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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Colleton County

Honorable Marvin H Dukes, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JESSE SEBASTIAN BROUGHTON,

APPELLANT

APPELLATE CASE NO. 2025-000621

RECORD ON APPEAL

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[THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

**COURT’S EXHIBIT 1 (BODY-CAM CD), STATE’S EXHIBIT 1 (BODY-CAM CD),
STATE’S EXHIBIT 2 (PHOTOGRAPH OF EVIDENCE, STATE’S EXHIBIT 3
(PHOTOGRAPH OF EVIDENCE)]**

STATE OF SOUTH CAROLINA	)	IN THE COURT OF
COUNTY OF COLLETON	)	GENERAL SESSIONS
	)	
	)	
STATE OF SOUTH CAROLINA,	)	CASE NO.:
	)	2023-GS-15-00215
	)	
v.	)	
	)	
JESSE SEBASTIAN BROUGHTON,	)	
DEFENDANT.	)	<u>TRANSCRIPT OF RECORD</u>
	)	
	)	

Monday, March 24, 2025 and Wednesday, March 26, 2025

COMMENCING AT:
 Colleton County Courthouse
 Walterboro, South Carolina
 Before The Honorable Marvin H. Dukes, III, Judge

APPEARANCES:

For the State of South Carolina:
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For the Defendant:
 Matthew Walker, Assistant Public Defender
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 Walterboro, SC 29488

Heather R. Landry, CVR
 Court Reporter

1 really at the end of the day the standard is can they be
2 fair and impartial.

3 THE COURT: Right, yeah.

4 SOL. KEENEY: And you're probably putting them in a
5 uncomfortable position. Because all people that don't
6 stand --

7 THE COURT: Right. They're admitting --

8 SOL. KEENEY: -- are admitting that they -- if they
9 necessarily -- depending on where they did it, it would be
10 illegal. Is Mr. Walker going to answer the question, too?

11 MR. WALKER: I'll have to stand up.

12 THE COURT: Okay. All right. Anything before we start
13 bringing them back in? Any other objections or any
14 objections to any of the other voir dire that both of you
15 put out there?

16 SOL. CONTESTABILE: Nothing from the State, Your Honor.

17 THE COURT: A lot of it is just redundant. All right.
18 Bring them all back in, please.

19 (The jury pool enters the courtroom at 3:13 p.m.)

20 VOIR DIRE

21 THE COURT: Madam Solicitor, would like to call the
22 case, please.

23 SOL. CONTESTABILE: State calls Jesse Broughton under
24 indictment 2023-GS-15-00215, possession with intent to
25 distribute marijuana.

1 (The trial proceedings concluded for the day at
2 4:11 p.m.)

3 - - - - -

4 (The trial proceedings resumed Wednesday, March 26,
5 2025, at 9:43 a.m.)

6 THE COURT: Good morning. We're here on State versus
7 Broughton. And I understand we have a Jackson-Denno
8 hearing. Is that correct?

9 SOL. CONTESTABILE: Yes, Your Honor.

10 THE COURT: Call your first witness, please.

11 JACKSON v. DENNO HEARING

12 SOL. CONTESTABILE: State calls Corporal Smith.

13 (Whereupon, the witness, JERMAINE SMITH, was duly
14 sworn.)

15 THE CLERK: Have a seat. State your first and last
16 name, spell your last name for the record, please.

17 THE WITNESS: Jermaine Smith. Last name spelling,
18 S-M-I-T-H.

19 - - - - -

20 DIRECT EXAMINATION

21 BY SOL. CONTESTABILE:

22 Q. Corporal Smith, where do you work?

23 A. Colleton County Sheriff's Office.

24 Q. How long have you worked for the Colleton County
25 Sheriff's Office?

1 A. Since 2021.

2 Q. Okay. And what is your position at the Colleton County
3 Sheriff's Office?

4 A. Corporal on road patrol.

5 Q. Could you please describe your duties as a corporal on
6 road patrol?

7 A. Call for service, property checks, traffic stops,
8 anything in between.

9 Q. I'm gonna ask you to speak up just a little bit for me,
10 okay. I want to take you back to March 30th of 2023. How
11 did you become involved in this case?

12 A. On ACE Basin Parkway in Colleton County I observed a
13 vehicle traveling above the posted speed limit. The vehicle
14 was traveling approximately 96 miles per hour in posted
15 60 miles per hour speed zone. I initiated a traffic stop on
16 the vehicle.

17 Q. Okay. Did this case involve the defendant,
18 Jesse Broughton?

19 A. Yes.

20 Q. Okay. And you said this incident occurred on ACE
21 Basin. Where is ACE Basin?

22 A. ACE Basin Parkway near Charleston Highway in
23 Colleton County.

24 Q. Okay. During the traffic stop with the defendant,
25 Jesse Broughton, was he interviewed? Did you ask him any

1 questions?

2 A. Yes. I think I asked if it was a rental vehicle.

3 Q. Okay. And when you asked him questions, where was he?

4 A. He was in the driver's seat.

5 Q. Okay. And was anyone else on scene with you at the
6 time?

7 A. Shortly a while later, Sergeant Scott arrived on scene.

8 Q. Okay. And when you asked him the questions about the
9 rental information, where in the traffic stop were you at
10 that point?

11 A. On the passenger's side of the vehicle.

12 Q. Okay. Had the traffic stop just occurred? Had you
13 been on scene for a while?

14 A. It just occurred.

15 Q. Was he advised of his rights at any point in time
16 during the traffic stop?

17 A. Near the end.

18 Q. Okay. How was he advised of his rights?

19 A. Verbally.

20 Q. Okay. Did you read him his rights off your Miranda
21 card?

22 A. No.

23 Q. Okay. Is it standard procedure to read him his rights?

24 A. When he's in custody, yes.

25 Q. Okay. Can you tell us what rights you read him?

1 A. His Miranda rights. I informed him he had the right to
2 remain silent, anything he said can be used against him in
3 court; you have a right to an attorney, and if he cannot
4 afford one, one will be given to him by the Court; keeping
5 those rights in mind, you can talk to me, but then again you
6 don't have to.

7 Q. Okay. Was he free to leave?

8 A. If he's in custody, no.

9 Q. So did he make any statements to you during the traffic
10 stop?

11 A. Yes.

12 Q. Okay. And when did he make statements to you? Was
13 that before he was arrested, after he was arrested, both?

14 A. Before he was arrested and after he was arrested.

15 Q. Okay. So before he was arrested, was he in custody at
16 that point?

17 A. No.

18 Q. After he was arrested, was he in custody at that point?

19 A. Yes.

20 Q. Okay. Was he willing to talk to you at both times?

21 A. Yes.

22 Q. Was he cooperative?

23 A. Yes.

24 Q. How long did you ask him questions for?

25 A. I believe it was that one question. I don't remember

1 what exactly all I asked him.

2 Q. Did he respond to the questions that you asked him?

3 A. Yes.

4 Q. Did he appear to be under the influence of drugs or
5 alcohol?

6 A. No.

7 Q. Was his speech slurred when he spoke to you?

8 A. No.

9 Q. Was he promised anything for talking to you?

10 A. No.

11 Q. Was he coerced in any way?

12 A. No.

13 Q. Did you threaten him in any way?

14 A. No.

15 Q. Was he promised anything from a prosecutor if he
16 cooperated?

17 A. No.

18 Q. Okay. If he asked to go to the bathroom or have a
19 break, would you have allowed him to do that?

20 A. Yes.

21 Q. If he asked for food or water, would you have assisted
22 in that to the best of your ability? I know you're on a
23 traffic stop.

24 A. Yes.

25 Q. Did he make any statements to you about drugs?

1 A. Yes.

2 Q. What did he say?

3 A. He said that there was a bag of marijuana underneath
4 the driver's seat.

5 Q. Did he say anything else?

6 A. No.

7 SOL. CONTESTABILE: I don't have any further
8 questions -- oh, I'm sorry.

9 (Brief pause.)

10 Q. All right. I'm gonna back up just so we make something
11 a little more clear, okay. From the time you pulled him
12 over, tell me what happened.

13 A. When I pulled him over, I approached the passenger side
14 of the vehicle. When I approached, I smelled an apparent
15 odor of marijuana emanating from the vehicle. Further
16 inspection of the vehicle, I observed in plain view that
17 there was a bag containing a green plantlike substance near
18 the front passenger floorboard. Mr. Broughton admitted he
19 had marijuana inside the vehicle. Due to the probable
20 cause -- or due to the odor of marijuana, a probable cause
21 search was conducted. I told Mr. Broughton to exit the
22 vehicle. Mr. Broughton made a silent notice there was
23 marijuana underneath the passenger seat -- driver's seat.

24 Q. Okay. I'm gonna hand you what's been marked as State's
25 Exhibit 1. Do you recognize this?

1 A. Yes.

2 Q. How do you recognize it?

3 A. It's a body cam we reviewed.

4 Q. Okay. And was it a fair and accurate depiction of the
5 traffic stop you conducted on March 30, 2023, with
6 Jesse Broughton?

7 A. Yes.

8 SOL. CONTESTABILE: Your Honor, at this time, the State
9 moves to enter Court's Exhibit 1 into evidence.

10 THE COURT: No objection?

11 MR. WALKER: It'll just be a court's exhibit then?

12 THE COURT: I'm sorry?

13 MR. WALKER: I said at this point it will just be a
14 court exhibit?

15 THE COURT: Yes.

16 MR. WALKER: We have no objection to it being a court's
17 exhibit.

18 THE COURT: All right. Thank you.

19 (Court's Exhibit No. 1 was received into evidence.)

20 (Video plays from 9:53 a.m. to 10:15 a.m.)

21 SOL. CONTESTABILE: Judge, just for the record, I'm
22 stopping the video camera at 22:30. That's agreed upon by
23 Mr. Walker and I. And there are gonna be times that I will
24 need it -- have certain spots for the jury. I don't have
25 anything further other than argument.

1 THE COURT: All right. Thank you so much. Yes, sir.

2 - - - - -

3 CROSS-EXAMINATION

4 BY MR. WALKER:

5 Q. Was Mr. Broughton free to leave at any time after you
6 pulled him over?

7 A. He was detained.

8 Q. So at no point, once he was pulled over, was he free to
9 leave?

10 A. No. He was detained.

11 MR. WALKER: I don't have any further questions.

12 THE COURT: All right. You may step down, sir. Happy
13 to hear argument from the State.

14 SOL. CONTESTABILE: Thank you, Your honor. Your Honor,
15 the State would ask you to look at two different cases.
16 There's State v. Barksdale and Berkemer v. McCarty that I'm
17 handing up.

18 Your Honor, both of those cases are DUI cases in
19 which -- to start with, Barksdale is a South Carolina case.
20 The trial court suppressed the defendant's statements in
21 that case made to law enforcement when they questioned him
22 about how much he had to drink. They had responded to a
23 collision of two vehicles. They knew the defendant was the
24 driver of the one of those vehicles and they smelled alcohol
25 on his breath. In that case, the court held that whether an

1 individual in custody is determined based on totality of the
2 circumstances surrounding the interrogation. The court also
3 went on to state that the relevant inquiry is whether a
4 reasonable man in the suspect's opinion -- or position would
5 have on themselves to be in custody. Even if an officer
6 focuses his inquiries on the suspect, Miranda warnings are
7 not warranted if the setting is noncustodial. Miranda
8 warnings are not intended to hamper the traditional function
9 of police officers in investigating the crime.

10 The court then decided to revert the McCarty, which is
11 the other case that I handed up, which does state that
12 traffic stops do restrict a person's freedom of movement.
13 However, in Berkemer, the court held that custodial
14 interrogation means questioning initiated by law enforcement
15 officers after a person has been taken into custody. And
16 then it went on to state that the roadside questioning of a
17 motorist, detained pursuant to a routine traffic stop, does
18 not constitute custodial interrogations for purposes of
19 Miranda. And, thus, the defendant's pre-arrest statements
20 are admissible against him. An ordinary traffic stop are
21 typically conducted in public; and the atmosphere
22 surrounding it is substantially less police-dominated than
23 the surrounding kinds interrogations that Miranda would
24 require.

25 In this case, Judge, that's exactly what we have. This

1 is just a routine traffic stop. He's pulled over for
2 speeding. The statements that he makes are within seconds
3 of Corporal Smith approaching the vehicle and asking for his
4 driver's license information, the rental car information of
5 the vehicle. And the defendant voluntarily states, you
6 know, there's marijuana under the seat. So it's a
7 noncustodial situation at that point in time when that
8 statement is made. And then the statements that he makes
9 afterwards are post Miranda. And so the State would ask you
10 to rule that all of those statements are admissible.

11 THE COURT: Thank you very much. Yes, sir, happy to
12 hear from you.

13 MR. WALKER: Thank you, Your Honor. I just stand on
14 what Your Honor observed on video. I think it makes it
15 pretty clear. And she's laid out the law. And we'll just
16 leave it at that.

17 THE COURT: All right then. I will rule it is
18 admissible then under the law. Thank you.

19 Do y'all need -- let's see, we've got to deal with our
20 alternate. So two alternate numbers are in an empty tissue
21 box. And we're going to shake them up and choose one. And
22 that will be our --

23 THE CLERK: One flew out.

24 THE COURT: I don't know if that's the chosen one
25 or . . .

1 THE CLERK: That will be the chosen one.

2 THE COURT: That will be the chosen one.

3 THE CLERK: They flew out really quick. Juror 162.

4 THE COURT: All right. So Juror 162 will take the
5 place of missing Juror 195. That leaves us, of course, with
6 one alternate. Are the jurors here?

7 (Bailiff confirms.)

8 THE COURT: They're all here. Except for 195, of
9 course.

10 Okay. All right. Do we need to do anything before we
11 bring the jury in?

12 MR. WALKER: I know she mentioned it. Again, I want to
13 be clear on the record about the video that we just watched.
14 My understanding is she just entered that disc into
15 evidence, which we have no objection to. But that video
16 does last like an hour and a half. And the intention is to
17 only play it to a minute, I believe we said 23. So the
18 whole disc would be in evidence, and I would have an
19 objection to the disc -- I do not -- I would object to --
20 and I'll put it on the record. I only want the video up to
21 a minute twenty-three to be in evidence such that we could
22 come back later and play more than that.

23 Also, we have agreed -- and we'll put those times on
24 the record. We have agreed to certain times that we'll be
25 muting for the jury when there's discussion of things that

1 would not be appropriate for them to hear. And I gotta find
2 my email. Sorry.

3 THE COURT: But, I mean, y'all have agreed on the
4 times?

5 MR. WALKER: We have.

6 THE COURT: Been over the whole thing. Okay.

7 MR. WALKER: Yeah. Yeah, we've agreed on times. We've
8 agreed on the length the video is gonna be. Just, again,
9 that the disc will not go back to the jury room. If they
10 wanted to hear or review the video again, they would come
11 back and only watch this portion of it, the minute
12 twenty-three that we agreed on.

13 THE COURT: Right.

14 MR. WALKER: Just wanted to put that on the record and
15 have it, procedurally, be clear so we're not making, you
16 know -- there's no confusion in front of the jury.

17 SOL. CONTESTABILE: Yeah. That's fine, Judge. The
18 timestamps that I will view during the presence of the jury
19 is 18:37 to 19:14 in then 19:42 to 19:48.

20 THE COURT: Okay.

21 SOL. CONTESTABILE: And it's stopping at 23 minutes.

22 MR. WALKER: I think that's all I have.

23 SOL. CONTESTABILE: And those are the few times where
24 there are just discussions of prior bad acts.

25 THE COURT: All right.

1 SOL. CONTESTABILE: Judge, could we just have like a
2 quick two-minute break?

3 THE COURT: Yeah, let's do that. Because I think once
4 we start, we'll be -- let's make it a five-minute break.

5 (Brief recess at 10:22 a.m.)

6 (The jury enters the courtroom at 10:32 a.m.)

7 THE COURT: Good morning. Actually, I guess we need to
8 swear the jury, don't we. Let's go ahead and swear the
9 jury, please.

10 (Jury sworn at 10:33 a.m.)

11 THE COURT: Thank you. First order of business, which
12 one of you is 162?

13 You're 162. All right. Due to a scheduling issue,
14 you're gonna take the place of 195. So if I could get you
15 to sit in that chair. So you're now on the jury.

16 All right. I told you yesterday I would ask you this
17 question when you got here. So did all of you follow my
18 instructions on not discussing the case, not researching the
19 case, not doing anything like that?

20 (Jury affirms.)

21 JURY INSTRUCTION

22 THE COURT: All right. Thank you so much. I
23 appreciate that. We're about to start the trial of State
24 versus Broughton. I've got some things to read to you, and
25 it'll just take a minute, but please pay attention. Before

1 we begin the trial, I want to tell you that this trial is
2 probably different from that which you might expect. Many
3 people do not have the chance to attend actual court
4 sessions as you're doing now and may think from watching
5 television or movies or reading books that trials are always
6 full of high drama and intense action and riveting
7 circumstances. All of these things may be true at times,
8 but this trial is not for entertainment. It is a
9 fundamental part of our democracy, an effort to make sure
10 that justice is done between the parties before the Court.
11 Making sure that justice is done is often a slow,
12 deliberative, and repetitive process, the opposite of what
13 you may have seen on television or in movies or read in
14 books.

15 The courtroom is a place of honor dedicated to the
16 protection and preservation of citizens rights through what
17 many have called the greatest justice system ever created.
18 The attorneys appearing before you are advocates for the
19 parties they represent. But first and foremost, they are
20 officers of the Court, sworn to uphold the integrity and
21 fairness of our judicial system and help you in the search
22 for truth. You should expect them to be professional,
23 competent, and ethical in the representation of their
24 client's interests. You are also expected to be
25 professional, reasonable, and ethical. Thank you for

1 accepting the important responsibility of jury service and
2 for your contribution today to the jury system.

3 What I'll know say is intended to serve as an
4 introduction to the trial. These remarks are not a charge
5 on the law. I will instruct you on the applicable law at
6 then end of the trial before you retire to consider your
7 verdict. This is merely an explanation of the procedure
8 that we will follow during the trial so that you may better
9 understand what may be happening. This is gonna be a short
10 trial, and I'll ask you not to take any notes. If this were
11 long, multi-day trail that went on, I would allow you to
12 have notebooks and take notes. But in this case, I'll ask
13 you just to pay attention and we won't do notes.

14 So the defendant is charged by indictment filed in the
15 Court with the crime of possession with intent to distribute
16 marijuana, the elements of which will be explained to you
17 later. The indictment is simply a charge by which the case
18 is brought into court. It is not in any sense evidence of
19 any of the allegations it contains. The defendant has pled
20 not guilty to this indictment. The State, therefore, has
21 the burden of proving each of the elements of the indictment
22 beyond a reasonable doubt. Proof beyond a reasonable doubt
23 is proof that leaves you firmly convinced of the defendant's
24 guilt. It will be your duty, ladies and gentlemen, to
25 decide whether the State has met that burden.

1 Your purpose as jurors is to find and determine the
2 facts. You are the sole judge of the facts. If at any time
3 I make any comment regarding the facts, you must disregard
4 it. You are to determine the facts from the testimony you
5 hear and other evidence introduced in court. It is up to
6 you to determine the inferences which you feel may properly
7 be drawn from the evidence. It is especially important that
8 you perform your duty of determining the facts diligently
9 and conscientiously. Because, ordinarily, there's no way to
10 correct an erroneous determination of facts by a jury.

