VOLUME II OF II

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SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions

Thomas W. Cooper, Circuit Court Judge

Appellate Case No: **2023-001288**

The State of South Carolina,

Respondent,

v.

Steven Daniel Brown

Appellant.

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Ms. Oppenheimer.

MS. OPPENHEIMER: The State would recall Investigator John Gietz.

THE COURT: Investigator Gietz, if you'll resume the stand, please. You're still under oath.

JOHN GIETZ,

having been previously sworn, testified as follows:

DIRECT EXAMINATION

BY MS. OPPENHEIMER:

Q. Good morning, Investigator Gietz.

A. Good morning.

Q. Throughout your investigation were you able to determine a nickname for the defendant?

A. Yes, ma'am.

Q. And what is that nickname?

A. Steve-O.

Q. All right. And were you able to determine his phone number?

A. Yes, ma'am.

Q. And what is that phone number?

A. Just give me a brief second. [redacted] 3666.

Q. All right. Investigator Gietz, you testified before that you're a member of the Narcotics Enforcement Team at the sheriff's department. How many years have you been working for the Narcotics Enforcement Team?

A. Over six.
Q. All right. And you testified earlier this week about some investigative tools. Can you tell us if cell phone extraction is one of those tools?
A. Yes, ma'am.
Q. And do you go through a cell phone extraction after you get it from CSI?
A. Yes, ma'am.
Q. And when you go through a cell phone extraction, what exactly are you looking for?
A. Evidence of whatever crime it is that I'm investigating. Almost -- the majority of every case that I work is narcotics related in some sort, so narcotics distribution, trafficking, that kind of evidence.
Q. All right. And do you attempt to identify maybe a suspect source of supply?
A. Yes, ma'am.
Q. All right. And as your training and experience -- or in your training and experience as a narcotics officer, can you tell us whether or not there's a different type of lingo maybe that's associated with drug deals?
A. Yes, ma'am. Drug dealing has a completely different jargon that most people use. If you were in any kind of profession or any kind of group, you would have your own slang or jargon that you would use. Narcotics distribution

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has that as well.
Q. And have you had the opportunity in your six years as a narcotics officer to witness these conversations and these drug deals?
A. Yes, ma'am.
Q. And to hear this jargon?
A. Yes, ma'am.
Q. And about how many conversations have you yourself witnessed?
A. Hundreds to thousands of narcotics-related conversations.
Q. And does that include both during, let's say, controlled buys and in viewing cell phone extractions?
A. Yes, ma'am.
Q. Now some text messages from the defendant's phone were entered into evidence yesterday. Can you tell us whether or not you reviewed those messages?
A. Yes, ma'am, I did review them.
Q. And can you tell us whether or not you were able to identify a conversation that would indicate that it was the defendant's source of supply?
A. Yes, ma'am. I was able to identify a conversation related to a transaction --
MR. WILLIAMS: Your Honor, I'm gonna object to his testimony at this point because he's not been qualified

as an expert in any degree.

THE COURT: Right.

MR. WILLIAMS: Whatever words they are, they are the words.

THE COURT: Yeah. Okay.

All right. If you would -- Ms. Oppenheimer, if you will do whatever else you think you need to do in order to get him qualified and then seek to have him qualified before he renders his opinion too far into the slang, okay?

MS. OPPENHEIMER: All right.

BY MS. OPPENHEIMER:

Q. Investigator Gietz, in these hundreds of conversations that you've yourself witnessed during drug deals, you said that you've learned the jargon?

A. Yes, ma'am.

Q. Is that correct?

A. That is correct.

Q. And does that just come as part of the natural training as a narcotics officer?

A. No, ma'am. I go to various trainings. I've had thousands of hours of training in narcotics detection, distribution and trafficking as well.

Q. And do you believe that your knowledge and training of this jargon would help the jury understand some of these

messages that have been introduced into evidence?
A. Yes, ma'am, I do.
MS. OPPENHEIMER: Your Honor, at this time I'd offer Investigator Gietz as an expert in drug --
THE WITNESS: Slang.
MS. OPPENHEIMER: -- drug slang.
THE COURT: Investigator Gietz, you've talked about your training generally in narcotics detection and things of that nature. As a part of that training, is the slang, the lingo, the jargon of the trade a part of what you have studied in addition to your experience?
THE WITNESS: Yes, sir. Absolutely.
THE COURT: It's a part of the formal training in addition to the on-the-job training that you get?
THE WITNESS: Yes, sir.
THE COURT: All right. Okay. Thank you.
Voir dire, Mr. Williams?
MR. WILLIAMS: Thank you, Your Honor.

VOIR DIRE EXAMINATION

BY MR. WILLIAMS:
Q. So, Officer, clearly you're a narcotics officer and -- and I think you've said that your testimony is based on your experience and your classes that you have gone to?
A. Yes, sir.
Q. When and where did you go to classes to learn how to

-- what the meaning of slang is, the different types of slang?
A. The -- the types of narcotics slang or just slang in general?
Q. Well, you would agree that all slang is not alike?
A. That's correct.
Q. And it depends on the nationality of the people who are talking, as well as the age of the people talking, as well as, what, any number of things, whether or not it's -- I don't know. What else? You tell me --
A. Yes, sir.
Q. -- because you're the expert.
A. Yeah, I agree with you. I've already testified to that, that various trades and different things will have different types of jargon or slang that is used in relationship to that network.
Q. So tell me those classes you have been to that teaches you the slang that is used by different types of drug dealers involved with drugs.
A. So I've been to numerous various narcotics training courses to include classes on methamphetamine, classes on opiates, the production of methamphetamine. I've been to an annual training of the SCGIA conference which is, you know, anywhere from fifty to -- thirty to fifty hours of training hours every single year in which we talk about

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narcotics distribution, narcotics production, narcotics trafficking.

Q. So tell me specifically what part of your itinerary that you've studied and when you studied it that would include all types of slang that are used in the drug distribution business.

A. Well, it's through all the training. Almost -- essentially every narcotics classes is going to talk about slang or the use of narcotics jargon during that course.

Q. And do they teach the differences between what nationality the persons are that are using the slang and the age differences and things of that nature?

A. Yes, sir. Sometimes.

Q. And do you have any type of written documentation to prove that you've taken any class at all dealing with slang?

A. Yes, sir. It's stored in my training records.

Q. Okay. Did you bring any of that? You know, normally when someone is qualified as expert they would have a curricular vitae which they would bring from which other persons could make a decision in regards to what he is an expert or not an expert in. Do you have anything from a school or anything that verifies how are you an expert?

