR. GARDNER: The date of the arrest.

9 THE COURT: The date of the arrest. And he
10 remained charged with simple possession -- when was
11 he arrested?

12 MS. JOHNSON: He was arrested August of 2023.
13 We received a drug report July of 2024. At that
14 point of receiving the drug report, he was indicted
15 for distribution of methamphetamine.

16 THE COURT: All right. He was arrested in
17 August of 2023 for possession?

18 MS. JOHNSON: Yes.

19 THE COURT: He was -- in July of 2024, he was
20 indicted on distribution?

21 MS. JOHNSON: Yes.

22 THE COURT: When was he served with the
23 indictments?

24 MS. JOHNSON: He was served with the
25 indictments at the jail. I don't have the paper

MOTIONS

1 with me, but it would have been in 2024.

2 THE COURT: In 2024 he was served with the
3 indictments, which charged him with distribution.

4 And you got the drug report, when?

5 MS. JOHNSON: July 2024, Judge.

6 THE COURT: All right. And then Mr. Gardner
7 comes in this February of 2025. You served him
8 with the discovery in March of 2025, which includes
9 the drug report showing the dates of the alleged
10 buys. And then in August, you filed your motion to
11 amend; is that correct?

12 MS. JOHNSON: Yes, Judge.

13 THE COURT: Mr. Gardner, is that all correct?

14 MR. GARDNER: I'm sorry, Your Honor, if I can
15 just have a minute?

16 (A brief pause in the proceedings.)

17 MR. GARDNER: Judge, if I may consult with
18 the Solicitor?

19 THE COURT: All right.

20 (A brief pause in the proceedings.)

21 MR. GARDNER: I think some of the
22 confusing -- confusion, Your Honor, might be on
23 packaging. For example, the subpoena in the
24 criminal case referenced for today 2024-GS-26-04187
25 and 88, and also 2025-GS-26-5487 and 88. The

MOTIONS

1 solicitors tell me that that's the same indictment
2 after it's modified, so I think that is where the
3 confusion came from.

4 Also, I think it might be packaging, because
5 my client has -- it appears to me -- some
6 information from the year 2023. He's been in jail
7 I think for three -- however long that's been since
8 2023. He's got some discovery in 2023. He's got
9 some discovery in 2024, and he's got some discovery
10 in 2025. I think it is all dated when he received
11 it or when it was sent to him, and I think it's
12 substantially the same thing, and he disagrees. He
13 thinks it has changed or modified somehow. I don't
14 think it has --

15 MR. DAVIS: Yes, it has.

16 MR. GARDNER: We disagree on that.

17 THE COURT: If he was arrested in August of
18 2023, charged with possession, he was indicted in
19 July of 2024 and served in 2024 with those
20 indictments, he switched attorneys in February of
21 2025 and got you, and in March of 2025 they
22 provided the drug report that shows the dates --
23 alleged dates of purchase, and then has filed this
24 motion, I'll allow them to amend the dates or amend
25 the indictments to reflect on 4187 the alleged buy

MOTIONS

1 date March 9th, and 4188 alleged purchase date as
2 March the 27th. Because, you know, there is a
3 big difference between getting them in March of
4 2025 versus now.

5 MR. GARDNER: We're not arguing with your
6 ruling. He wants to put on the record that he was
7 in court on August 15th arguing a motion, and the
8 Solicitor didn't bring that to his attention at
9 that time. .

10 THE COURT: Well, she hadn't filed the motion
11 at that time. I don't know why she waited until
12 August, but if you had the information since March,
13 I'll allow them to do it.

14 MR. GARDNER: Okay. All right. And if I
15 could have another moment? I apologize.

16 THE COURT: I'm going to go ahead and I'm
17 just going to write those dates and initial on the
18 indictment.

19 MR. BEAMER: Thank you, Your Honor.

20 THE COURT: Anything else from the State?

21 MS. JOHNSON: That was my only motion, Judge.

22 MR. GARDNER: Judge, my client has some ideas
23 of some motions he would like me to make, but at
24 this time, I don't have a motion to make. And if
25 you can -- Court's indulgence. Let me try to

MOTIONS

1 resolve the conflict that I have here with --

2 THE COURT: All right. That will be fine.

3 (A brief pause in the proceedings.)

4 MR. GARDNER: Judge, at this time I would
5 move to have the warrant -- the indictment quashed
6 based on a faulty warrant, the grounds for the
7 warrant not having the date and the location of the
8 buy.

9 THE COURT: All right. Do you have the
10 warrant?

11 MS. JOHNSON: Do you want a copy, Judge?

12 THE COURT: You can provide me with a copy or
13 tell me what day the buy occurred.

14 MS. JOHNSON: They both say during the month
15 of March, as is typical with CI buys. Warrants do
16 not usually specify a date for CI buys.

17 THE COURT: Well, let's see if they
18 adequately -- yeah, they both say during the month
19 of March. So I'm going to deny that motion.

20 MR. GARDNER: I don't know if I said it --
21 and, again, not arguing, I just want to make sure I
22 put it on the record. He said that no address of
23 where the control buy took place. I don't think it
24 had an address on there.

25 THE COURT: All right. I'm going to deny

MOTIONS

1 your motion. I'm not going to quash it.

2 MR. GARDNER: I believe all of the other
3 stuff goes to the weight of the evidence and not
4 the admissibility, so that is all the pretrial
5 stuff, Your Honor.

6 THE COURT: All right. I need a proposed
7 witness list from both sides, and we'll bring the
8 jury up, and when they get up here, we'll go ahead
9 and start jury selection.

10 MR. GARDNER: Okay, Judge. We don't have any
11 witnesses other than possibly the client.

12 THE COURT: All right. That will be fine.

13 All right. Anything from the State before we
14 bring the jury panel up?

15 MS. JOHNSON: No, Your Honor.

16 THE COURT: Anything from the defense?

17 MR. GARDNER: No, Your Honor.

18 THE COURT: Let's take a 10-minute recess
19 until we get the jury panel up here, and we'll
20 start with jury selection.

21 As I understand, this is a ten and five
22 strike?

23 MR. BEAMER: I believe that is correct, Your
24 Honor.

25 THE COURT: Sounds good. We'll take a

JURY SELECTION

1 10-minute break and come back.

2 (A recess was taken.)

3 THE COURT: Good afternoon, ladies and
4 gentlemen. I appreciate your promptness in being
5 on time today. I apologize for keeping you down in
6 the jury room for so long. We had some scheduling
7 matters that ran behind, and I apologize for that.

8 We are getting ready to start the case of the
9 State of South Carolina versus Mack Allen Davis.
10 You have been qualified to serve as jurors for this
11 term of general sessions court. The next series of
12 questions I have to go over with you is referred to
13 as "voir dire questioning," and that is to
14 determine, you know, whether you are qualified to
15 serve as jurors on this particular case. It also
16 gives the attorneys some additional information
17 that may assist them in the jury selection process.

18 I see some faces from the jury -- prior jury
19 that was selected on Monday, so some of this might
20 be repetitive for some of you, but please listen up
21 as I go over these questions.

22 First of all, I need all members of the jury
23 panel to please stand and raise your right hands.

24 (Whereupon, the prospective jury panel was
25 duly sworn.)

JURY SELECTION

1 THE COURT: Thank you very much. You may be
2 seated.

3 Is there any member of the jury panel that
4 did not respond to the oath by saying "I do"? If
5 so, please stand.

6 All right. As I said, we are getting ready
7 to start the trial of the case of the State of
8 South Carolina versus Mack Allen Davis. According
9 to the indictment, it charges Mr. Davis with two
10 counts of distribution of methamphetamine. One
11 allegedly occurring on March the 9th, 2023, and the
12 other allegedly occurring on March 27th, 2023.

13 Both occurred here in Horry County, South Carolina.

14 Now, is there any member of the jury panel
15 who has heard anything, read anything, discussed
16 anything or knows anything about this case? If so,
17 please stand.

18 As I said, the defendant is Mack Allen Davis.
19 Is there any member of the jury panel related by
20 blood or marriage that has a close relationship,
21 business relationship, social relationship or any
22 other type of relationship with Mr. Davis? If so,
23 please stand.

24 Please listen carefully as these may be
25 potential witnesses who testify in this case. In

JURY SELECTION

1 addition to the defendant, we also have Gregory
2 Dewitt of the Horry County Police Department;
3 Merrell Hawkins of the Horry County Police
4 Department; Courtney Johnson of the Horry County
5 Police Department; and Travis Davis. Is any member
6 of the jury panel related by blood or marriage,
7 have a close personal relationship, business
8 relationship, social relationship or any other type
9 of relationship with any of these potential
10 witnesses? If so, please stand.

11 Prosecuting this case on behalf of the State
12 are attorneys Catherine Johnson and David Beamer.
13 Representing the defendant is attorney Johnny
14 Gardner of Johnny Gardner Law Firm here in Conway,
15 South Carolina. Is there any member of the jury
16 panel related by blood or marriage, have a close
17 personal relationship, business relationship,
18 social relationship or any other type of
19 relationship with any of these attorneys? If so,
20 please stand.

21 Has any member of the jury panel ever been
22 represented by any of these attorneys? If so,
23 please stand.

24 Has any member of the jury panel ever been
25 involved in any legal action in which any of these

JURY SELECTION

1 attorneys represented another party to that action?

2 If so, please stand.

3 Is there any member of the jury panel who
4 either personally has a family member or close
5 personal friend employed with the 15th Circuit
6 Solicitor's Office or the Johnny Gardner Law Firm?

7 If so, please stand.

8 Is there any member of the jury panel who
9 either personally has a family member or close
10 personal friend employed with the Horry County
11 Police Department? If so, please stand.

12 Has any member of the jury panel formed or
13 expressed an opinion about any issue or matters
14 involved in this case? If so, please stand.

15 Is any member of the jury panel aware of any
16 bias or prejudice towards either the State or the
17 defendant in this case? If so, please stand.

18 Is there any member of the jury panel that
19 was a member of the Grand Jury that issued the
20 indictments in this case? If so, please stand.

21 Is there any member of the jury panel that is
22 a member of or a contributor to any organization
23 which has as its primary concern the promotion of
24 law enforcement or victim's rights. For example,
25 some of these organizations are Mothers Against

JURY SELECTION

1 Drunk Drivers, Students Against Drunk Drivers,
2 Citizens Against Violent Crime, also referred to as
3 CAVE, or Citizens Against Spousal Abuse, also
4 referred to as CASA, or any similar organization?
5 Is any member of the jury panel a member of or
6 contributor to any such organization? If so,
7 please stand.

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

14 Yes, ma'am, the lady in the leopard skin,
15 Your name and number?

16 JUROR: Michelle Dowling, 334.

17 THE COURT: Hold for one second.

18 All right. Ms. Dowling, if you would, come
19 forward, please.

20 Y'all want to come up.

21 Just stand right here. Wait for one second.

22 (The following was a bench conference.)

23 THE COURT: All right.

24 JUROR: I'm a bartender. Friday is my
25 biggest money-making day. I make about \$500. I

JURY SELECTION

1 have already missed work, so I'm concerned that I'm
2 not going to be able to pay my bills because it
3 will run into Friday.

4 THE COURT: It most definitely will go into
5 Friday.

6 JUROR: And that is what she had mentioned,
7 so she said I should say something. I was just
8 worried I'm not going to be able to pay my bills.

9 THE COURT: I can't excuse you unless
10 everybody agrees.

11 MR. BEAMER: I'm fine.

12 JUROR: Oh, God bless you, sir. Thank you.

13 THE COURT: Okay. Ms. Dowling, if you would,
14 stay with us for right now, but I'll excuse you
15 from this particular case.

16 JUROR: Thank you, sir. I appreciate it.

17 (The following was had in open court.)

18 THE COURT: Yes, sir. You're name and
19 number?

20 JUROR: Jordan Rich, 276.

21 THE COURT: Come forward.

22 (Whereupon, a bench conference was had.)

23 JUROR: Sir, my wife is nine months pregnant,
24 and between her contractions yesterday, and my
25 phone is off in court.

JURY SELECTION

1 THE COURT: Say that again?

2 JUROR: She's nine months pregnant and she
3 started having contractions.

4 THE COURT: Yesterday having contractions?

5 JUROR: Yes, sir.

6 THE COURT: Let's dismiss him. Stay with us
7 for right now, but I'll excuse you from this case,
8 okay.

9 JUROR: Thank you.

10 (The following was had in open court.)

11 THE COURT: Your name and number?

12 JUROR: Thomas Purcell, No. 270.

13 (Whereupon, a bench conference was had.)

14 JUROR: Good afternoon, Your Honor. I have
15 a -- on Monday -- I don't know how long it's going
16 to go, I just wanted to let you know on Monday I
17 have a very important dermatology appointment for
18 cancer. And then I have stuff on Tuesday I have to
19 do with one of the schools, local schools. I just
20 wanted to let you know that.

21 THE COURT: We'll be done by then.

22 JUROR: Okay. No problem. Thank you.

23 (The following was had in open court.)

24 THE COURT: Any additional questions from
25 the State?

JURY SELECTION

1 MS. JOHNSON: No, Judge.

2 THE COURT: Any from the defense?

3 MR. GARDNER: No, Your Honor.

4 THE COURT: All right. Ladies and gentlemen,
5 for those of you who have not been through this
6 process before, the way we select a jury in general
7 sessions cases is your names have been generated on
8 a list in random order. The clerk of court will
9 call your names according to that list and the
10 order they appear on that list. If your name is
11 called, you'll need to come forward, stand here in
12 front of the court reporter, and turn and face the
13 attorneys.

14 Now, they are going to look at you a little
15 while and look at their notes and decide whether or
16 not they want you as a juror. The State -- if the
17 State accepts you as a juror, then it goes to the
18 defense. If the defense accepts you as a juror,
19 then you will be a juror in this case.

20 Each side gets a certain number of strikes,
21 so you may be excused. If you get excused, please
22 do not take it personally. It just means that, for
23 whatever reason, you don't fit a certain profile
24 that they're looking for on this particular case.

25 I've seen cases where a person has been

JURY SELECTION

1 selected on one case and rejected on another case,
2 or rejected on a first case and accepted on a
3 second case. So there is really no rhyme or
4 reason. So don't take it personally if either side
5 excuses you. Each side gets a certain number of
6 preemptory strikes to exercise during this process.

7 If your name is called, please come forward.
8 Bring with you any coats, pocketbooks, umbrellas,
9 whatever you might have with you, come and stand in
10 front of the court reporter, turn and face the
11 attorneys for further instructions.

12 THE CLERK: All right. Juror No. 255, Arlene
13 Pezzullo. Just turn around and face the back.
14 There you go. Thank you.

15 What says the State?

16 MS. JOHNSON: Present this juror.

17 THE CLERK: Defense?

18 MR. GARDNER: Swear the juror, Your Honor.

19 THE CLERK: All right. If you will, please
20 have a seat over in the jury box.

21 Thank you.

22 Juror 251, Susan Pearce. What says the
23 State?

24 MS. JOHNSON: Present this juror.

25 THE CLERK: Defense?

JURY SELECTION

1 MR. GARDNER: Court's indulgence.

2 THE COURT: All right.

3 (A brief pause in the proceedings.)

4 MR. GARDNER: Swear the juror, Your Honor.

5 THE COURT: All right.

6 THE CLERK: Please be seated in the jury box.

7 Juror 27, Brianna Richardson. What says the
8 State?

9 MS. JOHNSON: Present this juror.

10 THE CLERK: Defense?

11 MR. GARDNER: Your Honor, may I have a
12 moment? I apologize.

13 THE COURT: All right.

14 (A brief pause in the proceedings.)

15 MR. GARDNER: Excuse this juror for this
16 case.

17 THE CLERK: You are excused for this
18 particular case.

19 MR. DAVIS: Your Honor, I wanted her to stay.

20 THE COURT: No, sir. You have got an
21 attorney. The attorney makes the decision.

22 THE CLERK: Juror 173, Jerry Kerns. What
23 says the State?

24 MS. JOHNSON: Present this juror.

25 THE CLERK: Defense?

JURY SELECTION

1 MR. GARDNER: Please excuse this juror, Your
2 Honor.

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

5 Juror 350, Katharine Ward. What says the
6 State?

7 MS. JOHNSON: Excuse this juror.

8 THE CLERK: You're excused from this
9 particular case.

10 Juror No. 178, Timothy Kuzio. What says the
11 State?

12 MS. JOHNSON: Present this juror.

13 THE CLERK: Defense?

14 MR. GARDNER: Please excuse this juror.

15 THE CLERK: You're excused from this
16 particular case.

17 Juror No. 289, Jessica Royal. What says the
18 State?

19 MS. JOHNSON: Present this juror.

20 THE CLERK: Defense?

21 MR. GARDNER: Please swear the juror, Your
22 Honor.

23 THE CLERK: Juror 157, Derek Hopper. What
24 says the State?

25 MS. JOHNSON: Present this juror.

JURY SELECTION

1 THE CLERK: Defense?

2 MR. GARDNER: Please excuse this juror, Your
3 Honor.

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

6 Juror 158, Frederick Howell. What says the
7 State?

8 MS. JOHNSON: Present this juror.

9 THE CLERK: Defense?

10 MR. GARDNER: Swear the juror.

11 THE CLERK: Juror 27, Stacey Beaupre. What
12 says the State?

13 MS. JOHNSON: Present this juror.

14 THE CLERK: Defense?

15 MR. GARDNER: Swear the juror.

16 THE CLERK: Please be seated in the jury box.

17 Juror 118, Katherine Gordon. What says the
18 State?

19 MS. JOHNSON: Present this juror.

20 THE CLERK: Defense?

21 MR. GARDNER: Swear the juror.

22 THE CLERK: Juror No. 70, Christopher Clardy.

23 What says the State?

24 MS. JOHNSON: Present this juror.

25 THE CLERK: Defense?

JURY SELECTION

1 MR. GARDNER: Please excuse this juror.

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

4 Juror 299, Allison Shanahan. What says the
5 State?

6 MS. JOHNSON: Present this juror.

7 THE CLERK: Defense?

8 MR. GARDNER: Swear the juror.

9 THE CLERK: Please be seated in the jury box.

10 Juror 349, Rebecca Walls. What says the
11 State?

12 MS. JOHNSON: Present this juror.

13 THE CLERK: Defense?

14 MR. GARDNER: Please excuse this juror.

15 THE CLERK: You're excused from this
16 particular case.

17 Juror No. 119, Jordan Grainger. What's says
18 the State?

19 MS. JOHNSON: Please excuse this juror.

20 THE CLERK: You are excused from this
21 particular case.

22 Juror No. 353, Ricky Wendland. What says the
23 State?

24 MS. JOHNSON: Please excuse this juror.

25 THE CLERK: You're excused from this

JURY SELECTION

1 particular case.

2 MR. GARDNER: Your Honor, can we get a count?

3 THE COURT: I have State has exercised three
4 strikes; defense has exercised six. Is that
5 correct?

6 THE CLERK: Yes, sir.

7 MR. GARDNER: Thank you, Judge.

8 THE CLERK: Juror 326, Julie Strickland.
9 What says the State?

10 MS. JOHNSON: Present this juror.

11 THE CLERK: Defense?

12 MR. GARDNER: Swear the juror, Your Honor.

13 THE CLERK: Juror No. 257, Randall Phipps.
14 What says the State?

15 MS. JOHNSON: Present this juror.

16 THE CLERK: Defense?

17 MR. GARDNER: Please excuse this juror, Your
18 Honor.

19 THE CLERK: You're excused from this
20 particular case.

21 Juror No. 120, Michael Grammas. What says
22 the State?

23 MS. JOHNSON: Present this juror.

24 THE CLERK: Defense?

25 MR. GARDNER: Please swear the juror, Your

JURY SELECTION

1 Honor.

2 THE CLERK: Please be seated in the jury box.

3 Juror No. 220, Eric Miller. What says the

4 State?

5 MS. JOHNSON: Present this juror.

6 THE CLERK: Defense?

7 MR. GARDNER: Please excuse the juror, Your

8 Honor.

9 THE CLERK: You're excused from this
10 particular case.

11 Juror 162, Joshua Isentol. What says the

12 State?

13 MS. JOHNSON: Present this juror.

14 THE CLERK: Defense?

15 MR. GARDNER: Please swear the juror, Your

16 Honor.

17 Juror 149, Tiffany Hereda. What says the

18 State?

19 MS. JOHNSON: Present the juror.

20 THE CLERK: Defense?

21 MR. GARDNER: Swear the juror, please.

22 THE CLERK: Please be seated in the jury box.

23 Juror No. 331, Cameron Sutton. What says the

24 State?

25 MS. JOHNSON: Excuse this juror.

JURY SELECTION

1 THE CLERK: You are excused from this
2 particular case.

3 Juror No. 87, Susan Dolliver. What says the
4 State?

5 MS. JOHNSON: Present this juror.

6 THE CLERK: Defense?

7 MR. GARDNER: Please excuse this juror.

8 THE CLERK: You're excused from this
9 particular case.

10 Juror 195, Carter Maclean. What says the
11 State?

12 MS. JOHNSON: Excuse this juror.

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

15 Juror 215, Jennifer McMahon. What says the
16 State?

17 MS. JOHNSON: Present this juror.

18 THE CLERK: Defense?

19 MR. GARDNER: Swear the juror, Your Honor.

20 THE COURT: State gets one strike; defense,
21 two.

22 THE CLERK: Juror 184, Steven Levesque. What
23 says the State?

24 MS. JOHNSON: Present this juror.

25 THE CLERK: Defense?

JURY SELECTION

1 MR. GARDNER: Please excuse this juror, Your
2 Honor.

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

5 Juror No. 152, Terry Hill. What says the
6 State?

7 MS. JOHNSON: Present this juror.

8 THE CLERK: Defense?

9 MR. GARDNER: Swear the juror.

10 THE CLERK: Please be seated in the jury box.

11 THE COURT: Thank you. You are the jury that
12 will preside over this case. I'll excuse you back
13 to the jury room for a few minutes while I release
14 the remainder of the jury panel. While you're in
15 the jury room, if you can select a foreperson for
16 this jury. You may not know everybody. You may
17 not be able to select a foreperson, and if you
18 can't, don't worry about it. I can appoint someone
19 to serve as foreperson. Many judges appoint their
20 own foreperson. I like to give the jury the
21 opportunity to select one on their own, if they're
22 able to do so.