11 On the other hand, and with equal emphasis, the same
12 law that makes you judges of the facts, makes me judge of
13 the law. The law as given by the Court is the only law you
14 may consider. You must accept and follow it even though you
15 may disagree with it. I cannot tell you what the facts are,
16 and you cannot disagree with me about what the law is or
17 should be. Your job is to take the law as I give it to you
18 and apply it to the facts as you find them from the
19 testimony of the witnesses and any other evidence that is
20 introduced. After doing that, you will render your verdict,
21 a verdict under the solemn oath that you just took as
22 jurors. Until I tell you that you may begin to deliberate,
23 you must not discuss this case with anyone including your
24 fellow jurors, friends, family members, and anyone involved
25 in the case. The attorneys and parties in this case have

1 all been advised that they are not to talk to you at all.
2 So if you see anyone involved in the case and they do not
3 even say hello, they're not being unfriendly, they're just
4 following my instructions.

5 You must make your decision based solely on the
6 evidence presented here in this courtroom. This means that
7 during the trial you must not conduct any independent
8 research about the facts of the case, the evidence
9 presented, or the people or organizations involved in any
10 way with the trial. Please do not try to find out
11 information from any source outside the courtroom. In other
12 words, you must not look at dictionaries or other reference
13 materials, search the Internet websites, blogs, or use any
14 electronic tools to get any information about this case or
15 to help you decide the case. You may not use computers,
16 telephones, cell phones, smartphones, tablets, the Internet,
17 or other tools of technology with communication capabilities
18 at any time while you're in the courtroom or during your
19 deliberations.

20 During your breaks for meals, you may use these
21 devices; however, you must not use these devices to
22 communicate with anyone about the case until the case is
23 over. This means you must not use phone calls, emails, text
24 messages, instant messages, Twitter, any blog, chat room,
25 website including Facebook, Google Plus, MySpace, LinkedIn,

1 YouTube, or any social media websites to send or receive any
2 information about the case. This includes information about
3 a party, a witness, an attorney, a court officer, news
4 accounts about the case, research on any topics raised, any
5 topics which you think may be helpful in deciding the case
6 or any testimony presented by any witness.

7 During the trial, do not read, listen to, or watch any
8 news reports about the case. This includes anything that
9 may be in newspapers, on the Internet, radio, or television.
10 You must not consider anything that you may have read or
11 heard about the case outside the courtroom whether before or
12 during the trial. Information on radio, television, the
13 Internet, or from other sources might be wrong or
14 incomplete. In our judicial system, it is important that
15 you're not influenced by anything or anyone outside of the
16 courtroom. If you become aware of another juror's violation
17 of these instructions, please inform me immediately.

18 It's important that you keep an open mind and not
19 decide any issue in the case until all of the evidence has
20 been presented, the parties have made their closing
21 arguments, and I've instructed you on the law. It is your
22 solemn responsibility to determine the guilt or innocence of
23 the defendant, and your verdict must be based solely on the
24 evidence as it is presented to you in this trial and on the
25 law as I instruct you during and at the close of the trial.

1 In just a moment, the Solicitor will make what's called
2 an opening statement in which the Solicitor will explain to
3 you the issues, or at least what the Solicitor believes the
4 issues are. The attorney for the defendant may also make an
5 opening statement, although he is not required to do so.
6 What the attorneys tell you during their opening statements
7 is not evidence; it is only their contention as to what the
8 issues are. The evidence will be presented to you by the
9 testimony of sworn witnesses from this witness stand and/or
10 by exhibits that may be introduced into evidence.

11 From time to time during the trial you may hear one of
12 the lawyers say something like, "Your Honor, I believe we
13 have a question of law or a matter of law to discuss with you,"
14 or "Your Honor, may we approach the bench." Or sometimes I,
15 myself, might find it necessary to excuse you from the
16 courtroom for a short while so the attorneys and I can
17 discuss a matter of law. The reason for this is because you
18 are the judges of the facts. And sometimes when I'm
19 discussing matters of law with the attorneys, it may be
20 necessary for me to make some comment as to the facts in
21 connection with ruling whether or not a particular law
22 applies. I'm not supposed to tell you what I think the
23 facts are, so I will excuse you from the courtroom while
24 these discussions take place so that in no way will you be
25 influenced by anything that I might say or do in connection

1 with the facts.

2 In determining what the true facts are, you must decide
3 whether or not the testimony of the witness is believable.
4 It will be my responsibility to rule as a matter of law as
5 to whether certain testimony is admissible at all or not.
6 But once the testimony is admitted, whether or not you
7 believe is solely for you to determine. In deciding whether
8 or not to believe a witness, you have the right to consider
9 the interest of any witness, the bias of any witness, the
10 prejudice of any witness, the opportunity for the witness to
11 have seen the matters and things about which the witness may
12 testify, and the way that witness acts on the witness stand.
13 You have a right to consider anything that is in the record
14 that will help you evaluate the testimony of the witnesses.
15 This means that it is your duty to pay close attention to
16 these witnesses, to observe the witnesses, to listen to the
17 witnesses, and to pay close attention to the attorneys and
18 the Court. Don't let your thoughts wander, but give strict
19 attention to the testimony so at the end of all the
20 testimony, after the arguments of counsel and the charge on
21 the law by the Court, you'll be in a position to determine
22 what the true facts are and apply them -- apply the law to
23 those facts and, thus, render a verdict.

24 It is your added duty, Mr. Foreman, to preside in the
25 jury room and be the jury's spokesperson here in court. It

1 will also be your duty to write the verdict, but I will give
2 you further instructions about that at the conclusion of the
3 trial.

4 In order to preserve everyone's rights, I'll give the
5 parties an opportunity to object to anything I've said. Any
6 exceptions to any of the preliminary statements?

7 SOL. CONTESTABILE: Nothing from the State.

8 MR. WALKER: No, Your Honor.name.

9 THE COURT: Anything to take up outside the presence of
10 the jury?

11 SOL. CONTESTABILE: No, Your Honor.

12 MR. WALKER: No, Your Honor.

13 THE COURT: All right. We'll begin the trial. Happy
14 to hear from the State.

15 OPENING STATEMENTS

16 SOL. CONTESTABILE: May it please the Court?

17 That defendant in this case, Jesse Broughton, is
18 charged with possession with intent to distribute marijuana.
19 Now, it's not the most exciting thing. It's not gonna be
20 like anything that you will see on TV. And I understand
21 that laws in other states might be different than what they
22 are here in South Carolina. But it's equally as important
23 here today, okay. And our laws are what our laws are. The
24 judge is gonna instruct you on those laws at the close of
25 the trial.

1 So I'm just gonna ask that you pay very close attention
2 to the information that is provided to you from the witness
3 stand during this trial. And I will tell you this case
4 stems from a traffic incident or a traffic stop that
5 occurred on March 30th of 2023 in which Jesse Broughton was
6 the driver of the vehicle. And at the close of this trial,
7 I'll come before you again and I will ask that if you
8 believe the testimony from the witness stand proves that he
9 is guilty of possessing with intent distribute marijuana
10 beyond a reasonable doubt, that you find him guilty. Thank
11 you.

12 THE COURT: Yes, sir.

13 MR. WALKER: Thank you. May it please the Court?

14 Good morning. On March 30, 2023, Jesse Broughton did
15 some things he shouldn't have done. And from the instant he
16 was stopped by Officer Smith sitting here in the white shirt
17 in the front row he never sought to shirk responsibility or
18 to get out of anything. He was completely cooperative. And
19 Jessie and I both want and expect you to find him guilty at
20 the end at this trial. But what we want you to do is find
21 him guilty of what he did, not of something you have to
22 guess at.

23 Now, I want to talk a little bit about the drug laws
24 just so you have a framework to kind of filter the testimony
25 you'll hear through as you're hearing because I don't know

1 if it's something people deal with every day. Now, the
2 judge at the end, as the Solicitor told you, is gonna
3 explain the law to you as it relates to this case. And
4 he'll probably go in much more detail than I do. And, of
5 course, if you perceive a difference in the law, you follow
6 what the judge says because that's gonna be the correct
7 statement of the law. But just in general, the drug laws
8 are kind of like the three bears: you've got the little,
9 middle, and worse. And so you have -- just having a small
10 amount of the drug, right, that's possessing a drug is
11 illegal. That's an illegal drug is possession. That's the
12 least serious. And the statutes that cover it generally
13 will cover a lot of drugs. But this is a marijuana case, so
14 we're talking about marijuana. And so as far as possessing
15 marijuana, if you have an ounce or less of marijuana -- and
16 that wouldn't even be in this big courthouse, it would be
17 either at the magistrate or the city court for the officer
18 that stopped you. Wouldn't even, you know, be up here. And
19 then we have the middle level which is -- I brought it up
20 here because I want to read it to you -- that middle level,
21 there's a variety of things that would fit you into that
22 middle level of drug offense for most drugs.

23 And so in the statute that we're here today that
24 marijuana falls under is the South Carolina Code Section
25 44-53-370. It says there's kind of two ways to violate

1 that. And so it says except as authorized, it's unlawful to
2 manufacture, distribute, dispense, deliver, purchase, aid,
3 abet, attempt or conspire to manufacture, distribute,
4 dispense, deliver, or purchase. And then -- or possess with
5 the intent to do any of those things. And it says it's also
6 illegal to create, contribute, dispense, deliver, purchase,
7 aid, abet, et cetera, et cetera, a counterfeit substance
8 that purports to be a drug, but it's not really a drug.

9 Now, as we go through those, of course you would
10 probably prove those different ways. Like to manufacture,
11 you know, if Jesse had been riding around with a potted
12 marijuana plant, that might be manufacturing marijuana,
13 right. That would be -- perhaps violate the statute. To
14 distribute, if the police had made an undercover buy from
15 Jesse about buying some drugs, that would be a violation of
16 the statute. It would be distributing. All right. And so
17 then purchase, all those things are physical acts that you
18 can clearly see did or didn't happen. But that's not what
19 the indictment of the State prepared said. It said he
20 possessed marijuana, and he did possess marijuana. He
21 possessed about 7 1/2 ounces of marijuana, which falls into
22 this middle section. That he possessed that with the intent
23 to distribute, to give it to other people, not for his own
24 use. So they're not necessarily arguing over that. They're
25 arguing that you can infer from the circumstances that he

1 intended it not for his own use, but for someone else. Of
2 course, that's what we take issue with.

3 In that middle section of -- you know, we talked
4 about -- I talked before about an ounce of marijuana being
5 not in this courtroom. And weights are important with drug
6 cases, for most drugs, probably 90 percent of the time if
7 we're dealing with weights because that's how you measure
8 it. You know, cocaine, methamphetamine, heroine, mushrooms.
9 Plants, you know, you weigh it up and you buy so much. The
10 other unit we use is if it's -- let's say somebody's given
11 you a bunch of pills, it would be the number of pills. But
12 in general, we're dealing with weights.

13 And so this middle section that we're here today on,
14 the weights that the law contemplates are over an ounce and
15 then up to 10 pounds of marijuana. And then they say, well,
16 if you've got 10 pounds or more of marijuana then you're in
17 that most serious level of drug offense of trafficking
18 marijuana. And we're nowhere close to 10 pounds.
19 10 pounds, of course, 16 ounces in a pound; 10 times 16 is
20 160 ounces. So anything over 1 ounce, up to 160 ounces,
21 puts us in that area we're discussing today. Again,
22 10 pounds or more gets us into that more serious
23 trafficking. Which we don't really need to deal with, but
24 it gives you framework for it later.

25 Now, what the evidence will show is that Jesse was

1 coming home late at night about 10:30, speeding at a high
2 rate of speed on 17 out in Jacksonboro doing about 96 miles
3 an hour. He got pulled over. The officer asked, "Why did
4 you stop me -- you know why I stopped you? Yeah, I was
5 speeding. How fast were you going? I was going 96 miles an
6 hour. Can I search your car? Yes, you can. I've got
7 marijuana in my car." Completely forthright the whole time.
8 But then they also -- because of the weight, it was more
9 than an ounce, puts us in that middle category. And also
10 had a large amount of cash on his person. And with the
11 marijuana was some packets, which you'll see. So they're
12 saying, well, all that together means he meant to
13 distribute; couldn't have been for him. And, you know, we
14 would say it's very obvious from the video, and just using
15 your common sense, that Jesse likes to smoke pot. It was
16 his pot. And he was not distributing or had no intent to
17 distribute.

18 I'm confident, once you -- well, I said I want you to
19 find him guilty. So at the end of the trial, in addition to
20 charging you on the law, the judge will provide you with a
21 verdict form. And that's gonna have two questions on it.
22 It will say, "We, the Jury, unanimously find the defendant,
23 Jesse Broughton," first Option, "guilty of possession with
24 intent to distribute." And the next line will be, "not
25 guilty of possession with intent to distribute." Question

1 two will be for the defendant, "We find the jury -- we
2 unanimously find him guilty of possession of marijuana or
3 not guilty of possession of marijuana." And so we would
4 expect at the end of the evidence that you would check the
5 box guilty for possession of marijuana. Please give your
6 attention to the State's witnesses. Thank you.

7 SOL. CONTESTABILE: State calls Corporal Smith.

8 (Whereupon, the witness, JERMAINE SMITH, was duly
9 sworn.)

10 THE CLERK: Please have a seat. State your first and
11 last name, spell your last name for the record.

12 THE WITNESS: Jermaine Smith. Last name spelling,
13 S-M-I-T-H.

14 - - - - -

15 DIRECT EXAMINATION

16 BY SOL. CONTESTABILE:

17 Q. Corporal Smith, where do you work?

18 A. Colleton County Sheriff's Office.

19 Q. How long have you worked with the Colleton County
20 Sheriff's Office?

21 A. Since 2021.

22 Q. What's your position at Colleton County Sheriff's
23 Office?

24 A. I am a corporal on road patrol.

25 Q. And as a corporal on road patrol, what are some of your

1 duties and responsibilities?

2 A. Answer call for services, traffic stops, property
3 checks, and anything and everything in between.

4 Q. I want to draw your attention to March 30th of 2023.
5 How did you become involved in this case?

6 A. I observed a vehicle speeding on ACE Basin in
7 Colleton County. I conducted a traffic stop on the vehicle,
8 made contact with the driver, and led to a subsequent
9 investigation.

10 Q. Do you see the driver of the vehicle in the courtroom
11 today?

12 A. Yes.

13 Q. Can you please point to him and describe what he is
14 wearing?

15 A. Mr. Broughton is wearing a white shirt, has braids.

16 Q. Was there anyone else in the vehicle with
17 Mr. Broughton?

18 A. Yes.

19 Q. Okay. Who else was in the vehicle?

20 A. It was a female passenger. I believe her name is
21 Diamond.

22 Q. Okay. And during your traffic stop, did you observe
23 anything?

24 A. Yes. When I approached the vehicle, I could detect an
25 odor of marijuana emanating from the vehicle. I also

1 observed a bag which contained a green plantlike substance
2 on the front passenger floor.

3 Q. Okay. Corporal Smith, when you are conducting traffic
4 stops, do you wear body camera?

5 A. Yes.

6 Q. And that body camera records a video, correct?

7 A. Yes.

8 Q. I'm handing you what's been marked as State's
9 Exhibit 1. Do you recognize this?

10 A. Yes.

11 Q. How do you recognize it?

12 A. It's the body camera we wear while on duty.

13 Q. Okay. And is it a fair and accurate depiction of the
14 traffic stop that you conducted on Jesse Broughton on
15 March 30th of 2023?

16 A. Yes.

17 SOL. CONTESTABILE: Your Honor, at this time, the State
18 move's to enter State's Exhibit 1 into evidence.

19 MR. WALKER: Subject to our previous stipulations, no
20 objection.

21 THE COURT: All right.

22 SOL. CONTESTABILE: Permission to publish?

23 THE COURT: Yes.

24 (State's Exhibit No. 1 was received into evidence.)

25 (Video plays from 10:56 a.m. to 11:15 a.m.)

1 SOL. CONTESTABILE: Judge, I'm just muting subject to
2 the -- actions.

3 THE COURT: I understand.

4 (Video resumes from 11:15 a.m. until 11:20 a.m.)

5 BY SOL. CONTESTABILE:

6 Q. Corporal Smith, during your interactions with
7 Jesse Broughton on March 30th of 2023, was he willing to
8 speak with you?

9 A. Yes.

10 Q. Did he appear to be under the influence of drugs or
11 alcohol?

12 A. No.

13 Q. Was his speech slurred?

14 A. No.

15 Q. Did he respond to the questions that were asked of him?

16 A. Yes.

17 Q. Was he promised anything?

18 A. No.

19 Q. Was he threatened in any way?

20 A. No.

21 Q. Was he coerced in any way?

22 A. No.

23 Q. If he needed to go to the bathroom or asked for a
24 break, would you have given him one?

25 A. Yes.

1 Q. If he asked for food or water -- I understand that
2 you're on the side of the road -- but would you have
3 provided that to the best of your ability?

4 A. Yes.

5 Q. Did Mr. Broughton make any statements to you about the
6 drugs?

7 A. Yes. When I asked him to exit the vehicle, he said
8 that there were marijuana underneath the driver seat.

9 Q. And at some point Mr. Broughton asked you why you can't
10 just charge him with possession of marijuana. Is that
11 correct?

12 A. I believe so.

13 Q. Okay. And what was your answer to that question?

14 A. Because of the amount. State of South Carolina,
15 anything over an ounce would be possession with intent to
16 distribute.

17 Q. During your interactions with Mr. Broughton, did you
18 collect any evidence?

19 A. Yes.

20 Q. What did you collect?

21 A. I collected -- he provided me a bag that contained a
22 green plantlike substance. And I also discovered a bag that
23 was underneath the driver's seat; and also, inside the bag,
24 there were approximately 15 empty packages. And also there
25 were approximately \$8,000 that was on his person.

1 Q. What did you do with these items after you collected
2 them?

3 A. They were put into evidence.

4 Q. Okay. Walk me through how you put them through
5 evidence.

6 A. They were secured in my vehicle until I got back to the
7 office to submit the evidence forms and secure it inside the
8 evidence locker.

9 Q. Okay. Do you have to put them in any sort of type of
10 bag or a box to put them in the evidence locker?

11 A. Yes. The marijuana was sealed in a BEST kit. It was
12 sealed and entered into evidence to be sent to SLED for
13 further testing.

14 Q. And why are BEST bags sealed?

15 A. To prevent tampering.

16 Q. And did you tamper with that substances that you placed
17 in the BEST kit bag --

18 A. No.

19 Q. Did you alter the substances in any way?

20 A. No.

21 Q. And after placing the BEST kit bag in the evidence
22 locker, would you or anyone else have access to them again?

23 A. Other than evidence custodian.

24 Q. Who is the evidence custodian for the Sheriff's Office?

25 A. Lieutenant Bazzle.

Direct Examination of Cpl. Smith by Sol. Contestabile

1 Q. I'm going to hand you what I'm marking as State's
2 Exhibit 4. This is for identification purposes only. Do
3 you recognize this?

4 A. Yes.

5 Q. How do you recognize this?

6 A. It's the marijuana that was recovered.

7 Q. Okay. Has that BEST kit bag -- is it in a BEST kit
8 bag?

9 A. I believe so.

10 Q. To your knowledge, has that BEST kit bag been tampered
11 with in any way?

12 A. Not to my knowledge.

13 Q. I'm gonna hand you what I'm marking as State's
14 Exhibit 5. Do you recognize this?

15 A. Yes.

16 Q. How do you recognize it?

17 A. It's the several empty packages that was in a bag
18 containing marijuana.

19 Q. Okay. Has that bag been tampered with in any way?

20 A. Other than opening it in court.

21 Q. You opened it for court purposes this morning --

22 A. Yes.

23 Q. -- correct?

24 A. Yes.

25 SOL. CONTESTABILE: Your Honor, at this time, the State

1 moves to enter State's Exhibit 5 into evidence.