A. I don't have my CV with me; however, I can testify to the amount of training and courses that I've taken.

Q. All right. And do you...

MR. WILLIAMS: I guess that's all, Your Honor. That's all.

THE COURT: All right. Thank you.

All right. I find that Investigator Gietz is qualified to testify based on his knowledge, his training, his experience in dealing with these matters over a period of time, all right, as to the slang, the lingo that is used to within the narcotics detection field.

Go ahead.

MS. OPPENHEIMER: Thank you, Your Honor.

CONTINUED DIRECT EXAMINATION

BY MS. OPPENHEIMER:

Q. Now, Investigator Gietz, you indicated that you went through the cell phone extraction from the defendant's phone; is that correct?

A. Yes, ma'am. That's correct.

Q. And in doing so, can you tell us whether or not you were able to identify an individual who night be his source of supply?

A. Yes, ma'am. It was a "T" subject.

Q. Just the letter "T"?

A. Yes.

Q. And can you tell us based on your review of those

messages did you get an idea of where "T" was located?
A. Yes, ma'am. Around Atlanta, Georgia.
Q. All right. And can you tell us based on your review of the messages between the defendant and "T" if a plan to pick up these almost three kilograms of methamphetamine occurred?
A. Yes, ma'am. The initial plan was for much more than the three kilos, but, yes, there was a plan derived to pick up the three kilos of methamphetamine.
Q. And when did the planning start based on your review of the messages?
A. June 23rd of 2020.
MR. WILLIAMS: Your Honor, I would note this line of testimony, which is, in essence, just -- it's not specific. It's his opinion of what transpired, which means he is just buttressing some sort of argument without giving the foundation for the qualifications or how he arrived at that decision.
THE COURT: All right. I assume that since the text messages are in evidence that at some point in time he's gonna be referring to those text messages and tell what parts of those text messages led to his conclusion. That would be normal.
MS. OPPENHEIMER: That's correct, Your Honor. I'm just going through the general nature of the messages at

this time.

THE COURT: All right.

BY MS. OPPENHEIMER:

Q. Can you tell us on what date that plan was executed between the defendant and "T" to pick up those drugs?

A. Yes. June 29th of 2020.

Q. All right. Let's go through some of these messages in State's Exhibit Number 14.

Turning your attention to page 3, this message from the defendant, "I would rather wait on the clear", in your expert opinion can you tell us what clear means?

A. Yes, ma'am. Clear is a reference to methamphetamine.

Q. All right. Turning your attention to page 5, this message from the defendant to "T", "Monday I will take four if they clear, no pink". Can you tell us what that means in your expert opinion?

A. Yes, ma'am. So it appears that there was a previous plan to pick up the four kilos of methamphetamine of a clear methamphetamine. Sometimes drug traffickers and distributors will either -- how the methamphetamine's brought into the country or how it's made, how it's produced, and then sometimes after it's made there's a branding color that's put, so they'll add a color to it, so it appears that they don't want a pink methamphetamine, just a clear methamphetamine.

Q. All right. And take four, is that what you're talking about with the four kilos?
A. Yes, ma'am.
Q. Turning your attention to page 7, "T's" message to the defendant, "Hello, my friend. They passed me to thirteen the piece". Can you tell us in your expert opinion what that means, thirteen the piece?
A. So the asking price or the sale price for a kilo of methamphetamine is $13,000.00.
Q. And on page 8 when the defendant responds "Can you do four, twelve each", in your expert opinion what does that mean?
A. It appears that they're haggling or -- or trying to come up with a better price. Typically if you buy more of a quantity you can get it for a lower prior, so he's -- it appears that they're asking twelve thousand for four kilos.
Q. All right.
MR. WILLIAMS: Your Honor --
THE COURT: Yes, sir.
MR. WILLIAMS: -- I would object to these because of date and time. They're not on the date in time in which the alleged drug transaction occurred.
THE COURT: I think he testified earlier that there were discussions starting on June 23rd, that the plan's execution date he said was June the 29th, and I haven't

heard any reference to any of the dates. There's been a reference to page 7, page 8 and so forth.

What timeframe are we talking about, Ms. Oppenheimer?

MS. OPPENHEIMER: A 9-day timeframe, Your Honor, between "T" and the defendant in which they're making a plan for the defendant to come pick this up. I can certainly reference the times. The times were testified to yesterday by Investigator Phipps. That he converted these into Eastern Standard.

THE COURT: Okay. Well, when you are referring to a particular text message on there, does it have a date somewhere in that -- in that text message? Is there the date that it was transmitted?

MS. OPPENHEIMER: It does, Your Honor, at the very bottom.

THE COURT: All right. Well, why don't you just share that information with us as well. The jury might very well remember the difference between the blue and the green. It probably wouldn't hurt for them to be reminded of what is blue and what is green and what it means.

MS. OPPENHEIMER: Yes, Your Honor.

BY MS. OPPENHEIMER:

Q. Turning your attention to page 13, a blue message

which I believe is an incoming message from "T" on the defendant's phone on June 23rd of 2020 at 6:26 PM, can you tell us what "T" sent to the defendant?

A. That would be a picture of what I know through my training and experience to be methamphetamine.

Q. And is that the same image in State's Exhibit Number 16 that we talked about yesterday?

A. Yes, ma'am. That's the same image.

Q. All right. And what based on your training and experience makes you believe that this is methamphetamine?

A. It's a crystal-like substance that's consistent in shape and look of methamphetamine.

Q. All right. Turning your attention to page 20, June 24, 2020, at 8:03 AM "T" messages the defendant -- sorry, I'm trying to get it perfectly on this page and it doesn't want to. "T" asks the defendant "You have fifty-two for all four?". In your expert opinion, what does that mean?

A. He's confirming that the defendant has $52,000.00 for all four kilos of methamphetamine.

Q. So they're still negotiating a price at this time?

A. That's correct.

Q. And can you tell us whether or not the defendant confirmed that price?

A. Yes. He says "$52,250.00 for all four".

Q. And that would be on June 24, 2020, at 8:13 AM?
A. Yes.
Q. All right. And that is a message from Steve, the defendant, to "T"?
A. Yes, ma'am. That's correct.
Q. And we know that because it's a green message; is that correct?
A. Yes.
Q. Turning your attention to page 24, on June 24, 2020, at 8:55 AM, the green message, I believe that would be an outgoing message from the defendant to "T". Can you tell us in your expert opinion whether or not the terms of this deal changed?
A. Yes, ma'am. It appears that it says that not only the quantity is going to change from four, now it's three for $39,250.00.
Q. And I believe you testified earlier that this plan to pick up this methamphetamine was executed on June 29th of 2020; is that correct?
A. That is correct, ma'am.
Q. Can you tell us whether or not an address was ever given by "T"?
A. Yes, ma'am.
Q. On June 28, 2020, this is page 37 of Exhibit 14, does "T" give the defendant an address to go to?