23 Now, the foreperson has absolutely no more
24 authority, no more influence, no more importance
25 than any other juror. The function of the

JURY SELECTION

1 foreperson is to act as a liaison between the Court
2 and the jury. If the jury has a question, the
3 foreperson lets the Court know. If the jury has a
4 need, the foreperson lets the Court know. When it
5 is time to deliberate, the foreperson will preside
6 over the deliberations and sign the verdict form.
7 But other than that, the foreperson has no more
8 authority, no more influence, and no more
9 importance than any other juror.

10 The only restriction is that at this time,
11 Mr. Hill, you are an alternate, so you would not be
12 eligible, but anyone else can serve as foreperson.
13 If you can select a foreperson, write his or her
14 name with a jury number, and give it to the
15 bailiff, and we'll bring you back into the
16 courtroom at that time.

17 When you come back into the courtroom, the
18 foreperson will always occupy the first seat on the
19 front row closest to the witness stand. Mr. Hill
20 is the alternate. You'll always occupy the
21 alternate seat, unless you become a member. The
22 rest of you are at liberty to sit in whatever seat
23 you like. If you want to sit in the same seat
24 throughout the trial, you can do that. If you want
25 to alternate seats, you can do that as well. The

JURY SELECTION

1 only requirements are that the foreperson occupies
2 the first seat on the front row, and the alternate
3 occupies the alternate seat.

4 So I'll excuse you back to the jury room for
5 a few minutes. See if you can select a foreperson,
6 and we'll bring you back in just a moment.

7 Thank you very much.

8 (The jury exits at 2:39 p.m., and the
9 following is heard out of the presence of the jury.)

10 THE COURT: Any challenges to the selection
11 or composition of the jury?

12 MS. JOHNSON: No, Judge.

13 THE COURT: Any by the defense?

14 MR. GARDNER: No, Your Honor.

15 THE COURT: Ladies and gentlemen, those of
16 you who remain in the jury panel, we have our jury
17 for this case, so your services will no longer need
18 to be needed, not only in this case, but for the
19 remainder of the week. We don't have any other
20 trials starting this week. So I'm going to excuse
21 you for the remainder of the week, and I'll thank
22 you for your service for being here. I know jury
23 duty is not a fun thing to do, but it is an
24 important thing to do. As I told you during jury
25 qualifications, you're mandated by both our federal

JURY SELECTION

1 and state constitutions as part of your judicial
2 system.

3 You have a one-year disqualification from
4 serving jury duty. You've got a three-year
5 exemption. I hope you don't exercise your
6 exemptions, because we do need good jurors.

7 I'll thank each and every one of you for
8 being here, but you're free to go for the remainder
9 of the day -- the remainder of the week. Thank you
10 very much for your service.

11 (The prospective jury panel exits the
12 courtroom at 2:40 p.m.)

13 THE COURT: All right. Let's take five
14 minutes. We'll let them select a foreperson. I'll
15 do opening charges, opening statements, and we'll
16 try to get into the case starting in the afternoon.

17 I allow direct examination, cross
18 examination, redirect examination only as to
19 matters addressed on cross that were not addressed
20 on direct. I don't allow recross, okay. So if
21 anyone starts to exceed the scope of redirect,
22 raise your objection and we'll deal with it then.

23 Anything from the State before we take a
24 short recess?

25 MS. JOHNSON: No, Your Honor.

OPENING STATEMENT TO THE JURY BY THE COURT

1 THE COURT: Anything from the defense?

2 MR. GARDNER: No, Your Honor.

3 THE COURT: All right. Let's take about a
4 five-, ten-minute break, and let me know as soon as
5 they have -- get a foreperson, and we'll get
6 started then.

7 Thank you all very much.

8 (A recess was taken.)

9 (State's Exhibits 1-8 marked.)

10 THE COURT: Thank you very much. Please be
11 seated.

12 145 or 149?

13 THE CLERK: I thought it was....

14 DEPUTY: It was Ashley somebody.

15 THE COURT: Tiffany?

16 DEPUTY: I'll be back.

17 (A brief pause in the proceedings.)

18 DEPUTY: 149.

19 THE COURT: All right. They've selected
20 Juror 149; that is Tiffany Hereda as the
21 foreperson.

22 All right. We'll bring the jury in. I'll do
23 opening charges, opening statements from the
24 attorneys, and then we'll get started in the case.

25 Anything from the State before we bring the

OPENING STATEMENT TO THE JURY BY THE COURT

1 jury in?

2 MS. JOHNSON: No, Your Honor.

3 THE COURT: Anything from the defense?

4 MR. GARDNER: One moment, Your Honor, I
5 apologize.

6 THE COURT: All right.

7 (A brief pause in the proceedings.)

8 MR. GARDNER: Thank you. We're ready, Your
9 Honor.

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

12 (The jury enters at 3:01 p.m., and the
13 following is heard in the presence of the jury.)

14 THE COURT: All right. Ladies and gentlemen,
15 welcome back. I understand -- you are going to
16 have to pronounce the name.

17 JUROR: Tiffany Hereda.

18 THE COURT: You've been selected as
19 foreperson; is that right?

20 JUROR: Yes, sir.

21 THE COURT: Thank you very much for serving
22 in that capacity. If you would, always occupy the
23 seat where you now sit.

24 And, Mr. Hill, if you will, always occupy
25 your seat.

OPENING STATEMENT TO THE JURY BY THE COURT

1 And, as I said, the rest of you are at
2 liberty to sit in the same seat, alternate seats or
3 whatever makes you feel more comfortable.

4 We're getting ready to start the trial of the
5 case of State versus Mack Allen Davis, but as I
6 told you during qualifications, and as you
7 witnessed voir dire, jurors are constantly taking
8 oaths. So I need all members of the jury to please
9 stand and raise your right hands while the clerk
10 administers the oath for you to serve as jurors on
11 this particular case.

12 (Whereupon, the jury was sworn.)

13 THE CLERK: Do you solemnly swear or affirm
14 you will well and truly try the issues joined in
15 this case and a true verdict rendered according to
16 the law and evidence, so help you God?

17 Thank you. You may be seated.

18 THE COURT: All right. Is there any member
19 of the jury that did not respond to the oath by
20 saying "I do"? If so, please stand.

21 Thank you very much, ladies and gentlemen.
22 And, as I said, we're getting ready to start the
23 trial of the case of the State of South Carolina
24 versus Mack Allen Davis, but before we do that, I
25 have preliminary charges I need to go over with you.

OPENING STATEMENT TO THE JURY BY THE COURT

1 I know from watching TV, reading books, TV
2 shows, things of that nature, trials are often full
3 of a lot of suspense, a lot of action, things that
4 might be entertaining. And while that might be the
5 case in this trial, it probably won't be. I think
6 what you will probably find out is that trials are
7 often slow and repetitive, and the exact opposite of
8 what you might be accustomed to when you watch a
9 trial or read about a trial for entertainment
10 purposes, but I do hope you do find it entertaining
11 and educational. I want to thank you from the
12 outset for serving as jurors in this case.

13 The attorneys appearing before you are
14 advocates for the parties they represent. And
15 first and foremost, they are officers of the court.
16 They are sworn to uphold the integrity and the
17 fairness of our judicial system, and to help you in
18 the search for the truth in this case. You can
19 expect them to be professional, competent, and
20 ethical in the representation of their client's
21 interests.

22 What I will now say is intended to serve as
23 an introduction to the trial of this case. These
24 remarks are not a charge on the law in this case.
25 I'll instruct you on the law applicable to this

OPENING STATEMENT TO THE JURY BY THE COURT

1 case at the end of the trial before you retire to
2 consider your verdict. This is merely an
3 explanation of the procedure that will follow in
4 this case so that you can better understand what's
5 happening.

6 Now, the defendant is charged by two
7 indictments filed in this court of the crime of
8 distribution of methamphetamine. The elements of
9 that crime, I'll explain to you at a later time.

10 The indictments are simply the charge by
11 which this case is brought into this court. They
12 are not in any sense evidence of any of the
13 allegations contained in them. The defendant has
14 pled not guilty to these indictments, and the
15 State, therefore, has the burden of proving each
16 element of the indictment beyond a reasonable
17 doubt.

18 It will be your duty, ladies and gentlemen,
19 to decide whether or not the State has met that
20 burden. Your purpose as jurors is to find and
21 determine the facts of this case. You are the sole
22 judges of the facts of this case. If at any time I
23 make a comment regarding the facts, you must
24 disregard my comments. You are to determine the
25 facts from the testimony you hear and the other

OPENING STATEMENT TO THE JURY BY THE COURT

1 evidence introduced during the trial of this case.
2 It is up to you to determine the inferences which
3 you feel may properly be drawn from that evidence.

4 It is especially important that you perform
5 your duty of determining the facts diligently and
6 conscientiously, because ordinarily there is no way
7 to correct an erroneous determination of the facts
8 by a juror.

9 On the other hand, and with equal emphasis,
10 the same law that makes you the judge of the facts
11 of this case, makes me the judge of the law. The
12 law is given to you by the Court is the only law
13 that you may consider. You must accept and follow
14 the law as I give it to you, even though you may
15 disagree with it. Just as I cannot tell you what
16 the facts of this case are, you cannot disagree
17 with me about the law to be applied in this case.

18 Your job is to take the law as I give it to
19 you and apply it to the facts as you find those
20 facts to be from the testimony of witnesses and any
21 other evidence that is introduced during the trial
22 of this case. After doing that, you will then
23 render your verdict, a true and just verdict, under
24 the solemn oath that you just took as jurors.

25 Until I advise you to begin your

OPENING STATEMENT TO THE JURY BY THE COURT

1 deliberations, you must not discuss this case with
2 anyone, including your fellow jurors. Don't talk
3 to any friends, family members, or anyone involved
4 in the case. After the case is submitted to you,
5 you can discuss it, but only in the jury room with
6 your fellow jurors.

7 The attorneys and the parties have been
8 advised that they are not to talk to you. They are
9 not being rude, they're just following the
10 instructions of the Court.

11 During the trial of this case, you are not to
12 read, listen to, or watch any news reports about
13 this case, if there are any. This includes
14 anything that may be in the newspaper or on the
15 internet, the radio, or the television. You must
16 not consider anything you may have read or heard
17 about the case outside of the courtroom, whether
18 that be before or during the trial of this case.

19 It is important that you keep an open mind
20 and not decide any issue in this case until all of
21 the evidence has been presented to you, the parties
22 have made their closing arguments, and I've
23 instructed you on the law to be applied in this
24 case.

25 It is your solemn responsibility to determine

OPENING STATEMENT TO THE JURY BY THE COURT

1 the guilt or innocence of the defendant. Your
2 verdict must be based solely on the evidence as it
3 is presented to you in the trial of this case, and
4 on the law as I instruct you during, and at the
5 close of the trial.

6 In just a moment, the Solicitor will make
7 what is called an "opening statement" in which the
8 Solicitor will explain to you the issues in this
9 case, or at least what the Solicitor thinks the
10 issues are in this case. The attorney for the
11 defendant may also make an opening statement;
12 although, he is not required to do so.

13 What the attorneys tell you during their
14 opening statements is not evidence in this case.
15 It is only their contention as to what they feel
16 the issues are in this case. The evidence in this
17 case will be presented to you by testimony from the
18 sworn witnesses from the witness stand and by any
19 other exhibits that may be introduced into
20 evidence.

21 Now, in determining what the true facts are
22 in this case, you must decide whether or not the
23 testimony of a witness is believable. It will be
24 my responsibility to rule as a matter of law as to
25 whether certain testimony is admissible at all or

OPENING STATEMENT TO THE JURY BY THE COURT

1 not. But once the testimony is admitted into
2 evidence, whether or not you believe it is solely
3 for you to determine.

4 In deciding whether to believe a witness, you
5 have a right to consider the interest of any
6 witness, the bias of any witness, the prejudice of
7 any witness, the opportunity for the witness to
8 have seen the matters and things about which the
9 witness may testify, and the way the witness acts
10 on the witness stand. You have the right to
11 consider anything that is in the record that will
12 help you evaluate the testimony of these witnesses.
13 That means that it is your duty to pay close
14 attention to the witnesses, to observe the
15 witnesses, to listen to the witnesses, and to pay
16 close attention to the attorneys and to the Court.

17 Don't let your thoughts wander, but give
18 strict attention to the testimony in this case, so
19 at the end of all of the testimony, after the
20 arguments of counsel and the charge on the law by
21 the Court, you will then be in a position to
22 determine what the true facts are, and to apply the
23 law to those facts, and thus render a true and just
24 verdict.

25 Now, are there any additional charges or

OPENING STATEMENT BY MR. BEAMER

1 challenges to the opening statements by the State?

2 MS. JOHNSON: No, Judge.

3 THE COURT: Any by the defense?

4 MR. GARDNER: No, Your Honor.

5 THE COURT: Ladies and gentlemen, we'll begin
6 the trial of the case with the attorneys' opening
7 statements. And, as I told you, during these
8 opening charges, these statements are not evidence.
9 This is simply the attorneys' contention as to what
10 they feel the issues in this case are.

11 All right. Who wishes to go for the State?

12 MR. BEAMER: Thank you, Your Honor. May it
13 please the Court?

14 THE COURT: Yes, sir.

15 MR. BEAMER: "I saw it," a phrase I heard a
16 lot from my parents growing up. I would hear it
17 any time I broke a house rule, picking on my little
18 brother, sneaking a snack or anything. "I saw
19 that." I knew I was caught red-handed. And I'm
20 sure many of you have similar memories from
21 childhood, maybe from those of you that have kids
22 or grandkids who are experiencing that right now,
23 catching kids red-handed, doing something they are
24 not supposed to. That is why we're here today.

25 The defendant, Mack Davis, got caught doing

OPENING STATEMENT BY MR. BEAMER

1 something he wasn't supposed to, but he wasn't
2 staying out late or sneaking snacks. He was
3 selling drugs. How do we know that? We saw him.
4 It was on tape.

5 Ladies and gentlemen of the jury, my name is
6 David Beamer, and along with Katherine Johnson, we
7 represent the State in proving to you that the
8 defendant distributed drugs in our community here
9 in Horry County.

10 Now, what he is charged with is distribution
11 of methamphetamine. The judge is going to explain
12 to you what the law is on that, what that charge
13 is. But there is three pieces that I want you to
14 keep an ear out as you are hearing the evidence in
15 this case: The defendant was in control or had
16 control over the substance, whether he possessed it
17 or had an authority to possess it; that he
18 transferred that substance to another individual;
19 and that that substance was, in fact, an illegal
20 controlled substance.

21 Now, we have to prove that to you beyond a
22 reasonable doubt. What does beyond a reasonable
23 doubt mean? It's pretty much what it sounds like.
24 Reasonable doubt is anything that would cause a
25 reasonable person to hesitate. It's not beyond a

OPENING STATEMENT BY MR. BEAMER

1 shadow of a doubt. It's not beyond a reasonable
2 doubt. It is reasonableness.

3 Another way you can think of it is if at the
4 end of this case you have seen all of the evidence
5 and it has left you firmly convinced of the
6 defendant's guilt, we have met our burden.

7 So how are we going to prove that to you
8 today? We're going to hear it from witnesses'
9 testimony and evidence that we'll present to you.
10 You are going to hear from the detective that
11 investigated the defendant. You're going to hear
12 from the informant that the defendant sold the
13 drugs to. You are not just going to hear from him,
14 you're going to watch videos of the transactions as
15 they occurred. You will hear from the evidence
16 custodian who secured the evidence. And you will
17 hear from the chemists that tested the substances
18 that determined if they were, in fact, illegal
19 controlled substances.

20 After you have seen all of that and heard all
21 of that, I'm confident that we will have met our
22 burden, and you will be firmly convinced of the
23 defendant's guilt, and you will be able to say to
24 the defendant, I saw that, and you will find him
25 guilty.

OPENING STATEMENT BY MR. GARDNER

1 Thank you.

2 THE COURT: Mr. Gardner, does the defense
3 wish to make an opening?

4 MR. GARDNER: Yes, Your Honor, if Your Honor
5 please.

6 Mr. and Madam Solicitor.

7 I'm Johnny Gardner, and I represent Mack
8 Davis. Anybody remember Paul Harvey: "And now the
9 rest of the story"? I always wanted to say that.
10 It doesn't really fit in a criminal case, because
11 in criminal court, under our Constitution, the
12 defense doesn't tell the story. Everything that
13 you are going to hear, everything that you are
14 going to see is going to be by the State, the
15 gentleman and the lady there at the table, because
16 that is the way our system is set up. That is the
17 way the Constitution was done over 200 years ago,
18 and we're going to try to follow that today, and
19 let's see what happens, okay.

20 But speaking of the Constitution, there is a
21 bunch of words and phrases we use all the time.
22 Part of it is "reasonable doubt." The other one is
23 preponderance of -- "presumed innocent," and all of
24 the defendants are presumed innocent. So if the
25 judge was to say, All right, we've heard enough, go

OPENING STATEMENT BY MR. GARDNER

1 back there and deliberate right now. If you would
2 go back, you wouldn't really have anything to
3 deliberate on because you haven't heard any
4 evidence, right? So if you haven't heard the
5 evidence, the only verdict you could come back with
6 is not guilty.

7 I say that to try to drive home that you have
8 to listen to what they have, what they are going to
9 say, and then you deliberate on it. But the whole
10 time, the only thing we're talking about is the
11 presumption of innocence. Any defendant that goes
12 to trial is presumed innocent. That presumption is
13 going to last with him, and it starts right now.
14 It will last him throughout this trial.

15 We'll hear from these witnesses, and then
16 when you go in your jury room, it will go with you.
17 I refer to the presumption of innocence as our
18 13th juror. That juror will be in the room with
19 you while you are discussing this case and
20 deliberating this case. Any doubt you will have
21 will be resolved in the favor of presumption of
22 innocence. And that means that if you get back
23 there and you hesitate to what Solicitor Beamer
24 said, or if you have a reasonable doubt, the only
25 verdict you can come back with is not guilty.

OPENING STATEMENT BY MR. GARDNER

1 That's the way the system works, and no one is
2 going to complain about that.

3 The only thing I ask you to do is do what the
4 judge says, watch this evidence, look at this tape,
5 remember what the law is.

6 I'm going to come back at the end of the case
7 and I'm going to say, Remember, I was going to come
8 back and ask for the only verdict that you can come
9 back with: Not guilty. I'm going to do that,
10 because these words that we throw around are not
11 just phrases.

12 We come -- I've been doing this for over 30
13 years, and I know the judge has been doing it for
14 over 30 years. Sometimes lawyers throw these words
15 around, and sometimes people get jaded. We have TV
16 shows that try to make fun of it. But our founding
17 fathers didn't think it was funny, and I don't
18 think it's funny, because innocence is a big thing.

19 When you are watching this tape, presumption
20 of innocence is going to last longer than the tape
21 does. At the end of this case, I think you will
22 agree with me that the State has not proven that
23 Mack Davis is guilty of selling any drugs, and that
24 he's presumed innocent, and that he's going to be
25 innocent, and you'll come back with the only

GREGORY DEWITT - DIRECT EXAMINATION

1 verdict that you can: Not guilty.

2 Thank you for your attention.

3 THE COURT: All right. Ladies and gentlemen,
4 we'll now start the evidentiary portion of the
5 trial with the State's case.