2 MR. WALKER: No objection.

3 THE COURT: That would be 5. Without objection.

4 (State's Exhibit No. 5 was received into evidence.)

5 SOL. CONTESTABILE: Court's indulgence.

6 BY SOL. CONTESTABILE:

7 Q. Corporal Smith, I'm gonna hand this back to you. Can
8 you describe what these packets are?

9 A. It's small packages labeled Coconut -- Coconut -- I'm
10 not sure. But it has the symbol of marijuana on it.

11 Q. Okay. What did you notice about those packets when you
12 collected them?

13 A. When I collected them, I noticed that the packages
14 appeared to be freshly emptied packages. And they appeared
15 to be unused packages, meaning that they were possibly being
16 used to put marijuana in. I noticed that the tabs haven't
17 been torn off yet.

18 Q. Where did you find those packages at?

19 A. That packages were on the bag that contained the
20 marijuana that was underneath the driver's seat.

21 Q. Okay. I'm gonna hand you now what's marked as State's
22 Exhibit 2 and 3. Can you take a look at those. Do you
23 recognize this?

24 A. Yes.

25 Q. What's State's Exhibit 2?

1 A. It's money and marijuana along with the coconut
2 packages that was recovered at the traffic stop.

3 Q. Okay. And other than State's Exhibit 2 being placed on
4 that piece of paper, has it been changed or altered in any
5 way?

6 A. No.

7 Q. Okay. And can you tell us what State's Exhibit 3 is?

8 A. Exhibit 3 is the empty packages that was collected on
9 the traffic stop.

10 Q. And other than being placed on the piece of paper, has
11 it been changed or altered in any way?

12 A. Nap.

13 SOL. CONTESTABILE: Your Honor, at this time, the State
14 moves to enter State's Exhibit 2 and 3 into evidence.

15 MR. WALKER: No objection.

16 THE COURT: Admitted without objection.

17 SOL. CONTESTABILE: Permission to publish?

18 THE COURT: You may.

19 (State's Exhibits 2 and 3 were received into evidence.)

20 Q. Corporal Smith, can you tell me again what's
21 photographed in this picture?

22 A. It's the empty packages that were recovered.

23 Q. What about in this picture?

24 A. It's the cash, the empty packages, and the marijuana
25 that was collected.

1 SOL. CONTESTABILE: Please answer any questions that
2 the defense have.

3 - - - - -

4 CROSS-EXAMINATION

5 BY MR. WALKER:

6 Q. Good morning.

7 A. Good morning.

8 Q. Would it be fair to say that Jesse was cooperative with
9 you when you stopped him?

10 A. Yes.

11 Q. He admitted to speeding?

12 A. Yes.

13 Q. Told you how fast he was going?

14 A. Yes.

15 Q. Gave you consent to search his car?

16 A. Yes.

17 Q. Told you about the illegal weed in the car?

18 A. Yes.

19 Q. Have you arrested other people for possession with
20 intent to distribute controlled substances?

21 A. Yes.

22 Q. So in addition to weight, in this case, you decided the
23 fact that there were packets as a reason for possession, the
24 charge that you made?

25 A. Along with the marijuana, yes.

Cross-Examination of Cpl. Smith by Mr. Walker

1 Q. And also the money?

2 A. Yes.

3 Q. Now, in other cases where you've charged people with
4 this, have you found guns?

5 A. I'm not sure but other cases.

6 Q. Don't know about your cases?

7 A. Not off the top of my head. Sorry.

8 Q. So you can't remember if you've ever found a gun as an
9 initia of possessing with intent to distribute a drug?

10 A. I wouldn't say that was a factor.

11 Q. What about a scale?

12 A. That could be a factor.

13 Q. You found people with scales and charged them with
14 PWID?

15 A. Yes.

16 Q. Have you ever arrested anybody for PWID with a baggie
17 like this before?

18 A. Not that I recall.

19 Q. Have you ever even seen something like that before?

20 A. My first time seeing something like that, yes.

21 Q. Okay. But you've seen people with packaging and used
22 that as a basis for PWID before, right?

23 A. Like individual packages, yes.

24 Q. Right. So you've seen a large amount of drugs already
25 prepackaged into smaller amounts. And that would be an

1 indicator to you?

2 A. Yes. Some cases, yes.

3 Q. Okay. And what about like an empty -- like just a box
4 of like of, you know, sandwich bags, is that something you
5 see to package things in?

6 A. In some cases, yes.

7 Q. I mean, you just said you've never seen something like
8 this before, right?

9 A. Yes. But that has marijuana on it, so.

10 Q. Yeah. But, I mean, would it be fair to say that most
11 of the time you see like clear plastic, either Saran Wrap or
12 a Ziploc or Something like that?

13 A. Yes.

14 Q. This is all you found as far as packaging?

15 A. Yes.

16 Q. Do you know what Coconut Horchata is?

17 A. I do not know.

18 Q. Okay. You got a phone on you?

19 A. Yes.

20 Q. Does it have a search engine on it?

21 A. It does.

22 Q. Want to look it up?

23 A. I don't need to.

24 Q. Well, if you don't know, wouldn't you like to know?

25 A. I mean, the symbol of marijuana should tell me

1 everything.

2 Q. How about indulging me? Just google Coconut Horchata
3 strain.

4 A. (Witness complies.)

5 Q. Okay. And I'll give you this so you know how to spell
6 it. Sorry.

7 A. I gotcha.

8 Q. Okay. So did you search Coconut Horchata strain?

9 A. Yes.

10 Q. What's the first return you get on your search? What's
11 website?

12 A. Leafly.com.

13 Q. Okay. Just look at it for a minute and educate
14 yourself.

15 A. (Witness complies.) Okay.

16 Q. So what is Coconut Horchata?

17 A. It says it's a dominant weed strain.

18 Q. So is it a strain like a flavor or a type?

19 A. I'm guessing it's from the THC content.

20 Q. Okay. And does it say on there, is there a known
21 person that makes that particular type or strain?

22 A. I'm not sure.

23 Q. Okay. Well, how about look at the package there in
24 front of you. Look at the front. Does it have like a brand
25 name on the top left?

1 A. Top left?

2 Q. Yeah. Maybe we have different ones. Is yours
3 different than mine?

4 A. I guess so.

5 Q. Give you this one.

6 A. Nothing.

7 Q. Looking at the top left?

8 A. Dubz Garden.

9 Q. Does that name ring a bell from what you've read a
10 minute ago?

11 A. I didn't see anything.

12 Q. Okay. But we're talking strain and THC. That kinda
13 means -- what's your understanding of what a strain is?

14 A. I'm not a scientist.

15 Q. I'm just asking your understanding of what it is.

16 A. I'm guessing it has to do with a variation of THC.

17 Q. Okay. Let's talk about a variation. There's different
18 types of --

19 A. Yeah.

20 Q. -- of weed. Like different types of roses?

21 A. Yes.

22 Q. Now, we watched the video of you searching the car
23 after you got everybody out. And you took a pink package
24 out of the center console and dropped it on the floor. Do
25 you recall that?

Cross-Examination of Cpl. Smith by Mr. Walker

- 1 A. Out of the center console?
- 2 Q. Yeah.
- 3 A. I'm not sure what it was.
- 4 Q. Okay. Well, do you know what a wrap is?
- 5 A. A wrap?
- 6 Q. Yeah.
- 7 A. Can you clarify?
- 8 Q. Well, you've got marijuana, you can't smoke it like
- 9 that, right?
- 10 A. Yeah.
- 11 Q. You've got put it in something?
- 12 A. Yeah.
- 13 Q. All right. So like a roll of paper or a wrap, right?
- 14 A. Rolling wrap paper or?
- 15 Q. Yeah. That's how you would use it, right?
- 16 A. Yeah.
- 17 Q. Okay. And you saw some of those in that pink package
- 18 in the car when you searched it?
- 19 A. Possibly.
- 20 Q. Well, it's on the video if we want to see it?
- 21 A. Yes.
- 22 Q. Okay. Now, there's some conversation in the video
- 23 about making a phone call to another officer. That would be
- 24 to Officer Chapman. Correct?
- 25 A. I believe so.

1 Q. Okay. And who is Officer Chapman?

2 A. He's the captain over CID.

3 Q. What's CID?

4 A. Criminal Investigation Division.

5 Q. Okay. And what is your understanding of why that call
6 was made?

7 A. Due to the totality of circumstances. All the
8 marijuana, the packages, and the money, if it's to be seized
9 and in collection with the charge.

10 Q. So the call was to determine whether or not to seize
11 the money?

12 A. Yes.

13 Q. Which, obviously, we saw Jesse wasn't happy about that
14 happening.

15 A. Yeah.

16 Q. Now, let's say the State is successful in seizing that
17 money and keeping it, what percentage of that money does the
18 Sheriff's Department get to keep?

19 A. I'm not sure.

20 Q. What about the other officer at the scene, would he
21 know that number?

22 A. I'm not sure.

23 Q. What about Captain Chapman?

24 A. You would have to ask him. I don't know.

25 Q. We might. Okay. All right. Don't think I'm missing

1 anything.

2 Just to reiterate, he never gave you any problems?

3 A. He did not.

4 Q. Gave you everything he had?

5 A. Yes.

6 Q. And I did want to go over the money, which was seized.

7 When you asked him how much was his, he said 6,000. Right?

8 A. Yes.

9 Q. But he had more than that, right?

10 A. Yes.

11 Q. So what did he say was the difference, the explanation
12 for the difference between 6,000 and what . . .

13 A. I believe he said that it belongs to the female, some
14 of it belongs to the female. I'm not sure.

15 Q. But you took the position since it was all on him, you
16 were gonna consider it all his?

17 A. Yes.

18 Q. No further questions.

19 THE COURT: Thank you. Any redirect?

20 SOL. CONTESTABILE: Briefly, Your Honor.

21 - - - - -

22 REDIRECT EXAMINATION

23 BY SOL. CONTESTABILE:

24 Q. Corporal Smith, that package you got in front of you,
25 does it have a seal?

1 A. Yes.

2 Q. Does it have like little tabs on it that you would have
3 to tear open?

4 A. Yes.

5 Q. Has the seal been opened or the tabs torn?

6 A. No. It's still here.

7 Q. Is there anything in the packages?

8 A. Nothing.

9 Q. When you collected them, was there anything from like a
10 manufacturer of the bags and the packages?

11 A. No.

12 Q. And Diamond, the passenger in the vehicle, did she make
13 any statements to you about the money being hers?

14 A. She did not.

15 Q. Did she have a purse on her?

16 A. Yes.

17 Q. And on the video I think I saw you actually look
18 through it, didn't you, her purse?

19 A. Yes.

20 Q. Was it a large purse, a small purse?

21 A. It was ample-size purse.

22 Q. Was it a big enough purse to put her own money into?

23 A. Yes.

24 Q. And when you seized the money, did she make any
25 statements about you taking the money and it belonging to

1 her?

2 A. No.

3 SOL. CONTESTABILE: Nothing further.

4 THE COURT: Thank you. Any recross on specifically the
5 redirect?

6 MR. WALKER: No, Your Honor.

7 THE COURT: Thank you, sir. You may step down. Call
8 your next witness, please.

9 SOL. CONTESTABILE: State calls Sergeant Jacob Scott.

10 (Whereupon, the witness, JACOB SCOTT, was duly sworn.)

11 THE CLERK: Please have a seat. State your first and
12 last name, spell your last name for the record, please.

13 THE WITNESS: Sergeant Jacob Scott, S-C-O-T-T.

14 - - - - -

15 DIRECT EXAMINATION

16 BY SOL. CONTESTABILE:

17 Q. Sergeant Scott, where do you work?

18 A. Colleton County Sheriff's Office.

19 Q. How long have you worked for the Colleton County
20 Sheriff's Office?

21 A. Around five years.

22 Q. What is your position at the Colleton County Sheriff's
23 Office?

24 A. I'm a road patrol sergeant.

25 Q. And as a road patrol sergeant, what are some your

1 duties and responsibilities?

2 A. I supervise one of the four road teams and then basic
3 law-enforcement functions: answering 911 calls, make traffic
4 stops, things like that.

5 Q. I'm gonna take you back to the incident that occurred
6 on March 30th of 2023. How did you become involved in this
7 case?

8 A. Corporal Smith asked for backup for searching a car.

9 Q. Okay. And during this traffic stop -- I'm gonna show
10 you State's Exhibit 5 -- or 4. I'm sorry. Do you recognize
11 that?

12 A. Yes.

13 Q. How do you recognize that?

14 A. That was the bag of marijuana that was found in the
15 vehicle.

16 Q. Okay. And during the traffic stop, did you at any
17 point have control over the items in, for identification
18 purposes, State's Exhibit 4?

19 A. No.

20 Q. Okay. You saw the money that was collected. Did you
21 count that money?

22 A. Yes.

23 Q. Okay. And do you recall how much money was there?

24 A. Off of my head, no. According to the report, it was
25 \$8,190.

1 Q. Okay. And after you counted that money, what did you
2 do with it?

3 A. It was placed into an evidence bag.

4 Q. Okay. Did you tamper with the items involved in this
5 case in any way?

6 A. No.

7 Q. Did you alter the items involved in this case in any
8 way?

9 A. No.

10 Q. Okay. I'm now gonna show you these bags that are in
11 State's Exhibit 5. Do you know what these are?

12 A. Those are basically a knockoff bag to make some kind of
13 product look to be -- I don't know what the word I'm looking
14 for -- to be a real product.

15 Q. Have you ever arrested somebody for possession with
16 intent to distribute who had those bags as well?

17 A. Yes.

18 Q. I don't have any further questions for you. Please
19 answer any that Mr. Walker has.

20 - - - - -

21 CROSS-EXAMINATION

22 BY MR. WALKER:

23 Q. Good morning. I'm fascinated by these things. On the
24 video, I saw there you had a patch that said canine, right?

25 A. Yes, sir.

1 Q. Are you still doing canine?

2 A. Yes, sir.

3 Q. And so what is that?

4 A. It is a dog.

5 Q. It is a dog. So you're a dog handler?

6 A. Yes.

7 Q. In addition you are. And what do you use the dog for?

8 A. Narcotics and apprehension.

9 Q. Okay. So one of your main jobs is narcotics arrests?

10 A. Yes, sir.

11 Q. Okay. And I just heard you say, you've seen a bag like
12 this before?

13 A. Yes.

14 Q. How many times?

15 A. Probably, I would say, at least ten times.

16 Q. Okay. Did you see -- did you find them, I guess,
17 spaced out over time or was there a time when these popped
18 up and then went away or?

19 A. It was spaced out over time. We're seeing them more
20 frequently now.

21 Q. You're seeing them more now?

22 A. Yes.

23 Q. Okay. And do they all say Coconut Horchata?

24 A. There is many different fake companies they put on
25 there.

1 Q. Sorry. Different?

2 A. Different fake companies they put on there.

3 Q. Okay. Well, I'm not asking about the company, I'm
4 asking about Coconut Horchata.

5 A. The entire packaging is fake. The reason ---

6 Q. --- is not fake.

7 A. There's no product is what I'm trying to say.

8 Q. Okay.

9 A. It's as if that was -- you know, for instance,
10 Frito-Lay's ---

11 Q. Right.

12 A. Frito-Lay doesn't sell Doritos bags before they put the
13 Doritos in the bag.

14 Q. Right.

15 A. So there's no company that sells the bag that says it's
16 a product. No company would do that.

17 Q. Okay. Well ---

18 A. Without the product being inside.

19 Q. Great minds, maybe we can agree to disagree. But I'm
20 just asking about Coconut Horchata. What is your
21 understanding of what that is?

22 A. I have no idea what it is.

23 Q. Okay. You were just in here a minute ago and heard
24 Officer Smith say it appeared to be a strain of marijuana,
25 right?

1 A. I heard you talk about a strain of marijuana, yes.

2 Q. Okay. So what is your understanding of what a strain
3 of marijuana is?

4 A. I have no idea.

5 Q. No idea. Even though your main job is -- well, one of
6 your main jobs -- is drug enforcement?

7 A. I don't test or analyze the drugs.

8 Q. Okay. You don't grow roses, do you?

9 A. No.

10 Q. Okay. So you've made multiple arrests, I would assume,
11 for possession with intent to distribute a controlled
12 substance, right?

13 A. Yes.

14 Q. And I guess, in your opinion, having these bags would
15 be one initia of intent to distribute?

16 A. Absolutely.

17 Q. Okay. But you also see other kinds of bags, right?

18 A. Yes.

19 Q. Clear plastic?

20 A. Most of the ones that are that with the false
21 advertising on them are not clear, I found. Just basically
22 as far -- it makes it appear like a more reputable source
23 and it hides the product inside from view.

24 Q. Well, I mean, you're aware that marijuana is a
25 perfectly reputable product in much of the country, right?

Cross-Examination of Sgt Scott by Mr. Walker

1 A. I wouldn't say that, no.

2 Q. You wouldn't say that. In half the country it's legal
3 to have marijuana, but it's not reputable to have it?

4 A. I guess that would be my opinion.

5 Q. Okay. But you've also seen marijuana and other drugs
6 packaged in Ziploc bags, right?

7 A. Yes.

8 Q. And Saran Wrap, it gets twisted up and tied off.
9 Right?

10 A. Yes.

11 Q. And, in your opinion, having guns around drugs would be
12 an initia of intent to distribute, right?

13 A. No.

14 Q. No. All right. How about having scales around drugs?

15 A. Yes.

16 Q. Okay. What about, you know, having this package or
17 even like a Ziploc bag already pre-filled, a bunch of them
18 pre-filled, ready to go, would that be an initia of
19 possession with intent to distribute?

20 A. It would depend. How I would see it, I have seen the
21 bags emptied like that around large quantities of marijuana
22 before. I wouldn't consider that as far as preparing for
23 distribution. I've also found the bags where they've been
24 torn open or they had a small amount inside that was from
25 the possession cases. I've also seen it where it may be a

1 bag where it's closed with the marijuana inside. The first
2 time I ever saw them, I did not know what they were. I
3 didn't open the bags. I was unaware that the seal is
4 actually fake also, so you can open the bags. And they'll
5 say something like "California Compliant" or something like
6 that on the outside to kind of confuse law enforcement. And
7 it did trick me the first time.

8 Q. Right.

9 A. Until, finally, I checked the package more clearly and
10 saw that it's not a real company and they're perfectly
11 openable. They do not seal in any way.

12 Q. Well, but you can buy weed in California, right?

13 A. I believe so, yes.

14 Q. Okay. You didn't have to use your dog the night this
15 went on, right?

16 A. No.

17 Q. Okay. Stayed in the car?

18 A. Yes.

19 Q. Okay. And we saw you on that video. And you were in
20 here, you saw that. You told Jesse to get in the car. You
21 were gonna make a phone call. Was that the phone call to
22 Captain Chapman?

23 A. Yes.

24 Q. All right. And what was the purpose of that phone
25 call?

1 A. To ask about the money.

2 Q. Okay. Whether or not seize it?

3 A. Yes.

4 Q. Okay. Do you know the percentage the Sheriff's
5 Department gets to keep if they seize the money permanently?

6 A. I have no idea.

7 Q. No further questions.

8 THE COURT: Anything else?

9 SOL. CONTESTABILE: No, Your Honor.

10 THE COURT: Thank you so much, sir. You may step down.

11 SOL. CONTESTABILE: State calls Sergeant Bazzle.

12 (Whereupon, the witness, STEVE BAZZLE, was duly sworn.)