A. Yes. [redacted] in Norcross, Georgia.
Q. Are you familiar with Norcross, Georgia?
A. Somewhat, yes.
Q. Do you know about where it is?
A. It's just outside of Atlanta.
Q. And then on June 29th of 2020, an outgoing message from Steve to "T" at 6:28 AM. I believe that's an eight. Can you tell us what the defendant is telling his source of supply this early in the morning on the 29th?
A. He's confirming that he's leaving and he wants to confirm that the seller of the methamphetamine is ready.
Q. And then on page 40 on June 29th of 2020 at 7:08 AM, the defendant sends a message, "10:30 AM". What does that mean?
A. That appears to be an arrival time.
Q. And based on your investigation, in calculating the time that it would take to get to the Atlanta area from Lexington, is that about right?
A. Yes, ma'am. That would be the approximate time it would take to get from Lexington, South Carolina to Norcross, Georgia.
Q. And on page 41 of Exhibit 14 on June 29, 2020, at 10:10 AM, the defendant sends the message to "T" in response to the question "What car do you have?". What car does the defendant tell his source of supply that he's

driving on the 29th of June?
A. He advises that he's driving a truck.
Q. Did the defendant ever tell his source of supply that he had arrived at this meet-up location?
A. Yes, ma'am. He advised at 10:33 AM on June 29, 2020, that he was there.
Q. And that's depicting on page 44 of Exhibit 14, a message in green from Steve, the defendant, to "T" on June 29, 2020, at 10:33 AM; is that correct?
A. That's correct.
Q. Finally, on page 46 of State's Exhibit Number 14, the defendant sends a message on June 29, 2020, at 10:38 AM saying "Thank you", and in your opinion what does that mean?
A. That the transaction for the methamphetamine, the three kilos of methamphetamine, has been completed and he's thanking the distributor.
Q. So at 10:38 AM, he would have been on his way back to Lexington, South Carolina?
A. Yes, ma'am.
Q. And he was pulled over on I-20 at approximately what time?
A. I believe it was around 10:15 -- or, excuse me, 1:15, 1:00.
Q. So about three hours later?

A. Yes, ma'am.

MS. OPPENHEIMER: Thank you, Investigator Gietz. I have no further questions. If you'll answer any questions that Mr. Williams might have of you.

THE COURT: Cross-examination, Mr. Williams?

MR. WILLIAMS: May it please the Court?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. WILLIAMS:

Q. Officer Gietz, when you were going through these lists of -- the Cellebrite extraction report and you were remarking on the times through the direct questioning of the solicitor and in those times you noted the -- the bottom, I'll give you an example, the bottom number, whatever the number is, such as -- and this is an arbitrary one. This is June the 20th at 2020. It's 11:50 AM parenthesis UTC dash four end parenthesis. Is it your testimony that this is the Eastern Standard Time or Daylight Savings Time or whatever time that we would use on our watch or is this reflective of a computer time that would normally be shown on a computer?

A. I do believe Investigator Phipps testified to that yesterday, that it's UTC time, which is the standard or Zulu time as he was saying.

Q. So in that -- in that it is showing, and that's what

you're talking about where you're talking about the UTC minus four, that's what you're talking about, that is the Zulu that lets everybody know it's a computer time, if you will, right? Greenwich time or whatever you want to talk about, right?

A. Sure.

Q. So that would actually mean that the time that is reflected on this is actually 7:50:06, correct, if we were referring to the time that you or I would have on our watch?

A. Yes, sir. I believe that's -- hold on. Let me look at that again.

Q. All right.

A. So you're saying it's minus four from that time that's up there right now?

Q. Well, if --

A. That's what you're suggesting?

Q. You just said -- you just said the UTC time was what is reflected there, which is 11:51 dot dot 24. That's the UTC time because that's what it says it is.

A. So that's the -- that appears that it's the corrected time. UTC minus four.

Q. Oh, so you're saying that it's been corrected. That someone has done something to correct the time on this; is that right?

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A. No, sir. That time is accurate.
Q. Okay. Let's assume that this is the document or the time that is reflected on that. It says minus four, so that means that someone would have had to correct that -- this document right here?
MS. OPPENHEIMER: Your Honor, I believe he's pitting the witnesses. Investigator Phipps testified to what --
THE COURT: Don't -- let's -- I don't think he's pitting him yet. He's not asked about what Mr. Phipps said and what he has said. I think he's trying to ask him independently what he thinks these things mean without regard to anybody else. If the jury remembers what Mr. Phipps said, then they can apply that as well, but it's proper right now. He's not pitting -- the way the questions are asked as yet it's not pitting.
MS. OPPENHEIMER: It's very close, Your Honor.
THE COURT: All right.
MR. WILLIAMS: Your Honor, I'd move to strike the last comment.
THE COURT: All right. That comment means absolutely nothing. I appreciate the solicitor advising me as to how close to the edge of these rules you're getting so that I'll know to appropriately step in and exercise my role as the judge and decide what I'm gonna rule to. I'm always -- it's helpful when I get help from lawyers

telling me that I'm not doing my job pretty well on my own without their help. I give that the weight that it's entitled to receive.

Thank you. It's stricken.

MR. WILLIAMS: Thank you, Your Honor.

THE COURT: Thank you.

BY MR. WILLIAMS:

Q. So, again -- again, and all I'm -- I'm not trying to trip you up or anything. What I'm saying is if you look at this right here, this document, which has been produced through some sort of process, it allegedly is what was showing on, what, text messages or apps or something like that?

A. That's the time that the phone reflected.

Q. So is what we are looking at, is this reflective on apps that you would see on your cell phone or a computer?

A. I'm not a cell phone expert, sir.

Q. Are you saying you don't know what that is?

A. No, I know what that is. I'm just saying that's the accurate time that is displayed right there. It's just a conversion.