6 State call your first witness.

7 MS. JOHNSON: We call Detective Gregory
8 Dewitt.

9 (GREGORY DEWITT, having been duly sworn,
10 testified as follows:)

11 THE CLERK: State your name, and then spell
12 your last name for the Court.

13 THE WITNESS: My name is Gregory Dewitt.

14 DIRECT EXAMINATION

15 BY MS. JOHNSON:

16 Q Detective Dewitt, where are you currently
17 employed?

18 A I am currently employed at Horry County
19 Police Department.

20 Q How long have you been with Horry County?

21 A I've been with the County since 2014.

22 Q What is your current title?

23 A My current title is detective, and I work in
24 the narcotics division.

25 Q Did you work there in March of 2023?

GREGORY DEWITT - DIRECT EXAMINATION

1 **A** I did.

2 **Q** What was your title then?

3 **A** Detective.

4 **Q** Back in March of 2023, what were your duties?

5 **A** So back in March of '23 -- we do a lot of
6 things in the narcotics division. We get numerous
7 complaints, intels. We conduct investigations. In
8 March of 2023, I did conduct an investigation on
9 Mr. Mack Davis for narcotics violations.

10 **Q** Do your duties involve coordinating
11 confidential informant buys?

12 **A** Yes.

13 **Q** Okay. What does a drug buy with a
14 confidential informant entail?

15 **A** So, essentially, we have CI confidential
16 informants. You have a meeting, and you would
17 essentially -- consider it like a vetting of that
18 CI. You check their knowledge, if they know the
19 person, if they know what they do, things of that
20 nature. And at that point in time, you do the
21 investigation. Okay, is this true? Is this worth
22 an investigation on? And then we set up -- at that
23 point, we'll go ahead and set up a buy.

24 **Q** What do you give the CI to buy drugs?

25 **A** So once we decide on if -- okay, we're going

GREGORY DEWITT - DIRECT EXAMINATION

1 to go ahead to target this person as doing
2 narcotics violations, we meet with the CI. We give
3 them audio/video equipment. We give him official
4 police funds, considered marked police money. We
5 take photos of that money, et cetera. At that
6 point, the CI will go on a predetermined route to a
7 location, meet up with the subject, make the
8 transaction, then they go directly there and
9 directly back to us. Then, we take that narcotic,
10 and then we go back to the police department, to
11 our office. At that point in time, we have to
12 weigh the narcotic, test it, and then submit it for
13 testing through the lab.

14 Q Did you conduct drug buys with a confidential
15 informant on March 9th and March 27th of 2023
16 with the defendant Mack Davis?

17 A Yes, I did.

18 Q Why did you conduct a drug buy -- those drug
19 buys with Mack Davis?

20 A Like I said, throughout the investigation, we
21 learned that Mr. Davis was, in fact, selling
22 narcotics in Horry County. So we decided that,
23 yes, we needed to go ahead and target Mr. Davis to
24 make a controlled purchase, that way we can, in
25 fact, prove that he is distributing narcotics in

GREGORY DEWITT - DIRECT EXAMINATION

1 Horry County, and that's what we did.

2 Q Did you follow that process that you listed
3 earlier with those two drug buys?

4 A I did.

5 Q Where did the drug buy on March 9, 2023
6 occur?

7 A On March 9th, it was in the Conway section
8 of Horry County. If you are familiar with the
9 county, it's like going towards -- we call it --
10 like between Aynor and Conway, per se, Brown Swamp
11 area is where it occurred at.

12 Q And where did the drug buy on
13 March 27th occur?

14 A That was in the same area as the Brown Swamp
15 area.

16 Q Is that in Horry County?

17 A Yes.

18 Q During these drug buys, what is the CI fitted
19 with?

20 A So we have numerous -- I wouldn't say
21 "gadgets," but we have different audio and video
22 equipment. Do I need to say exactly what it is?

23 Q No.

24 A So, basically, it is kind of like the judge
25 said, you see things on TV and things of that

GREGORY DEWITT - DIRECT EXAMINATION

1 nature, and we do have things like that, like
2 Mr. Gadget, per se. But we do have different
3 devices that we can see and hear what's going on,
4 whether it's an ink pen or watch, just certain --
5 we have several, several different devices that we
6 use that will blend in. Like that button you have
7 on, that could be a device. Your glasses can be a
8 device. My glasses could be a device. Things of
9 that nature.

10 Q What do you do with the recording after?

11 A So we have to take the recording back. We
12 have to view it and say, Yeah, this occurred. Then
13 we save it, and then at that point in time we put
14 it on a drive.

15 Q Do you alter that video in any way?

16 A Negative. No, ma'am.

17 Q All right. So on March 9th and
18 March 27th, what drugs did the CI purchase from
19 the defendant?

20 A So we purchased a crystal-like substance that
21 tested positive for methamphetamine.

22 Q All right. And did you collect those drugs
23 from the CI?

24 A I did.

25 Q How did you determine it was presumptive

GREGORY DEWITT - DIRECT EXAMINATION

1 methamphetamine?

2 **A** We did it through a TruNarc testing.

3 **Q** What do you do with the drugs after you
4 collect them?

5 **A** We package it and put it into a BEST kit. We
6 call it an ACPD BEST kit. It's BEST practices. It
7 is a kit that you have to take the narcotic in, you
8 have to seal it, double seal it, and then you put
9 it inside a bag, and then seal that bag up. You
10 have to write on a form what it is, crystal-like
11 substance, who I got it from, the date, and you
12 package it, you seal it, and then it has to go into
13 central precinct, and that goes -- then that goes
14 to the lab.

15 **Q** Did you enter all of those drugs into
16 evidence?

17 **A** I did.

18 MS. JOHNSON: All right. Court's indulgence.

19 (A brief pause in the proceedings.)

20 **Q** **(BY MS. JOHNSON)** I'll show you what is
21 pre-marked as State's Exhibit 1. Is that your name
22 and signature indicating that you relinquished the
23 drugs into evidence?

24 **A** Yes, it is.

25 **Q** Did you alter the drugs in any way?

GREGORY DEWITT - CROSS EXAMINATION

1 **A** I did not.

2 MS. JOHNSON: Court's indulgence.

3 **Q** **(BY MS. JOHNSON)** How did you confirm the
4 drugs came from the defendant?

5 **A** Through visual.

6 **Q** In regards to these confidential informant
7 buys, do you search the informant before they
8 leave?

9 **A** That's correct. We have to search them
10 before and after.

11 MS. JOHNSON: No further questions at this
12 time, Judge.

13 THE COURT: Cross examination?

14 MR. GARDNER: Thank you, Your Honor.

15 **CROSS EXAMINATION**

16 **BY MR. GARDNER:**

17 **Q** Detective Dewitt, good afternoon. Let's talk
18 about confidential informants. We'll start with
19 what it's not. It is not a police officer?

20 **A** Correct.

21 **Q** It is not a trained professional?

22 **A** That's correct.

23 **Q** It is usually somebody that has his own
24 criminal charges against him?

25 **A** Sometimes, yes, sir.

GREGORY DEWITT - CROSS EXAMINATION

1 Q Trying to get a deal?

2 A Sometimes.

3 Q Trying to set somebody up?

4 A Sometimes, yes, sir.

5 Q Sometimes not reliable?

6 A Sometimes.

7 Q Sometimes you have had them run off before?

8 A Oh, yeah.

9 Q You give them money, and they take off with
10 it, right? Give them some dope to sell to someone,
11 and they take off with it or use it themselves,
12 right?

13 A It can happen.

14 Q Yeah. And it has happened. You know that,
15 right? You are a detective with Horry County;
16 that's happened before?

17 A It has happened, yes.

18 Q Okay. All right. So we're not dealing with
19 professionals, these CIs.

20 I don't know who it was. I'm sure we'll find
21 out. And I don't want to know. We'll find out who
22 this one was, but that's the kind of person that
23 we're dealing with usually with the CIs, right?
24 People that aren't professionals?

25 You have to answer.

GREGORY DEWITT - REDIRECT EXAMINATION

1 **A** Yes, sir.

2 **Q** And the drugs, did you actually see the
3 drugs?

4 **A** I did.

5 **Q** I want to get that out there right away.
6 What are we talking about? Something about the
7 size of a fingernail?

8 **A** You can say that, yep.

9 **Q** I did say that. About the size of a
10 fingernail is what we're talking about.

11 Okay. All right. Is there anything else
12 from your perspective that we should let them know?

13 **A** No.

14 **Q** All right. I wanted to try to get it out
15 there.

16 Thank you, sir, I appreciate it.

17 **A** Yes, sir.

18 THE COURT: Redirect?

19 **REDIRECT EXAMINATION**

20 **BY MS. JOHNSON:**

21 **Q** Detective Dewitt, does the CI in this case
22 have pending criminal charges? Did he work out a
23 deal with you guys?

24 **A** He did not work out any deals, and he did not
25 have any criminal charges to work off.

GREGORY DEWITT - REDIRECT EXAMINATION

1 **Q** And in regards to the size of the drugs, does
2 distribution depend on the size of the drugs?

3 **A** It does not.

4 MS. JOHNSON: Nothing further.

5 THE COURT: You may step down.

6 State can call your next witness.

7 MS. JOHNSON: Judge, if we can approach?

8 THE COURT: All right.

9 (Whereupon, a bench conference was had.)

10 MS. JOHNSON: The next witness is going to
11 take awhile.

12 MR. BEAMER: If we can take a brief witness?

13 THE COURT: That is how many witnesses?

14 MS. JOHNSON: We have three more witnesses.

15 THE COURT: All right.

16 (The following was had in open court.)

17 THE COURT: Ladies and gentlemen, we're going
18 to take a short break. We have a scheduling
19 matter. So I'll excuse you back to the jury room
20 for a few minutes. Do not discuss the case, even
21 among yourselves. It is too early for
22 deliberations.

23 Yes, ma'am.

24 JUROR: I'm having trouble hearing.

25 THE COURT: Okay. We'll make sure. Thank

GREGORY DEWITT - REDIRECT EXAMINATION

1 you very much. Thank you for bringing that to my
2 attention. Do you need any hearing assistance?

3 JUROR: They're just not speaking in the
4 microphone.

5 THE COURT: All right. We'll instruct them
6 to speak into the mic. Sometimes up here I can
7 hear them a little bit better than you can.

8 Let's take a short break, and we'll be back
9 in a moment.

10 (The jury exits at 3:29 p.m., and the
11 following is heard out of the presence of the jury.)

12 THE COURT: Anything from the State before we
13 take a short recess?

14 MR. BEAMER: Your Honor, may we approach
15 again?

16 (The following was a bench conference.)

17 MR. BEAMER: Just to coordinate scheduling
18 with this, so we'll have the next witness come
19 here. We do have two witnesses after that. This
20 witness will -- I mean, between getting him here --
21 and this will involve video evidence that will take
22 about a half hour, so we're trying to play it out.
23 Do you think we can get through this witness?

24 THE COURT: If they were here, we definitely
25 would be. If it takes about a half hour, we'll

GREGORY DEWITT - REDIRECT EXAMINATION

1 stop about 5 o'clock.

2 MR. BEAMER: Our plan was to have -- we'll
3 have the remaining two witnesses ready for Friday
4 morning.

5 THE COURT: However you all want to do it, as
6 long as we're done by Friday.

7 MR. BEAMER: And I don't think that will be
8 an issue. I just don't think we can get all three
9 of them this afternoon.

10 THE COURT: We'll stop at 5:00.

11 MR. BEAMER: Thank you, Your honor.

12 (The following was had in open court.)

13 THE COURT: Anything from the State before we
14 take a recess?

15 MR. GARDNER: Nothing, Your Honor.

16 THE COURT: Let's take about a ten-minute
17 recess, get the witness here, and then we'll
18 resume.

19 (A recess was taken.)

20 THE COURT: Anything from the State before we
21 bring the jury in?

22 MS. JOHNSON: No, Your Honor.

23 THE COURT: Anything from the defense?

24 MR. GARDNER: No, Your Honor.

25 THE COURT: Let's bring the jury in. They've

GREGORY DEWITT - REDIRECT EXAMINATION

1 asked to take notes, so I'm going to allow them to
2 take notes, and I'll give them some instructions on
3 that when they come in.

4 Also, Ms. Johnson, they've asked if you would
5 please speak up. Thank you.

6 (The jury enters at 4:05 p.m., and the
7 following is heard in the presence of the jury.)

8 THE COURT: Welcome back. We're ready to
9 resume the trial of the case.

10 Now, some of you have asked to take notes,
11 and I'll allow you to take notes; however, I do
12 need to give you some instructions on note-taking.

13 Number one, you are not required to take
14 notes if you choose not to do so. You do not have
15 to take notes.

16 Number two, whatever notes you take are
17 personal and personal to you and cannot be shared
18 with anyone else. So if you want to -- you've been
19 given a pad and a writing utensil. I'll need you
20 to write your name on the first page and make sure
21 that you always have your notepad, and do not have
22 anyone else's notepad.

23 Now, when you leave the courtroom, you'll be
24 required to leave your notepads in the jury box.
25 You will not be allowed to take them with you until

TRAVIS DAVIS - DIRECT EXAMINATION

1 there is a verdict. So leave them in the jury box
2 when you leave, and when you come back, make sure
3 you have your own notepad and no one else's.

4 Finally, and most importantly, don't try to
5 write down everything a witness says. The purpose
6 of note-taking is for you to make a quick note on
7 something that you feel is important to refresh
8 your memory at a later time. If you try to write
9 everything down, you are not going to get all of
10 the witness' testimony, and you're not going to pay
11 proper attention to the witness. However, if
12 there's anything introduced or if the witness says
13 anything and you think it is important and want to
14 refresh your memory at a later time, then jot a
15 quick note to refresh your memory, okay.

16 All right. We'll resume with the trial of
17 the case.

18 State can call your next witness.

19 MS. JOHNSON: State calls Travis Davis.

20 (TRAVIS DAVIS, having been duly sworn,
21 testified as follows:)

22 THE CLERK: State your name and spell your
23 last name for the Court.

24 THE WITNESS: Travis Davis, D-A-V-I-S.
25

TRAVIS DAVIS - DIRECT EXAMINATION

DIRECT EXAMINATION

BY MS. JOHNSON:

Q Mr. Travis, did you participate in a control buy with the defendant, Mack Davis, on March 9, 2023?

A Yes.

Q Is that Mack Davis (indicates)?

A Yes.

Q Did you buy drugs from him?

A Yes.

THE COURT: Ms. Johnson, I apologize. I need you to speak a little bit louder, please.

Q (BY MS. JOHNSON) How do you know Mack Davis?

A Friend of the family.

Q How long have you known him?

A For a while.

Q Before the control drug buy, did you call him to set up a buy?

A Yes.

Q What kind of drugs did you talk about buying?

A Meth.

Q About how much money did he want for the drugs?

A They was like two different buys. One was like a hundred, other was like 40.

TRAVIS DAVIS - DIRECT EXAMINATION

1 Q In reference to the March 9th one, how much?

2 A 40.

3 Q All right. And before going on the drug buy,
4 do you meet with Detective Dewitt?

5 A Yes.

6 Q Does he fit you with an audio and video
7 recording device?

8 A Yes.

9 Q Did he give you premarked money to buy the
10 drugs?

11 A Yes.

12 Q When you are fitted with the audio and video
13 recording device, do you have the ability to turn
14 it off?

15 A No.

16 Q Where did you go to buy drugs on the 9th?

17 A Haley Martin Road, I think.

18 Q All right. Is that in Horry County?

19 A Yes.

20 Q Did you purchase methamphetamine from that
21 location?

22 A Yes.

23 Q What drugs did he sell you?

24 A Meth.

25 Q About how much money did you give him for the

TRAVIS DAVIS - DIRECT EXAMINATION

1 drugs?

2 A The first buy was a hundred, and the second
3 one was 40.

4 Q After leaving that location, did you go back
5 to Detective Dewitt?

6 A Yes.

7 Q Did you stop anywhere on the way?

8 A No.

9 Q Is this all on video?

10 A Yes.

11 Q Mr. Travis, I'll show you what is marked for
12 State's ID purposes as Exhibit 2. Can you identify
13 this?

14 A Yes.

15 Q Are those markings your initials?

16 A Yes.

17 Q Did you write them?

18 A Yes.

19 Q Is that how you are able to identify this?

20 A Yes.

21 Q What is this?

22 A It's the video of the buy.

23 Q Have you previously watched this?

24 A Yes.

25 Q Is that a fair and accurate representation of

TRAVIS DAVIS - DIRECT EXAMINATION

1 you purchasing drugs from Mack Davis?

2 **A** Yes.

3 **Q** On March 9th?

4 **A** Yes.

5 MS. JOHNSON: Your Honor, at this time the
6 State requests that State's Exhibit 2 be entered
7 into evidence.

8 THE COURT: Any objection?

9 MR. GARDNER: No, Your Honor.

10 THE COURT: State's 2 is admitted into
11 evidence without objection.

12 MS. JOHNSON: Your Honor, at this time we
13 would like to play the video for the jury.

14 THE COURT: All right.

15 (State's Exhibit 2 is admitted and published
16 to the jury.)

17 **Q** (BY MS. JOHNSON) Who was in the car with you?

18 **A** It was Mack and a white girl.

19 **Q** Who is the male voice on that video?

20 **A** Mack.

21 **Q** Who hands you the presumptive meth?

22 **A** Mack.

23 **Q** Did you purchase another control buy
24 March 27, 2023?

25 **A** Yes.

TRAVIS DAVIS - DIRECT EXAMINATION

- 1 Q Did you call Matt again?
- 2 A Yes.
- 3 Q Did you set up the drug buy?
- 4 A Yeah.
- 5 Q What kind of drugs did you talk about buying?
- 6 A Meth.
- 7 Q Did you talk about how much money he was
- 8 going to sell them for?
- 9 A He pretty much told me, on that one, to help
- 10 him get rid of some trash and stuff, and that he'd
- 11 look out for me.
- 12 Q Where did he tell you to go?
- 13 A To -- I don't remember the --
- 14 Q That's fine. Is that in Horry County?
- 15 A Yes.
- 16 Q Was that a place where you knew Mack to be
- 17 living?
- 18 A Yes.
- 19 Q Did you follow the same protocols for each
- 20 drug buy?
- 21 A Yes.
- 22 Q Did you go to where you knew he was living?
- 23 A Yes.
- 24 Q Did you pick him up?
- 25 A Yes.

TRAVIS DAVIS - DIRECT EXAMINATION

1 Q Where did you drive?

2 A After we loaded the stuff in the car, trash
3 and stuff in the car -- in the truck, then we went
4 to a gas station because he said he wanted to go
5 buy him a beer or something, and then I dropped him
6 off.

7 Q Where did he sell you the drugs?

8 A At the gas station.

9 Q Is that gas station in Horry County?

10 A Yes.

11 Q What drugs did you buy from him?

12 A Meth.

13 Q How much did you buy from him?

14 A The last buy, it was like 40.

15 Q After buying the drugs, do you go back to
16 Detective Dewitt?

17 A Yes.

18 Q Did you go anywhere else?

19 A No.

20 Q Did you give the drugs to Detective Dewitt?

21 A Yes.

22 Q Is it all on video recording?

23 A Yes.

24 Q I'll show you what's been previously marked
25 as State's Exhibit 3. Can you identify that?

TRAVIS DAVIS - DIRECT EXAMINATION

1 **A** Yes.

2 **Q** Are those your initials?

3 **A** Yes.

4 **Q** Did you write them?

5 **A** Yes, ma'am.

6 **Q** Is that how you are able to identify them?

7 **A** Yes.

8 **Q** What is this?

9 **A** That is the second tape.

10 **Q** Have you previously watched this?

11 **A** Yes.

12 **Q** Is that a fair and accurate video

13 representation of you purchasing drugs from Mack on

14 March 27?

15 **A** Yes.

16 MS. JOHNSON: Your Honor, at this time State

17 requests State's 3 be entered into evidence.

18 THE COURT: Any objection?

19 MR. GARDNER: No, Your Honor.

20 THE COURT: State's 3 admitted into evidence

21 without objection.

22 MS. JOHNSON: At this time we would like to

23 play it for the jury, Your Honor.

24 THE COURT: All right.

25 (State's Exhibit 3 admitted and published to

TRAVIS DAVIS - DIRECT EXAMINATION

1 the jury.)

2 Q (BY MS. JOHNSON) What is happening about
3 right now?

4 A We're at the trash dump.

5 (Continuing to be published to the jury.)

6 Q (BY MS. JOHNSON) So what just occurred?

7 A He just gave me the meth.

8 Q What did you give him for the meth?

9 A The money.

10 (Continuing to be published to the jury.)