13 THE CLERK: Please have a seat. State your first and
14 last name, spell your last name for me, please.

15 THE WITNESS: Steve Bazzle, B-A-Z-Z-L-E.

16 - - - - -

17 DIRECT EXAMINATION

18 BY SOL. CONTESTABILE:

19 Q. Sergeant Bazzle, where do you work?

20 A. Colleton County Sheriff's Office.

21 Q. How long have you worked for the Colleton County
22 Sheriff's Office?

23 A. I've been in law enforcement since 1978. These last
24 eight years I've been in the position of evidence custodian
25 for the Sheriff's Office.

1 Q. What's an evidence custodian?

2 A. Any time an officer seizes any property, whether it's
3 drugs, money, firearms or whatever, they turn it into a
4 temporary storage locker at the Sheriff's Office. It's
5 locked in there and then we have to take it out from the
6 other side of the wall. So once the doors are locked,
7 nobody can mess with it. I have access to it from the back
8 side which I take it out, log it into the computer, attach a
9 barcode for tracking on it, and then put it in the main
10 evidence locker until it's either sent for analysis in a lab
11 or returned to the person it was taken from; or if it was
12 something recovered, stolen, we return it to the original
13 owner; or stuff that's been there so long it's eventually
14 destroyed.

15 Q. Sergeant Bazzle, I'm gonna hand you what's been marked
16 as State's Exhibit 4 for identification purposes. Do you
17 recognize this?

18 A. Yes, ma'am.

19 Q. How do you recognize it?

20 A. This is the bag that was sent up -- that Officer Smith
21 turned into the evidence room, and I transported it up to
22 the State Law Enforcement Division so it could be analyzed.

23 Q. And when you retrieved that item, did you retrieve it
24 from temporary storage or did Officer Smith hand it to you?

25 A. I got it out of the storage locker and logged it in and

1 then placed it into the main evidence room until I
2 transferred it up to the lab at the State Law Enforcement
3 Division.

4 Q. When you got it out of the temporary storage, was the
5 seal intact in that bag?

6 A. Yes, ma'am.

7 Q. Did it appear -- did that bag appear to be tampered
8 with in any way?

9 A. No, ma'am.

10 Q. Did it appear to be altered in any way?

11 A. No, ma'am.

12 Q. Did you tamper with it or alter it in any way?

13 A. No, ma'am.

14 Q. Did you maintain the integrity of the contents of that
15 bag while it was in your custody?

16 A. I did.

17 Q. When you take evidence to SLED, what do you do with it?

18 A. They have a section where they receive the evidence.

19 It's called the evidence login. I turned it -- take it up
20 and turn it over to the ladies up there and they receive it
21 and document it in their system. And it stays with them
22 until an analyst goes over it and then it goes back to the
23 evidence login. And then I pick it up from them and bring
24 it back and put it back in my evidence locker until the
25 trial.

1 Q. Is it fair to say that as an evidence custodian you are
2 responsible for ensuring the integrity of the contents of
3 the evidence that is given to you?

4 A. Yes, ma'am.

5 Q. Okay. And looking at that bag, has that bag been
6 tampered with in any way?

7 A. No, ma'am.

8 Q. How do you know that?

9 A. Well, if you'll notice, it's got my initials on it
10 where it was -- before I took it up there. And this is a
11 heat-sealed bag that came after -- they opened it at SLED,
12 obviously, to analyze it, and then they sealed it back into
13 this bag which I recovered and put back into evidence.

14 Q. I don't have any further questions for you. Please
15 answer any that Mr. Walker has.

16 A. Okay.

17 - - - - -

18 CROSS-EXAMINATION

19 BY MR. WALKER:

20 Q. A minute ago we watched the video, correct?

21 A. Yes.

22 Q. And you saw two separate bags of marijuana taken from
23 the car?

24 A. Right.

25 Q. Does that package contain both bags smushed together?

1 A. Yes, sir.

2 Q. Okay. No further questions.

3 THE COURT: Anything else for this witness?

4 SOL. CONTESTABILE: No, your Honor.

5 THE COURT: Thank you so much, sir.

6 SOL. CONTESTABILE: State calls Heaven Robinson.

7 (Whereupon, the witness, HEAVEN ROBINSON, was duly
8 sworn.)

9 THE CLERK: Please have a seat. State your first and
10 last name, spell your last name for the record, please.

11 THE WITNESS: My name is Heaven Robinson,
12 R-O-B-I-N-S-O-N.

13 - - - - -

14 DIRECT EXAMINATION

15 BY SOL. CONTESTABILE:

16 Q. Where do you work?

17 A. I am currently employed at South Carolina Law
18 Enforcement Division, commonly known as SLED.

19 Q. How long have you worked for SLED?

20 A. Two years.

21 Q. And what is your position at SLED?

22 A. I'm a forensic chemist that's assigned to the drug
23 analysis department. I specialize in THC quantitation.

24 Q. Can you explain what a forensic chemist does?

25 A. Specifically, in the drug analysis department, and my

1 job specifically, I am responsible for analyzing the
2 suspected marijuana that we receive from the agencies across
3 the state.

4 Q. What kind of training and education do you have to have
5 to be a forensic scientist?

6 A. I graduated from Converse University with a Bachelor of
7 Science in Biology with a chemistry minor. Since starting
8 at SLED, I've undergone the training program for THC
9 quantitation and I've also attended the South Carolina
10 Criminal Justice Academy courses.

11 Q. As part of some of your responsibilities as a forensic
12 scientist at SLED, do you also generate a report on your
13 findings?

14 A. Yes.

15 SOL. CONTESTABILE: Your Honor, at this time, the State
16 would move to introduce Ms. Robinson as an expert in the
17 field of forensic chemistry specializing in the chemical
18 analysis of marijuana.

19 MR. WALKER: No objection.

20 THE COURT: No objection. So qualified.

21 Q. I'm gonna show you what has been marked for
22 identification purposes as State's Exhibit 4. Do you
23 recognize this?

24 A. Yes, I do.

25 Q. How do you recognize it?

1 A. The assigned lab numbers here along with my initials
2 and the date that I worked it. The same date and my
3 initials are also here along with my initials and lab number
4 on the evidence bag.

5 Q. When you received that item, who did you receive it
6 from?

7 THE WITNESS: May I refer my notes?

8 THE COURT: Yes.

9 THE WITNESS: Thank you.

10 A. I received the evidence from Christine Dadabo.

11 Q. And what day did you receive it on?

12 A. 3/13/24.

13 Q. And who did Christine Dadabo receive it from?

14 A. She received it from a shelf in the evidence room.

15 Q. Okay. How did those bags get to the shelf in the
16 evidence room?

17 A. They were logged in by Susan Smith when she received it
18 from the evidence submission lockers and placed it into the
19 evidence room.

20 Q. And the evidence submission lockers, those are at SLED?

21 A. Yes.

22 Q. What is the purpose of those?

23 A. For agencies to submit evidence.

24 Q. And when SLED receives substances for testing, what
25 steps are taken to ensure that the substances haven't been

1 tampered or damaged?

2 A. The evidence stays with evidence control until an
3 analyst comes and picks it up. At that point, it stays in
4 my custody, and I check for any openings in the packaging
5 and such.

6 Q. If the evidence had been tampered with, say the package
7 was opened, how would we know that?

8 A. If the package was opened whenever I received it, I
9 would have notated it on the worksheet and I would have
10 documented any pictures any that was necessary.

11 Q. To your knowledge, was that package tampered with when
12 you received it?

13 A. No, it was not.

14 Q. Okay. Does it appear to have been tampered with now?

15 A. No.

16 Q. Did you tamper with it while it was in your custody?

17 A. No.

18 Q. Did anyone else tamper with it while it was in your
19 custody?

20 A. No.

21 Q. Did you maintain its integrity?

22 A. Yes.

23 SOL. CONTESTABILE: Your Honor, at this time, the State
24 moves to enter State's Exhibit 4 into evidence?

25 MR. WALKER: No objection.

1 THE COURT: Without objection.

2 (State's Exhibit No. 4 was received into evidence.)

3 Q. Did you exam State's Exhibit 4?

4 A. Yes.

5 Q. Can you walk me through -- did you do one test on it?

6 Did you do multiple tests on it?

7 A. So whenever I get an item, we do a presumptive test to
8 determine the steps we're gonna take. The test I did in
9 this case was the microscopic examination. This looks for
10 the three hairs that are consistent with cannabis plant.
11 From here, we will do confirmatory testing which will tell
12 me the amount of Delta-9 tetrahydrocannabinol in the plant's
13 root.

14 Q. I'm sorry, can you say that word one more time for me a
15 little bit slower?

16 A. Delta-9 tetrahydrocannabinol, also known as Delta-9
17 THC.

18 Q. Okay. And what is the purpose for testing for the
19 Delta-9 THC?

20 A. The Hemp Act was introduced into the law a few years
21 ago, and this requires an analysis to occur to determine the
22 amount of Delta-9 THC in plant material. If it has less
23 than 0.3 percent of Delta-9 THC, it's considered hemp; if it
24 has more than that, it is considered marijuana.

25 Q. And are the testing methods that you used to determine

1 the THC levels, are those reliable?

2 A. Yes.

3 Q. And they're generally accepted in your field?

4 A. Yes, they are.

5 Q. So as a result of your chemical analysis that you
6 performed on those substances in item 1.1, what is your
7 opinion?

8 A. In item 1.1, I determined that the plastic bag
9 containing plant material is marijuana. A C-1 found in the
10 sample tested, with one tested, that weight was 215 grams
11 with a confidence level of 99.7 percent and a total Delta-9
12 tetrahydrocannabinol THC dry weight was greater than
13 1 percent.

14 Q. Okay. And I heard you say that you said that marijuana
15 is a C-1. What does that mean?

16 A. That is a schedule-1 drug. A schedule-1 is a substance
17 that has no medical use, it has a high potential for abuse,
18 and it cannot safely be used in medical treatment.

19 Q. So I heard you say as well that the THC level was
20 greater than 1 percent. So is that more than that hemp
21 level?

22 A. Yes. That is three times the amount that is considered
23 hemp.

24 Q. I don't have anything further for you. Please answer
25 any questions Mr. Walker has.

1 - - - - -

2 CROSS-EXAMINATION

3 BY MR. WALKER:

4 Q. Good afternoon. Can you explain to us what a strain of
5 marijuana is?

6 A. That is outside of my scope. We do not concern
7 ourselves with strains.

8 Q. Something you've never heard of before?

9 A. I've heard of it. It's just not something I worry
10 about in my job.

11 Q. I'm not asking your expert opinion on it. I just want
12 to know what you understand a strain to be.

13 A. For what I mean it to be, personally, is that breeding
14 of the plants, crossing them to try to pull out certain
15 characteristics that people find more favorable.

16 Q. So that could be THC level, right?

17 A. Sure.

18 Q. Different strands could have different THC levels?

19 A. Okay.

20 Q. And do they taste differently?

21 A. I'm not aware.

22 Q. Okay. Could they give a different experience when
23 ingested?

24 A. I'm not aware of that. I'm not a toxicologist.

25 Q. You ever been in a marijuana dispensary?

1 A. No, I have not.

2 Q. Okay. But your understanding is that, like roses or
3 tomatoes, they breed different versions to achieve different
4 characteristics?

5 A. Sure.

6 Q. No further questions.

7 THE COURT: Any redirect on that?

8 SOL. CONTESTABILE: No, your Honor. May this witness
9 be excused?

10 THE COURT: Yes, you may. Thank you very much.

11 SOL. CONTESTABILE: The State rests, Your Honor.

12 THE COURT: All right. Let's give the jury a quick
13 break that may turn into lunch. Let's do this, I'm gonna
14 ask you to go back to the jury room. We'll take at least a
15 ten-minute break and then we'll see whether or not it's a
16 good time to break for lunch. Don't discuss the case with
17 anyone, et cetera.

18 (The jury exits the courtroom at 12:04 p.m.)

19 THE COURT: Rough schedule? Any good time to break or
20 should we keep on rolling. Do you know yet?

21 MR. WALKER: I mean, I can make my motions and
22 then -- I'm fine taking a lunch break. We can do motions
23 either at the front end or the back end.

24 THE COURT: All right. So maybe we should take a break
25 now. Anything from the State?

1 MR. WALKER: Actually, would you mind doing the motions
2 first so that we have a better idea coming back, depending
3 on the outcome of the motion.

4 THE COURT: Sure. Should we go ahead and send the jury
5 to lunch then?

6 MR. WALKER: I would say so. Yes, sir.

7 THE COURT: All right. Let's see, I guess I need to
8 bring them back in to tell them it's okay to go to lunch and
9 not discuss anything. So what do y'all think, give them an
10 hour? Give them until 12:15, something like that? Or 1:15,
11 rather.

12 SOL. CONTESTABILE: Yeah. An hour.

13 THE COURT: That will give us the time maybe, just
14 maybe, to get something to eat before they come back.

15 (Brief pause.)

16 (The jury enters the courtroom at 12:06 p.m.)

17 THE COURT: Sorry, I couldn't just send word back "go
18 to lunch." It doesn't work that way. So we're going to
19 take lunch. Please try to be back by 1:15. That will
20 hopefully give you time to eat lunch. That will give us an
21 opportunity to take up some things outside your presence
22 that will speed things along. And don't discuss the case
23 with anyone, don't do any research, all those things. Any
24 questions?

25 (No response.)

1 THE COURT: All right. We'll see you about 1:15 then.

2 Thank you.

3 (The jury exits the courtroom at 12:09 p.m.)

4 THE COURT: All right. Back on the record then. State
5 has rested. Happy to hear anything from the Defendant.

6 MR. WALKER: Thank you, Your Honor. At this time, the
7 defense would make a directed verdict motion in that the
8 testimony viewed in light most favorable to the State does
9 not support the allegation laid out in the indictment that
10 my client possessed with the intent to distribute
11 counterfeit substance of marijuana. All the testimonies
12 have been that it's been actual plant marijuana but no
13 counterfeit subject has been alleged in the testimony. And
14 so we would move to dismiss.

15 THE COURT: Happy to hear from the State.

16 SOL. CONTESTABILE: Judge, in the header of the
17 indictment it is very apparent that the charge is possession
18 with intent to distribute marijuana. And the body says "or
19 purchase a counterfeit substance." So it is not just -- it
20 says "Defendant did possess with the intent to distribute,
21 dispense, deliver, or purchase a counterfeit substance,
22 marijuana." So it could be either one, either the
23 possession with the intent to distribute substance or the
24 possession of a counterfeit substance.

25 And when you view the evidence in light most favorable

1 to the State, there is evidence of distribution in this
2 case. State v. James states that in a controlled substance
3 case, any amount of controlled substance coupled with
4 sufficient indication of intent to distribute is sufficient
5 to support a possession with an intent to distribute charge.
6 You heard testimony from Corporal Smith stating that not
7 only was there a large quantity of marijuana in the vehicle
8 in two separate bags, there was also 15 empty baggies for
9 packaging purposes and there was approximately \$8,000 worth
10 of cash. All of that taken together would prove the intent
11 to distribute in this case.

12 THE COURT: Could I see the indictment, please?

13 SOL. CONTESTABILE: This is a copy of it.

14 THE COURT: A copy is good. Thank you.

15 (Brief pause.)

16 THE COURT: Yeah, I'm gonna deny the motion. Thank
17 you.

18 MR. WALKER: Thank you, Your Honor. I'm not arguing,
19 just to put my argument on the record. May I put that on
20 the record?

21 THE COURT: Yeah. Go ahead.

22 MR. WALKER: Thank you, Your Honor. So 44-53-370,
23 subsection A1 and 2, two different ways of filing this
24 section. The first deals with actual controlled substances
25 and the second deals with counterfeit. The State always has

1 a safe harbor in pleading the statute, which they chose not
2 to do. They chose to draft the statute this way. And my
3 reading of it is that they're alleging, and the grand jury
4 heard, that he was charged with first-hand controlled
5 substance of marijuana -- or a counterfeit substance of
6 marijuana. Excuse me. Just like I went to lunch with
7 Lynn Wilkinson, my father-in-law. Counterfeit substance is
8 modified marijuana in that sentence. And, you know, under
9 contract -- you know, contract law, we would allow an
10 ambiguity and the draft would be held against the drafter,
11 certainly not my client. That would be my argument for the
12 record. Thank you.

13 THE COURT: All right. Thank you very much. Anything
14 else?

15 MR. WALKER: Your Honor, I think we need to have a
16 hearing on if my client decides to testify what, if any,
17 criminal convictions that they would seek to introduce.

18 THE COURT: All right. First, let me go ahead and do
19 the right to testify thing with him and then we'll see that.
20 So can I get the defendant placed under oath, please.

21 (Whereupon, the Defendant, JESSE BROUGHTON, was duly
22 sworn.)

23 THE COURT: All right. Mr. Broughton, at this time,
24 I'm going to explain to you certain of your rights. If you
25 do not understand anything I say, please let me know. If

1 you want me to explain anything in more detail, let me know.
2 Do you understand?

3 DEFENDANT: Yes, sir.

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

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

23 If you decide to testify, the decision on your part
24 must be made freely, voluntarily, and intelligently with
25 knowledge of the protections given to you by the Fifth

1 Amendment and the consequences of your decision to testify.
2 If you decide not to testify, I will instruct the jury that
3 they cannot give the fact that you have not testified any
4 consideration whatsoever, and there is to be absolutely no
5 prejudice to you because you did not testify.

6 It is left entirely up to you whether or not you
7 testify. You may talk with your counsel, your friends,
8 anyone else. The final decision will be left entirely up to
9 you. Do you understand what I've explained to you?

10 DEFENDANT: Yes, sir.

11 THE COURT: Do you have any questions about what I've
12 explained to you?

13 DEFENDANT: No, sir.

14 THE COURT: Do you want to discuss this anymore with
15 your lawyer?

16 DEFENDANT: Yes, sir.

17 THE COURT: All right. You do want to discuss it with
18 your lawyer?

19 DEFENDANT: Yes, sir.

20 MR. WALKER: I think as far as answering, having making
21 his decision, we would like to have the hearing about what,
22 if anything, the jury would hear about his prior record.

23 THE COURT: All right. Well, I should've done that
24 part first then. All right. Well, we'll pick this back up
25 at some point.

1 MR. WALKER: Thank you.

2 THE COURT: What is it that y'all seek to introduce?

3 SOL. CONTESTABILE: Judge, he has four prior
4 convictions from 2016. The first one is a possession with
5 intent to distribute a schedule-4 substance and second
6 offense; a failure to stop for blue lights; habitual traffic
7 offender; and another possession with intent to distribute a
8 schedule-1, 2 or 3 substance.

9 THE COURT: All right. Mr. Walker, which of any of
10 those are --

11 MR. WALKER: He's questioning about whether it's two
12 PWIDs or one. So he doesn't necessarily agree with her.

13 (Brief pause.)

14 SOL. CONTESTABILE: Judge, Ms. Kinney is confirming on
15 the Charleston County Public Index right now. But we have
16 found another possession with intent to distribute cocaine
17 base charge from 2015 as well. It's from November 14th of
18 2015. She's confirming to see if there's any other ones.

19 (Brief pause.)

20 MR. WALKER: Your Honor, I believe my client has made a
21 decision.

22 THE COURT: All right. Yes, sir. Happy to hear from
23 you.

24 DEFENDANT: No, sir. I will not testify.

25 THE COURT: Not gonna testify?

1 DEFENDANT: No, sir.

2 THE COURT: Okay. All right. Thank you so much. Is
3 the defense going to present a case?

4 MR. WALKER: No, Your Honor. If he's not gonna
5 testify, I don't believe we will. We'll reserve last
6 argument. And I will just say for the administrative
7 record, I had Officer Chapman under subpoena whom I don't
8 see here.

9 SOL. KEENEY: He said he will be here.

10 SOL. CONTESTABILE: Yeah. I just needed to tell him.
11 He's hereby.

12 MR. WALKER: Well, if my client's not gonna testify, I
13 don't. But I didn't want -- make sure we didn't want to
14 have the subpoenaed dropped.