Q. So are we looking at texts that come back and forth to two people?

A. Yes, sir.

Q. So just like you or I would have texts on our cell

phone, what we would look at then is what we see there, right, whatever it is?
A. Yes, sir.
Q. Okay. So it's gonna show on your text that time. It's gonna show 11:50 -- 11:50:06 AM, UTC minus four. Is it gonna show that on your cell phone?
A. Yes, it would show -- especially since the cell phone was located in South Carolina, it would show that time, 11:50 and 06 seconds.
Q. And it would have the UTC minus four on it?
A. No, it would not.
Q. So it's not an accurate representation of what you see if you're looking at your cell phone or your screen, is it?
A. I believe it is an accurate representation.
Q. How could it be -- it's not the same though, is it? It's not what you or I would see if we were looking at it. It doesn't say that on there.
A. No, that's what the cell phone would say.
Q. And it would say 11:05:06 AM, UTC minus four? It will say that?
A. It will not say the UTC part.
Q. So it's not the same that you would see when you looked at it?
A. The time would be correct.

Q. But you wouldn't see it?
A. You would see that time, yes, sir.
Q. Now the red -- I'm sorry, the blue and the green, you have determined that the green is the cell phone which has been attributed to WhatsApp dot net Steve, correct?
A. Correct.
Q. And the blue is attributed to who?
A. "T".
Q. Is there any other nomenclature besides "T"?
A. I mean, there's a bunch of numbers at WhatsApp dot net, but "T" is what it's assigned to.
Q. Okay. You went through a -- as an expert I guess you were asked to make decisions on how far and how quick picking up something would take to get to -- from Waycross, Georgia to Lexington, South Carolina, determining the movement of some sort of vehicle. That's -- that was the last thing that the solicitor asked you about, right?
A. I don't believe -- I've never heard of Waycross, Georgia, sir.
Q. Okay. Well, you were estimating the distance and how long it took, weren't you?
A. I don't know where Waycross, Georgia is, sir.
Q. I'm sorry. I thought you said earlier you knew something about Waycross --
THE COURT: It was Norcross. Norcross, Georgia.

MR. WILLIAMS: Norcross. I'm sorry, Your Honor. Thank you, Your Honor.

THE COURT: That's okay. I've got it written down. That's the only reason I remember.

BY MR. WILLIAMS:

Q. Okay. Norcross, Georgia; is that correct?

A. Norcross, Georgia is correct.

Q. And you were giving directions or you were saying how long it would take to travel from Norcross, Georgia to Lexington, South Carolina; is that correct?

A. Yes, sir.

Q. Okay. Now -- and the purpose of you're saying that is to show that that's about the right time looking at what you're looking at for this travel from that spot to that spot. Do you know if cell phones can be tracked?

A. Yes, sir.

Q. And you can -- you can ping towers to show the actual movement of vehicles?

A. Yes, sir.

Q. Do you possess that information in this particular case?

A. No, sir, I do not.

MR. WILLIAMS: That's all I have, Your Honor.

THE COURT: Thank you.

Redirect, Ms. Oppenheimer?

MS. OPPENHEIMER: Just briefly so that we're all clear.

REDIRECT EXAMINATION

BY MS. OPPENHEIMER:

Q. We all heard Investigator Phipps testify yesterday that the times of these messages were converted to Eastern Standard Time; is that correct?

A. That is correct, ma'am.

Q. All right. So the times that you and I went through earlier, those would have been in Eastern Standard Time?

A. Yes, ma'am.

Q. Now in your experience as a narcotics officer, do drug deals take a long time?

A. No, ma'am. Not -- not very long at all.

Q. So if you go down to Atlanta, Georgia to pick up three kilos of methamphetamine, are you gonna be there for hours and hours?

A. No, ma'am, you would not.

Q. Okay. About how long in your experience do drug deals take?

A. Very -- they're very brief. Sometimes it's just a pull up, exchange cash and then exchange the product, whatever it may be; heroin, methamphetamine, whatever illicit substance it is, but most of the time people don't chat and talk.

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MS. OPPENHEIMER: Thank you, Investigator Gietz.

THE COURT: Thank you, sir.

Any followup on that point, Mr. Williams?

MR. WILLIAMS: No followup, Your Honor.

THE COURT: You can step down, Investigator. Thank you.

(Witness excused.)

THE COURT: Ms. Oppenheimer? Mr. Smith?

MR. SMITH: Your Honor, at this time the State rests its case.

THE COURT: Thank you.

Ladies and gentlemen, the State has rested its case in chief. That means that you have heard now all of the evidence and testimony that you will hear from the State in the presentation of its case in chief.

Necessarily, at this juncture of every trial of this nature I have to deal with some matters of law outside of your presence and so I'm gonna send you into the jury room. I'll get you out shortly to let you know where we're gonna be headed and what the next phase of the case will be, but I remind you again not to discuss this case among yourselves while you're in the jury room. We'll get you out shortly to continue the morning's work.

Thank you.

(Whereupon, the jury retires to the jury room at

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10:14 AM.)

THE COURT: Mr. Williams, I will be glad at this point in time to note the renewal of all of your motions for mistrial, suppression and others that have been made during the course of the trial. I will renew my earlier rulings in regard to those motions without belaboring the record any further; however, I'll be glad to hear from you any additional grounds that you would like to lodge at this time and any additional motions, including the Rule 19 motion.

THE COURT: Oh, I'm sorry. Mr. Yonge.

MR. YONGE: That's okay, Your Honor.

So we'd start with our directed verdict motion. The State has failed to produce evidence sufficient to convict Mr. Brown of trafficking methamphetamine.

THE COURT: All right. Thank you.

We're all aware of the standard in this regard. It's a relatively low standard. First of all, I have to take all of the evidence and testimony in the light most favorable to the State, that is the nonmoving party, and if there is any direct or -- the rule says substantial -- or the case law says substantial. I rail against that use of substantial every time, but I'm not gonna belabor this record. But if there's any direct or circumstantial evidence which really tends to prove the

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guilt of the accused if the jury should choose to believe the evidence, then the motion must be denied, and in this particular case, of course, we have the -- the evidence, some circumstantial, some direct evidence in this regard, that if the jury tends to believe it they could find that the defendant is guilty of the crime charged.

For that reason the directed verdict motion is respectfully denied.

Yes, sir.

MR. YONGE: And one final argument we would make, Your Honor. I know you've already renewed all of our motions throughout trial on the record here, but we would just make the argument in closing that although you've ruled that individually these things, specifically Investigator Gietz's testimony regarding the other investigations, the juror note and the process of investigating the note and the discussion of the 5.22 grams of unrelated methamphetamine that was presented to the jury, I think you've ruled individually on all of those that, you know, none of them on their own would result in a mistrial, but we would argue that the cumulative effect of all these things would create a fairness issue and are likely to affect the outcome of the trial, so I would request a mistrial based on that.