11 Q (BY MS. JOHNSON) Who is sitting on the porch
12 whenever you get there?

13 A Mack is.

14 Q All right. Who's voice is that in the car?

15 A Mack.

16 Q All right. I'll show you a photo. What is
17 this a photo of?

18 A Mack.

19 Q Is this from the video?

20 A Yes.

21 Q Do you recognize this?

22 A Yes.

23 Q How do you do so?

24 A Because the way -- the day I went to buy from
25 him, him and his girlfriend was sitting on the

TRAVIS DAVIS - DIRECT EXAMINATION

1 couch.

2 Q Has it been edited in any way?

3 A No.

4 MS. JOHNSON: State moves what is previously
5 marked as 8 into evidence.

6 THE COURT: Any objection?

7 MR. GARDNER: Can we take a quick look -- no
8 objection.

9 THE COURT: State's 8 is admitted without
10 objection.

11 (State's Exhibit 8 admitted.)

12 MS. JOHNSON: May I publish to the jury, Your
13 Honor?

14 THE COURT: Yes.

15 (State's Exhibit 8 published to the jury.)

16 Q (BY MS. JOHNSON) You guys talk about Suboxone
17 on the video?

18 A Yes.

19 Q What is that?

20 A It is when you come -- when you come off
21 heroin and stuff.

22 Q It's a drug?

23 A Yes.

24 Q All right. So working as a CI, are you
25 working off any charges, pending charges, for Horry

TRAVIS DAVIS - CROSS EXAMINATION

1 County?

2 A No.

3 Q What do you receive for being a CI?

4 A Money.

5 Q Can you point to the person that sold you
6 meth?

7 A (Indicates.)

8 MS. JOHNSON: No further questions.

9 THE COURT: Cross examination?

10 MR. GARDNER: I'm going to follow up on that
11 Suboxone.

12 CROSS EXAMINATION

13 BY MR. GARDNER:

14 Q So if you are trying to rehab yourself, you
15 would take Suboxone?

16 A Yes.

17 Q Does your family sell -- do you all have
18 chickens?

19 A Yeah. There's a bunch of them.

20 Q That was about two-and-a-half years ago?

21 A Right.

22 Q Back then the price of eggs was about like
23 gold, right?

24 A Yeah.

25 Q Gone down a little bit. How many chickens do

TRAVIS DAVIS - CROSS EXAMINATION

1 you have?

2 A Bunch of them.

3 Q That is what you and Mack were talking about
4 on the first video?

5 A Yeah.

6 Q Suboxone and the price of chicken eggs, okay.
7 Don't go anywhere.

8 MR. GARDNER: Court's indulgence.

9 (A brief pause in the proceedings.)

10 Q How long have you been a confidential
11 informant? Like years? This was two-and-a-half
12 years ago.

13 A For a while.

14 Q So at least two-and-a-half years?

15 A Yeah.

16 Q Before then, probably?

17 A Yeah.

18 Q How many times do you think you've been out?

19 A It's been awhile.

20 Q How many? A number. Over 10?

21 A Probably.

22 Q Over 20?

23 A I don't know.

24 Q Well, who else would know if you didn't know?

25 I mean, it's you, right?

TRAVIS DAVIS - CROSS EXAMINATION

1 **A** Yep.

2 **Q** So over 20?

3 **A** Uh-huh.

4 **Q** Over 30? You have to answer.

5 **A** No.

6 **Q** Sir?

7 **A** No.

8 **Q** Not over 30?

9 **A** No.

10 **Q** Somewhere between 20 and 30?

11 **A** Yeah.

12 **Q** Over the course of at least two-and-a-half to

13 three years?

14 **A** Uh-huh.

15 **Q** That's a lot of time.

16 Did you look at the videos for all of them?

17 **A** Most of them.

18 **Q** Did you learn anything after you looked at

19 them?

20 **A** Not really. I mean, I was just trying to get

21 some of the drugs off the street.

22 **Q** If you didn't understand my question, that is

23 fine. I'm just trying to learn something myself.

24 So when you looked at 20, 30 videos, did you

25 learn something as you watched them? Did you get

TRAVIS DAVIS - REDIRECT EXAMINATION

1 better at them?

2 A Kind of.

3 Q All right.

4 MR. GARDNER: No further questions.

5 THE COURT: Redirect?

6 REDIRECT EXAMINATION

7 BY MS. JOHNSON:

8 Q In regards to the Suboxone, did Mack offer to
9 sell you Suboxone?

10 A Yes.

11 MR. GARDNER: Object to that.

12 THE COURT: Sustained. Sustained.

13 Q (BY MS. JOHNSON) Did Mack sell you what you
14 were told to be methamphetamine?

15 A Yes.

16 MR. GARDNER: That was improper cross (sic).

17 I never said anything about that -- redirect.

18 THE COURT: Sustained. Sustained.

19 MS. JOHNSON: Nothing further.

20 THE COURT: You may step down.

21 MS. JOHNSON: We ask that he be released from
22 his subpoena.

23 MR. GARDNER: No objection.

24 THE COURT: It is about ten to 5:00. We'll
25 break for the day. I also need to let you know

TRAVIS DAVIS - REDIRECT EXAMINATION

1 that because of some scheduling issues, we will not
2 have court tomorrow, but we will pick back up
3 Friday morning. I'll ask that you please be back
4 at 9:15 Friday morning.

5 Leave your notepads in the jury box. Do not
6 take them with you. Do not discuss the case, even
7 among yourselves. Don't conduct any independent
8 investigations. Don't go looking on the Internet
9 or through newspapers or try to find out anything
10 about the case. I hope everyone has a good day
11 tomorrow, and see you back at 9:15 on Friday.
12 Thank you very much.

13 (The jury exits at 4:52 p.m., and the
14 following is heard out of the presence of the jury.)

15 THE COURT: Anything from the State before we
16 recess for the day?

17 MS. JOHNSON: No, Your Honor.

18 THE COURT: From the defense?

19 MR. GARDNER: No, sir.

20 THE COURT: I'll take the bench at 9:30
21 Friday. Whatever you need to do, make sure the
22 defendant is here by 9:00 a.m.

23 Thank you much very much.

24 (THE PROCEEDINGS FOR SEPTEMBER 10, 2025
25 CONCLUDED. THE FOLLOWING WAS HAD ON SEPTEMBER 12,

SEPTEMBER 12, 2025

1 2025. SEPTEMBER 11, 2025 THERE WAS NO COURT.)

2 THE COURT: Thank you. Please be seated.

3 Anything from the State before we bring the
4 jury in?

5 MS. JOHNSON: No, Your Honor.

6 THE COURT: Anything from the defense?

7 MR. GARDNER: No, Your Honor.

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

10 (The jury enters at 9:35 a.m., and the
11 following is heard in the presence of the jury.)

12 THE COURT: Welcome back, ladies and
13 gentlemen. I hope everyone had a good day
14 yesterday.

15 I want to thank you from the outset this
16 morning for being on time. That is great
17 assistance to the Court. I'll remind you if have
18 any cell phones or pager devices, make sure you
19 turn those off now if you brought them into the
20 courtroom with you. Make sure you have your own
21 notepads, and no one else's notepad.

22 When we broke Wednesday, we were still in the
23 State's case, and we'll continue in the State's
24 case at this time.

25 State can call your next witness.

MERRELL HAWKINS - DIRECT EXAMINATION

1 MR. BEAMER: We call Merrell Hawkins.

2 (MERRELL HAWKINS, having been duly sworn,
3 testified as follows:)

4 THE CLERK: State your name and then spell
5 your last name for the Court.

6 THE WITNESS: Merrell Hawkins, H-A-W-K-I-N-S.

7 **DIRECT EXAMINATION**

8 **BY MR. BEAMER:**

9 Q Good morning, Ms. Hawkins. Where are you
10 currently employed?

11 A I work for the Horry County Police Department
12 in the Property and Evidence Unit.

13 Q What is your role in the Property and
14 Evidence Unit?

15 A Currently, I'm the Property and Evidence
16 supervisor.

17 Q Do you have any prior law enforcement
18 experience?

19 A I do -- not as a law enforcement officer. I
20 worked as a police dispatcher many years ago.

21 Q How long have you been working for Horry
22 County Police?

23 A I've been there six years. Prior to being
24 the supervisor, I was Property and Evidence
25 custodian.

MERRELL HAWKINS - DIRECT EXAMINATION

1 **Q** So as the supervisor, and previously as a
2 custodian, what were your duties in those roles?

3 **A** As a custodian, it is my duty to maintain the
4 care, custody, and control of the evidence. The
5 evidence comes into us. It is submitted from an
6 officer or a detective. They submit it to us, and
7 then it is up to us to process it through, see to
8 it that it gets to wherever it needs to go, if it
9 needs testing or storage or to be held for court.

10 **Q** You got into it a little bit there. Could
11 you kind of tell us step by step what is the
12 process of evidence intake from the time you
13 receive it until everything you do with a piece of
14 evidence?

15 **A** So the evidence is submitted to us through
16 various lockers, or we call "drop slots." It gets
17 admitted into a secured location. So those drop
18 slots are secured under lock and key, and then the
19 lockers, obviously, have locks on them. The
20 detective or officer will put the evidence in that
21 location. And then when we come in, we take that
22 evidence out, inventory it to make sure that it is
23 accurate with the paperwork that we're given, that
24 it matches, and then we put it into our system.
25 And then depending on what needs to happen with

MERRELL HAWKINS - DIRECT EXAMINATION

1 it -- if it needs to go for testing, we submit it
2 to a location for it to be transferred for testing,
3 or if it needs to be stored we put it on a shelf
4 for storage.

5 Q Is that the standard procedure in your
6 department?

7 A Yes.

8 Q Is that the procedure you would follow every
9 time a piece of evidence comes in?

10 A Yes, sir.

11 Q Where is evidence stored once you receive it?

12 A So we have two different locations for
13 storage. We have a secured vault, which is inside
14 of our secured area. So we have a secure suite, if
15 you will. And then there is a vault in that,
16 within the suite, and in the vault is where we
17 store any active cases that would include drugs,
18 guns, anything like that. We also have a secured
19 warehouse that is further out.

20 Q So you have a secure suite, a vault, and a
21 separate warehouse, all of which are secured?

22 A Yes.

23 Q When you say "secured," can just anyone walk
24 into these places?

25 A No.

MERRELL HAWKINS - DIRECT EXAMINATION

1 Q Who all has access?

2 A Only the Property and Evidence personnel and
3 supervision.

4 Q Were you working in this capacity in March of
5 2023?

6 A Yes, I was working. I was the Property and
7 Evidence custodian at that point.

8 Q Did you handle evidence in this case?

9 A I did, yes.

10 Q I'm showing you what's been previously marked
11 as State's Exhibit 1. Are you familiar with this
12 document?

13 A Yes, sir.

14 Q Can you describe what it is, particularly
15 that first page?

16 A So this is -- we would refer to this as an
17 "evidence record" or "chain of custody." It is
18 actually both. The top half is the evidence
19 record. The bottom half of it is the chain of
20 custody. In this particular case, this is
21 referring to a specific BEST kit, which is the kits
22 that we use to test drugs.

23 Q Do you regularly keep records like that in
24 the course of your business?

25 A Absolutely.

MERRELL HAWKINS - DIRECT EXAMINATION

- 1 Q Is your signature on that first page?
- 2 A Yes, sir.
- 3 Q Is it dated?
- 4 A It is, yes. The date that I received this is
- 5 March 10, 2023.
- 6 Q I'm now showing you what has previously been
- 7 marked for identification as State's Exhibit 6.
- 8 Are you familiar with that item?
- 9 A I am.
- 10 Q Can you describe for us what that is?
- 11 A So the contents inside are the BEST kit. So
- 12 this is actually what the kit looks like once it's
- 13 gone to the chemist and comes back to us.
- 14 Q So what is inside of that BEST kit?
- 15 A It would have contained some type of
- 16 substance in a secondary container that needed to
- 17 be tested.
- 18 Q And is that the piece of evidence that the
- 19 chain of custody indicates you received in March?
- 20 A So this one is for -- so this is for the
- 21 second chain of custody that is in here.
- 22 Q I apologize. I handed it to you out of
- 23 order. Let's talk for that second chain of custody
- 24 then, while we're at it.
- 25 A And I can tell that because on our paperwork

MERRELL HAWKINS - DIRECT EXAMINATION

1 there is a control number, and there is a control
2 number on the BEST kit.

3 Q That's exactly what I was going to ask you,
4 how you could tell what I handed you is what you
5 had handled previously?

6 A In addition to that, when I get it, I assign
7 a three digit tag number to it. So not only does
8 it have the control number that follows it, but it
9 has our tag number. And in this case the tag
10 number is written on the top of the paperwork, and
11 the tag number is on the BEST kit.

12 Q When you received that item into evidence,
13 was there any sign of tampering with it?

14 A No, sir.

15 Q How would you know if there was?

16 A We would not have accepted it if it was
17 tampered with.

18 Q I'm handing you what has been marked for
19 identification as State's Exhibit 7. Are you
20 familiar with that item?

21 A Yes, sir. This would be the corresponding
22 BEST kit to the first evidence record we discussed.

23 Q I see. So, again, does the control number on
24 that item match what is listed on that chain of
25 custody document?

MERRELL HAWKINS - DIRECT EXAMINATION

1 **A** Yes, sir, the control number and the tag
2 number match.

3 **Q** So that means that is the evidence that you
4 received in March?

5 **A** Yes. Absolutely.

6 **Q** And, again, when you received it, was there
7 any sign of tampering with it?

8 **A** No, sir.

9 **Q** And you said if there had been, you wouldn't
10 have accepted it?

11 **A** Absolutely. We do not accept it if it's been
12 tampered with in any way.

13 **Q** Thank you. I'll retrieve those items from
14 you.

15 Was that the last time those pieces of
16 evidence were in your possession?

17 **A** No. They were in my possession -- once they
18 go to the chemist and are tested, it would come
19 back to us for storage in that secured vault until
20 the day of trial. Detective Dewitt signed it out
21 yesterday for trial.

22 **Q** And did you have any further involvement with
23 this case?

24 **A** The only other involvement I had was the
25 Solicitor's Office and the defense attorney came to

MERRELL HAWKINS - CROSS EXAMINATION

1 our office to review the evidence through the
2 discovery process.

3 Q Thank you.

4 MR. BEAMER: I don't have any further
5 questions. If you would answer any questions
6 defense counsel has.

7 MR. GARDNER: He stole my question.

8 CROSS EXAMINATION

9 BY MR. GARDNER:

10 Q You don't know what happened. All you know
11 is you got the evidence out of a locker, it was
12 unsealed, and you stored it?

13 A Yes, sir.

14 Q As far as who it came from, who did what in
15 the car, or anything else, you don't have anything
16 to help us with that, do you?

17 A No, sir. That is not my lane.

18 MR. GARDNER: Thanks for coming.

19 THE WITNESS: You're welcome.

20 MR. BEAMER: Redirect?

21 MR. BEAMER: No redirect. We just ask that
22 she be excused from her subpoena.

23 MR. GARDNER: No objection, Your Honor.

24 THE COURT: Thank you.

25 State, call your next witness.

COURTNEY JOHNSON - DIRECT EXAMINATION

1 MR. BEAMER: State calls Courtney Johnson.

2 (COURTNEY JOHNSON, having been duly sworn,
3 testified as follows:)

4 THE CLERK: State your name.

5 THE WITNESS: Courtney Johnson,
6 J-O-H-N-S-O-N.

7 **DIRECT EXAMINATION**

8 **BY MR. BEAMER:**

9 Q Good morning, Ms. Johnson.

10 A Good morning.

11 Q Where do you work currently?

12 A I work for the Horry County Police
13 Department.

14 Q What is your role there?

15 A I'm currently the drug analysis laboratory
16 supervisor, but I'm also a forensic chemist
17 assigned to drug analysis.

18 Q Can you tell us a little bit about what
19 forensic chemistry is?

20 A Forensic chemistry, specific to my job, is
21 seized drugs that we analyze and identify suspected
22 controlled substances that is submitted to us.

23 Q Do you have an educational background in that
24 field?

25 A Yes, sir.

COURTNEY JOHNSON - DIRECT EXAMINATION

1 Q Could you tell us a little bit about that?

2 A Sure. I received my bachelor's degrees in
3 forensic science, chemistry, and biology from
4 Southern Wesleyan University, as well as my
5 master's degree in forensic science from Grand
6 Canyon University. Upon being hired on by the
7 Horry County Police Department, I completed my
8 training at the South Carolina Law Enforcement
9 Division in the analysis of controlled substances.
10 I've also attended the Drug Enforcement
11 Administration's Forensic Chemist Training Seminar,
12 as well as the Agilent gas chromatograph mass
13 spectrometer maintenance and troubleshooting
14 training. Then, annually, we participate in a
15 proficiency testing through an outside vendor
16 called Collaborative Testing Services.

17 Q How long have you worked in this line of
18 work?

19 A Twelve years.

20 Q Have you ever testified as an expert
21 regarding forensic drug analysis previously?

22 A Yes, sir.

23 Q About how many times?

24 A Seventeen.

25 MR. BEAMER: At this time we move to have Ms.

COURTNEY JOHNSON - DIRECT EXAMINATION

1 Johnson admitted as an expert in forensic drug
2 analysis.

3 THE COURT: Any challenges or questions?

4 MR. GARDNER: No challenges. No questions.
5 We stipulate she's an expert in chemistry.

6 THE COURT: All right. I find this witness
7 to be an expert in the field of -- as a forensic
8 drug analyst.

9 Ladies and gentlemen, I'll give you some
10 instructions on expert testimony when I charge you
11 on the law in the case, but all you need to know at
12 this point in time is that typically a witness can
13 only testify as to his or her personal knowledge,
14 what they tasted, what they saw, what they smelled,
15 things of that nature.

16 There is an exception for witnesses who are
17 qualified as experts, which means in addition to
18 her personal observations, she's allowed to render
19 an opinion in the field in which she's qualified as
20 an expert.

21 All right.

22 MR. BEAMER: Thank you, Your Honor.

23 Q (BY MR. BEAMER) Were you employed as a drug
24 analyst in July of 2024?

25 A Yes, sir.

COURTNEY JOHNSON - DIRECT EXAMINATION

1 Q And did you test material that was involved
2 in this case?

3 A Yes, sir, I did.

4 Q How did that material come to be in your
5 possession?

6 A I received it from Property and Evidence
7 directly.

8 Q I'm handing you what has been previously
9 marked for identification as State's Exhibit 1.
10 Are you familiar with that document?

11 A Yes, sir.

12 Q Can you tell us what it is?

13 A The top page is a -- is the BEST kit chain of
14 custody. There is a drug analysis request form, as
15 well as another evidence record, HCPD evidence
16 record -- two of each of those it looks like, and a
17 continued chain of custody.

18 Q Can you tell us when that report was made?

19 A The chain of custody?

20 Q Yes, ma'am.

21 A It originated, looks like, 3/9 of '23. But
22 Merrell, in Property and Evidence, signed it over
23 to me on March 10 of 2023, and that's for BEST kit
24 HC-009667.

25 Q And do you keep documents such as that in the

COURTNEY JOHNSON - DIRECT EXAMINATION

1 regularly conducted course of your business?

2 **A** We do.

3 MR. BEAMER: Your Honor, at this time the
4 State would move to have State's Exhibit 1 entered
5 into evidence.

6 THE COURT: Any objection?

7 MR. GARDNER: No, Your Honor.

8 THE COURT: State's Exhibit 1 admitted into
9 evidence without objection.

10 (State's Exhibit 1 admitted.)

11 **Q** (BY MR. BEAMER) Could you please recite the
12 chain of custody on the first page?

13 **A** Sure. So it's Dewitt with HCPD on 3/9/2023
14 to Merrell Hawkins on 3/10/2023, and then Merrell
15 Hawkins on 3/10 of 2023 to me on 3/10/2023, and
16 then from me on 7/29/24 back to Merrell on
17 7/30/2024.

18 **Q** I'm now handing to you what has been
19 previously marked as State's Exhibit 7. I'll try
20 to give them in the right order this time. Are you
21 familiar with that item?

22 **A** I am.

23 **Q** Can you tell us what that is?

24 **A** So this is actually what we would consider to
25 be a K-pack bag, this outer bag. On the inside is

COURTNEY JOHNSON - DIRECT EXAMINATION

1 a BEST kit, and the BEST kit is packaging that we
2 use for drug submissions that are small enough to
3 fit in the bag.

4 The BEST kit on the inside has a control
5 number here. It bears a tamper evident marking
6 along the outside, which is the blue swirl pattern.
7 So after it is analyzed, we place back behind it --
8 it is a little hard to see -- we place the items
9 back in a Ziploc bag with their lab number that
10 corresponds to it. So that is what you are seeing
11 here. Inside is original submission. This red
12 line bag was added by me. And so that's the
13 evidence, and then this is the BEST kit that was
14 originally submitted.

15 Q So that item contains the evidence you tested
16 in this case?

17 A It does, yes, sir.

18 Q How do you know that it is the same evidence
19 you received from Ms. Hawkins?

20 A So for -- we have two different ways. We
21 have a control number that is printed on the bag.
22 This control number will never be used again. It
23 is printed in the factory, so we track it that way.