15 THE COURT: Okay. But you're not gonna call him?

16 MR. WALKER: I'm not gonna call him in light of my
17 client's decision.

18 THE COURT: Got it. All right. So we'll come back at
19 1:15. And open and close then, right?

20 MR. WALKER: Yes, Your Honor.

21 THE COURT: That's all we got left.

22 MR. WALKER: I guess we should discuss the charges.

23 THE COURT: Yeah, we do need to discuss the --
24 I guess ---

25 MR. WALKER: Got to lunch while we do that?

1 THE COURT: Yeah. You've already got a pretty good
2 draft?

3 LAW CLERK: They all have it now.

4 THE COURT: Okay. Yeah, do y'all want to look at it?
5 We'll try to come back a little early.

6 MR. WALKER: I just had three things real quick. I
7 don't think we need the identity charge. He's there and he
8 has -- I don't think we need mere presence. We're not
9 alleging that it was -- and then the actual PWID charge,
10 just using the word inference. And I think I would like to
11 add in there the language from State versus Andrews which is
12 just permissive inference versus just inference. I feel
13 like it's a little bit burden shifting to say that there's
14 this much, there's an inference, like you have -- kind of
15 you have to take this inference versus permissive.

16 THE COURT: Any problem with permissive inference?

17 SOL. KEENEY: No, Your Honor. No problems with
18 anything that he just suggested.

19 THE COURT: Okay. I guess we had an expert, so we need
20 that expert paragraph.

21 SOL. KEENEY: I just didn't see a lesser included
22 offense in the charge.

23 MR. WALKER: Yeah. We probably need to add simple
24 possession.

25 SOL. KEENEY: I didn't see a lesser included offense.

1 So I guess it's just a debate of which one to charge. So
2 it's my understanding of the statute, if you possess
3 28 grams or less then that's simple possession which is the
4 zero to 30-day offense. There's no evidence in the record
5 that he possessed less than -- or 28 or less. So I think it
6 would be the six-month offense, which is possession of a
7 other control substance of schedule 1. That's what we
8 normally do when it's more than an ounce. Because there's
9 no evidence he possessed less than 28 or 28 or less. It's
10 215 grams. It's just a debate of whether or not we proved
11 intent to distribute beyond a reasonable doubt.

12 THE COURT: So it's either possession of more than an
13 ounce or possession with intent to distribute?

14 SOL. KEENEY: Correct.

15 THE COURT: So we just --

16 SOL. KEENEY: -- more than ounce would be that zero to
17 six-month offense. It's CDR Code 0179 which is -- one
18 second. The actual statute number.

19 THE COURT: But, I mean, for charge purposes, do y'all
20 have some suggested language on if you find -- basically
21 kind of like your opening -- if you find he intended to
22 distribute then check the first box or whatever; if you find
23 he possessed but did not intend to distribute then you must
24 find him guilty of possession, which is a choice.

25 LAW CLERK: And I can pull up what -- I need her to

1 repeat it. But I can pull up what we have in here and they
2 can look at that. Is that what you want?

3 THE COURT: Okay. All right.

4 LAW CLERK: I just need her to repeat what part they
5 wanted or --

6 SOL. KEENEY: It is --

7 LAW CLERK: Or if you can send it, either way. However
8 y'all want to.

9 SOL. KEENEY: It would be statute 44-53-370, D as in
10 dog, 2.

11 LAW CLERK: Is that just the possession?

12 SOL. KEENEY: Yeah. That's if they just possess a
13 controlled substance of schedule 1 to 5, which marijuana is
14 schedule 1. I just didn't see how simple possession made
15 sense with the actual elements are that ---

16 THE COURT: Right.

17 SOL. KEENEY: Because it's 28 or less. There is no
18 evidence in the record that he possessed less than 28 grams.

19 THE COURT: Yeah. It's not a question of weight, it's
20 just a question of intent, right?

21 SOL. KEENEY: Correct.

22 MR. WALKER: Yes, Your Honor.

23 (Brief pause.)

24 THE COURT: There's a charge on simple possession. But
25 if you get rid of simple, it says if you find the State has

1 failed to prove beyond a reasonable doubt the defendant is
2 guilty of possession with intent to distribute marijuana,
3 you may consider whether the State has proven beyond a
4 reasonable doubt the defendant is guilty of possession of
5 marijuana. I'm removing simple. Possession does not
6 require an intent to distribute marijuana.

7 SOL. KEENEY: That sounds good. We all just agree that
8 if he gets convicted of that, it's the zero to six-month
9 offense.

10 MR. WALKER: Sure.

11 THE COURT: Let's see if there's more of it. It says
12 the State must prove beyond a reasonable doubt the defendant
13 knowingly or intentionally possessed marijuana. Knowingly
14 means knowledge, consciously not accidentally.
15 Intentionally means willfully, intending the result actually
16 occurs, not accidentally or involuntarily. Intent may be
17 shown by acts in conduct by the defendant or other
18 circumstances from which you may naturally and reasonably
19 infer intent. So, basically, we'll just take simple out.
20 Plug that in?

21 SOL. KEENEY: Sounds good.

22 MR. WALKER: Yes, sir, Your Honor.

23 LAW CLERK: I will put that in and email it to y'all
24 just so you can review again after I make the changes. And
25 let me just clarify, no -- I'm sorry. Take out the identity

1 charge, the mere presence charge, and then add the word
2 "permissive" in front of inference for the PWID. Is that
3 correct?

4 MR. WALKER: Yes.

5 LAW CLERK: And then add this lesser included that he
6 just read.

7 THE COURT: And you've got the new proof beyond a
8 reasonable doubt.

9 LAW CLERK: It says that.

10 THE COURT: Yeah. Hesitate to act, yeah.

11 LAW CLERK: I will get that and send that to y'all
12 along with the verdict forms so you can see both of those.

13 SOL. KEENEY: Okay. Thank you.

14 MR. WALKER: Thank you.

15 (Lunch recess from 12:29 p.m. until 1:21 p.m.)

16 THE COURT: Back on the record. We're in the mist of
17 discussing charges. And my understanding is the parties
18 have entered into a stipulation that the marijuana exceeds
19 point -- what is the -- what is it?

20 SOL. CONTESTABILE: It's .3.

21 THE COURT: The marijuana reads the THC level is .3
22 which confirms that it is marijuana not hemp. Is that
23 correct?

24 SOL. KEENEY: We conceded earlier to .3. Yeah, because
25 it's .3 or less than.

1 THE COURT: Right. So it's conceded that it's over .3
2 THC level. Is that correct?

3 MR. WALKER: Yes, Your Honor. That's correct. And
4 I'll argue in closing that is -- or it hasn't been tested.

5 THE COURT: And you'll stipulate that that's the
6 reading on it. Is that correct?

7 MR. WALKER: Yes, Your Honor.

8 THE COURT: Over .3. Okay. That covers that. How
9 about the rest of everything in there?

10 SOL. KEENEY: It looks good to the State.

11 THE COURT: Mr. Walker, the verdict sheet also?

12 MR. WALKER: The verdict sheet is fine, Your Honor.
13 I'm just finishing up the charges.

14 THE COURT: Oh, yeah. Page 20, I was gonna take out
15 that two or more thing. Doesn't have anything to do with
16 this trial.

17 MR. WALKER: The last section of the criminal intent
18 charge, regarding the negligence and recklessness, actually
19 need to keep that.

20 THE COURT: What page is that?

21 MR. WALKER: 24 -- end of 23, the beginning of 24.

22 THE COURT: That must be a different size. Oh, there
23 it is. Criminal intent can arise from an action or failure
24 to act may rise from negligence, recklessness -- yeah, that
25 can probably -- State have any problem with taking that out,

1 that paragraph? I think it's the end of 24 on mine,
2 but . . .

3 (Brief pause.)

4 THE COURT: With those changes, are y'all good to print
5 it? Or anything else?

6 SOL. KEENEY: Yes, Your Honor.

7 MR. WALKER: Defense is fine with that.

8 THE COURT: All right.

9 (Brief pause.)

10 MR. WALKER: Just in case I didn't, the Defense rests.
11 And also I'll renew -- before I rest, I'll renew my motion
12 for directed verdict and then I'll rest.

13 THE COURT: Thank you so much. Denied, but thank you.

14 (Brief pause.)

15 THE COURT: Anything before we bring the jury back in?

16 SOL. CONTESTABILE: Not from the State.

17 MR. WALKER: No, Your Honor.

18 THE COURT: Bring the jury back in, please.

19 (The jury enters the courtroom at 1:36 p.m.)

20 THE COURT: All right. Did everyone get lunch?

21 (Jurors affirm.)

22 THE COURT: Okay. Good. All right. No one has
23 discussed anything, anything like that, no research?
24 Fantastic.

25 All right, then. Ladies and gentlemen, the parties

1 have presented their evidence in the case. It is now time
2 for the attorneys to make their closing arguments. The
3 arguments of the attorneys are not evidence in the case.
4 Their statements and arguments are meant to help you
5 understand the evidence and apply the law to the evidence.
6 You should disregard any remark, statement, or argument
7 which is not supported by the evidence presented during the
8 trial or the law that I will explain to you after the
9 arguments. Happy to hear from the State.

10 CLOSING STATEMENTS

11 SOL. CONTESTABILE: May please the Court?

12 This morning when I came before you, I told you that
13 the defendant in this case, Jesse Broughton, is charged with
14 possession with intent to distribute marijuana. And I also
15 told you that this wasn't gonna be like anything you saw on
16 TV, wasn't gonna be anything super exciting or crazy, but
17 it's why we're here and it's important. And I understand
18 that the laws in different states are different than what
19 they are in South Carolina. But the judge at the close of
20 closing statements is gonna instruct you that no matter what
21 your beliefs are on the law, whether or not it's the way
22 that it should be written, you must follow the law the way
23 that it's written, okay.

24 And so it's my job to prove to you that Jesse Broughton
25 intended to distribute marijuana on March 30th of 2022.

1 And the way that we show that is through the testimony on
2 the witness stand. And so you heard that there was intent
3 to distribute based off of three things: money in his
4 pocket, 215 grams worth of marijuana, and 15 empty baggies
5 that were packaged inside of two separate bags of marijuana.
6 Now, to go into further detail about that, let's talk about
7 the money a little bit more. So you heard testimony from
8 the stand from Corporal Smith that there was approximately a
9 little over \$8,000 in his pants pocket at the time of the
10 traffic stop. And you heard testimony from Corporal Smith
11 that not once did Diamond, the passenger in the vehicle, say
12 that that money was hers. Not once did she put up a fight
13 saying that's my money, don't take it, it's not his. She
14 didn't say any of that. She just steps to the side and gets
15 in the car while they seize the money.

16 Now, I understand that the argument is going to be that
17 the money was hers; it' wasn't all his. And so it can't be
18 proof of distribution. But I ask that you use some common
19 sense. If it was hers, she would've put up a fight. She
20 would have said something. She wouldn't have just stepped
21 to the side. And also she had a purse. You watched the
22 body camera footage. You heard Corporal Smith say that that
23 purse was big enough to put that cash in. There was no
24 reason that if that money was hers that it wouldn't have
25 been in his left pants pocket.

1 The next indication of distribution is these baggies.
2 You can look at these. They're gonna go back to the jury
3 room. You can take them out; you can feel them; you can
4 touch them; you can smell them. You will see that there is
5 a tear flap here on every single one of them. There is a
6 seal. You will also see that they are empty. There is not
7 a single thing in these packages. But they were with this,
8 the 215 grams of marijuana, side by side, plus the
9 approximately -- a little over \$8,000 worth of cash. All of
10 these put together shows intent to distribute. You heard
11 Corporal -- or Sergeant Scott talk about how he'd seen these
12 packages before. And they are common for distributors to
13 have to seal their own marijuana and make it look like it's
14 legitimate, like it's legal, to trick cops into thinking
15 that you can have this. In South Carolina, you cannot have
16 this.

17 The judge is gonna talk to you about the fact that I
18 have to prove this case beyond a reasonable doubt. What is
19 a reasonable doubt? It is the kind of doubt that would
20 cause a reasonable person to hesitate to act. There are
21 very few things in life that we know of absolute certainty.
22 And even in criminal cases, the law does not require proof
23 that overcomes every possible doubt, okay. I'm gonna ask
24 again that you listen very closely to the testimony that you
25 heard and you deliberate what you heard and you take the

1 credibility of the witnesses into consideration and you find
2 the defendant guilty of possession with intent to distribute
3 marijuana. Thank you.

4 THE COURT: Thank you. Yes, sir?

5 MR. WALKER: Thank you, Your Honor. May it please the
6 Court?

7 Good afternoon. Thank you for your attention. Hope it
8 hasn't -- fortunately hasn't been too long of a burden on
9 you this week, but we do appreciate you being here. It's
10 very important. It's important to the system. It's
11 especially important to Jesse.

12 The State just told you and embraced that it was their
13 job to prove their case beyond a reasonable doubt. We call
14 that the burden of proof, which means the person advancing
15 the argument or making the charge is charged with you're the
16 one that's gotta prove it. Okay. I or Jesse don't have to
17 prove anything. We don't have to prove what really
18 happened, where anything came from, and what else you were
19 doing, where the drugs -- who he bought it from. We just
20 have to go on what you saw from the evidence stand.

21 And when we say they have to prove the charge beyond a
22 reasonable doubt, a criminal charge is kinda like -- well,
23 think of them like blocks. So I talked to you before about
24 I'll be asking you and would expect you to -- because that's
25 what happened is that Jesse had possessed drugs for himself.

1 That's the basic, simplest version, right. And so what we
2 do, every crime has elements or blocks. So for that it
3 would be that Jesse in Colleton County possessed an illegal
4 substance; in this case, marijuana. And that would be all
5 the things that the State had to prove to you. They have to
6 prove each of those things beyond a reasonable doubt to
7 prove possession, right.

8 And then you add another block. Still, all those same
9 things. But now they're adding with intent to distribute
10 those drugs instead of just merely possessing them. So
11 that's another block. All right. And that's how -- and
12 they kinda stack on, you know, that way. So they might
13 prove some elements -- and they might prove enough elements
14 to prove the one, which we would submit to you they have
15 because it's as plain as the nose on your face when you
16 watched the video -- but not prove other elements. And we
17 submit to you, again, they have not proven intent to
18 distribute. They basically are waiving this around and
19 going, look, this proves everything, this proves everything.
20 It doesn't prove anything, you know. He's not supposed to
21 have that. Now, we're not here again to debate why we care
22 about what plant somebody puts in their body. That's the
23 legislature's job. We are where we are; we live in the state
24 we live in. But you heard on the video, you heard
25 Officer Smith saying, hey, it's just weed, I don't care

1 about it, but that's not my job; that's the law and I'm
2 enforcing it. Right? But it's not illegal to have cash.
3 It's not illegal to have packets that have pictures of
4 marijuana or strains of marijuana printed on it. This is
5 not with intent to distribute.

6 They're supposed to prove their case to you with the
7 introduction of facts. They can prove possession, and we
8 admit possession because the facts are he was stopped with
9 illegal drugs in Colleton County. It'd definitely him. And
10 you don't even have to prove that they were his or, you
11 know, maybe they were Diamond's, who was also in the car.
12 Because he said, hey, no, I got it; it's under the seat;
13 it's mine. He's not disputing that he had it. So all those
14 objective facts you can look at and say, yeah, he's
15 possessing it. But the State wants to go one step further
16 and have you start guessing and being a mind reader and
17 saying maybe or probably.

18 So with that burden of proof, again, it kinda gets us
19 into structurally why we're here, what your function as a
20 jury is, right. Your function as a jury is when the State
21 charges someone with a crime is to say, hey, State, you've
22 got to prove this to us beyond a reasonable doubt. And we
23 went through that whole process on Monday. And we asked you
24 do you know any -- me or the Solicitor or Jesse or anything
25 about this case. And we want to find people that don't

1 anything about it. The judge asked y'all can you be fair,
2 can you give both sides a fair hearing and not biased
3 towards one or the other, right. Just you go through that
4 whole process. And then we sit you down and we swear you
5 and immediately assign you a bias. Immediately, the law
6 says once you're sworn as a juror and seated that you are to
7 be biased in favor of Jesse. He is to be considered
8 innocent until proven guilty beyond a reasonable doubt.
9 Which means if you have questions about something, it goes
10 to Jesse's side. If two possible things could be true, the
11 one most favorable to Jesse is the one that goes on your
12 verdict form. That was the role that the law has assigned
13 you and that you -- to stand between the citizen accused of
14 a crime and the consequences of -- and, frankly, the vast
15 power of the government over people.

16 And so we say he's innocent until proven guilty --
17 you've all heard that -- beyond a reasonable doubt. And you
18 heard the Solicitor say what a reasonable doubt is, which is
19 hesitating to act to an important life decision or being so
20 firmly convinced that something is true that the other
21 alternatives are not really tenable. Which, again, brings
22 up with what they're asking you to do is he's got marijuana
23 in the car, he's got all this money, he's got the
24 bags -- and I don't think the bags are a big deal, but they
25 seem to -- they're like, oh, well, this money must be drugs,

1 right. Well, they haven't proven that to you. It's just
2 there. It's not illegal to have.

3 And maybe -- I mean, I can't say all the possibilities
4 are -- you can't say, oh, no, that's eliminated as a
5 possibility, right. But he could've been planning to make a
6 large purchase the next morning. You heard him say
7 he's coming from -- maybe he's got a party and wants to be
8 kinda flash and show off. Maybe he has a poker game he was
9 at. You don't know. And I should clarify, you know, she
10 was saying 8,000. She never said it was hers, whatever.
11 When asked about the money, how much he had, he said I've
12 got \$6,000. And then as they're counting, he goes, "Oh,
13 wait a minute, no. It's more than six. Two of that is
14 hers. I'm just holding it for her." And maybe -- she's got
15 a purse. Okay, fine. But maybe she's not comfortable
16 holding that much cash with the people there around her on
17 that day. Who knows? Since Diamond didn't say it was hers,
18 she didn't seem mad. They never asked her. They never
19 asked her. They said it's on you, it's yours. And that was
20 the end of it.

21 And I keep quoting these things. We saw this on the
22 video. And I don't -- I've watched that video a lot more
23 than you have. But you can watch the video again if you
24 have a questions. It's in evidence. You can let the judge
25 know and us know, we'll bring you out and we'll play any

1 part you want to watch again. So don't feel constrained.
2 Or if you think you missed -- I'm saying something wrong,
3 watch it. But they're trying to say, well, you know, maybe
4 that money was used -- it's for his drug money. It's
5 probably drug money. Who carries that much money around?
6 It could've been drug money. All those are not guilty words
7 because they're not -- because the point of this process is
8 for them to make an allegation of a crime and present you
9 with enough facts to strip away every other possibility than
10 the one they're putting forward. And so when they put it
11 out there and go, well, yeah, that could be true; but all
12 these other things could be true, too. And we have given
13 you no indication of why to prefer one over the other, other
14 than just we think so. That's not guilty. They haven't
15 done their job.

16 Their asking you to be a mind reader and not -- and
17 just really do their job for them and make something up.
18 And, again, we watched the video. And we know what his
19 intent and state of mind was. One, he's super cooperative
20 the whole time. He's not trying to hide anything. He's not
21 nervous. But then they put cuffs on him and charge him with
22 PWID. Man, all I do is smoke. That's at 13:06 on the video
23 is that conversation, "Man, I just smoke weed. That's all I
24 do is smoke." It's all there.