THE COURT: And you're right, Mr. Yonge, and I

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think I may have commented on the record during my rant or tirade yesterday afternoon that it was the cumulative effect, of course, that made some of those motions much closer than they would have been individually, and so I did take into account, and I think the record reflects, the cumulative effect on how it has added weight in support of your motion, quite frankly, but not sufficient to carry the day, and so I note that continued and additional grounds as you've laid it out.

Thank you.

MR. YONGE: Thank you, Your Honor.

THE COURT: All right. Now, gentlemen, do you want me at this time to go over with Mr. Brown his right to testify, his right to remain silent? Is this the time appropriately for me to go over that or do you need to talk with him any more before I do that?

MR. WILLIAMS: Your Honor, I would probably need to talk to my client for a few minutes before we make -- and that way we could give a quicker response.

THE COURT: Exactly, and that's appropriate.

So let's go ahead then and take our -- our morning break or at least -- is ten minutes enough time or do you need more time than that, Mr. Williams? I'm just looking at 10:30. Is that enough time to go back on the clock or do you need more? Whatever you need.

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MR. WILLIAMS: That's good, Judge. 10:30's fine.

THE COURT: Okay. If it's not, get me word that it's not.

We'll stand in recess until 10:30.

Thank you.

(Recess taken at 10:19 AM.)

(Back on the record at 10:36 AM.)

BAILIFF: Court is back in session. Please have a seat.

THE COURT: All right. Mr. Williams? Mr. Yonge? Gentlemen?

MR. WILLIAMS: Yes, Your Honor. We -- we have talked to our -- to our client and he has decided not to take the stand. If the Court wishes to inquire as to his understanding of those, and obviously it's the Court's prerogative, we have no objection in suggesting it.

THE COURT: Will do. Thank you.

MR. WILLIAMS: Thank you.

THE COURT: All right. Mr. Brown, if you'll raise your right hand, please.

(Whereupon, Steven Daniel Brown was duly sworn by the Court.)

THE DEFENDANT: Yes, sir.

THE COURT: You can be seated.

Mr. Brown, you have already discussed with your

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lawyers what I'm gonna be talking with you briefly about, and that is your right to testify and your right not to testify. As you know, under our Constitution that no one can be compelled in a criminal proceeding to testify against them self. That means you have a right to remain silent. If you choose to exercise that constitutional right, that cannot and will not be used against you. The jury will be instructed in the jury room that they cannot even discuss the fact that you did not testify in their consideration and in their deliberation on your guilt or innocence, and so you have the right to say nothing at all and that cannot be held against you or used against you.

On the other hand, you have the right to testify if you choose to testify, and if you choose to testify you'll take an oath and you'll sit in the witness chair like everybody else has been questioned and you'll be questioned by the lawyers on both sides and you can be cross-examined, you can be impeached on any issue that is relevant in this particular case.

Do you understand the right to testify and the right not to testify, Mr. Brown?

THE DEFENDANT: Yes, sir.

THE COURT: Do you have any questions you want to ask me about those rights?

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THE DEFENDANT: No, sir.

THE COURT: And so understanding all of that, and as Mr. Williams has told me that you've decided not to testify, you have made that decision with a full understanding of your rights; is that right?

THE DEFENDANT: Yes, sir.

THE COURT: All right. Thank you.

Mr. Williams, Mr. Yonge, will the defendant choose to offer any other evidence or testimony in the trial of the case?

MR. WILLIAMS: We will not, Your Honor.

THE COURT: All right.

MR. WILLIAMS: And I note -- this always seems strange for me to make this comment, but in that we're not offering any evidence, this would be the conclusion of all the testimony that would be elicited, and I always wonder if I'm now supposed to ask that it be renewed, all the motions, the motions for directed verdict, because the standard has now changed.

THE COURT: Right.

MR. WILLIAMS: So as opposed to, I guess, asking the jury to come back out, we'd ask the Court to note that we made those motions at this stage.

THE COURT: Yes, sir. And you're exactly right and I think what we all do as trial judges is just out of an

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abundance of caution act as if they are made and ruled on so that the record is preserved in that regard, and I do that. I note the renewal of those motions and renew my earlier rulings and, once again, invite any additional motions or any additional grounds if there are any at this time.

MR. WILLIAMS: All right, sir. Thank you, Your Honor.

THE COURT: All right. Now this is an appropriate time, of course, to talk about charges to the extent that -- that we need to make sure that there's nothing novel or that we need to make sure that we include in this case.

At the -- there was a preliminary matter because of the development of this case, I raised the issue at the beginning of the case in the testimony of Mr. Gietz when he was talking about the background and the fact that this has been an on-going investigation for some time, my willingness to offer a curative instruction and chose not to do it at that time, it was early in the trial and a lot has happened since that time and the jury in all probability may have forgotten that comment, but there has been since that time, however, the introduction -- attempted introduction of evidence which is irrelevant to these proceedings and improperly shown to the jury,

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and I've dealt with that. We took a lot of time yesterday talking about that.

So I inquire at this point, Mr. Williams, Mr. Yonge, what sort of curative instruction, if any, do you wish for me to offer in connection with either or both of those events?

MR. WILLIAMS: At the risk of having the Court take me the wrong way, and I don't mean for the Court to take me the wrong way.

THE COURT: No, I don't.

MR. WILLIAMS: Too little, too late. I think if we reference to it now, Your Honor, we're certainly bringing that back up if I stand a chance at all.

THE COURT: I agree.

MR. WILLIAMS: Thank you, Your Honor.

THE COURT: Thank you.

All right. My standard felony charge, folks, and the burden of proof that I use in my instructions to the jury is from Victor versus Nebraska or State versus Darby. I alluded to it in my opening remarks to the jury, and that is proof beyond a reasonable doubt is proof that leaves you firmly convinced.

Now you are free under the rules to argue any reasonable doubt definition that our Supreme Court has adopted in the past, and I don't discourage that at

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all. I just don't want you to go too far out on a limb and say ladies and gentlemen of the jury, the judge is gonna tell you that a reasonable doubt is the type of doubt that would cause a reasonable person to act because I'm not gonna tell them that, so just -- just so you won't be misled in that regard.