24 We also have -- as a laboratory, we have a
25 lab number, which in this case is C-230161. And

COURTNEY JOHNSON - DIRECT EXAMINATION

1 then we have an item number as well. So I can see
2 that C-230161 is what matches this submission, and
3 I can see that Item 1.1 in this case is what's
4 labeled C-230161 for this control number,
5 HC-009667.

6 Q When you were describing the BEST kit, you
7 mentioned that blue swirl pattern that's there.
8 Can you tell us what the purpose is of those blue
9 stripes?

10 A Yes. So the BEST kit bag, the inside plastic
11 bag that you see, it bears a tamper evident marking
12 around the outside. So the swirl pattern that you
13 are seeing will become distorted if it is pulled on
14 or tampered with in any way. There is also a seal
15 at the top. It's a little hard to see, but it is
16 this blue seal here, and if it shows any letters
17 that shows "void" or "open," that is another way
18 that we can tell it has been tampered with. So all
19 of that is inspected once we receive the kit.

20 Q So what happens if you were to receive the
21 kit like that and there was evidence of tampering?

22 A If there was evidence of tampering, we would
23 return it to evidence unanalyzed.

24 Q So are you in any doubt that that evidence
25 was un-tampered with when you received it?

COURTNEY JOHNSON - DIRECT EXAMINATION

1 **A** No, sir. It had not been tampered with.

2 **Q** Do you know how long it was held before you
3 tested it?

4 **A** I received it on 3/10 of 2023, and I do not
5 have my exact date of analysis -- oh, yes, I do,
6 sorry, 7/18 of 2024 is when I analyzed it.

7 **Q** And, forgive me, you may have already
8 answered this, but what did you do with the
9 contents of the BEST kit after you had tested it?

10 **A** I placed it back into this K-pack bag and
11 sealed it. So on the inside you can see my
12 initials with the date, and it was sealed back in
13 here, and then it was given back to Property and
14 Evidence for storage.

15 **Q** Beyond what you would have done to test the
16 substances inside, does the BEST kit appear to be
17 altered or manipulated in any way?

18 **A** No.

19 MR. BEAMER: Your Honor, at this time the
20 State would offer State's 7 into evidence.

21 THE COURT: Any objection?

22 MR. GARDNER: No, Your Honor.

23 THE COURT: State's 7 admitted into evidence
24 without objection.

25 (State's Exhibit 7 admitted.)

COURTNEY JOHNSON - DIRECT EXAMINATION

1 **Q** **(BY MR. BEAMER)** I'll hand you what has
2 previously been marked State's 6 for identification
3 purposes. Are you familiar with that item?

4 **A** Yes, sir.

5 **Q** Can you tell us what that is?

6 **A** So this is another BEST kit, but this time
7 it's under Control No. 9649. Again, this is the
8 K-pack bag with BEST kit inside of it. And same as
9 the last one, the red line bag I added, and inside
10 the red line bag is the controlled substance, along
11 with the Ziploc bag it was originally submitted in.

12 **Q** Did you receive that item from Ms. Hawkins as
13 well?

14 **A** Yes, sir, I did.

15 **Q** Did there appear to be any sign of tampering
16 with the BEST kit when you received it?

17 **A** No, sir.

18 **Q** And you have no doubt that the BEST kit
19 wasn't intact when you received it?

20 **A** No doubt, no, sir.

21 **Q** All right. Does it appear to have been
22 altered or manipulated in any way beyond the way
23 you would have done so to test the substances
24 inside?

25 **A** It does not, no, sir.

COURTNEY JOHNSON - DIRECT EXAMINATION

1 MR. BEAMER: The State would offer State's
2 Exhibit 6 into evidence.

3 THE COURT: Any objection?

4 MR. GARDNER: No, Your Honor.

5 THE COURT: State's 6 admitted into evidence
6 without objection.

7 (State's Exhibit 6 admitted.)

8 Q (BY MR. BEAMER) Did you perform any sort of
9 testing or analysis on those substances?

10 A I did, yes, sir.

11 Q And what would have been the first test you
12 did on them?

13 A So would you like me to start from when I
14 received it from evidence?

15 Q Yes, please.

16 A So once we receive items from evidence, we
17 check to make sure that all seals are intact. Once
18 we deem it is intact, we place it into the secured
19 storage location until we're ready to begin
20 analysis. Once we're ready to begin analysis, we
21 retrieve it from storage, we recheck the seals to
22 make sure they are intact. If everything is
23 intact, we then move forward. We open the kit. We
24 itemize whatever evidence is inside the kit, and
25 then item by item we will take a weight, take a

COURTNEY JOHNSON - DIRECT EXAMINATION

1 representative sample of the item, as well as
2 perform a presumptive test, which in this case was
3 a chemical spot test for both control numbers that
4 we have for this case.

5 And then after that, we proceed forward with
6 an extraction process. That extraction process
7 that we do, that allows us to prepare the samples
8 for confirmatory analysis on the gas chromatograph
9 mass spectrometer. Once it is ran on the gas
10 chromatograph -- or GCMS, those results are then
11 analyzed by me, and conclusions are drawn, and a
12 report is generated.

13 Q So that was a lot there. So I'll take it a
14 little bit step by step.

15 So you said you take a weight of the
16 substance first?

17 A Yes. We do a weight without packaging, net
18 weight. Yes, sir.

19 Q And after that, you do a presumptive test of
20 the substance?

21 A We do a presumptive test.

22 Q What is the purpose of that?

23 A A presumptive test is just to give the
24 analyst an idea of what direction to go with the
25 case. So, in this case, I did a Marquis reagent

COURTNEY JOHNSON - DIRECT EXAMINATION

1 test, and it gave us a bright orange color, which
2 is indicative of the drug class of amphetamines.
3 So it gives us an idea of which way to go with it.
4 We don't use it for any confirmatory results or any
5 conclusions that we draw. It is just a directional
6 piece to help us with the analytical process.

7 Q And then you said there was further testing
8 after that?

9 A Yes. We then do confirmatory testing on the
10 gas chromatograph mass spectrometer, and that is
11 information that we use to draw the conclusions
12 that we find in the reports.

13 Q So you use this -- I'm sorry, I can never
14 wrap my tongue around that word, but you use that
15 piece of equipment to confirm what the substance
16 actually is?

17 A Yes, sir.

18 Q Did you write any sort of report to explain
19 your findings in this case?

20 A Yes, sir, I did.

21 Q I'll hand this up to you, what's previously
22 been marked as State's Exhibit 4 for identification
23 purposes. Are you familiar with that item?

24 A Yes, sir.

25 Q Can you tell us what that is?

COURTNEY JOHNSON - DIRECT EXAMINATION

1 **A** This is a drug report for the Control No.
2 HC-009667.

3 **Q** You are familiar with how that report is
4 made?

5 **A** Yes, sir.

6 **Q** When was it?

7 **A** This was made on July 26 of 2024.

8 **Q** Is that sort of report regularly kept in the
9 course of your business?

10 **A** Yes, sir.

11 MR. BEAMER: At this time we offer State's 4
12 into evidence.

13 THE COURT: Any objection?

14 MR. GARDNER: No objection.

15 THE COURT: State's 4 admitted into evidence
16 without objection.

17 (State's Exhibit 4 admitted.)

18 **Q** **(BY MR. BEAMER)** So with regard to that
19 sample, what did your testing in this case reveal?

20 **A** Item 1.1 was a Ziplock bag containing a
21 plastic corner bag, containing crystal-like
22 substance. The results: Methamphetamine, Schedule
23 2, found in the sample tested. One tested. Net
24 weight: 0.4 grams, 6.1 grains.

25 **Q** Was that weight that you listed, was that

COURTNEY JOHNSON - DIRECT EXAMINATION

1 with or without packaging?

2 A Without packaging.

3 Q Your testing, does it distinguish between a
4 controlled substance and any sort of cutting agent?

5 A Yes, sir, it does.

6 Q And so that weight is of the controlled
7 substance itself?

8 A So we do not do quantitative analysis. We
9 only do qualitative analysis. So we don't say it
10 is 80 percent methamphetamine, 20 percent cutter.
11 We just say methamphetamine was present in the
12 amount that we weighed.

13 Q Why is that?

14 A Because South Carolina law doesn't require us
15 to differentiate between that.

16 Q Thank you.

17 I'm now handing you what has been previously
18 marked for identification as State's Exhibit 5.
19 Are you familiar with that item?

20 A Yes, sir.

21 Q What is that?

22 A This is the drug report for Control No.
23 HC-009649.

24 Q You are familiar with how that report was
25 made?

COURTNEY JOHNSON - DIRECT EXAMINATION

1 **A** Yes, sir.

2 **Q** You generated that report?

3 **A** I did.

4 **Q** It is kept in the regular course of your
5 business?

6 **A** Yes, sir.

7 MR. BEAMER: At this time State would offer
8 State's Exhibit 5 into evidence.

9 THE COURT: Any objection?

10 MR. GARDNER: No, Your Honor.

11 THE COURT: State's Exhibit 5 admitted into
12 evidence without objection.

13 (State's Exhibit 5 admitted.)

14 **Q** **(BY MR. BEAMER)** What did your testing reveal
15 as to this substance?

16 **A** Item 1.1: Ziplock bag containing Ziplock
17 bag, containing crystal substance. Results:
18 Methamphetamine, Schedule 2, found in the sample
19 tested. One tested. Net weight: 0.2 grams, 3.0
20 grains.

21 **Q** Just to be clear, that's the weight without
22 packaging?

23 **A** Yes, sir. Net weight without packaging, yes,
24 sir.

25 **Q** Did you have any further involvement with

COURTNEY JOHNSON - CROSS EXAMINATION

1 this case?

2 A Once it was packaged right back up, I
3 returned it to evidence. Once the analysis process
4 and the report was generated, once everything was
5 complete, I returned it back to Property and
6 Evidence, and that was it.

7 MR. BEAMER: Thank you. Please answer any
8 questions defense has.

9 MR. GARDNER: He stole my thunder.

10 CROSS EXAMINATION

11 BY MR. GARDNER:

12 Q So you don't know anything else about the
13 test other than you tested it?

14 A No, sir. Correct.

15 Q You don't know if it came from Travis Davis
16 or --

17 A No, sir, I have no idea.

18 Q Travis Davis, do you have any idea who that
19 is?

20 A I do not.

21 Q We heard from him the other day. He
22 testified. You weren't here, were you?

23 A No, sir, I was not.

24 MR. GARDNER: No further questions, Your
25 Honor.

MOTIONS

1 MR. BEAMER: No redirect. I just ask that
2 she be excused from her subpoena.

3 MR. GARDNER: No objection.

4 THE COURT: You may step down and leave.
5 Thank you.

6 You can call your next witness.

7 MS. JOHNSON: State rests.

8 THE COURT: All right. Ladies and gentlemen,
9 the State has rested their case. Now is the time
10 in the trial where I have to address matters of law
11 with the attorneys, so I'll excuse you back in the
12 jury room for a few minutes.

13 I'll tell you why we do it outside of the
14 presence of the jury. It is not that we're trying
15 to hide anything from you or keep anything from
16 you, but as I told you in the opening charges, you,
17 and you alone, decide the facts of this case. You
18 decide those facts based upon the testimony of
19 witnesses and any other exhibits that are
20 introduced into evidence.

21 Well, now is the time of the trial where I
22 have to discuss law with the attorneys. And often
23 when the attorneys and I discuss the law, it
24 requires us to reference factual issues. What we
25 say is not evidence. And so we don't want you to

MOTIONS

1 be influenced by anything that I might say or
2 anything the attorneys might say when we discuss
3 the law. We don't want that to influence your
4 decision as to what the facts are, so that is why
5 we excuse you to the jury room.

6 In any event, it will give you an opportunity
7 to get something to drink, use the restroom,
8 whatever the case may be.

9 Leave your notepads in the jury box. Do not
10 discuss the case, even among yourselves. It is too
11 early for deliberations. We'll take a short break
12 and bring you back.

13 Thank you very much.

14 (The jury exits at 10:02 a.m., and the
15 following is heard out of the presence of the jury.)

16 THE COURT: All right. Any motions at this
17 time?

18 MR. GARDNER: Yes, from the defense. Your
19 Honor, we would move for a directed verdict at this
20 time. There is -- you know, technically, I might
21 believe that the only evidence that we have is
22 Travis saying that he bought the drugs from Mack,
23 but, I mean, I still don't think that is credible
24 evidence, and I ask for a directed verdict at this
25 time.

MOTIONS

1 THE COURT: All right. State's position?

2 MS. JOHNSON: Your Honor, we presented the
3 video of the drug buy. We have witness testimony.
4 We've presented the drugs that were collected. We
5 have Detective Dewitt that presented evidence of
6 the culmination of the drug buy.

7 THE COURT: All right. Anything in reply?

8 MR. GARDNER: No, Your Honor.

9 THE COURT: I'm going to deny the motion. I
10 think even with just the one witness' testimony,
11 that's sufficient to get around a directed verdict,
12 so I'll deny that motion.

13 Anything else?

14 MR. BEAMER: The State would just inquire
15 from either Your Honor or Madam Court Reporter, did
16 the State enter Exhibit 1, chain of custody?

17 COURT REPORTER: Yes.

18 MR. BEAMER: Thank you. I'm a little
19 scatter-brained this morning.

20 THE COURT: That's all right. I have in
21 evidence State's 1, 2, 3, 6 -- 4, 5, 6, 7, 8.

22 MR. BEAMER: Thank you, Your Honor.

23 THE COURT: Let's take a short break. We'll
24 come back, and I'll question your client on whether
25 or not he'll testify, and then we'll proceed from

MACK ALLEN DAVIS - EXAMINATION BY THE COURT

1 there.

2 Take about a ten-minute break, and we'll come
3 back.

4 (A recess was taken.)

5 THE COURT: Thank you very much, ladies and
6 gentlemen. Please be seated.

7 All right. If you could raise your right
8 hand, sir.

9 (MACK ALLEN DAVIS, having been duly sworn,
10 testified as follows:)

11 **EXAMINATION**

12 **BY THE COURT:**

13 **Q** You are Mack Allen Davis?

14 **A** Yes, sir.

15 **Q** Mr. Davis, you can put your hand down now.

16 We have now reached the part of the trial
17 where the State has rested their case, and you can
18 present a defense if you choose to. At this time,
19 I'm going to explain to you certain rights that you
20 have. If you do not understand what I'm saying,
21 please let me know. If you want me to explain
22 anything in more detail, please let me know. Do
23 you understand that?

24 **A** Yes.

25 **Q** Okay. I need you to speak up loudly and

MACK ALLEN DAVIS - EXAMINATION BY THE COURT

1 clearly, okay.

2 We've now reached the stage of the trial
3 where you may present your defense. You have the
4 right to claim the protections given to you by the
5 Fifth Amendment to the Constitution of the United
6 States which states, in part, that no person shall
7 be compelled in any criminal case to be a witness
8 against himself. This means that you cannot be
9 required to testify in this case. You have the
10 right to testify on your own behalf; however, no
11 one can make you testify. This is a personal
12 right, and no one can waive this right except for
13 you.

14 If you decide to testify, you will be subject
15 to the same rules that govern other witnesses, and
16 you may be examined and cross-examined on any
17 relevant issue in this case. In addition, if you
18 have any convictions involving dishonesty or false
19 statement or for crimes punishable for more than
20 one year, and this Court determines that the
21 probative value of admitting this evidence
22 outweighs its prejudicial effect to you, the
23 Solicitor will be able to introduce your record to
24 attack your credibility.

25 Now, at this time are there any prior

MACK ALLEN DAVIS - EXAMINATION BY THE COURT

1 convictions that the State would use to attack his
2 credibility?

3 MS. JOHNSON: 2019 conviction for discharging
4 a firearm into a dwelling, and he has two 2016
5 convictions, one for possession with intent to
6 distribute cocaine, and one for -- another drug
7 conviction -- conspiring to sell or deliver heroin.

8 THE COURT: Okay. I'm not going to allow the
9 drug charges. I think the prejudicial effect
10 outweighs the prejudicial value -- I mean, the
11 prejudicial value outweighs any probative value to
12 the State, unless you have some other probative
13 value.

14 MS. JOHNSON: That's correct.

15 THE COURT: Now, the discharging a firearm,
16 that carries, what? Five years?

17 MS. JOHNSON: Ten years, I believe.

18 THE COURT: All right. So if you testify,
19 they would be allowed to examine and cross-examine
20 you regarding your conviction for discharging a
21 firearm into a dwelling.

22 That was a conviction in 2019?

23 MS. JOHNSON: Yes.

24 THE COURT: For which you were convicted in
25 2019. I'm not going to allow them to introduce

MACK ALLEN DAVIS - EXAMINATION BY THE COURT

1 either of the 2016 drug charges, but they can
2 introduce the 2019 discharging a firearm charge.
3 Do you understand that?

4 **A** Yes, sir.

5 **Q** All right. If you decide to testify, this
6 decision on your part must be freely, voluntarily,
7 and intelligently made with knowledge of the
8 protections given to you by the Fifth Amendment,
9 and the consequences of your decision to testify.
10 If you decide not to testify, I will instruct
11 the jurors that they cannot give the fact that you
12 did not testify any consideration, whatsoever, and
13 that there is to be absolutely no prejudice to you
14 because you did not testify. It is left entirely
15 up to you whether or not you testify.

16 You may talk with your attorney, your family
17 and friends, or anyone else, but the final decision
18 will be left entirely up to you. Do you understand
19 that?

20 **A** Yes, sir.

21 **Q** Do you have any questions about that?

22 **A** No, sir.

23 **Q** All right. Have you had an opportunity to
24 discuss this matter, whether or not you will
25 testify, with your attorney, your family, friends,

MACK ALLEN DAVIS - EXAMINATION BY THE COURT

1 or anyone that you want to discuss it with?

2 A Yes, sir.

3 Q All right.

4 THE COURT: Let me back up for one second. I
5 think I still have to do a balancing test. What
6 would be the probative value of the discharging a
7 firearm into a dwelling?

8 MS. JOHNSON: To show the defendant's
9 character.

10 THE COURT: It is a felony. Okay. I see
11 what you are saying. So I will still allow that.

12 Q (BY THE COURT) Mr. Davis, do you have any
13 questions you want to ask me or your attorney?

14 A I was just going off the video they said
15 control buy.

16 Q I'm talking about your right to testify. Do
17 you have any questions?

18 A No, sir.

19 Q Okay. All right. Have you made a decision
20 as to whether or not you wish to testify?

21 A Yes, sir.

22 Q Do you wish to testify in this case?

23 A No, sir. I'm just going by what they said
24 they had.

25 Q All right. Is this your decision?

THE COURT AND ATTORNEYS

1 **A** Yes, sir.

2 **Q** Has anybody forced you not to testify?

3 **A** No, sir. I don't have nothing to say.

4 THE COURT: All right. Mr. Gardner, anything
5 further you want on the record in that regard?

6 MR. GARDNER: I think that covered it well.

7 Thank you.

8 THE COURT: Anything further from the State
9 regarding the defendant's right to testify?

10 MS. JOHNSON: No objection.

11 THE COURT: Will you be presenting any
12 defense?

13 MR. GARDNER: No, sir.

14 THE COURT: So we'll bring the jury in, the
15 defense will rest their case, we'll go into closing
16 arguments, jury charges.

17 MR. GARDNER: The State in full, and then the
18 defense?

19 THE COURT: Right. With you presenting
20 nothing from the State, the State would do closing
21 arguments in full, and then defense closing
22 argument in full.

23 MR. GARDNER: Yes, sir. Thank you, Judge.

24 THE COURT: All right. Let's take another
25 five minutes. I've got some jury charges I'll get

THE COURT AND ATTORNEYS

1 them out here and let you take a look at them, and
2 then we'll bring the jury back in.

3 All right. Let's take another five-minute
4 break, and then I'll be right back.

5 (A recess was taken.)

6 THE COURT: Thank you. Please be seated.
7 Here is a copy of my proposed charges. You can
8 take a look at that. I'll give you 10, 15 minutes,
9 and then I'll be back in and we'll see if you have
10 anything. Take another 10-, 15-minute break.

11 (A recess was taken.)

12 THE COURT: Thank you, please be seated.

13 I'll give you two opportunities to raise any
14 objections: One now, and one after I charge the
15 jury charge, versus when you read it on paper.

16 At this point in time, are there any
17 challenges to the proposed charges from the State?

18 MS. JOHNSON: No, Judge.

19 THE COURT: Defense?

20 MR. GARDNER: No, sir.

21 THE COURT: Anything from the State before we
22 bring the jury in?

23 MS. JOHNSON: No, Your Honor.

24 THE COURT: Anything from the defense?

25 MR. GARDNER: No, Your Honor.

DEFENSE RESTS

1 THE COURT: Let's bring the jury in.

2 (The jury enters at 10:44 a.m., and the
3 following is heard in the presence of the jury.)