25 Now, of course, the judge is gonna instruct you on the

1 law. So the same stuff we've been talking about: the burden
2 of proof, innocent beyond -- until proven guilty beyond a
3 reasonable doubt. Another thing he'll tell you about is the
4 failure of the defendant not to testify. You haven't heard
5 anything from Jesse today. And that kinda goes back to what
6 I told you at first that we don't have to say anything or
7 prove anything or disabuse anyone of anything or give the
8 full story as the bar would say, right. I could have sat
9 there next to Jesse this whole time, not given you an
10 opening statement, not ask any of these witnesses any
11 questions, not be talking to you right now. And that would
12 be perfectly fine and within our rights because we don't
13 have to do anything or prove it. And the judge will tell
14 you the fact that you haven't heard from Jesse is not
15 something you should consider at all when deliberating or
16 even discuss. Another little inside baseball thing for you
17 is if the defense puts in any evidence or witnesses then
18 they get to go last talking to you. Since we didn't put any
19 witnesses up, which is something . . .

20 Now, let's talk briefly about their three things,
21 right. The first they said we've got all this money. They
22 can't -- it's not illegal to have money. Glad he had some
23 money. And he's only ever claimed to have the six. You
24 know, he's not trying to -- and he's gonna say all this
25 money is Diamonds's, or two grand. Six is mine, but two is

1 hers. Somehow that changes the whole equation is .
2 frankly -- I mean, ridiculous as far as the point they're
3 trying to make. You know, why would you? Just doesn't make
4 sense to say somehow it would occur to somebody to think,
5 well, if I only had \$6,000, the cops would give it back to
6 me instead of trying to keep it for themselves. But, you
7 know, eight grand, they're gonna take it. That's a -- to me
8 that's a non-starter. You guys can weigh any of those
9 arguments how you want. And, again, any number of perfectly
10 legitimate reasons to have a large amount of cash, none of
11 which can be excluded by the facts that you have.

12 And then we go and she wants to talk about the weight.
13 Again, she told you that he had 215 grams, right. If we
14 make it smaller then the numbers sound bigger and more
15 serious, right. I'll use ounces because it's a smaller and
16 less serious. More than an ounce, we talked about that
17 range between more than an ounce and 10 pounds, right. And
18 we're at, from the testimony you heard from the drug
19 analyst, that we're a little less than 7 1/2 ounces or a
20 little less than half of a pound. And that's what he had.
21 Now, I haven't done the math for 28 grams on 10 pounds, but
22 I'm sure it's a huge -- number.

23 The issue, again, is whether he has it for him or he
24 has it for other people or wants to give it other people.
25 So one thing I submit is, like, well, which end of that

1 scale of more than an ounce to 10 pounds is he on. I'd say
2 we're a lot closer to the 1 ounce than we are to the
3 10 pounds. That could be one thing you could consider.
4 And, of course, the other thing is just daily life, right.
5 When you go to Walmart or Costco or whatever, you buy the
6 mega pack so you don't have to go back again the next day,
7 right. You buy enough to last you a little while. And I
8 submit that's what we have here.

9 Then they're really hung up on these packages. Which,
10 again, I find pretty awesome because they're new to me.
11 Obviously, you heard the officer say he'd seen a lot more
12 than me. But I've been doing this a while. And my
13 experience always been -- because you heard the sandwich bag
14 or the Saran Wrap. That's what people buy their drugs in,
15 carry around in. So these are just kind of fun. Now,
16 there's a lot of hemming and hawing and huffing about
17 fooling law enforcement and fake packages and all this stuff
18 I guess, like, nowhere outside of South Carolina exists.
19 Because there's a pretty clear California warning on here.
20 You know, it's legal. You can have a company and grow your
21 own fancy strain of marijuana that you want to market and
22 sell and have people know it's yours so they'll come and buy
23 it again, right. Dubz Garden Quality Grown, seems
24 like -- Dubz Garden seems like the people that grow this
25 particular strain of marijuana. Perfectly legitimate

1 business tactic where it's legal to have, right. The idea
2 that you can't have a legitimate company selling marijuana
3 strikes me as naïve.

4 And, again, there's 15 of those and with that weight
5 that we had. Well, let's go back to her ounces real quick,
6 204 grams -- sorry -- 215 grams, right. So if I'm a drug
7 dealer and I want to sell all my product, well, I would need
8 enough packages to hold all my merchandise. But I've only
9 got 15 that hold 3 1/2 grams, right. So that's not equal
10 215 grams. But some of you might remember you go buy your
11 Kellogg's cereal back in the day and maybe there would be
12 some baseball cards in there or basketball cards or
13 something like that, which is merchandising. Hey, when you
14 buy your Costco-size container of weed from me and take it
15 home, we know you're not gonna want to take that whole bag
16 when you go out to the club or to a party or over to your
17 friend's house to smoke or whatever. You just want to take
18 enough to use that time. So you put it in your wallet or in
19 your pocket without having to mess around with -- it's a
20 convenient size. It's merchandising. The idea that a drug
21 dealer who is dealing in this amount of weight would go out
22 and produce a bunch of these instead of just using a
23 sandwich bag is, again, strange credulity.

24 Solicitor also made a point: Hey, these are empty
25 baggies, right. Don't want to let that go. Well, what did

1 we talk about with the officers. Well, one of the signs of
2 someone that tends to distribute is they got a bunch of
3 prefilled bags ready to sell, which is not what we have
4 here. And, of course, if you were gonna sell them, if you
5 were gonna take this and sell it to your clients, right, you
6 would need something. You'd need a scale, which we don't
7 have in the car. No guns in the car. And, again, I think
8 maybe you picked up on something a little less than honest.
9 Oh, we wouldn't -- guns and drugs together, we wouldn't
10 think that was any kind of indicator of anything. But he
11 wants to say hello to my little friend. That might be too
12 old of a reference for you. But you watch enough TV to see
13 that guns and drugs go together, and we don't have any guns.
14 We don't have any scales. And when you go to people -- you
15 go to Walmart, you go in the self checkout, right. What's
16 does every one of those got on it? A scale because the
17 person who is selling needs a scale so you can weigh and
18 charge for it.

19 I guess another way you can think about the infamous
20 packets is -- I'm gonna use this analogy. Say I'm going to
21 a picnic, right, and I love Schweppes raspberry ginger ale.
22 My favorite drink ever. But nobody's got that at the
23 picnic, right. So I go to Walmart and buy myself a big
24 2-liter bottle of it and buy myself some red solo cups,
25 right, because I want to be able to put a use amount into a

1 container that's convenient for me. I don't want to carry a
2 2-liter bottle around chugging from it. Do I intend to give
3 everybody at the picnic my Schweppes raspberry ginger ale?
4 No. I bought it for me because nobody else is gonna have
5 it. Somebody ask would I it give to them? Maybe, but
6 that's not my intent. I don't have it for that purpose.

7 We talked a little bit at the beginning of the trial
8 about what the actual statute says. And it starts out the
9 way that is usually their signal to get somebody is it's
10 illegal to manufacture, distribute, dispense, deliver,
11 purchase; or aid, abet, attempt to conspire to do those
12 things; or possess with intent to distribute those things.
13 And when they're trying to allege those things, there are
14 actual facts you can look at and say he did this, he did
15 this. Manufacturer, he's got five weed plants on his back
16 porch. He's manufacturing weed. I can look at that.
17 That's a direct thing. I don't have to read his mind. He's
18 growing weed. Distribute, we did an undercover buy. We
19 bought it from him. He distributed to us. We can prove
20 that with facts. Dispense, same as distribute. It's kind
21 of a synonym. Give it to somebody. Deliver it to somebody.
22 I left a package on the porch full of weed. We watched him
23 do it. We saw him. We can prove those with facts. None of
24 that stuff requires you to guess about can I read somebody's
25 mind. Again, you can -- somebody's got an amount of

1 cocaine, a bunch of guns, and prepackaged little baggies,
2 and then, you know, you can use those things to decide. But
3 I submit, those are not present in this case.

4 Let's talk about, briefly, Officer Smith who is the one
5 that made the arrest, what he did or didn't do and testified
6 to. And, again, he testified, and you saw, absolutely
7 cooperative the whole time. Yes, I submit it's my fault. I
8 was doing this speed. Yes, my fault. Shouldn't have.
9 You're absolutely legit to get me for that. Yes, I have
10 weed. It's under the seat. Yes, I shouldn't have that
11 weed. Wait a minute, PWID? No. I just smoke it, man. Why
12 are you taking my money? But he's always cooperative about
13 what's going. He's never -- you can see, he's not thinking
14 about how he should answer or trying to get out of trouble.

15 He's just very forthright about what's happening, Jesse
16 is on the side of the road. And Smith searches the car. He
17 doesn't find anything that's illegal that Jesse didn't tell
18 him about already. And he did find something that's
19 interesting. Because, right, they're trying to prove he had
20 all this stuff with the intent to distribute. Well, we got
21 our money, we got our baggies. But you saw on the video,
22 takes out of the center console and drops it on the floor a
23 bag of rolling papers. He didn't take those into evidence.
24 Why? Because those prove that Jesse is smoking it, not
25 selling it. That's something that a user uses. Rolling

1 paper, you just leave those in the car; we don't need to
2 take those into evidence. You don't need to collect
3 evidence that shows innocence. But we do get to see it on
4 the video. And you heard Officer Smith opine a couple of
5 times that weed isn't a big deal. I don't really care about
6 weed; it's just weed. But then they see the money in the
7 pocket. And I submit to you it's all about the money.
8 Sheriff's Department wants their cut of that \$8,000, and
9 that's why we're here.

10 Told you the jury form is gonna say guilty or not
11 guilty of possession with intent to distribute marijuana.
12 We'd ask you to find not guilty on that. It will say guilty
13 or not guilty, possession of marijuana. We expect and ask
14 that you find him guilty of possession of marijuana because
15 that's what he did. Thank you.

16 JURY CHARGE

17 THE COURT: All right. Ladies and gentlemen, it's now
18 my duty as the trial judge under the Constitution of the
19 State to charge and instruct you on the law applicable to
20 the case. It's your duty as jurors to accept and apply the
21 law as I will state it to you. Furthermore, it's your
22 exclusive duty to decide all of the issues of fact in this
23 case and to determine the effect, value, and weight of the
24 evidence. Both the State and the defendant have a right to
25 expect that you will carefully consider and evaluate the

1 evidence and apply the law of this case to it so that in the
2 end both the State of South Carolina and the defendant
3 receive a fair and impartial trial. I want you to
4 understand that when I use the word "defendant," I refer to
5 Mr. Jesse Sebastian Broughton. Furthermore, it is important
6 to understand that the State of South Carolina charges the
7 defendant with the offense known as possession with intent
8 to distribute marijuana.

9 To this charge, the defendant has entered a plea of not
10 guilty. The plea of not guilty places the burden of proof
11 on the State to prove the guilt of the defendant to you, the
12 jury, beyond a reasonable doubt. I'll remind you that the
13 fact the defendant was arrested, charged, and indicted in
14 this case is not evidence in this case and cannot be
15 considered by you as evidence of guilt in the case, nor does
16 it create any presumption or inference of guilt. The
17 indictment is simply the formal written instrument which
18 contains the charge made against the defendant. It is the
19 formal document by which this case is brought into this
20 court.

21 Now, during this trial, you and I have had separate
22 duties to perform. As the trial judge, it is my
23 responsibility to preside over the trial. I also have the
24 duty to rule on the admissibility of evidence offered during
25 the process of the trial. In that regard, you are to

1 consider only the competent evidence before you, and you are
2 to disregard from your mind any testimony ordered stricken
3 from the record of the case during the progress of the
4 trial, if there was any. You are to consider only the
5 testimony which has been presented from the witness stand,
6 together with any exhibits admitted into the record of this
7 case and any stipulations that counsel made into the record,
8 if there were any.

9 Furthermore, I have the additional duty to charge you
10 on the applicable law of this case; and in that regard, I am
11 the sole judge of the law of the case. It is your duty to
12 accept and apply the law as I state it to you. If you have
13 any preconceived ideas as to what the law is or what the law
14 ought to be, and it does not agree with what I tell you the
15 law is, you're obligated under your oath to abandon these
16 preconceptions because you are sworn to accept the law
17 precisely as I state it to you.

18 Ladies and gentlemen, in this trial you are the sole
19 and exclusive judge of facts, and I'm the judge of the law.
20 Do not infer that I have any opinion about the facts in this
21 case from anything I've said during the course of this
22 trial, in ruling upon the admissibility of evidence or
23 otherwise, or from anything that I say during the course of
24 this charge to you. In this regard, the law simply does not
25 permit me to have an opinion about the facts. As jurors, it

1 is your duty alone to determine the effect, value, and
2 weight of the evidence presented during the course of the
3 trial.

4 It is vital to understand the defendant is presumed
5 under the law to be innocent of this charge. The defendant
6 has no obligation to prove his innocence. It is a
7 fundamental rule of our law that a defendant, irrespective
8 of the seriousness of the charges against him, is always
9 presumed innocent of the crimes for which he is charged
10 unless and until his guilt has been proven beyond evidence
11 that satisfies you, the jury, beyond a reasonable doubt.

12 The perception of innocence is not a mere legal theory
13 or legal phrase. The presumption of innocence is very
14 important, and you need to understand that this presumption
15 accompanies the defendant from time of arrest and appearance
16 in this court and continues with the defendant even after
17 you retire to the jury room to deliberate. In other words,
18 the defendant receives the benefit of presumption of
19 innocence until the very end of this trial when you, the
20 jury, will deliberate upon the evidence and decide whether
21 the State has proven his guilt beyond a reasonable doubt.

22 Ladies and gentlemen, what is a reasonable doubt in the
23 law? A reasonable doubt is the kind of doubt that would
24 cause a reasonable person to hesitate to act. Proof beyond
25 a reasonable doubt is proof that leaves you firmly convinced

1 of the defendant's guilt. There are very few things in this
2 world that we know with absolute certainty. So even in
3 criminal cases, the law does not require proof that
4 overcomes every possible doubt. However, based on your
5 consideration of the evidence, you're firmly convinced that
6 the defendant is guilty of the crimes charged, you must find
7 him guilty. If, on the other hand, you think there's a real
8 possibility that he is not guilty, you must give him the
9 benefit of the doubt and find him not guilty. Please
10 understand that reasonable doubt may arise from the evidence
11 which has been presented in the case or from the lack of
12 evidence in the case. It is your responsibility to
13 determine whether or not reasonable doubt exists as to the
14 guilt of this defendant.

15 I charge you that the defendant is entitled to every
16 reasonable doubt arising in the whole case. If, upon any
17 issues of fact essential to conviction and a verdict of
18 guilty, you have a reasonable doubt as to how that issue
19 should be resolved, it would be your duty to resolve that
20 reasonable doubt in favor of the defendant. Thus, in
21 summary, it is important to understand that the defendant is
22 not required to prove his innocence. Instead, the State is
23 required by law to prove every essential element of the
24 offense charged against the defendant by evidence which
25 satisfies you of his guilt beyond a reasonable doubt. Only

1 then can you convict the defendant and find him guilty.

2 There are two types of evidence which are generally
3 presented during a trial: direct evidence and
4 circumstantial. Direct evidence directly proves the
5 existence of a fact and does not require deduction.
6 Circumstantial evidence is proof of a chain of facts and
7 circumstances indicating the existence of a fact. It is
8 evidence which immediately establishes collateral facts from
9 which the main fact may be inferred. Circumstantial
10 evidence is based on inference and not on personal knowledge
11 or observation. Crimes may be proven by circumstantial
12 evidence. The law makes no distinction between the weight
13 or value to be given to either direct or circumstantial
14 evidence.

15 However, to the extent the State relies on
16 circumstantial evidence, all of the circumstances must be
17 consistent with each other, and when taken together, point
18 conclusively to the guilt of the accused beyond a reasonable
19 doubt. If the circumstances merely portray the defendant's
20 behavior as suspicious, the proof has failed. The defendant
21 [sic] has the burden of proof -- of proving the defendant
22 guilty beyond a reasonable doubt. This burden rests with
23 the State regardless of whether the State relies on direct
24 evidence, circumstantial evidence, or some combination of
25 the two.

1 In determining what the facts of this case are, you
2 must judge the credibility, which simply means the
3 believability, of the witnesses and the value of weight to
4 be given to their testimony. You alone must decide the
5 force and effect of the testimony. In making this decision,
6 there are many things you may and should take into
7 consideration such as: The appearance and manner of the
8 witness on the stand, a characteristic often referred to as
9 the demeanor of the witness. Was the witness forthright
10 or hesitant? Was the witness' testimony consistent or did
11 it contain discrepancies? What was the ability of the
12 witness to know the facts about which he or she testified?
13 Did the witness have a cause, a reason to be biased and
14 prejudiced in favor of the testimony he or she gave? Was
15 the testimony of the witness corroborated or made stronger
16 by other testimony and evidence, or was it made weaker or
17 impeached by such other testimony evidence?

18 As jurors, please understand you have the right to
19 believe a small portion of the witnesses' testimony and
20 disregard a larger portion or vice versa. You may believe
21 all of the witnesses' testimony or none. You may believe
22 the testimony of a single witness against that of many
23 witnesses or the other way around. In exercising your
24 mental processes and attempting to decide the verdict, the
25 law simply requires that you exercise your good judgment,

1 your common sense, your sense of logic and reason, and your
2 experiences in life. You then apply these attributes to the
3 evidence and apply the law as I state it to you, and thus
4 arrive at a verdict.

5 The rules of evidence ordinarily do not prevent
6 witnesses to testify to opinions or conclusions. An
7 exception to this rule exists for witnesses we call expert
8 witnesses. A witness who by education and experience has
9 become expert in some art, science, professional, or calling
10 may state an opinion as to the relevant and material matter
11 in which the witness claims to be an expert and may also
12 state the reason for this opinion. You should consider any
13 expert opinion received in evidence in this case; and like
14 any other evidence, give it the weight you think it
15 deserves. If you decide the opinion of an expert witness is
16 not based on sufficient education and experience, or if you
17 conclude the reasons given in support of the opinion are not
18 sound or the opinion is outweighed by other evidence, you
19 may disregard the opinion entirely. An expert witness'
20 testimony is to be given no greater weight than that of
21 other witnesses simply because the witness is an expert.
22 Further, you are not required to accept an expert's opinion
23 even though it is not contradicted.

24 A statement alleged to have been made by the defendant
25 has been admitted into evidence in this case. While the

1 Court has determined the statement is admissible, I instruct
2 you that you make the ultimate decision of whether or not
3 the defendant made the statement. If the defendant did make
4 the statement, you must determine whether the statement was
5 made by the defendant voluntarily and of his own free will.
6 This means that the statement was not caused by pressure,
7 force, fear, threats, coercion, or intimidation, or by hope
8 or promise of leniency or a reward of any kind. In
9 determining whether the statement was voluntary, you should
10 consider both the characteristics of the defendant and the
11 details of the questioning. Some of the factors that you
12 must consider are the age of the defendant; the defendant's
13 education or lack of education; the defendant's mental
14 ability or capacity; the defendant's IQ or intelligence; the
15 defendant's background and environment; the place and length
16 of detention; the nature of questioning; and the advice, or
17 lack thereof, to the defendant of his constitutional rights
18 including, but not limited to, the right to remain silent,
19 and any statement that could be used against him in a court
20 of law, the right to have a lawyer present, that if he could
21 not afford a lawyer, a lawyer would be appointed to
22 represent him without any cost, and that he could stop
23 making a statement at any time. You must carefully consider
24 all of the surrounding circumstances before you give any
25 weight to an alleged statement.

1 The State has the burden of proving beyond a reasonable
2 doubt the alleged statement was voluntary. If you determine
3 it was, you may give the statement any further consideration
4 that you deem proper. You must then decide what weight, if
5 any, should be given to the alleged statement. If you
6 determine the alleged statement was not the free and
7 voluntary statement of the defendant, you should not
8 consider the statement at all.