I will instruct, of course, the fact that the decision of the defendant not to testify, as I told him I would do, and -- and, let's see. The credibility of witnesses, including the expert witness standard to use. I'll charge criminal intent. I'll charge the portions of the statute that are relevant in this particular case; that the defendant knowingly brought into this state or was in actual or constructive possession or attempted to be in actual or constructive possession of methamphetamine in the amount of 400 grams or more to prove possession, power and intent to control, actual and constructive possession, and mere presence is not enough alone.

That's sort of the standard thing. I don't go into all the stuff about manufactured, sold, cultivated, delivered, all that sort of stuff. It just adds nothing to the case except confusion.

Does that create a problem for anybody?

MS. OPPENHEIMER: Judge, just there's new law on

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the constructive possession charge, that an inference cannot be made by the jury that the defendant knew that the drugs were there just because it was on his -- on his property, and I believe that's --

THE COURT: Tell me that again. I stay away from inferences altogether.

MS. OPPENHEIMER: Oh, well, then that's fine. If you don't charge an inference, then it's proper. There's just been new case law in the last couple years that says the inference, that you can assume he knew --

THE COURT: Yeah, our Supreme Court over the years has shown its complete disdain for inference charges, and I stay away from it. Specifically, I'll say this. The defendant is charged with trafficking methamphetamine. The State must prove beyond a reasonable doubt that the defendant knowingly -- and I'm checking making sure I go over the ones -- brought into this state or was knowingly in actual or constructive possession or knowingly attempted to become in active or constructive possession of methamphetamine. The State must also prove beyond a reasonable doubt that the amount of the methamphetamine was 400 grams or more. To prove possession, the State must prove beyond a reasonable doubt that the defendant had both the power and the intent to control the disposition or use of the

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methamphetamine. Possession can be either actual or constructive. Actual possession means that the methamphetamine was in the actual physical custody of the defendant. Constructive possession means that the defendant had dominion and control or the right to exercise dominion and control of either the methamphetamine itself or the property on which the meth was found. Mere presence at the scene where drugs are found is not enough to prove possession.

That will be the entirety of my charge on trafficking unless somebody objects to a part of that or wants me to add something else to it.

MR. SMITH: Your Honor, those charges sound fine to us.

MR. WILLIAMS: None by the defendant. Those are fine, Your Honor.

THE COURT: All right. Thank you.

I'll charge the circumstantial evidence charge, which is from our case of State versus Herndon. The latest iteration of that time-honored and worn --

MR. SMITH: Your Honor?

THE COURT: Yes.

MR. SMITH: As a part of the State's exhibits during closing, we have prepared a demonstrative for the jury, and it simply mimics -- restates the language of

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the trafficking of meth 400 grams statute in light of your statement you will be charging brings into the State, possesses and is in knowing or actual or constructive possession. I just wanted to make sure that this exhibit we've prepared is not gonna run afoul of your instruction.

THE COURT: No, that statement is an appropriate statement of the law. I simply charge the portions of the law that are relevant in this particular case and I suppose as you're showing the law to them you'll emphasize those. Quite frankly, I wouldn't think you would want to make a big deal that it's a violation of law to knowingly sell, manufacture, deliver, purchase or bring into this state or provide financial assistance, or otherwise aids and abets and all those other things that the jury could look at that and say my, Lord, they've got to prove a whole lot here.

MR. SMITH: That's correct, Your Honor. The intent is to emphasize which portions of the statute are borne out by the evidence.

THE COURT: It's not inappropriate for the jury to see the law as long as the arguments are focussed on those parts that are relevant to the facts of this case.

MR. SMITH: Thank you, Your Honor.

THE COURT: Okay. I was getting ready to say that

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I will charge circumstantial evidence as well because of some of the testimony regarding -- especially of Investigator Gietz and other testimony similarly.

That -- I can't think of anything else as I have gone through the facts of this case. I'll be glad to hear exceptions to those charges or any requests for additional charges, first of all, from the State.

MR. SMITH: Could you repeat that, please, Your Honor?

THE COURT: I've indicated to you what my charge will be and I invite any exceptions or objections to those charges or any requests for additional charges.

MR. SMITH: Nothing from the State, Your Honor.

THE COURT: All right. Mr. Williams?

MR. WILLIAMS: Nothing from the defendant, Your Honor.

THE COURT: Thank you.

It appears to me, folks, that the verdict form is either guilty or not guilty, and let me show you -- I have a copy of the verdict form that my law clerk -- I've given my law clerk the day off. He's the one who did this.

Thank you.

MR. WILLIAMS: Thank you, Your Honor.

THE COURT: It speaks for itself. We, the

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jury, as to indictment, et cetera, for the charge of trafficking in methamphetamine, 400 grams or more, unanimously find defendant beyond a reasonable doubt is either guilty or not guilty and a place for it to be signed.

Is there any problem with the verdict form as it's presented?

MR. SMITH: No, Your Honor.

MR. WILLIAMS: No, Your Honor.

THE COURT: Those are copies for you.

MR. SMITH: Thank you.

THE COURT: All right. The jury will be brought back in and, Mr. Williams, Mr. Yonge, gentlemen, I'll allow you to rest in the presence of the jury and then I will advise the jury as to the status of things and then we'll go into the -- into the arguments. The State will, of course, present the first argument in full.

Who will argue or will both argue or how would the State handle the arguments?

MR. SMITH: I'll close for the State, Your Honor.

THE COURT: Okay. Thank you, Mr. Smith.

How about the defense? How will the defense argue?

MR. WILLIAMS: Your Honor, I'll do the closing argument.

THE COURT: All right. Thank you very much.

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MR. WILLIAMS: Thank you, Your Honor.

THE COURT: All right. I won't insult you-all either by talking about time limits. You can take whatever time you feel you need to take and you-all are experienced lawyers, some more experienced than others, but nonetheless you-all know that it's -- that my watch doesn't even count, it's the jury's time that you need to be concerned about.

All right. Are we ready for the jury at this juncture or do you need any more time to get ready for arguments, Mr. Smith?

MR. SMITH: The State's ready, Your Honor.

THE COURT: Mr. Williams?

MR. WILLIAMS: The defendant's ready, Your Honor.

THE COURT: All right. Good. Thank you.

Bring in the jury.

(Whereupon, the jury returns to the courtroom at 10:51 AM.)

THE COURT: Thank you, ladies and gentlemen.

As you know, prior to our recess the State had rested its case in chief, and I told you what that meant, and now we turn to the defendant who has the opportunity to offer evidence and testimony, but as you know, is under no obligation to offer evidence and testimony.

Mr. Williams.