4 THE COURT: Ladies and gentlemen, welcome
5 back. Make sure you have your own notepads and not
6 anyone else's. Were ready to proceed with the
7 trial of the case.

8 Defense, call your witness.

9 (A pause in the proceedings.)

10 THE COURT: Do you wish to rest?

11 MR. GARDNER: Defense would rest, Your Honor.

12 THE COURT: Okay. Ladies and gentlemen, the
13 State has rested their case, and the defense rested
14 their case. Now is the time of the trial where the
15 attorneys will make a closing argument, and then
16 I'll charge you on the law to be applied.

17 Just like their opening statements, these
18 closing arguments are not evidence in the case. It
19 is simply the attorneys' contention what the
20 evidence has shown, and the law to be applied in
21 the case.

22 If at any time an attorney references a
23 factual issue that is different from the facts as
24 you find them to be, or references the law that is
25 different from the law as I will tell you at the

CLOSING ARGUMENT BY MS. JOHNSON

1 close of their arguments, then you are to disregard
2 that portion of their argument because this is not
3 evidence of the facts. It is just their opinion or
4 contention as to what the evidence is and the law
5 to be applied.

6 All right. Who wishes to close for the
7 State?

8 MS. JOHNSON: I will, Judge.

9 THE COURT: All right.

10 MS. JOHNSON: Two dates. Two buys. This was
11 controlled, recorded, and drugs were recovered.
12 The defendant is charged with two counts of
13 distribution of meth. My co-counsel, David Beamer,
14 he explained distribution means that the defendant
15 had control over the drugs, and he sold or
16 delivered them to someone, and that someone is
17 Travis.

18 Let's go over the evidence in the case.
19 Detective Dewitt explained that based on a tip he
20 believed that Mack Davis was selling illegal drugs.
21 Based on that tip, he had Travis reach out to him
22 and set up a control buy. Those buys are called
23 "controlled" for a reason. The CI is searched
24 before and after. He goes and meets with police.
25 He goes to the drug buy. He goes back to the

CLOSING ARGUMENT BY MS. JOHNSON

1 police.

2 Travis, he met Mack Davis. He knew him. He
3 previously had known him. He went and met with
4 him. He bought the drugs. These -- Detective
5 Dewitt explained that we have gadgets. You watched
6 the videos. This is not Hollywood. You are not
7 going to get a crystal-clear video when someone is
8 trying to be conspicuous. You may have heard some
9 offensive language on those videos, but the police
10 are not going to use pastors or nuns to buy drugs.
11 They are going to use someone that can fit in.

12 Travis, he had nothing to gain from this. He
13 was not working off any charges. There was no
14 deal, and he can no longer testify as a CI after
15 testifying today.

16 After watching those videos, it is the same
17 voice and same person who sold Travis the drugs,
18 and that person is sitting right over there.

19 Now, you, the jury, when you go back there,
20 you are going to ask yourselves one question: Did
21 Mack Davis distribute those drugs on March 9th and
22 27th of 2023 beyond a reasonable doubt? They are
23 on video. You can go back and watch them. You can
24 listen to any testimony you heard here today.

25 As a refresher: Distribution, we talked

CLOSING ARGUMENT BY MR. GARDNER

1 about it. It is not about the amount of drugs, it
2 is about whether or not they were sold to another
3 person or delivered. When you go back there, you
4 know, you will look at everything. This is not a
5 who-done-it. This is someone selling drugs on
6 camera. So when you go back there, you, the jury,
7 will come back with one answer, and that is that
8 Mack Davis is guilty of selling those drugs beyond
9 a reasonable doubt. Thank you.

10 MR. GARDNER: Your Honor, if you can give me
11 a second to set this up?

12 THE COURT: All right.

13 MR. GARDNER: I'm going to -- I thought this
14 would be helpful to draw a couple of things out
15 here.

16 "Close enough for government work." "Close
17 enough for government work." That is a saying. It
18 is a popular saying. I heard it as a little boy
19 from my father, and he did not mean it as a
20 compliment. Other than serving in the Army, my dad
21 never worked for the government in his life. He
22 was a tree man. And what he meant by that is a lot
23 of times the government gets a free pass for doing
24 substandard work, and that's not right. So "close
25 enough for government work" is not the standard.

CLOSING ARGUMENT BY MR. GARDNER

1 I want to get something out there up front.
2 I'm not attacking the Horry County Police
3 Department. You would have a hard time to find a
4 bigger advocate and supporter for the Horry County
5 Police Department than me. I just want to point
6 out that nobody bats a thousand, and even Alabama
7 looses a football game once in a while. No one is
8 perfect, okay.

9 In a criminal court case, we cannot let the
10 standard be lowered because the police had a bad
11 day. We cannot send someone to prison because the
12 police had a bad day. We've got to keep the
13 standard the same.

14 The Founders created it over 200 years ago,
15 and the standard that His Honor will tell you in a
16 few minutes, the standard that you all swore to
17 do -- you might not like Mack Davis. I don't know
18 why you wouldn't or would, he hasn't really come
19 up, but it has nothing to do with this case. The
20 State is on trial just as much as Mack Davis is to
21 see if they can do what they said they were going
22 to do.

23 Any time the government says they are going
24 to charge someone and bring them to court, they
25 take on the responsibility to prove each and every

CLOSING ARGUMENT BY MR. GARDNER

1 element beyond a reasonable doubt. They didn't do
2 that. They didn't come close to doing that. So
3 I'm going to try -- if I can do this -- I'm going
4 to try to set this out.

5 See, lawyers, they go to law school for three
6 years, study for the bar, practice law, and they
7 forget, you know, when we were in law school we
8 didn't understand what reasonable doubt was and
9 beyond a reasonable doubt and presumption of
10 innocence, and all of that stuff. We get caught up
11 in our day-to-day activities, and we forget that we
12 didn't know this, and we expect a jury, who may not
13 heard it before, to grasp it in a few short hours,
14 and that is just not fair to you all.

15 So I'm going to try to tell you what it means
16 by basically telling you what it doesn't mean. I
17 heard my whole life that if you want to educate the
18 jury, inform the jury, or tell the jury what
19 reasonable doubt is, all you have to do is tell
20 them about the scales, and whichever one tilts
21 slightly, that in a civil case this would win, but
22 in a criminal case you need much more because it is
23 beyond a reasonable doubt. I think that is a good
24 explanation, but I don't think that would have
25 helped me when I first started 34 years ago. So

CLOSING ARGUMENT BY MR. GARDNER

1 why don't I try to go through a little explanation.

2 So, first of all, we start with zero
3 evidence. Now, that is pretty easy. Remember at
4 the beginning of trial that if you went back then
5 and deliberated, you had zero evidence, and that
6 would be not guilty.

7 The next level of evidence or burdens of
8 proof, if you will, is scintilla. I used to not
9 know what that meant, but we -- he is dead now, but
10 we had a supreme court justice that would like to
11 use that word as often as he could. I thought it
12 meant zero, but I found out it means a little
13 smidge, a little touch, and that is not guilty,
14 okay.

15 So the next level we have is reasonable
16 suspicion. Reasonable suspicion is what the
17 highway patrol uses when they pull you over. They
18 think you might be drunk or something. It has to
19 be articulable. It can't be a hunch. But it's
20 still not very much. And if you were to use the
21 highway patrol, if they pulled someone over and
22 thought that a crime had occurred, and they had
23 what -- everybody has heard of this before --
24 probable cause, then it might develop to probable
25 cause. Probable cause is also what a magistrate

CLOSING ARGUMENT BY MR. GARDNER

1 would do if you were to go to him and say, I would
2 like to take a warrant against my neighbor, or he
3 crossed over the line, or something like that. To
4 get a warrant, you would have to demonstrate a
5 probable cause.

6 Everyone has heard this now, if you watch any
7 television at all. Probable cause is what a grand
8 jury uses to indict people. You probably have
9 heard that a grand jury will indict a ham sandwich
10 given the opportunity. So that is a very low
11 standard, and it is not guilty if that is all you
12 have.

13 The next one I alluded to earlier in the
14 week, and that was a preponderance of the evidence.
15 That's the civil cases. That is the tilting of the
16 scales of justice. Also, numerically, 50.01. If
17 you have that in a civil case, you would win. But
18 that is not applicable to the criminal case. If
19 that's all you got in a criminal case, it is still
20 not guilty.

21 I started to think about something. I was
22 thinking about that videotape they played the other
23 day. If this was a civil case, I would caption
24 it -- there used to be a TV show called Peoples
25 Court. At the end of it, they would tell you what

CLOSING ARGUMENT BY MR. GARDNER

1 the case was captioned: The Case of the Wooden
2 Leg, or something like that. I would caption this:
3 Davis -- the fellow that testified -- versus Davis,
4 the fellow sitting over there. If it was a civil
5 case, I would submit to you we wouldn't be here.
6 It would have been thrown out a long time ago for
7 lack of evidence. In civil cases, the standard is
8 much lower. All they're trying to do is get money.
9 We're here in criminal court, and the standard is
10 way much higher. So I just want to point that out
11 to you.

12 What's next? Next is the serious one of them
13 all: Clear and convincing evidence. It is a very
14 high burden. That is what a family court judge
15 uses if he's going to take your children away from
16 you for the rest of your life. It's not done
17 lightly. But if that's all you have in a criminal
18 case, it's not guilty. We don't have anything.

19 And, finally, the highest standard we have is
20 reasonable doubt. Everybody has heard of that.
21 That's on TV every day. There is a TV show about
22 it all the time. Reasonable doubt. If you have
23 reasonable doubt, then that's not guilty.

24 The only way you can come back with a guilty
25 verdict is if you had beyond a reasonable doubt.

CLOSING ARGUMENT BY MR. GARDNER

1 So you have to go even higher than what reasonable
2 doubt is. I submit, you don't have that in this
3 case. We have preponderance of the evidence;
4 that's money. That's not guilty. Clear and
5 convincing evidence; that's not guilty. Reasonable
6 doubt, hesitate to act. Hesitate to act. What
7 would cause a reasonable person to hesitate to act
8 from coming back with a guilty verdict? Let's
9 apply it to this case and see what we can come up
10 with.

11 I had some cards in my pocket somewhere. I
12 don't know what I did with them. Maybe I put them
13 in my back pocket. I apologize for that. This is
14 important, though. I want to make sure I have it
15 right. If I make a mistake, go with what you got
16 and, by all means, don't penalize Mack over my
17 mistake. This is Mack's day in court, and it's
18 very important to him.

19 So what would be -- why would we hesitate to
20 act? One thing I love about the jury is this is 12
21 of you all, and any 12 people, one person of the 12
22 might miss something. Did you see that? No, I
23 didn't see it. But the 12 of you collectively when
24 you start deliberating -- don't forget about your
25 13th juror that will be with you. But when you

CLOSING ARGUMENT BY MR. GARDNER

1 start deliberating, everybody will pick up
2 something. That is why it is so important.
3 Someone might have missed something, and someone
4 might have seen it or caught it.

5 So the few things I would have pointed out to
6 you is they didn't search the car. Why is that
7 important? We don't know what is in the car. I
8 think they said they searched Davis, the fellow
9 that testified, but didn't search his car. They
10 let him drive off. I don't know how long he drove
11 for, and there was nothing but black space, can't
12 see what he was doing, anything that was happening.
13 If that's not reasonable doubt, I don't know what
14 reasonable doubt is.

15 The old lawyers used to say, If you have a
16 questionable witness, ask the jury: Would you do
17 business with this witness? Travis Davis, would
18 you go into business with him? That is the worse
19 CI in the history of CIs. I asked him: Did you
20 learn anything? He said he did it 20, 30 times,
21 and he does it for money. The Solicitor said he's
22 not working anything off. Well, he's not doing it
23 for free, I guarantee you that. So he's trying to
24 get paid today, that is why he was up there
25 testifying. He was terrible. I asked him -- I

CLOSING ARGUMENT BY MR. GARDNER

1 gave him a chance: Did you learn anything?

2 Anyway, I would do it a different way. I
3 won't ask if you would go into business with him.
4 I know the answer -- except the Horry County Police
5 Department. But this is the way I would ask it:
6 Would you give him your life savings and say, I
7 want you to drive across town, find somebody, cut a
8 deal with them, and bring them my life savings
9 worth of something, or put a deposit on a house, or
10 buy me a car, something like that? I'll let you
11 take this videotape, and you are on your own. You
12 come back and let me know. No, you couldn't do
13 that. You wouldn't trust him one minute with that.

14 So I'm going to say -- and the judge will
15 tell you -- you can believe anything that a witness
16 says, which no one is going to believe everything
17 someone says. You can believe part of it, or none
18 of it. And the judge will tell you that.

19 I would not believe -- and I'll give you
20 another reason why Travis is an unreasonable CI.
21 He said that he did this drug transaction in the
22 gas station. Where is the gas station, and why not
23 do it when you are right there? Why drive all
24 around doing all of this nonsense? None of that
25 makes any sense.

CLOSING ARGUMENT BY MR. GARDNER

1 One of the biggest tales -- there is a
2 solicitors' argument, and I started working out as
3 a solicitor. One of the beautiful arguments the
4 solicitors can use at times is, If you want to see
5 what direction the wind is blowing, you don't look
6 at the trunk of the tree, you look at the leaves on
7 the tree. They'll tell you a lot quicker than the
8 trunk of the tree. It is the little things. You
9 look at the little things. And the biggest
10 indicator to me about our star witness, Travis
11 Davis, was he brought up Suboxone. Caught me
12 completely offguard. But I asked him, Suboxone,
13 isn't that a drug that people use to rehab, trying
14 to get off of drugs? And what did he say? Yes.
15 How does he know that?

16 You're allowed to do deductions, anything
17 reasonable from the testimony and the evidence that
18 is submitted up there, anything logical. And I
19 would submit to you that our star witness, Travis
20 Davis, may have had a little drug problem. Maybe
21 he needed Suboxone to stay off of the drugs. Maybe
22 he had the drugs before the cops sent him on his
23 merry goose chase ride. Maybe he had to get paid.
24 How does a CI get paid? Tells the cop, I've got
25 some dope. Who did you get it from? A family

CLOSING ARGUMENT BY MR. GARDNER

1 friend. Who's this family friend? Mack Davis.
2 How are they family friends? Our star witness,
3 Travis, he sells eggs. Weren't they talking about
4 buying eggs? Yes. They weren't talking about
5 buying dope. There was no discussion about buying
6 dope in that video. If there was, I didn't see it.
7 You all might have seen it, but I didn't see it.

8 The thing is -- speaking of things I didn't
9 see, I didn't see a female -- or did I see the
10 female? I don't remember. We didn't hear anything
11 about her. I want to know where she is. If Mack
12 Davis is running some drug thing out of his trailer
13 in the trailer park with this woman, why haven't we
14 heard anything from her?

15 They took a picture of him, and I, for the
16 life of me, do not know why they did that. I don't
17 know -- well, I do know why, because they have got
18 a very weak case, and they are trying to bolster
19 it. They're trying to pick themselves up by their
20 bootstraps.

21 So, there is no picture of the female. There
22 is no picture of our star witness. They are trying
23 to bolster their case. It is just a picture of
24 Mack Davis. It has nothing to do with guilt or
25 innocence. This cannot help us make a decision

CLOSING ARGUMENT BY MR. GARDNER

1 about truth in any shape, form, or fashion. That
2 is just the Solicitor -- that is just the Solicitor
3 bolstering trying to bolster her case, and it is
4 not going to work, because you are not going to let
5 her do it.

6 Speaking of bolstering the case, why two
7 videos? Why two buys? If the first one is against
8 the law, and if the first one you got all of the
9 evidence you need, why would they go back 19 days
10 later? I mean, maybe I got the math right on that.
11 I don't know if I did. If I didn't, go with what
12 you got. I think it was 19 days. Why go back 19
13 days later and do it all again?

14 You heard the star witness say that he looked
15 at the videotape. Remember, he wants to get paid.
16 So they have got to go back because the first one
17 was garbage. The second was even worse. That's
18 why he went back, because the first was garbage.
19 So we're not going to put anybody in prison for
20 that first videotape. That is a "not guilty" all
21 over the place. And the second videotape was worse
22 than the first videotape. So that is why they went
23 back. I mean, goodness gracious.

24 And the police officers, they do a good job,
25 but they didn't follow this star witness. You

CLOSING ARGUMENT BY MR. GARDNER

1 would think they would have searched the car. They
2 didn't. You would have thought they would have
3 followed him to see where he was going. They
4 didn't. I mean, I don't know where he went. He
5 went to the trash dump. He went to the gas
6 station. He may have gone other places, I just
7 don't know. I just don't see anything about it,
8 you know.

9 I did not question the expert witness about
10 the -- the chemist, the one that talks about the
11 drugs. Actually, I don't even know if I knew this
12 or not, but they don't separate what is the drug
13 part of the drugs from what I think what she called
14 the "cutting agent," the stuff that it was cut
15 with. I didn't question her about that, even
16 though I thought it was bizarre and unfair, because
17 it's not the truth. We want to get the truth out
18 there as close as we can. But I didn't question
19 her about it because it doesn't matter.

20 Those drugs were not Mack Davis'. He pled
21 not guilty. That is the same thing as getting on
22 the witness stand and telling you, Not my drugs,
23 didn't have anything to do with it. That's why I'm
24 not -- if you were wondering about that, that's why
25 I let it go, because it really has nothing to do

CLOSING ARGUMENT BY MR. GARDNER

1 with it. If she says it is drugs, I don't doubt
2 what she said, but she didn't tell you it was Mack
3 Davis' drugs.

4 We knew it came from Travis, but we don't
5 know where Travis got it from. Of course he said
6 he got it from Mack, but just because they said it,
7 doesn't make it so, okay.

8 Just a couple more things, and I apologize,
9 but it is very important. There is true stories
10 from jurors over the years. When you're back there
11 deliberating -- this is why I brought up the
12 13th juror, because I thought maybe it would
13 help, because this is foreign concept to most
14 people.

15 These are true stories. After a trial, we've
16 heard jurors say, You know, I thought
17 what's-his-name wasn't guilty, but he didn't prove
18 it to me. If that enters your discussions, then
19 you are wrong because you are not supposed to talk
20 about that. The judge is going to tell you that
21 this doesn't prove everything. Everything I told
22 you at the beginning of the trial, I think has come
23 up. He not testifying because the law says he
24 doesn't have to. He doesn't have to prove
25 anything, because the law says.

CLOSING ARGUMENT BY MR. GARDNER

1 You can imagine -- I have said this for 30
2 years. You could imagine a time where a defendant
3 would not be able to -- through no fault of his
4 own -- prove his innocence. So that's why we don't
5 require them to do it. But this is the first time
6 I think that we've had a case where I don't see how
7 he could have proved his innocence, because he's
8 not in control of the videos. The cops are. He's
9 not in control of anything. The star witness is in
10 control of all of that stuff. So our Founding
11 Fathers were a lot smarter than we give them credit
12 for. They knew there would be a time where
13 somebody would not be able to prove their
14 innocence, and the jury would be the only thing
15 that separated them from the penitentiary, and
16 that's what we got here today.

17 So if you say he didn't testify, that's also
18 -- the judge will tell you that in these cases they
19 don't testify -- they don't have to testify. They
20 can if they want to, but witnesses -- you know,
21 witnesses are trained in testifying. I believe the
22 chemist has testified 17 times. I don't know how
23 many times the CI has testified. The detective,
24 those are people -- they go to detective school or
25 police academies, and there is a class they teach

CLOSING ARGUMENT BY MR. GARDNER

1 on testifying in front of the jury. That is why
2 when you ask them a question, they look at you all
3 when they answer. They don't look at the person
4 asking the question. But defendants are not
5 trained in testifying. They don't have that class,
6 so they don't have to testify.

7 So those kinds of things, when you start
8 talking about that, that is your reason to
9 hesitate. And if you really go through everything
10 in this case, you will hesitate to act. When you
11 listen to the judge telling you what the law is, it
12 will fit like a hand inside a glove, and you will
13 know there is only one verdict in this case, and
14 that is not guilty.

15 Remember, we're not going to reward the
16 police for doing shoddy evidence. We're not going
17 to send someone off because the police didn't do
18 their job. That is what this case is about. This
19 is not about anything in the future or anything in
20 the past. This is about one case -- technically,
21 two, I guess, if you count those. But this is Mack
22 Davis' day in court, and you all are the ones that
23 are going to -- nobody's going to complain about
24 what y'all do. There is no news media here. No
25 one is going -- you heard the judge say at the

JURY CHARGE

1 beginning of the trial say, Ordinarily speaking,
2 nobody's going to be able to change what a jury
3 does when it comes to innocence or guilt. That's
4 it. Whatever you all do today, if you apply the
5 law -- and I know you will, because you have sworn
6 to do that -- there is only one verdict. Thank you
7 for your attention. Not guilty.