9 I instruct you and emphasize that the fact the
10 defendant did not testify is not a factor to be considered
11 by you in any way in your deliberation and in your
12 consideration of the question of guilt or innocence of the
13 defendant. It must not be considered by you in any manner
14 whatsoever. A defendant has the constitutional right to
15 remain silent, and the assertion of this right must not be
16 considered by you in your deliberations. I repeat, under
17 your oath, you are to draw no conclusion whatsoever from the
18 fact the defendant in this case did not testify. The fact
19 that this defendant did not testify should not even be
20 discussed in the jury room. The burden of proof, as I have
21 stated to you, is on the State. The defendant is not
22 required to prove his innocent. The burden of proof remains
23 on the State to prove guilt beyond a reasonable doubt.

24 The defendant is charged with possession with intent to
25 distribute marijuana. The State must prove beyond a

1 reasonable doubt that the defendant possessed marijuana with
2 the intent to distribute it. To prove possession, the State
3 must prove beyond a reasonable doubt the defendant had both
4 the power and the intent to control the disposition or use
5 of the marijuana. Possession may be either actual or
6 constructive. Actual possession means the marijuana was in
7 the actual physical custody of the defendant. Constructive
8 possession means the defendant had dominion and control, or
9 the right to exercise dominion and control, over either the
10 marijuana itself or the property on which the marijuana was
11 found. Mere presence at the scene where the drugs were
12 found is not enough to prove possession. The defendant's
13 knowledge and possession may be inferred when a substance is
14 found on the property under the defendant's control.
15 However, this inference is simply an evidentiary fact to be
16 taken into consideration by you along with other evidence in
17 the case and to be given the weight you decide it should
18 have.

19 The State must also prove beyond a reasonable doubt the
20 defendant intended to distribute the marijuana. Distribute
21 means to deliver, other than by administering or dispensing,
22 a drug. Intent may be shown by acts and conduct of the
23 defendant and other circumstances from which you naturally
24 and reasonably infer intent. In determining whether the
25 defendant had the intent to distribute the marijuana, you

1 may consider the circumstances surrounding the defendant's
2 alleged possession. You may consider the amount of the
3 substance alleged to have been possessed; the manner in
4 which it was allegedly possessed; the place where it was
5 allegedly possessed; and other factors which you consider to
6 be important. You must find the defendant did not intend to
7 have the marijuana solely for his own use.

8 Possession of more than 28 grams or 1 ounce of
9 marijuana creates a permissive inference that the defendant
10 possessed the marijuana with intent to distribute it. This
11 permissive inference does not relieve the State from proving
12 beyond a reasonable doubt that the defendant had the intent
13 to distribute. It is simply an evidentiary fact to be taken
14 into consideration by you along with other evidence in the
15 case and to be given the weight you decide it should have.
16 If you find the State has failed to prove beyond a
17 reasonable doubt the defendant is guilty of possession with
18 intent to distribute marijuana, you may consider whether the
19 State has proved beyond a reasonable doubt the defendant is
20 guilty of possession of marijuana. Possession does not
21 require an intent to distribute marijuana.

22 In order to establish criminal liability, criminal
23 intent is required. For example, the mental state required
24 to be proven by the State for a particular crime might be
25 purpose, intent, knowledge, recklessness, or criminal

1 negligence. Criminal intent must be proven by the State
2 beyond a reasonable doubt. Criminal intent is always a
3 matter that must be determined by the jury from the
4 circumstances surrounding the situation. There is no way to
5 prove intent to a mathematical certainty. There is no way
6 medical science can dissect a person's brain and determine
7 what the person had in mind. So the law says that criminal
8 intent may be shown from the circumstances shown to have
9 existed. This is how you make a determination of whether or
10 not the element requiring intent was present. It is not
11 necessary to establish intent by direct and positive
12 evidence, but intent may be established in the same as any
13 other fact by taking into consideration the acts of the
14 parties and all of the facts and circumstances of the case.
15 Criminal intent is a mental state, a conscious wrongdoing.
16 It is up to you to determine what the defendant intended to
17 do based on the circumstances shown to have existed.

18 Now, you've been chosen and sworn to give the defendant
19 a fair and impartial trial. When you have done so, you will
20 have a complied with your oath. Passion, prejudice, or
21 improper sympathy for or against anyone should not sway you.
22 Remember, you have no friends to reward or enemies to
23 punish. And all parties are entitled to a fair and
24 impartial trial. It is your duty as jurors to consult with
25 one another and deliberate in an effort to reach an

1 agreement. Each of you must decide this case for yourself
2 but only after partial consideration of all of the evidence
3 with your fellow jurors.

4 In the course of your deliberations, do not hesitate to
5 re-examine your own views and change your opinions if you
6 become convinced it is erroneous. However, do not surrender
7 your honest conviction as to the weight or effect of the
8 evidence solely because of the opinion of your fellow jurors
9 or for the mere purpose of returning a verdict. As I stated
10 earlier, you are the judges of facts. Your verdict must
11 represent the considered judgment of each juror. In other
12 words, your verdict must be unanimous.

13 You may have noticed that I read these instructions. I
14 will do so -- I do so to give you the law as accurately as
15 possible. I will give you a copy of these instructions to
16 have in the jury room. You may refer to these
17 instructions -- must refer to them as a whole. You may not
18 follow some instructions and ignore others. Mr. Foreman, it
19 will be your duty to preside over the deliberations of the
20 jury. If during the deliberations you should desire to
21 communicate with the Court, please reduce your message or
22 question to writing signed by you and you only. And please
23 pass the note to the bailiff who will bring it to my
24 attention. I will then respond as promptly as possible
25 either in writing or by having you return to the courtroom.

1 I caution you, however, with regard to any message or
2 question you might send that you should never state or
3 specify your numerical division at the time.

4 Now, you have heard the evidence and you have heard the
5 law. Whatever the verdict, Mr. Foreman, you will indicate
6 the verdict on the verdict form and sign and date the
7 verdict. Remember that although the foreman is the only
8 juror who writes the verdict, it's not his alone. The
9 verdict has to be unanimous, Mr. Foreman. You are not
10 authorized to write the verdict until all have agreed on the
11 verdict.

12 Now, ladies and gentlemen, I will send you to the jury
13 room, but do not begin deliberating, discussing in this
14 case, until you receive a copy of this jury charge and the
15 exhibits. Once you receive these things, that will be your
16 signal to begin your deliberations. Once you begin
17 deliberations, you will deliberate until you've reached a
18 verdict at which time you will knock on the door, advise the
19 bailiff, and we will bring you out to receive the verdict.

20 Now, there's one more thing I need to go over with you
21 and that is the verdict form. It's fairly simple. It
22 states the case. Number one, "As to the charge of
23 possession with intent to distribute marijuana, we the jury
24 find the defendant, Jesse Sebastian Broughton," and not
25 guilty and guilty are here. One of those would be selected.

1 If you find the defendant not guilty of possession with
2 intent to distribute marijuana, please move to question two.
3 If you find the defendant guilty of possession with intent
4 to distribute marijuana, please stop. Do not answer
5 question two. If you end up moving to question two, "As to
6 the charge of marijuana, we, the jury, find the defendant,
7 Jesse Sebastian Broughton," guilty or not guilty. And then,
8 Mr. Foreman, you would execute this and date it, let the
9 bailiff know, and then return it to me.

10 So I'm gonna ask you at this time to return to the jury
11 room. Again, do not begin discussing the case, do not
12 deliberate, because we have some things to take up before
13 you do that. But when all of these documents come back to
14 you then that will be your signal to begin deliberating.

15 All right. Would you please separate the alternate and
16 put the jurors in the jury room. Thank you.

17 (Brief pause.)

18 THE COURT: An error was just pointed out to me in my
19 reading. Maybe you noticed this. But before you retire, on
20 page 11 I apparently said the defense has the burden of
21 proving the defendant guilty beyond a reasonable doubt.
22 Don't how I did that, but that is obviously, based on
23 everything you've heard, completely wrong. So let me
24 correct that. Page 11, the State has the burden of proving
25 the defendant guilty beyond a reasonable doubt. Thank you.

1 If you could please take them to the room.

2 (The jury exits the courtroom at 2:27 p.m.)

3 THE COURT: All right. Anything for the record on the
4 charge?

5 SOL. CONTESTABILE: Nothing from the State.

6 MR. WALKER: Nothing from the defense.

7 THE COURT: Any objection to releasing the alternate?

8 SOL. CONTESTABILE: No, Your Honor.

9 MR. WALKER: No, Your Honor.

10 THE COURT: Could you please bring the alternate back
11 in.

12 (Brief pause.)

13 THE COURT: Sir, thank you very much for being with us
14 this week and today. It couldn't have happened without you.
15 As you've noticed, we lost a juror. And had we lost one
16 more juror, we would've needed you or we would've had to
17 stop the entire trial. So you being here really helped
18 matters. I hope you learned something. If you have any
19 questions, I'm sure counsel would love to hear from you, if
20 you wanted to call them. You can call my office if you have
21 any questions for me. You're welcome to stick around, if
22 you'd like. I'd ask you not to discuss the case with anyone
23 until a verdict is rendered. I don't know how long that
24 will be. But you're welcome to stay with us or check back
25 with the clerk's office and they can tell you the result

1 tomorrow or the next day.

2 JUROR: Can I get some kind of note from the
3 Solicitor's office downstairs or from the --

4 THE COURT: From the Clerk's office.

5 JUROR: -- or General Sessions?

6 THE COURT: Yes. Yes, you may.

7 JUROR: That's all I need.

8 THE COURT: Thank you so much, sir. We appreciate it.

9 (Alternate juror is released at 2:30 p.m.)

10 THE COURT: All right. Then I am going to add the
11 verdict form and the jury charge to the exhibits. And then
12 as soon as he's finished with that, I'll ask the bailiff to
13 send back the exhibits.

14 (Brief pause.)

15 (Jury begins deliberations at 2:32 p.m.)

16 (Jury question at 3:53 p.m.)

17 THE COURT: Here's the question: Can we get a printout
18 of the law as it is written for possession with intent to
19 distribute? As it is written, straight out of the code
20 book, I guess. Happy to hear counsels' thoughts.

21 (Court's Exhibit No. 2 was marked for identification.)

22 MR. WALKER: I would have no objection to submitting
23 44-53-370(a) 1 and 2 to the jury. I think that's what
24 they're asking.

25 THE COURT: Is that 186? So tell me the code section

1 again. It's 44-53?

2 MR. WALKER: 370(a) 1 and 2. I'd be fine sending them
3 back (b)2. Or (b)3 and that's the penalty subsection.

4 THE COURT: Well, we don't want to put the penalties in
5 there.

6 MR. WALKER: I know. Like I said, I'd be fine with
7 that.

8 SOL. KEENEY: If you do that, you have to put part of
9 (b)2 because the first part has any other controlled
10 substance classified as scheduled 1, 2, or 3. I can't say
11 that F word. I can't say that. Or a controlled substance
12 analog. And then I think you have to charge them that
13 marijuana is a schedule 1 controlled substance if you do
14 that.

15 MR. WALKER: I think I would -- again, I don't know
16 that's necessary to send it back. But if we do, that would
17 be fine. And then if the Court did decide to send (a)1 and
18 2 back then I think the Court could stipulate -- we would
19 agree to stipulate that marijuana is a controlled substance
20 under that statute.

21 THE COURT: Okay. So we would block off 44-53-370(a)1
22 and 2 and have that printed out for them, and then write on
23 the bottom, "Additionally, the parties have stipulated that
24 marijuana is a controlled substance."

25 SOL. KEENEY: You have to part (b)2 because -- so (a)

1 talks about all the things, like distribute because that's
2 what's under distribute, but it doesn't even mention what
3 drug we're talking about. B subsection talks about drugs.
4 So (b)1 is like cocaine and then (b)2 is the marijuana. So
5 you have to put a little bit a part of (b)2 in it to make
6 any sense.

7 THE COURT: Oh, that's what I was trying to do with the
8 stipulation written on the piece of paper.

9 SOL. KEENEY: Correct.

10 THE COURT: Would that work and keep (b) out of it? So
11 44-53-371(a) 1 and 2, and then "Additionally, you should
12 consider the fact the parties have stipulated that marijuana
13 is a controlled substance under this statute."

14 SOL. KEENEY: Sure.

15 THE COURT: Does that -- solves your problem, right?

16 SOL. KEENEY: Yes, sir.

17 THE COURT: All right. You're already working on it.
18 Rita is so efficient. Get rid of the word "penalties" in
19 the title since there won't be any penalties.

20 (Brief pause.)

21 THE COURT: We're just gonna make it say "Prohibitive
22 Acts." Does that suit everybody? It pops up as
23 "Prohibitive Acts, A; Penalties."

24 (Brief pause.)

25 SOL. KEENEY: So stipulate that marijuana is a

1 controlled substance.

2 THE COURT: Yeah. "Additionally, you should consider
3 that the parties have stipulated that marijuana is a
4 controlled substance under the above act." And we'll let
5 everybody look at it.

6 I guess we should have that marked.

7 (Court's Exhibit No. 3 was marked for identification.)

8 (Brief pause.)

9 MR. WALKER: In doing this, some sort of limiting
10 instruction might be necessary or a reiteration that while
11 this covers -- you know, I talked to my -- well, both of
12 my -- talked to them about the categories of drug offenses,
13 that what's alleged to be proven is the PWID part and the
14 other -- the rest of the statute is merely for context, but
15 what the State has to prove is possession with intent to
16 distribute. And, you know, so if they're saying, well,
17 dispense or purchase or any of those sorts of things, not to
18 get confused by the other languages as far as a
19 determination of guilt but that -- does that make -- am I
20 being clear?

21 THE COURT: Maybe we can put the relevant section -- as
22 the parties agreed, the relevant section is possession with
23 intent to distribute as opposed to the other sections
24 written here and above, something like that. I don't know.

25 MR. WALKER: I'm rethinking my earlier thought. Can I

1 hear the question again?

2 THE COURT: The question is, "Can we get a printout of
3 the law as it is written for PWID," signed -- can't read the
4 signature -- number 21.

5 MR. WALKER: So bearing in mind that language, I think
6 having thought about my concerns about confusion, I think
7 maybe I would say go back with, you know, the A section and
8 then just send back the portion of the statute that starts
9 with possess. Just that last sentence there starting with
10 possess.

11 THE COURT: All right. So Prohibitive Acts -- first of
12 all, 44-53-370, Prohibitive Acts, "Except as authorized by
13 this article, it shall be unlawful for any person," and then
14 you want to take 1 and --

15 MR. WALKER: One to and -- take everything else out
16 until you get to possess.

17 THE COURT: Here, let me come down there.

18 MR. WALKER: 1 to dot, dot, dot, possess.

19 THE COURT: One to -- I just need to see it.

20 MR. WALKER: The word "to" not the number two. Sorry.

21 SOL. KEENEY: What's the difference of submitting that
22 than what's already been charged?

23 MR. WALKER: I mean, I think -- I don't know that
24 there's a big difference, but it is answering their
25 question. I would say (a)1 to, dot, dot, dot, and then

1 delete all that until you get to possess. So one to dot,
2 dot, dot, possess.

3 (Brief conference regarding the portion of the statute
4 to go back to the jury.)

5 (The statute marked as Court's Exhibit No. 3 was sent
6 to the jury at 4:09 p.m.)

7 (Jury questions at 5:06 p.m.)

8 THE COURT: All right. Back on the record. We have
9 another question, and this is a weird question. This says,
10 "Some want to sleep on it and return tomorrow," signed
11 foreperson, number 21. I'm inclined to say let's give it a
12 couple more hours before we sleep on it. I mean, it's only
13 5:00 o'clock in the great scheme of things. Thoughts?

14 (Court's Exhibit No. 4 was marked for identification.)

15 SOL. CONTESTABILE: Judge, the State will just leave it
16 up to you.

17 THE COURT: Anything from the defense?

18 MR. WALKER: I think it might be a little early to call
19 it a day. But, of course, at the Court's discretion.

20 THE COURT: All right. I guess I'll do a response that
21 says please continue until at least -- y'all give me a time.
22 6:30?

23 SOL. KEENEY: I just don't know. I mean, some people
24 have kids and stuff. So I don't know what their situation
25 is.

1 THE COURT: Of course, it doesn't say that. It says we
2 want to sleep on it.

3 SOL. KEENEY: 6:00 or 6:30 sounds good.

4 THE COURT: All right. Trying to think of a way to
5 word this. Please continue deliberate until at least
6 6:00 p.m. How about that? It's innocuous. Doesn't benefit
7 or harm anybody. Except me, everybody will be mad at me,
8 but that's all right.

9 MR. WALKER: Of course, you know, Your Honor can
10 decide. I'll put on the record, my client would like
11 them -- allow them more time, to give them more time. You
12 know, you go for a break -- and I misunderstood something
13 you told me earlier. And I guess my only concern with
14 putting a time is people will just kinda be like just gotta
15 wait it out. And, you know . . .

16 THE COURT: I guess I could just say 5:00 o'clock is a
17 little early to -- I don't know. I can just say please
18 continue to deliberate for now. I want to give them some
19 sort of light at the end of the tunnel, you know. I don't
20 know. Open to suggestions. I think it is really early to
21 say come on back tomorrow.

22 MR. WALKER: Only been at it two hours.

23 THE COURT: I could say please continue to deliberate
24 until --

25 THE CLERK: All conversation in the case must be done

1 inside the jury room.

2 THE COURT: Yeah, I mean, I don't mind if they think
3 about it. But I just think it's too early to send them
4 home. I can say please continue to deliberate. If it gets
5 to dinnertime, we'll happily -- can we do that? -- supply
6 them with some dinner. I think that's what we'll do. I
7 won't put a time on it. I'll just say please continue to
8 deliberate. If you need dinner, let us know, and we'll make
9 sure that is accommodated. I said ten different things. you
10 can -- and what?

11 SOL. KEENEY: And we appreciate your service.

12 THE COURT: I guess we need to have this marked.

13 (Court's Exhibit No. 5 was marked for identification.)

14 THE COURT: This says, "The Court appreciates your
15 service. Please continue to deliberate. If you need
16 dinner, please let us know, and we will accommodate." Does
17 that suite everybody?

18 SOL. CONTESTABILE: Yes, Your Honor.

19 MR. WALKER: No objection.

20 THE COURT: All right. Let's print it out. I'll sign
21 it and back it goes.

22 (Brief pause.)

23 (The Court's response is sent back to the jury at
24 5:12 p.m.)

25 VERDICT

1 (The jury enters the courtroom at 6:47 p.m.)

2 THE COURT: Mr. Foreman, I understand the jury has a
3 verdict.

4 FOREPERSON: We have.

5 THE COURT: Could you please hand it to the bailiff.

6 Thank you very much. Clerk, would you publish the
7 verdict, please.

8 THE CLERK: In the case of the State of South Carolina
9 versus Jesse Broughton, as to the charge of possession on
10 the intent to distribute marijuana, we the jury find the
11 defendant, Jesse Broughton, guilty.