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MR. WILLIAMS: We're prepared to rest, Your Honor.

THE COURT: Thank you.

The defendant has now rested its case in chief -- or its case entirely, so that means that you have heard now all of the evidence that you will hear in the trial of this case. You have yet to hear the final arguments that the lawyers will present to you and the charge or the instructions on the law that I will give you after that has been done.

The order of the process will be that, first of all, Mr. Smith, on behalf of the State is going to stand before you and make a final argument from the State's perspective, and when he has finished making the argument on behalf of the State, then Mr. Williams, on behalf of Mr. Brown, will make that argument, and after that has been done, then I will instruct you or charge you as to what the law is in this particular case and then you'll go into your jury room to deliberate and start your own discussion to start finally to talk about this case among yourselves.

You will have the evidence with you in the jury room during that period of time. Some of the evidence is electronic and if you need help in accessing any of that information, you let us know. We can deal with that. You might be savvy enough to be able to do it

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on your own. Nonetheless, all of that information that you've seen and heard will be available for you to review and to discuss in the jury room.

You have been a really good jury. You've been attentive throughout the trial of this case in spite of the fits and starts that we have had and you've been prompt, and I appreciate that, we all appreciate that, and we've tried not to waste your time, we really have, and I don't think that we have.

We have not done anything unnecessary in this case in our management of it here in the courtroom, the lawyers and myself, that's not necessary to ensure a fair and impartial trial.

So thank you for all of the attention that you've given now and I ask that you continue to give that same attention now to the lawyers as they make their final arguments.

Mr. Smith.

MR. SMITH: I beg the Court's indulgence for a moment while I get some things in position.

THE COURT: Okay.

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

THE COURT: Yes, sir.

MR. SMITH: Ladies and gentlemen, right in front of you here is nearly three kilograms of methamphetamine,

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about six and a half pounds. On June 29th of 2020, defendant, Mr. Brown, went to Norcross, Georgia and paid almost $40,000.00 for all this meth. He sent those messages using this phone, and we verified that it is his phone, his phone number, his WhatsApp account, and seen his conversations with his supplier.

My colleague, Ms. Oppenheimer, told you at the beginning of this trial that Steven Daniel Brown is a meth trafficker and all the evidence that you've heard this week has made that abundantly clear. On June 29th of 2020, Steven Daniel Brown left Lexington County, drove to Norcross, Georgia in the Atlanta Metro area, purchased this meth and brought it back into South Carolina.

You've heard about all the lead-up that went into this day. You've heard from Investigator Gietz all the police work he did. You've heard about the tips he received, how he followed up on them, how he did his homework. He didn't just receive a tip and say that's it, off we go, let's go get our guy. He followed up. He was thorough. He did -- he did the hard work of verifying the information he had and on June 29th of 2020 when Steven Daniel Brown's truck hit going to Augusta, he rallied a team. He got his -- he got everyone in position. He called highway patrol, asked them to get an interdiction team, and they waited, and

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at about 1:00 in the afternoon on this day they saw Steven Daniel Brown back in Lexington County, back in this truck.

You've heard from Trooper Shropshire about how he did his investigation. He observed traffic violations that defendant committed, which defendant himself conceded to during the course of the stop. Not quoting, but, yeah, I normally am not that close behind someone's bumper. You'll have that video with you back in the jury room. You'll be able to hear it for yourself and about the investigation that Trooper Shropshire went through. He already knows defendant's been in Georgia that day. He already knows where that license plate reader is. It's westbound on I-20 going towards Atlanta. It's past Augusta.

All the steps. All the questions. You've seen the video. Judge for yourself. Does defendant's story make sense? Well, lately, you know, I've been in Augusta. I don't exactly know where. We were looking for work, you know. Oh, well, yeah, we found some work. We were putting together a deck for this lady. You know, I still don't -- I still don't know where. All right. Well, do you have any drugs in the car? Do you have any marijuana? No. Any cocaine? No. Any heroin? No. Fentanyl? No. Pills? No. How about some methamphetamine? No. Look

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at the video. Judge that for yourself.

You've heard from Trooper -- from Sergeant Atwood and Sergeant Shropshire {sic} of the sheriff's department told you how about how a dog sniff works, how a narcotics detection dog operates. You've seen it yourself. They take the dog around the car. The dog does what he's been trained to do. He indicates to them. He alerts to them that he's tracking the scent and then he indicates. There it is. I've found something. And what did they find? All this in the back of that truck. Defendant's truck. The truck he acknowledged he's had for three or four years.

Ladies and gentlemen, an individual is guilty of the crime of trafficking in methamphetamine, 400 grams or more, if they knowingly purchase or bring into the state. Well, we know he purchased it. We know what he paid for it. Brings into the State. Even if you believe every word the defendant tells you or defense has told you, he's in Georgia, he comes back into South Carolina with that in the car.

Or who conspires to purchase or bring into the state. The evidence shows that, too. The conversations between defendant and "T". They're haggling over the price. How much can I get? How much per kilo is this going to cost me? How much do you have? They settle

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on these three. Three kilos for $39,000.00.

Who is knowingly in actual or constructive possession or who knowingly attempts to become in actual or constructive possession of. It's in his truck, you-all. It's in his truck and he knows exactly where it is. Investigator Gietz walks on the scene. He said it's in the back floorboard. There's no mystery. There's no what is that? How did that get there? No. He knows exactly where it is.

Of methamphetamine. You heard from our chemist, Ms. Walker. It's meth, it's confirmed, and the quantity involved is 400 grams or more. Ladies and gentlemen, each one of these bags alone has more than 400 grams of meth in it. Combined I believe the exact figure Ms. Walker gave was 2,917 grams. Seven times that threshold and some.

Now, ladies and gentlemen, we've heard a bit from defense in this trial during cross-examination. What I anticipate the closing argument might be, and what the defense will ultimately be, and I submit to you that it's just noise. It's just distraction. Look over here. Look over there. What about this? What about that? Everything but looking at what's clearly and directly right in front of you. There's no substance to it. There's no there, there for this defense.

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Well, okay. Well, we'll try to hit them up from the license reader on the Interstate. Did you -- were you tracking the vehicle the whole time once it passed that license plate reader? Did you know where it was at all times? Did you ping a cell tower? Because a cell tower can ping where he is. No. We don't know where his vehicle was every moment once he passed that license plate reader. We don't have that information. We don't have any cell tower information. We're not hiding it from you. We don't have it because it's not there, but it doesn't matter. It does not matter one bit.