8 THE COURT: All of the evidence has been
9 submitted to you, the attorneys have made their
10 closing arguments, and now this is the time I
11 charge you with the law to be applied in this case.

12 The two indictments in this case charge the
13 defendant with distribution of methamphetamine.
14 The allegations are that the defendant committed
15 the same crime on two different occasions. I
16 remind you that the fact he was arrested, charged
17 and indicted in this case is not evidence in this
18 case, nor does the defendant's arrest, charge, or
19 indictment create any presumption or inference of
20 guilt. These documents are simply the formal
21 written instruments which contain the charges made
22 against the defendant. They are the formal
23 documents by which this case is brought into
24 court.

25 Also, each indictment charges a separate and

JURY CHARGE

1 distinct offense. You must decide each indictment
2 separately on the evidence and the law applicable
3 to it uninfluenced by your decision as to the other
4 indictment.

5 The defendant pleads not guilty to these
6 indictments. That plea puts the burden on the
7 State to prove the defendant guilty. A person
8 charged with committing a criminal offense in South
9 Carolina is never required to prove his innocence.
10 I charge you that it is an important rule of the
11 law that the defendant in a criminal trial, no
12 matter what the seriousness of the charge may be,
13 will always be presumed to be innocent of the crime
14 for which the indictment was issued, unless guilt
15 was proven by evidence satisfying you of that guilt
16 beyond a reasonable doubt.

17 This presumption of innocence does not end
18 when you begin your deliberations, but it
19 accompanies the defendant throughout the trial
20 until you reach a verdict of guilt based on
21 evidence satisfying you of that guilt beyond a
22 reasonable doubt.

23 The presumption of innocence is like a robe
24 of righteousness placed about the shoulders of the
25 defendant, which remains with the defendant until

JURY CHARGE

1 it has been stripped from the defendant by evidence
2 satisfying you of the defendant's guilt beyond a
3 reasonable doubt. The presumption of innocence is
4 not merely a theory. It is not just a legal
5 phrase. It is a substantial right to which every
6 defendant is entitled unless you, the jury, are
7 satisfied from the evidence of the defendant's
8 guilt beyond a reasonable doubt.

9 Now, what is a reasonable doubt in the law?
10 A reasonable doubt is the kind of doubt that would
11 cause a reasonable person to hesitate to act.
12 Proof beyond a reasonable doubt is proof that
13 leaves you firmly convinced of the defendant's
14 guilt.

15 You know very few things in this world with
16 absolute certainty, and in criminal cases, the law
17 does not require proof that overcomes every
18 possible doubt. If, based on your consideration of
19 the evidence, you are firmly convinced that the
20 defendant is guilty of the crime charged, you must
21 find the defendant guilty. If, other the other
22 hand, you think a real possibility exists that the
23 defendant is not guilty, you must give the
24 defendant the benefit of that doubt and find him
25 not guilty.

JURY CHARGE

1 I remind you that during this trial you and I
2 have certain duties to perform. As the trial
3 judge, my responsibility is to preside over the
4 trial of this case. I also have the duty to rule
5 on the admissibility of the evidence offered during
6 the trial. You are to consider only the competent
7 evidence before you.

8 If any testimony was ordered stricken from
9 the record in this case during this trial, you must
10 disregard that testimony. You are to consider only
11 the testimony which has been presented from the
12 witness stand, any exhibits which have made a part
13 of the record in this case, and any stipulations of
14 counsel.

15 I have the additional duty to charge you the
16 law applicable to this case. As the presiding
17 judge, I am the sole judge of the law of this case.
18 Your duty as jurors is to accept and apply the law
19 as I now state it to you. If you have any idea as
20 to what the law is or what it ought to be, and your
21 idea is different from what I now tell you what the
22 law is, you must disregard your idea of what the
23 law is or ought to be because you are sworn to
24 accept the law and apply the law exactly as I
25 stated to you.

JURY CHARGE

1 In every case tried in this court before a
2 jury, the jury is the sole and exclusive judge of
3 the facts in the case. A trial judge cannot
4 intimate, state, comment on, or make any statement
5 to the jury about the facts in the case. Since
6 you, the jury, are the sole judges of the facts in
7 this case, you are not to infer from what I have
8 said during the process of this trial in ruling
9 upon the admissibility of the evidence or
10 otherwise, or anything that I say now during the
11 course of this instruction to you, that I have any
12 opinion about the facts in this case. The law
13 doesn't allow me to have an opinion about the facts
14 in this case. This is a matter for you, the jury,
15 to determine.

16 As jurors, your duty is to determine the
17 effect, value, weight and truth of the evidence
18 presented during this trial. Necessarily, you must
19 determine the credibility of witnesses who have
20 testified in this case.

21 Credibility simply means believability. Your
22 duty as jurors is to analyze and evaluate the
23 evidence and determine which evidence convinces you
24 of its truth. In determining the believability of
25 witnesses who has testified in this case, you may

JURY CHARGE

1 believe one witness over several witnesses, or
2 several witnesses over one witness. You may
3 believe a part of the testimony of a witness, and
4 reject the remaining part of that same witness.
5 You may believe the testimony of a witness in its
6 entirety, or reject it in its entirety. You may
7 consider whether any witness has exhibited to you
8 any interest, bias, prejudice or other motive in
9 this case. You may also consider the appearance
10 and manner of a witness while on the witness
11 stand.

12 The Rules of Evidence ordinarily do not
13 permit witnesses to testify to opinions or
14 conclusions. An exception to this rule exists for
15 witnesses we call "expert witnesses." A witness
16 who by education and experience has become an
17 expert in some art, science, profession or calling
18 may state an opinion as to the relevant and
19 material matter in which the witness claims to be
20 an expert, and they also state the opinions.

21 You should consider any expert opinion
22 received in evidence in this case, and like any
23 other evidence, give it the weight you think it
24 deserves. If you decide that the opinion of an
25 expert witness is not based on sufficient education

JURY CHARGE

1 and experience, or if you conclude the reasons
2 given in support of the opinion are not sound, or
3 that the opinion is outweighed by other evidence,
4 you may disregard the opinion entirely.

5 An expert witnesses testimony is to be given
6 no greater weight because the witness is an expert.
7 Further, you are not required to except an expert's
8 opinion even though it is not contradicted.

9 I instruct you and emphasize that the fact
10 that the defendant did not testify in this case is
11 not a factor to be considered by you in any way in
12 your deliberations and in your consideration on the
13 question of the guilt or innocence of the
14 defendant. The defendant's choice not to testify
15 must not be considered by you in any manner,
16 whatsoever. A defendant has the constitutional
17 right to remain silent, and the assertion of this
18 right must not be considered by you in your
19 deliberations.

20 I repeat: Under your oath, you are to draw
21 no conclusion, whatsoever, from the fact that the
22 defendant in this case did not testify. The fact
23 that this defendant did not testify should not even
24 be discussed in the jury room.

25 The burden of proof, as I've stated to you,

JURY CHARGE

1 is on the State. The defendant is not required to
2 prove his innocence. The burden of proof remains
3 on the State to prove guilt beyond a reasonable
4 doubt.

5 In order to establish criminal liability,
6 criminal intent is required. For example, the
7 mental state required to be proven by the State for
8 a particular crime by the purpose, intent,
9 knowledge, recklessness, or criminal negligence.

10 Criminal intent must be proven by the State
11 beyond a reasonable doubt. Criminal intent is
12 always a matter that must be determined by the jury
13 from the circumstances surrounding the situation.
14 Criminal intent cannot be proven to a mathematical
15 certainty. Medical science cannot dissect a
16 person's brain and determine what the person had in
17 mind, so the law says that criminal intent may be
18 inferred from the circumstances shown to have
19 existed. This is how you make a determination of
20 whether or not the element requiring intent is
21 present.

22 Criminal intent does not have to be
23 established by direct and positive evidence.
24 Intent may be established by inference in the same
25 way as any other fact, by taking into consideration

JURY CHARGE

1 the acts of the parties and all the facts and
2 circumstances of the case. Criminal intent is a
3 mental state, a conscious wrongdoing. You must
4 determine what the defendant intended to do based
5 on the circumstances shown to have existed.

6 Criminal intent can arise from an action or a
7 failure to act. It may arise from negligence,
8 recklessness, or indifference to duty, or to
9 consequences that is considered by law to be the
10 equivalent of criminal intent.

11 The defendant is charged with two counts of
12 distribution of methamphetamine. To convict the
13 defendant of distribution of methamphetamine, the
14 State must prove beyond a reasonable doubt that the
15 defendant distributed methamphetamine.

16 "Distribute" means to deliver or to actually
17 constructively or attempt to transfer a drug other
18 than by administering or dispensing.

19 "Deliver" means to actually, constructively,
20 or attempt to transfer a drug. A transfer can
21 involve an exchange for money or barter or gift.
22 The law does not require that anything be given in
23 exchange for the drugs for a transfer to constitute
24 a distribution. The law only requires that a
25 transfer of the drug be from the defendant to

JURY CHARGE

1 another person.

2 You must find one of four possible verdicts
3 in this case. No significance is to be given to
4 the order which I state these possible verdicts to
5 you, I simply have to state one first, one second,
6 one third, and one fourth. Also, I remind you that
7 each indictment charges a separate and distinct
8 offense. You must decide on the evidence and the
9 law applicable to it uninfluenced by your decision
10 as to any other indictment. The defendant may be
11 convicted or acquitted on any or all of the
12 offenses charged. You will be asked to find a
13 separate verdict for guilty or not guilty for each
14 indictment.

15 Therefore, the possible verdicts in this case
16 are: One, we, the jury, find the defendant guilty
17 of distribution of methamphetamine occurring on
18 March 9, 2023, as alleged in Indictment
19 2024-GS-26-04187, and guilty of distribution of
20 methamphetamine occurring on March 27, 2023, as
21 alleged in Indictment 2024-GS-26-04188.

22 The second possible verdict is: We, the
23 jury, find the defendant guilty of distribution of
24 methamphetamine occurring on March 9, 2023, as
25 alleged in Indictment 2024-GS-26-04187, and not

JURY CHARGE

1 guilty of distribution of methamphetamine occurring
2 on March 27, 2023, as alleged in Indictment
3 2024-GS-26-04188.

4 The third possible verdict is: We, the jury,
5 find the defendant not guilty of distribution of
6 methamphetamine occurring on March 9, 2023, as
7 alleged in Indictment 2024-GS-26-04187, and guilty
8 of distribution of methamphetamine occurring on
9 March 27, 2023, as alleged in Indictment
10 2024-GS-26-04188.

11 The fourth possible verdict is: We, the
12 jury, find the defendant not guilty as to both
13 indictments.

14 Ladies and gentlemen, your verdict must be
15 unanimous.

16 Ms. Foreperson, when the jury agrees on a
17 verdict, you will check the appropriate verdict
18 here on the verdict form, and then sign your name.
19 At that time, knock on the door, tell the bailiff
20 that the jury has reached an unanimous verdict, and
21 we'll bring you back into the courtroom at that
22 time.

23 You have been allowed to take notes during
24 the trial of this case, and you may now take your
25 notes with you to assist in your deliberations on

JURY CHARGE

1 the verdict. However, please remember that some
2 people are better note-takers than others. Some
3 people can recollect testimony without notes.
4 Juror notes should not be given any greater weight
5 than the recollection of other jurors. The
6 recollections of individual jurors should be
7 considered as reliable as notes taken by any other
8 jurors.

9 Now, I'm going to excuse you back to the jury
10 room, but please do not begin your deliberations at
11 this time. I've got to check with the attorneys to
12 see if they have any challenges to the closing
13 arguments that I've given you, or if there's any
14 additional charges that need to be made. If there
15 are, then we'll bring you back to the courtroom and
16 I'll make whatever additional charges or
17 corrections need to be made. If there are none,
18 then the exhibits will be brought back to you with
19 the verdict form, and the bailiff will instruct you
20 to begin your deliberations, but do not begin your
21 deliberations until you are instructed to do so by
22 the bailiff.

23 Thank you very much.

24 (The jury exits at 11:26 a.m., and the
25 following is heard out of the presence of the jury.)

DELIBERATIONS

1 THE COURT: Any challenges to the closing
2 charges from the State?

3 MS. JOHNSON: No, Your Honor.

4 THE COURT: Defense?

5 MR. GARDNER: No, sir.

6 THE COURT: Let's make sure we have all of
7 the exhibits here.

8 (The attorneys and the court reporter confer
9 on the exhibits.)

10 THE COURT: Okay. We have everything. You
11 can take it to them and tell them to begin their
12 deliberations.

13 (Whereupon, deliberations begin at 11:29
14 a.m.)

15 (The alternate juror enters the courtroom.)

16 THE COURT: This is the part of the trial I
17 hate. As the alternate, since we have our 12
18 jurors, the law says that you cannot participate in
19 the deliberation. I hate that because we make you
20 sit through the whole trial, do everything the
21 regular jurors do, but then we don't let you make a
22 decision, but that is the way the law is.

23 I'll appreciate you for your service. You
24 can do whatever you want. If you want to stay and
25 see the outcome, you can do that. If you want to

JURY QUESTION

1 leave now, you can do that as well. If you want to
2 stay for a while, and then leave -- I'll let you do
3 whatever you want. You just cannot participate in
4 the jury deliberations.

5 Do you have anything in the jury room?

6 JUROR: No, sir.

7 THE COURT: All right. As I said, you're at
8 liberty to go, or if you want to stay.

9 You've got a one-year disqualification from
10 serving jury duty, and you've got a three-year
11 exemption. I hope you don't exercise your
12 exemption because we do need good jurors. I want
13 to thank you for your service this week.

14 JUROR: Yes, sir.

15 THE COURT: Good to see you.

16 (The alternate juror exits the courtroom.)

17 THE COURT: Anything before we recess?

18 MR. BEAMER: No, sir.

19 THE COURT: We'll be in recess.

20 (A recess was taken as deliberations
21 continue.)

22 THE COURT: We have a question and request:
23 Can we watch the video again? And, also is there
24 a transcription of the video?

25 THE COURT: Let's get it set up, watch the

JURY QUESTION

1 videos again, and I'll tell them there is no
2 transcription.

3 How long will it take to set it up?

4 MS. JOHNSON: Should take us like ten
5 minutes.

6 THE COURT: All right. Let's go ahead and
7 get that set up.

8 (A brief pause in the proceedings.)

9 THE COURT: All right. Anything from the
10 State before we bring the jury in?

11 MS. JOHNSON: No, Your Honor.

12 THE COURT: Defense?

13 MR. GARDNER: No, sir.

14 THE COURT: Let's bring the jury in.

15 (Court's Exhibit 1 marked.)

16 (The jury enters at 12:07 p.m., and the
17 following is heard in the presence of the jury.)

18 THE COURT: Welcome back. I have your
19 request to watch the video again, and is there a
20 transcription of the video?

21 To answer the first question, you can watch
22 it again, and we'll play those for you here in a
23 second.

24 There is no transcription. It is for you to
25 decide what the videos show and what is said on the

JURY QUESTION

1 video.

2 All right. Play the first video.

3 (Published to the jury.)

4 THE COURT: All right. Ladies and gentlemen,
5 I'm going to excuse you to the jury room. We have
6 ordered lunch for you, and when lunch gets here,
7 you can do one of two things: If you want to
8 deliberate while you eat lunch, you can do that.
9 If you want to stop deliberations, eat your lunch,
10 and resume deliberations, you can do that as well.
11 The only requirement is that everybody must do the
12 same thing. You can't have some people deliberate
13 while others don't. But whatever you choose, you
14 can do.

15 I'll excuse you back to the jury room, and
16 you can continue your deliberations. Thank you.

17 (The jury exits at 12:12 p.m., and the
18 following is heard out of the presence of the jury.)

19 THE COURT: Anything from the State before we
20 break?

21 MR. JOHNSON: No, Judge.

22 MR. GARDNER: No, Your Honor.

23 THE COURT: We'll be in recess until we hear
24 from the jury.

25 (A recess was taken as deliberations

JURY QUESTION

1 continued.)

2 THE COURT: We have a question and a request
3 from the jury: If we agree on one count, but can't
4 agree on the other, what do we do?

5 I was just going to write on here, "Please
6 continue your deliberations to see if you can reach
7 a unanimous verdict on both indictments."

8 MS. JOHNSON: Yes.

9 THE COURT: Is that agreeable?

10 MR. GARDNER: Yes, sir. That sounds great.

11 THE COURT: The second one says: Can we get
12 a copy of the stenography notes from the trial?

13 I was going to say they are not transcribed,
14 so they are not available. Do I leave it at that,
15 or you can listen to a witness' testimony again?

16 MS. JOHNSON: I would prefer that, Judge. I
17 did tell them at closing.

18 THE COURT: They asked for stenography notes.
19 I'm going to say that nothing is transcribed, so no
20 notes are available; however, if you want to hear a
21 witness' testimony, we can play it for you if you
22 want.

23 MR. GARDNER: I didn't hear the Solicitor's
24 response.

25 MS. JOHNSON: I agreed with that.

JURY QUESTION

1 MR. GARDNER: I'm fine with that, Judge.

2 THE COURT: All right. Question: If we
3 agree on one count, but can't agree on the other,
4 what do we do? The reply from the Court will be:
5 Please continue to deliberate and see if you can
6 reach an unanimous verdict for each indictment,
7 Benjamin Culbertson, Judge.

8 Question: Can we get a copy of the
9 stenography notes from the trial?

10 Reply from the Court: Notes have not been
11 transcribed and none are available; however, you
12 can listen to the audio recording of a witness'
13 testimony if you would like.

14 Any objection from the State?

15 MS. JOHNSON: No, Judge.

16 THE COURT: Any from the defense?

17 MR. GARDNER: No, Your Honor.

18 THE COURT: Let's mark these. The first one
19 about the verdict, Court's 2, and the notes as 3.)

20 (Court's Exhibits 2 and 3 marked.)

21 THE COURT: If you would, take these back to
22 the jurors. Thank you.

23 Anything from the State?

24 MS. JOHNSON: No, Your Honor.

25 THE COURT: From the defense?

JURY QUESTION

1 MR. GARDNER: No, Your Honor.

2 THE COURT: Stand in recess until we hear
3 from the jury.

4 (A recess was had while deliberations
5 continued.)

6 THE COURT: Thank you very much. Please be
7 seated.

8 I have another question from the jury. It
9 says: Can you please give us a definition of
10 reasonable doubt and the State's burden of proof?
11 What I did is I just printed out my jury
12 instruction on reasonable doubt. It says: "What
13 is reasonable doubt in the law? A reasonable doubt
14 is the kind of doubt that would cause a reasonable
15 person to hesitate to act. Proof beyond a
16 reasonable doubt is proof that leaves you firmly
17 convinced of the defendant's guilt. We know very
18 few things in this world with absolute certainty,
19 and in criminal cases, the law does not require
20 proof that overcomes every possible doubt. If,
21 based on your consideration of the evidence, you
22 are firmly convinced that the defendant is guilty
23 of the crime charged, you must find the defendant
24 guilty. If, on the other hand, you think a real
25 possibility exists that the defendant is not

JURY QUESTION

1 guilty, you must give the defendant the benefit of
2 that doubt and find him not guilty."

3 What I was thinking is just in response
4 saying: The State must prove the defendant's guilt
5 beyond a reasonable doubt. See the attached charge
6 for reasonable doubt, and attach this to that.

7 MS. JOHNSON: I think that's fine, Your
8 Honor. We agree with that, Your Honor.

9 THE COURT: Defense's position?

10 MR. GARDNER: One second, Your Honor.

11 (Mr. Gardner confers with Mr. Davis.)

12 MR. GARDNER: Yes, sir.

13 THE COURT: Court's 4 we'll mark.

14 (Court's Exhibit 4 marked.)

15 THE COURT: All right. If you want to take
16 this back to the jury.

17 Thank you.

18 Anything from the State before we recess?

19 MS. JOHNSON: No, Your Honor.

20 THE COURT: Anything from the defense?

21 MR. GARDNER: No, sir, Your Honor.

22 THE COURT: We'll be in recess until we hear
23 from the jury. Thank you.

24 (A recess was taken.)

25 THE COURT: Thank you very much. Please be

JURY QUESTION

1 seated.

2 The jurors sent out -- not really a question.
3 It just says: "We cannot come to an agreement, and
4 some express not wavering, so we are hung at this
5 point, and they don't see this changing. What do
6 we do?"

7 All I know to do is bring them out, give them
8 the Allen charge, send them out for deliberations.

9 MS. JOHNSON: Is that to both counts, Your
10 Honor?

11 THE COURT: I just read exactly what they
12 said.

13 MS. JOHNSON: Yeah, an Allen charge I think
14 is appropriate.

15 THE COURT: And what does the defense think?

16 MR. GARDNER: Yes, sir, Allen charge.

17 THE COURT: All right. Anything from the
18 State before we bring the jury in?

19 MS. JOHNSON: No, Your Honor.

20 THE COURT: Defense?

21 MR. GARDNER: No, sir. I think just regular
22 Allen charge like we normally do is fine.

23 THE COURT: All right.

24 (The jury enters at 4:15 p.m., and the
25 following is heard in the presence of the jury.)