12 THE COURT: Thank you, sir. Could you poll the jury,
13 please.

14 THE CLERK: Sure. Juror number 78. Please stand up
15 for me. Is this your verdict?

16 JUROR: Yes.

17 THE CLERK: Is it still your verdict?

18 JUROR: Yes.

19 THE CLERK: Thank you. Juror number 25. Is this your
20 verdict?

21 JUROR: Yes.

22 THE CLERK: Is this still your verdict?

23 JUROR: Yes.

24 THE CLERK: Thank you. Juror number 6. Is this your
25 verdict?

1 JUROR: Yes.

2 THE CLERK: Is this still your verdict?

3 JUROR: Yes.

4 THE CLERK: Thank you. Juror number 246. Is this your
5 verdict?

6 JUROR: Yes.

7 THE CLERK: Is it still your verdict?

8 JUROR: Yes, sir.

9 THE COURT: Thank you. Juror number 199. Is this your
10 verdict?

11 JUROR: Yes, sir.

12 THE CLERK: It's still your verdict?

13 JUROR: Yes, sir.

14 THE CLERK: Thank you. Juror number 193. Is this your
15 verdict?

16 JUROR: Yes, sir.

17 THE CLERK: Is it still your verdict?

18 JUROR: Yes, sir.

19 THE CLERK: Thank you very much. Juror number 4. Is
20 this your verdict?

21 JUROR: Yes, sir.

22 THE CLERK: It's still your verdict?

23 JUROR: Yes, sir.

24 THE CLERK: Thank you. Juror number 213. Is this your
25 verdict?

1 JUROR: Yes, sir.

2 THE CLERK: It's still your verdict?

3 JUROR: Yes, sir.

4 THE CLERK: Thank you very much. Juror number 151. Is
5 this your verdict?

6 JUROR: Reluctantly, yes.

7 THE CLERK: It's still your verdict?

8 JUROR: Yes.

9 THE CLERK: Juror number 21. Is this your verdict?

10 JUROR: Yes.

11 THE CLERK: It's still your verdict?

12 JUROR: Yes.

13 THE CLERK: Thank you. Juror number 142. Is this your
14 verdict?

15 JUROR: Yes, sir.

16 THE CLERK: Is it still your verdict?

17 JUROR: Yes, sir.

18 THE CLERK: Juror number 162. Is this your verdict?

19 JUROR: Yes.

20 THE CLERK: Is it still your verdict?

21 JUROR: Yes.

22 THE CLERK: Thank you. The jury has been polled, Your
23 Honor.

24 THE COURT: All right. Anything else from counsel with
25 regard to polling of the jury?

1 MR. WALKER: Nothing from the defense.

2 SOL. CONTESTABILE: Nothing from the State.

3 THE COURT: All right. Members of the jury, first of
4 all, I'm sorry for the delay at the end. We were waiting on
5 you, and I understand you were waiting on us. So I'm not
6 sure exactly how that happened. But I apologize for the
7 delay and the extra time that you spent back there.

8 I thank you on behalf of the entire judicial system,
9 counsel thanks you. If it weren't for people like you that
10 responded to the jury summons -- because you probably heard,
11 some people don't -- the entire system would fall apart. It
12 requires people like you to come in to answer the questions
13 truthfully and go through what I know is a difficult time.
14 Hard work to come up with a verdict in situations like this.
15 But if you didn't come in, again, the entire system would
16 fall apart. And we would end up with just judges coming up
17 with verdicts, and that pales in comparison to having a jury
18 system. So I thank you all. You're released now. You
19 don't have to do this for another three years, maybe not
20 then. But if you come up within three years, you'll have an
21 exemption.

22 If any of you have any questions or want to talk with
23 either me or counsel, we'll all be here I think tomorrow.
24 Feel free to call either through the clerk's office or my
25 office in Beaufort and happy to answer any questions that

1 any of you might have. Again, thank you very much. And
2 you're free to go. There are some letters that they have
3 for you, I believe, for work and that sort of thing.

4 THE CLERK: These do have your names on them. So you
5 need make sure you get the ones with your name on it.

6 (Brief pause.)

7 THE COURT: All right. That's all we need. Thank you
8 very much.

9 (The jury is released at 6:52 p.m. and exits the
10 courtroom.)

11 THE COURT: All right. Do we have a sentencing sheet?

12 SOL. CONTESTABILE: I do, Your Honor.

13 THE COURT: And I'm happy to hear from the State.

14 SOL. CONTESTABILE: Thank you, Your Honor. Your Honor,
15 the State's recommendation on sentencing is four years.
16 We've heard from the jury. And based off of his prior
17 record, which I'm happy to give Your Honor the full record,
18 we believe that the defendant was distributing marijuana and
19 other narcotics to the community, and we believe that a
20 four year sentence recommendation would be appropriate at
21 this time.

22 THE COURT: What was his record again?

23 SOL. CONTESTABILE: Yes, Your Honor. He has a 2012
24 possession with intent to distribute other schedule 1, 2 or
25 3 substance; a 2000 -- sorry, can't read that far down --

1 2012, simple possession of marijuana; 2012, resisting
2 arrest; 2013, simple possession of marijuana; 2014, driving
3 under suspension, second offense; 2015, simple possession of
4 marijuana; 2016, possession with intent to distribute
5 schedule 4 substance, second offense. He got four years on
6 that charge. 2016, hit-and-run with property damage;
7 failure to stop for blue lights; habitual traffic offender;
8 driving under suspension, third offense; driving under the
9 influence less than .10, first offense; another possession
10 with intent to distribute a schedule 1, 2, or 3 substance,
11 which he also got four years to run concurrent with the
12 other one on that charge; a violation of probation. And,
13 Your Honor, he currently has 11 pending charges in
14 Charleston County that stems from 2020 to 2024.

15 And, Your Honor, I have the certified convictions from
16 Charleston County for those drug offenses because I know
17 there was a dispute earlier about them.

18 THE COURT: All right. Thank you.

19 (Brief pause.)

20 THE COURT: Mr. Walker, happy to hear from you, sir.

21 MR. WALKER: Thank you, Your Honor. Obviously, we're
22 disheartened at the result, but we find ourselves where we
23 are. We'll say the State additionally offered Mr. Broughton
24 a plea offer of probation. We don't see why that wouldn't
25 be appropriate in this case. Seems like it would be a

1 punishment for exercising his constitutional right to trial.
2 Mr. Broughton is a little confused about the sentencing
3 sheets that were handed up, but appear to be legitimate to
4 me. That was to the '15. He certainly acknowledges the
5 '16. Those happened the same day. And also as they were
6 reading out the record, the 2016 charges, there were like
7 four charges. Those were all one day, one big plea.

8 I will hand up to the Court, and I've already shown it
9 to the Solicitor, a copy of Mr. Broughton's bank statement
10 at the time of the arrest. I've also shown the Solicitor
11 previous months bank statements showing legitimate -- of
12 cash that would equal \$6,000. You can see there's a \$6,000
13 withdrawal from the bank on the day before this arrest
14 occurred. Show another bank record to the Solicitor.
15 Jesse's mom owns a catering business that he helps her with.
16 And there was certainly enough money in that business to
17 deposit the account to -- obviously account for the funds
18 that were withdrawn the day before the arrest. So, again,
19 the idea that having money necessarily indicates -- or that
20 you can only have money if you're a drug dealer, we
21 certainly submit that that is proof otherwise. You know,
22 Mr. Broughton felt uncomfortable with the idea of testifying
23 before a jury. And we were unable to present that
24 information to the jury today.

25 His mother wanted to be here with him today. She had a

1 doctor's appointment. Couldn't be here. Here with him is
2 his father, who you've seen in the courtroom all day long.
3 Jesse is 31 years old. He's a high school graduate of
4 Stall High School in North Charleston, I guess Charleston
5 County. He's single but have two children that live with
6 him, a ten-month-old and a ten-year-old who he supports. As
7 I've told you before, he works with his mother catering,
8 that sort of thing. And the Solicitors told me they looked
9 up his mom's catering business, it looks delicious.

10 I think it's obvious from watching the video, you know,
11 Jesse is bewildered because marijuana to him is not a big
12 deal. Marijuana to the people he is around is not a big
13 deal. Marijuana to the community he's in, not a big deal.
14 And he is having trouble comprehending all of this happening
15 over a little bit of marijuana. Now, of course, the
16 legislator makes the laws, and that's what we're here to
17 deal with. But I would just, again, reiterate the facts of
18 the case, he was not in Colleton County dealing marijuana,
19 trying to deal marijuana, intending to deal marijuana. He
20 was driving from Savannah back home to Charleston and got
21 stopped for speeding. He was extremely cooperative as,
22 again, Your Honor saw. Throughout, didn't give the officers
23 any problems, gave them consent to search, was not looking
24 for any problems. Again, recognize he shouldn't have been
25 speeding, recognize he shouldn't have had that marijuana,

1 but I think in his mind, kind of conflated, it's about the
2 same level of seriousness. Your Honor, that's just where we
3 are.

4 Certainly, he is very disappointed in the outcome. I'm
5 disappointed in the outcome. But we are here. I don't
6 believe, Your Honor, based on of the facts of this case, I
7 think try to say all this stuff on a prior record that's
8 from 2012, 2015, 2016, coming up on a decade ago,
9 necessarily would justify based on the facts a four-year
10 prison sentence. And I think also, again, he's here by
11 happenstance in Colleton County. You heard he's got some
12 issues going on in Charleston that I believe are more
13 serious. You know, these serious matters need to be taken
14 up and serious consequences need to happen. I submit,
15 Charleston is the place for that to happen.

16 And, really, what brought all of this to a head, the
17 reason -- again, he doesn't think marijuana is a big deal.
18 He probably would have pled to the marijuana. It's always
19 been, as you saw on the video, he's been upset about the
20 money. That's his money. It's legitimate money that was
21 seized from him. And he was concerned if he pled to PWID
22 for probation then the State would, you know, try and seize
23 the money, which I now expect them to now do that they
24 secured a conviction. He'll be out this 6- to \$8,000 in
25 addition to any penalty the Court imposes.

1 Your Honor, we'd ask the Court for probation. You
2 know, granted his history, that might be a bit of an ask.
3 Based, I think, on the facts, it's not unduly optimistic.
4 But, certainly, to go from probation to four years in
5 prison, especially when he's never tried to -- never tried
6 to say he didn't have the marijuana. Again, it really has
7 been all about the money which was taken from him. And in
8 attempt to have that returned to him, it's why we're here.
9 So we'd ask the Court to departure downward significantly
10 from the request of the Solicitor's office.

11 Would you like to address the Court?

12 DEFENDANT: I apologize for my acts. You know, I'm not
13 a drug dealer. I did my time. I was not perfect. I did my
14 time and came home and changed my life and go to my mama,
15 helped her get her business started. That's all I had to
16 focus on. I still smoke marijuana, I do. I'm not gonna lie
17 about that, I do. The videos say I do. But selling
18 marijuana, that's not me anymore. That three years and
19 six months did that to me. So, you know -- but four years
20 for having my marijuana is like -- to me, it's kinda cruel
21 to me because, like, how did I -- I'm not a drug dealer. I
22 just want to get high, that's it. So I'm not trying to
23 sound sad. I didn't think about it. That's how -- so me
24 doing four years in prison, that's -- I don't know how
25 -- that's all I will say.

1 SENTENCE OF THE COURT

2 THE COURT: Thank you, sir.

3 All right. Of course, listened to the testimony.
4 Agree with defense counsel -- actually, I don't think anyone
5 disagrees -- with the fact that Mr. Broughton was incredibly
6 cooperative with the sole exception that I think he didn't
7 pull over quite as fast as the officer wanted him to and the
8 blue light came on. But other than that, he was sort of a
9 model of cooperation.

10 The weight of the marijuana was not very high on the
11 scale of what it could've been and where it started. I
12 mean, nevertheless, the jury has convicted him of a crime
13 that, you know, the State has a 0- to 5-year range on
14 schedule 1, still considered, no matter what you think, a
15 serious drug in South Carolina. And, again, I can't in good
16 conscious give a probationary sentence in situation like
17 this after hearing what I've heard. And the fact is, it's
18 not even a dispute. I mean, you have the drugs. But you do
19 get some credit for being cooperative. So sentence of the
20 Court is gonna be five years suspended on the service of
21 24 months with three years of probation.

22 Anything else?

23 SOL. CONTESTABILE: Nothing from the State.

24 THE COURT: How much time did he serve?

25 MR. WALKER: I think just overnight.

1 THE COURT: Okay. One day time served. Anything else
2 for the record from anyone?

3 SOL. CONTESTABILE: Nothing from the State.

4 MR. WALKER: Just at this time, the final renewal of my
5 previous motions on the record.

6 THE COURT: All right. Thank you. Denied, but thank
7 you.

8 (The trial proceedings concluded Wednesday, March 26,
9 2025, at 7:08 p.m.)

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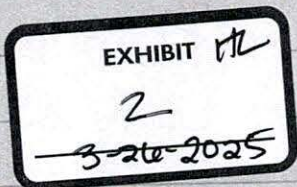
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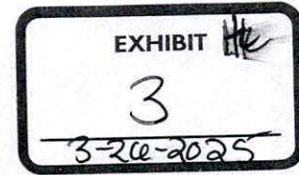
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25

Can we get Print out of the law as its written for AUIO?

 #21





SECTION 44-53-370.

Prohibited acts .

(a) Except as authorized by this article it shall be unlawful for any person:

(1) to ... possess with the intent to manufacture, distribute, dispense, deliver, or purchase a controlled substance or a controlled substance analogue;

In addition, you must consider that the parties have stipulated that marijuana is a controlled substance under the above act.

A large, stylized handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the end.

ARREST WARRANT

2023A1510100096

STATE OF SOUTH CAROLINA

County/ ☒ Municipality of

Colleton

THE STATE 23-1086

against

Prosecuting Agency: Colleton County Sheriff

Prosecuting Officer: Jermaine Smith - S00672

Offense: Drugs / Manuf., poss. of other sub. in Sch. I, II, III
or flunitrazepam or analogue, w.i.d. - 2nd offense

Offense Code: 0187

Code/Ordinance Sec: 44-53-0370(b)(2)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with, according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant

on

Jesse Sebastian Broughton
3-31-23

Tanya Adams - C-537

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions

P O Box 620

101 Hampton Street

Walterboro, SC 29488

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Colleton

Personally appeared before me the affiant

being duly sworn deposes and says that defendant

did within this county and state on or about

State of South Carolina (or ordinance of

in the following particulars:

Jermaine Smith / C. Mizell

Jesse Sebastian Broughton

3/30/2023

County/ ☒ Municipality of

Colleton

who

violate the criminal laws of the

DESCRIPTION OF OFFENSE:

Drugs / Manuf., poss. of other sub. in Sch. I, II, III or flunitrazepam or analogue, w.i.d. - 2nd offense

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:That on March 30, 2023 at approx. 2250 hrs, Deputy Smith conducted a traffic stop on a Toyota Camry NC Tag [REDACTED] for
traveling 94 mph in a 60 mph zone within Colleton County. The defendant, Jesse S. Broughton, was the driver of the vehicle.
Deputy Smith could smell the odor of marijuana coming from the vehicle. A probable cause search was conducted and discovered a
clear bag containing a quantity of marijuana which weighed 230 grams underneath the driver seat. The bag also contained 15 empty
packets used for packaging. The defendant had \$8,190.00 on his person, which is consistent with sale and distribution. Broughton's
criminal history indicates he was convicted of PWID Marijuana 1st in 2016. This act violates Title 44, Chapter 53, Section 370 of
the SC Code of Laws. The above is true and believable, based on the personal observations and investigations of Deputy Smith, who
is a witness to prove the same in such case made and provided against the peace and dignity of the State of SC. 23-1086

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Colleton

Affiant's Address

394 Mable T. Willis Blvd.

Walterboro, SC 29488-

Affiant's Telephone

(843)549-2211

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 3/30/2023

did violate the criminal laws of the State of

☒ County/ ☐ Municipality of

Colleton

defendant Jesse Sebastian Broughton

South Carolina (or ordinance of

) as set forth below:

DESCRIPTION OF OFFENSE:

Drugs / Manuf., poss. of other sub. in Sch. I, II, III or flunitrazepam or analogue, w.i.d. - 2nd

offense

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable

Sworn to and subscribed before me

on 3/31/2023

Signature of Issuing Judge

Harriet Ashby Roberts (Magistrate)

Judge Code: 7351-7248

Judge's Address

Post Office Box 1732

Walterboro, SC 29488-

Judge's Telephone

(843)549-1122

Issuing Court:

☒ Magistrate☐ Municipal☐ Circuit

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WITNESSES

Colleton County Sheriff's Office

23-1086 *Laura Rutland*

Laura Rutland

DOCKET NO. 2023GS1500215

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

April Term 2024

THE STATE

vs.

Jesse Sebastian Broughton

Indictment For

Possession with intent to distribute
marijuana

SC Code: 44-53-370(b)(2)

CDR Code: 0186

After being fully advised as to my
legal rights, I hereby waive
presentment to the Grand Jury.

Defendant

I _____
hereby appear in my own proper
person and plead guilty to the within
indictment or to

ARREST WARRANT NUMBER

2023A1510100096

ACTION OF GRAND JURY

True bill

Andre M...

Foreperson of Grand Jury

Date: 4-11-24

VERDICT

Guilty

[Signature] 3/2

Foreperson of Petit Jury

Date: 3/26/25

INDICT

Defendant

Witness:

C.C.C. PLS. and G.S.

APR 11 2024 PM 12:57
COLLETON CO CLERK, GS
Patricia C. Grant

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF COLLETON)

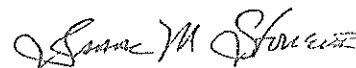
2023GS1500215

At a Court of General Sessions, convened on April 11, 2024, the Grand Jurors of Colleton County present upon their oath:

Possession with intent to distribute marijuana

That in Colleton County, South Carolina, on or about March 30, 2023, the Defendant, Jesse Sebastian Broughton, did possess with intent to distribute, dispense, deliver, or purchase a counterfeit substance, marijuana, which was a controlled substance classified in Schedule I, II, III, flunitrazepam, or a controlled substance analogue, all in violation of Section 44-53-370(b)(2), et al. of the Codes of Law of South Carolina.

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



Solicitor

COUNTY OF COLLETON

STATE vs.

Jesse Broughton

AKA:

SSN:

RACE: Black

SEX: Male

DOB:

INDICTMENT/CASE#: 2023 -GS- 15 - 00215

AW#: 2023A1510100096

Date of Offense: 12/02/2023

S.C. Code §: 44-53-370(b)(2)

CDR Code #: 0186

Range of Offense: 0-5 years

In disposition of the above indictment comes now the Defendant who was CONVICTED OF ☒ or ☐ PLEADS

TO: Possession with intent to distribute

Range of Offense Pled 0-5 years

In violation of § 44-53-370(b)(2) of the S.C. Code of Laws, bearing CDR Code # 0186

☒ 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 4 years

Jillian R. Contestabile

105834

Matthew Walker

Solicitor

SC Bar #

Attorney for Defendant

SC Bar #

The Defendant is committed to the ☒ SCDC ☐ County Detention Center ☐ Home Incarceration Program
for a determinate term of 6 days/months/years/Time Served ☐ YOA NTE years and/or shall pay a fine
of \$; provided that upon the service of 24 days/months/years/Time Served and or payment
of \$ plus costs and assessments as applicable* ; balance is suspended with probation for 3 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.☒ 1 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

Fine/Costs and Assessments are to be paid to the
Clerk of Court within days/months

Restitution \$	
FINE:	\$
	\$
\$100	\$ 100.00
\$100	\$
\$12	\$
\$25	\$
\$25	\$ 25.00
\$150	\$ 150.00
\$41	\$
\$50	\$
\$40/ea	\$
TBD	\$ 23.25
\$500	\$ 500.00
\$40	\$
TOTAL	798.25

Gary Hale

Clerk of Court/Deputy Clerk

Heather Landry 2785

Court Reporter

Judge Code

Sentence Date 3/26/25

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,

RECEIVED

Jun 11 2026

SC Court of Appeals



Sarah E. Shipe
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 11th day of June, 2026.