ALLEN CHARGE

1 THE COURT: Ladies and gentlemen, welcome
2 back. You have stated that you have been unable to
3 agree on a unanimous verdict for both indictments
4 in this case; is that correct?

5 FOREPERSON: Yes, Your Honor.

6 THE COURT: As I instructed you earlier, the
7 verdict of the jury must be unanimous. When a
8 matter is in dispute, it isn't easy for even two
9 people to agree, so when 12 people must agree, it
10 becomes even more difficult. In most cases,
11 absolute certainty cannot be reached or expected;
12 however, you have a duty to make every reasonable
13 effort to reach a unanimous verdict. In doing
14 this, you should consult with one another, express
15 your own views, and listen to the opinions of your
16 fellow jurors. Tell each other how you feel and
17 why you feel that way. Discuss your differences
18 with open minds.

19 Although the verdict from the jury must be
20 unanimous, every one of you has a right to your own
21 opinion. The verdict you agree to must be your own
22 verdict, the result of your own convictions. You
23 should not give up your firm beliefs merely to be
24 in agreement with your fellow jurors. The majority
25 should consider the minority's position, and the

ALLEN CHARGE

1 minority should consider the majority's position.
2 You should carefully consider and respect the
3 opinions of each other and reevaluate your position
4 for reasonableness, correctness, and impartiality.
5 You must lay aside all outside matters and
6 reexamine the questions before you based on the law
7 and the evidence in this case.

8 If you do not agree on a verdict in this
9 case, I must declare a mistrial. In that case, it
10 does not mean anybody wins. It means at some
11 future time I will try this case with some other
12 jury sitting where you now sit. The same
13 participants will come, and the same lawyers will
14 ask basically the same questions and get basically
15 the same answers, and we will go through the whole
16 process again.

17 You were selected in the same manner and from
18 the same source as any future jury will be, and
19 there is no reason for me to suppose that the case
20 will ever be submitted to 12 more intelligent,
21 impartial, conscientious and competent jurors than
22 you, or that more or clearer evidence will be
23 produced on one side or the other.

24 So I'm going to ask that you please return to
25 the jury room and continue to deliberate to see if

VERDICT

1 you can reach a unanimous verdict, okay. Thank you
2 very much.

3 (The jury exits at 4:18 p.m., and the
4 following is heard out of the presence of the jury.)

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

7 MS. JOHNSON: No, Your Honor.

8 THE COURT: Anything from the defense?

9 MR. GARDNER: No, sir.

10 THE COURT: We'll be in recess until we hear
11 something from the jury.

12 (A recess was taken while deliberations
13 continued.)

14 THE COURT: Thank you. Please be seated.

15 Ladies and gentlemen, the jury has reached a
16 verdict.

17 Anything from the State before we bring the
18 jury in?

19 MS. JOHNSON: No, Your Honor.

20 THE COURT: Anything from the defense?

21 MR. GARDNER: No, sir.

22 THE COURT: Let's bring the jury in.

23 (The jury enters at 5:27 p.m., and the
24 following is heard in the presence of the jury.)

25 THE COURT: I believe the jury has reached a

VERDICT

1 verdict on both indictments; is that correct?

2 FOREPERSON: Yes, Your Honor.

3 THE COURT: Have you completed the verdict
4 form?

5 FOREPERSON: Yes, Your Honor.

6 THE COURT: If you would, please hand it to
7 the bailiff.

8 I'll ask the clerk to publish the verdict.

9 THE CLERK: Indictment Nos. 2024-GS-26-04187
10 and 2024-GS-46-04188, the State of South Carolina,
11 County of Horry, versus Mack Allen Davis. We, the
12 jury, find the defendant guilty of distribution of
13 methamphetamine occurring on March 9, 2023 as
14 alleged in Indictment No. 2024-GS-26-4187, and not
15 guilty of distribution of methamphetamine occurring
16 on March 27th, 2023 as alleged in Indictment No.
17 2024-GS-26-4188. Signed by foreperson, Tiffany
18 Hereda. Dated September 12, 2025.

19 Ladies and gentlemen of the jury, if this is
20 your verdict, please so signify by raising your
21 right hand.

22 Thank you.

23 THE COURT: Let the record reflect that all
24 jurors raised their right hand.

25 Any polling of the jury?

JURY POLL

1 MR. GARDNER: Yes, Your Honor.

2 THE COURT: At this time I'm going to poll
3 the jury, which means when I call your jury number,
4 I'm going to ask that you stand. I'll ask you two
5 questions. First, I'll ask you if this is your
6 verdict; and, second, I'm going to ask if it is
7 still your verdict. So please listen, and as I
8 call your jury number, please stand, and I'll ask
9 you those questions.

10 Juror No. 255, is this your verdict?

11 JUROR: Yes.

12 THE COURT: Is it still your verdict?

13 JUROR: Yes.

14 THE COURT: Thank you very much.

15 Juror 251, is this your verdict?

16 JUROR: Yes.

17 THE COURT: Is it still your verdict?

18 JUROR: Yes.

19 THE COURT: Thank you very much.

20 Juror No. 289, is this your verdict?

21 JUROR: Yes.

22 THE COURT: Is it still your verdict?

23 JUROR: Yes.

24 THE COURT: Thank you, ma'am.

25 Juror No. 158, is this your verdict?

JURY POLL

1 JUROR: Yes.

2 THE COURT: Is it still your verdict?

3 JUROR: Yes.

4 THE COURT: Thank you.

5 Juror No. 27, is this your verdict?

6 JUROR: Yes.

7 THE COURT: Is it still your verdict?

8 JUROR: Yes, sir.

9 THE COURT: Thank you.

10 Juror No. 118, is this your verdict?

11 JUROR: Yes.

12 THE COURT: Is it still your verdict?

13 JUROR: Yes.

14 THE COURT: Thank you.

15 Juror No. 299, is this your verdict?

16 JUROR: Yes.

17 THE COURT: Is it still your verdict?

18 JUROR: Yes.

19 THE COURT: Thank you.

20 Juror No. 326, is this your verdict?

21 JUROR: Yes, Your Honor.

22 THE COURT: Is it still your verdict?

23 JUROR: Yes, Your Honor.

24 THE COURT: Thank you.

25 Juror 120, is this your verdict?

SENTENCING

1 JUROR: Yes.

2 THE COURT: Is it still your verdict?

3 JUROR: Yes, it is.

4 THE COURT: Thank you.

5 Juror No. 162, is this your verdict?

6 JUROR: Yes.

7 THE COURT: Is it still your verdict?

8 JUROR: Yes.

9 THE COURT: Thank you.

10 Juror No. 149, is this your verdict?

11 JUROR: Yes, Your Honor.

12 THE COURT: Is it still your verdict?

13 JUROR: Yes, Your Honor.

14 THE COURT: Thank you.

15 Juror No. 215, is this your verdict?

16 JUROR: Yes.

17 THE COURT: Is it still your verdict?

18 JUROR: Yes.

19 THE COURT: Thank you very much.

20 All right. Ladies and gentlemen, that will
21 conclude your duties as jurors in this case and for
22 the week. I'll thank you for your service. You're
23 at liberty to stay until the end, or if you want to
24 leave at this time, you can do that at well.

25 I want to thank you for your service. You

SENTENCING

1 have a one-year disqualification from serving jury
2 duty, and a three-year exemption. I hope you don't
3 exercise your exemption because we do need good
4 jurors. I want to thank you for your service, not
5 only in this case, but for this week.

6 For those of you who wish to be excused at
7 this time, you can be excused. For those of you
8 who wish to stay, please remain seated. Thank you
9 very much.

10 All right. We'll need sentencing sheets for
11 2024-GS-26-04187.

12 I didn't think -- I know the rules of
13 criminal procedure give you time to file post-trial
14 motions. Do you want to make any post-trial
15 motions at this time, or do you want to exercise
16 the time you have under the Rules of Criminal
17 Procedure?

18 MR. GARDNER: May I have one moment?

19 THE COURT: That will be fine, yeah.

20 (A brief pause in the proceedings as Mr.
21 Gardner confers with Mr. Davis.)

22 MR. GARDNER: I think I'll get it out of the
23 way at this time.

24 THE COURT: All right. Any post-trial
25 motions?

SENTENCING

1 MR. GARDNER: Yes, Your Honor, a motion for
2 new trial and a motion to set aside the guilty
3 verdict. To elaborate on that, you saw the whole
4 trial, you heard the deliberations today, and the
5 jury has spoken, but I think that they were -- my
6 client points out that they were rushed with the
7 Allen charge. We don't know which one they were on
8 and how they were doing it, but we feel it was a
9 compromise, and we think it is better if we just
10 had a new trial. And that is our motion.

11 THE COURT: And the State's position?

12 MS. JOHNSON: The jury took their time
13 deliberating. They received their Allen charge,
14 and came to a verdict.

15 THE COURT: All right. Anything in reply
16 from the defense?

17 MR. GARDNER: No, Your Honor.

18 THE COURT: I'm going to deny your motion. I
19 think that there is evidence to support the verdict
20 on both the guilt -- not guilty verdict on one
21 indictment, and the guilty on the other indictment,
22 so I'm going to deny your motion.

23 Any reason we shouldn't impose sentencing at
24 this time?

25 MR. GARDNER: Not from the defense, Your

SENTENCING

1 Honor.

2 THE COURT: All right. Mr. Gardner, anything
3 in mitigation?

4 MR. GARDNER: Judge, I would offer briefly
5 that he is almost 54 years old. He has children.
6 He lives here, works here in Horry County.

7 I beg the Court not to punish him for going
8 to trial. I mean, this was a well -- I thought
9 this was a well-tried case. I thought it could
10 have gone either way. He exercised his
11 constitutional right to a jury trial.

12 The legislature has exercised their
13 discretion by giving the judge discretion to go
14 anywhere from ten to 30, and I would ask that you
15 go at ten, Your Honor. His prior drug charges was
16 almost ten years ago. If I understand it, it was
17 2016. All of that being said, Your Honor, I know
18 you have to do ten to 30, and I ask you to do ten.

19 THE COURT: All right.

20 Mr. Davis, anything you want to say?

21 MR. DAVIS: No, sir.

22 THE COURT: All right. Prior record?

23 MS. JOHNSON: Judge, he has a record going
24 back to 1992. 1992, two counts of grand larceny,
25 burglary second --

SENTENCING

1 MR. GARDNER: I would interrupt and
2 interject, and I apologize. This is a trial, and I
3 don't think she could go back to 1992. How many
4 years is that? 35? 40 years ago?

5 THE COURT: As far as sentencing, I can
6 consider his entire criminal record, so I'm going
7 to deny your motion. I need to know his record.

8 Go ahead.

9 MS. JOHNSON: 1992, escape, use of vehicle
10 without permission. In 2004, he has possession of
11 Schedule 1 through 5, resisting, battery. 2007,
12 ABHAN. 2016, possession with intent to distribute
13 cocaine, conspire to sell heroin. 2018, A&B second
14 and third. 2019, discharging a firearm into a
15 dwelling. 2022, domestic violence second degree.
16 2023, A&B third, A&B third, and violation of an
17 order of protection.

18 THE COURT: All right. What is the most time
19 he served under any of those sentences? What was
20 it for, and how much time did he serve?

21 MS. JOHNSON: Court's indulgence, Judge.

22 (A brief pause in the proceedings.)

23 MS. JOHNSON: It looks like he served three
24 years on the burg non-violent, and in North
25 Carolina it looks like he was sentenced to ten to

SENTENCING

1 21 months.

2 THE COURT: Go over his record again.

3 MS. JOHNSON: 1992, grand larceny, two
4 counts, burg second non-violent, escape, use of a
5 vehicle without permission. 2004, possession of
6 Schedule 1 through 5, resisting, battery. 2007,
7 ABHAN. 2016, possession with intent to distribute
8 cocaine, conspire to sell heroin. 2018, A&B
9 second, A&B third. 2019, discharging a firearm
10 into a dwelling. 2022, DV second. 2023, A&B
11 third, A&B third, and violation of an order of
12 protection.

13 THE COURT: What did he get with the
14 conspiracy to distribute heroin?

15 MS. JOHNSON: They are North Carolina
16 charges, Your Honor. Looking at the sentencing
17 sheet, it looks like -- it says, "Imprisoned for a
18 minimum of ten months for a maximum term of 21
19 months." And then there was supervised probation
20 for 18 months. So I'm not sure if that was
21 suspended or active. You can't tell by this.

22 THE COURT: What did he get for discharging a
23 firearm into a dwelling?

24 MS. JOHNSON: 165 days, time served.

25 THE COURT: Okay.

SENTENCING

1 Anything further from the State?

2 MS. JOHNSON: No, Judge. We are taking the
3 stance that we would ask for the maximum sentence
4 based upon the CI being out, and he also has a few
5 pending charges that I can get into, if Your Honor
6 will allow me.

7 THE COURT: No. I'm just going on the ones
8 he was found guilty on.

9 You have been found guilty by a jury of your
10 peers. On the charge of distribution of
11 methamphetamine, this being your third or
12 subsequent offense sentence, the sentence of the
13 Court is that you will be confined to the State
14 Department of Corrections for 14 years, credit for
15 any time served thus far.

16 MR. GARDNER: Thank you.

17 MR. BEAMER: Thank you, Your Honor.

18 THE COURT: Anything else before the Court?

19 MR. BEAMER: No, Your Honor.

20 THE COURT: Court is adjourned.

21 (Whereupon, the trial of State of South
22 Carolina v. Mack Allen Davis concluded.)
23
24
25

SENTENCING

CERTIFICATE OF REPORTER

State of South Carolina)

County of Horry)

I, Natalie Dahl, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Horry County, South Carolina, on the 10th and 12th days of September, 2025.

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

October 29, 2025

Natalie Dahl, RPR

Natalie Dahl
Registered Professional Reporter
State of South Carolina Official Court Reporter

WITNESSES

Lieutenant Gregory C Dewitt, Horry County
Police Department
HCPD2023024701

Drew Edwards

ARREST WARRANT NUMBER

2024-GS-26-04187
DOA: 08/16/2023

ACTION OF GRAND JURY

TRUE BILL

Meredith Bowers

Foreperson of Grand Jury
Date: *Jul 24 2024*

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2024-GS-26-04187

The State of South Carolina

County of Horry

Catherine Girgan
23H04304

COURT OF GENERAL SESSIONS

JULY 2024 TERM

THE STATE

V.

MACK ALLEN DAVIS

B/M
DOB: *[REDACTED]* /1972
SSN: *[REDACTED]*

Indictment for

DIST/PWID METH

CDR: 3200

Statute: 44-53-375(B)

ORIGINAL

FILED
HORRY COUNTY

2024 JUL 31 P 2:41

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

DATE RECEIVED FROM
GRAND JURY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)

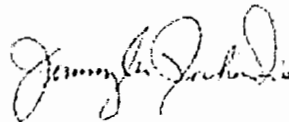
INDICTMENT

At a Court of General Sessions, convened on July 24, 2024, the Grand Jurors of Horry County present upon their oath:

Dist/PWID Meth
CDR: 3200 44-53-375(B)
DISTRIBUTION OF METHAMPHETAMINE

The defendant, Mack Allen Davis, did on or about March ^(MAC)9, 2023, in Horry County, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt, or conspire to distribute, dispense, deliver, or purchase, or possess with the intent to distribute, dispense, deliver, or purchase methamphetamine in violation of the provisions of Section 44-53-370, all in violation of Section 44-53-375(B), *Code of Laws of South Carolina* (1976, as amended).

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



JIMMY A. RICHARDSON, II
 FIFTEENTH CIRCUIT SOLICITOR

WITNESSES

Lieutenant Gregory C Dewitt, Horry County
Police Department
HCPD2023024701

Drew Edwards

ARREST WARRANT NUMBER

2024-GS-26-04188
DOA: 08/16/2023

ACTION OF GRAND JURY

TRUE BILL

Meredith Bowers

Foreperson of Grand Jury
Date: **24 2024**

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2024-GS-26-04188

The State of South Carolina

County of Horry

Catherine Gorgan
23H04304

COURT OF GENERAL SESSIONS

JULY 2024 TERM

THE STATE

V.

MACK ALLEN DAVIS

B/ M
DOB: [REDACTED] /1972
SSN: [REDACTED]

Indictment for

DIST/PWID METH

CDR: 3200

Statute: 44-53-375(B)

ORIGINAL

FILED
HORRY COUNTY

2024 JUL 31 P 2:41

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

RECEIVED FROM
GRAND JURY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)

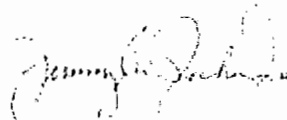
INDICTMENT

At a Court of General Sessions, convened on July 24, 2024, the Grand Jurors of Horry County present upon their oath:

Dist/PWID Meth
CDR: 3200 44-53-375(B)
DISTRIBUTION OF METHAMPHETAMINE

The defendant, Mack Allen Davis, did on or about March 1, 2023, in Horry County, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt, or conspire to distribute, dispense, deliver, or purchase, or possess with the intent to distribute, dispense, deliver, or purchase methamphetamine in violation of the provisions of Section 44-53-370, all in violation of Section 44-53-375(B), *Code of Laws of South Carolina* (1976, as amended).

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



JIMMY A. RICHARDSON, II
 FIFTEENTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

SENTENCE ORDER

IN THE COURT OF GENERAL SESSIONS

STATE vs.

Mack Allen Davis

AKA: Mack Allen Davis, Mack A Davis

RACE: B

SEX: M

DOB: 1972

SSN: [REDACTED]

) INDICTMENT/CASE#: 2024-GS-26-04187

) AW#: 2024GS2604187

) Date of Offense: 03/01/2023

) S.C. Code§: 44-53-375(B)

) CDR Code #: 3200

) Range of Offense: Dist/PWID Meth 3rd or Sub. Offense (NLT 10 YEARS TO 30 YEARS &/OR \$50,000)

In disposition of the above indictment comes now the Defendant who was CONVICTED OF ☒ or ☐ PLEADS

TO: Dist/PWID Meth 3rd or Sub. Offense

Range of Offense Pled: (NLT 10 YEARS TO 30 YEARS &/OR \$50,000)

In violation of § 44-53-375(B) of the S.C. Code of Laws, bearing CDR Code # 3200

☐ NON-VIOLENT

☐ VIOLENT

☐ SERIOUS

☐ MOST SERIOUS

☐ MANDATORY GPS

☐ § 17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☐ As indicted

☐ Lesser Included Offense

☐ Defendant Waives Presentment to Grand Jury

The plea is: ☐ w/o Rec/Negotiations ☐ Negotiated

☐ Recommendation

105900

PD65097

Catherine H. Johnson, SC Bar #
Solicitor

Johnny Gardner, Attorney
for Defendant

SC Bar #

The Defendant is committed to the ☒ SCDC ☐ County Detention Center ☐ Home Incarceration Program
for a determinate term of 14 days/months/years/Time Served ☐ YOA NTE X years and/or shall pay a fine
of \$ X; provided that upon the service of X days/months/years/Time Served and or payment
of \$ X plus costs and assessments as applicable*; balance is suspended with probation for X months/years
and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

The sentence shall run ☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDC
X days/months ☐ To include time spent on monitored house arrest prior to trial and sentencing

SPECIAL CONDITIONS:

☐ PTUP

☐ No Contact with Victim

☐ Domestic Violence Intervention Program

☐ Hold for Inpatient Treatment

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430

☐ SAC/MHC if necessary

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135

☐ Other:

☐ RESTITUTION See Separate Order (20% per S.C. Code §24-21-490(B))

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1) Conv. Surcharge)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-1995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

§14-1-212 (Law Enforcement Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

☐ Appointed PD or appointed other counsel. Provisio requires \$500 to be paid to Clerk during probation and shall be collected before any other fees

☐ §17-3-45(B) Unpaid Application Fee to be paid to the Public Defender Fund

Restitution \$

FINE: \$

\$

\$100 \$100.00

\$100 \$

\$12 \$

\$25 \$

\$25 \$25.00

\$150 \$150.00

\$41 \$

\$50 \$

\$40/ea \$

TBD \$8.75

\$500 \$

\$40 \$

TOTAL \$283.25

Renee N. Elvis
Clerk of Court/Deputy Clerk

Natalie Bahl
Court Reporter

2148
Judge Code

Sept. 12, 2025
Sentence Date

Minjunt Culbert
Presiding Judge

SCCA217B
01/27/2025

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
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
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ATTORNEY FOR APPELLANT

This 29th day of April, 2026.

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SC Court of Appeals