We have defendant's own words, his own communications from his phone about where he started, where he went and where he came back to. Ladies and gentlemen, it doesn't matter if every member of the Atlanta Falcons was inside and outside of his truck on June 29, 2020, because Steven Daniel Brown came back into this state with this meth in that truck alone. Alone.

They asked at one point to Investigator Gietz well, is that LPR reader accurate every single time? Does it have a zero percent fail rate? It doesn't matter. What matters is was it accurate this time? Was it accurate on June 29, 2020? And it was. It was. The license plate reader hit, Investigator Gietz got a picture of this truck, front and back, and this is the same truck

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that came back into South Carolina. There's no mystery here.

They asked Investigator Phipps well, what if the phone was hacked? What if somebody else was using it? Do we know that that's Steven Daniel Brown's WhatsApp account? How do we know? That's a distraction because it doesn't matter. It's his phone. We know it's his phone. It matches his phone number. It matches. It matches his WhatsApp account, Steve-O. You heard from Investigator Gietz it's a known nickname for him and, again, ladies and gentlemen, I emphasize this again. It doesn't matter what point they tried to make about the phone because he came back with this meth in that truck alone and he knew it was there. Someone didn't sneak this in without his knowledge. It didn't just magically appear there. He knew it was there. He told law enforcement it was there.

So, ladies and gentlemen, you are the judge. You will be the judge of the facts of what happened in this case. You will make the ultimate decision to a verdict. In a little while, Judge Cooper is going to provide you with the law that you must apply to this case, but before we get there I want to try and tell you in my own words a little bit about the law that he is going to apply -- charge you to apply, and that is language here in the

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statute.

Knowingly in actual or constructive possession. Our law provides us for two ways to establish that you are in possession of something. There's actual possession, being in the physical custody. The watch on my wrist, the wallet, all my effects I have in my coat pockets, those are actually in my possession, they're on my person.

And there's constructive possession. Knowledge of something in a location where you have -- where you have dominion and control. Dominion and control, what's that mean? That means it's in an area that belongs to you that you have the right to control what happens to it. His truck. He knows where it is. He went to pick it up. He has the right to dispose of this, to do with this, to have done with this what he would have.

The judge will instruct you on the difference between direct and circumstantial evidence. Direct evidence is simple enough. It's something that a witness has directly seen, heard or smelled. Something that is directly perceived. An example I like to give is you're sitting at your house one day in the winter. You look outside and you see that it's snowing. You're perceiving it. No one has to tell you that it's happened. You don't have to deduce that it's happened. You can see it. You know it.

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There's also circumstantial evidence. Our law makes no distinction between the two as to their evidentiary value, but circumstantial evidence requires a little bit more doing and thinking. So you're at your house one night again. It's winter. You go to sleep and you wake up the next morning and your yard is blanketed with snow. You look across at the neighbor's yard. Perhaps they're sledding down a hill. Not the most realistic scenario I know in South Carolina, but they're sledding down a hill, building a snowman. Now did you directly see that it snowed overnight? No, you didn't, but you know it snowed. You have enough evidence around you. Enough pieces of the puzzle that lead to the logical conclusion that it snowed. That's circumstantial evidence, ladies and gentlemen.

And perhaps most importantly, the judge is going to instruct you that as representatives of the State, Ms. Oppenheimer and I have the burden of proving the defendant's guilt to you beyond a reasonable doubt. Beyond a reasonable doubt. That's the highest of burden of proof in the American legal system, but it doesn't mean beyond all doubt. We don't have to prove this to you to an absolute certainty. We don't even necessarily have to prove to you that a defendant's been caught red-handed, but in this case he was. We simply -- we

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have to present enough evidence to you to leave you firmly convinced of the defendant's guilt. If at the end of this case when you go into the jury room, if you-all talk, you-all agree, if you are firmly convinced that defendant is guilty, we've met our burden.

Ladies and gentlemen, you're going to have all this evidence available to you back in the jury room. It will be right there for you to review. There is no reasonable doubt in this case. There just isn't. Steven Daniel Brown is a meth trafficker. Find him guilty.

THE COURT: Thank you, Mr. Smith.

If you'll remove these things right now, please, sir.

MR. SMITH: Yes, Your Honor.

THE COURT: And clear the screen as well. Thank you.

Mr. Williams.

MR. WILLIAMS: May it please the Court?

THE COURT: Yes, sir.

MR. WILLIAMS: So I was talking to my wife last night when I came home from trying the case. Of course, everybody in my office talks about the case. We get to talk about the case because we're not the jury. And she said -- she was berating me about bringing up stuff that the jury wouldn't know. She said why did you bring up

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Huntley and Brinkley? People don't know about that. That's because of your age and you can't relate to the jury, which is a terrible thing to say. I guess I'm on my way out by those types of things, but I say that not by -- not by way of telling you that I'm headed for a retirement plan or anything like that, but I'm saying that because it is so important that we continue to keep in our minds the importance of the jury system.

And I mentioned something earlier about the twelve jurors and things like that and we grow accustomed to being -- being told what to think. We've -- we've grown accustomed to being -- I guess not even appreciate the fact that we live in America. There have been -- I've seen it in the newspaper where the younger generation don't even think about America in terms of America's right, America's wrong, we need -- you know, any number of things like that. We're led around the nose a lot of times, but the thing that sets us apart from every other country is the fact that we believe in justice. We believe in the system. We believe in the jury system. We believe that twelve jurors will make the decision on what the facts are in a case, and that sets us apart. It's important.

Now what we've listed to today or the day before and the day before that were a number of things that

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were presented, and I don't mean anything by this, I don't want you to get caught up into pictures, things like that. I want you to use your common sense and think about the witnesses that have testified and what was not testified to because when you make up your mind in regards to what you believe to be true or -- and the importance of that as it applies to the law, then you have the right to consider it. Why was this presented? Why was this not presented? The one thing that I know that you will remember is that you have to be firmly convinced before you can make any kind of decision on guilt. Any kind of decision on guilt.

So if you just look at how this case came through, I'm sure that there will be some questions in your mind, I hope, in regard to how it went through. I would suggest to you that this was not -- it was not a stop of crossing the center line and following too close. My opinion. You can have any opinion you want, but I'd ask that you sit around and stare at that video a little while and see if you think that was what was actually going on because it doesn't appear to be that way. And I want you to study the video and see if you think that the dog actually hits on some area where the drugs were because you can make up your own mind on those things like that.

You can make the decision if it's your normal

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occurrence to sit around for, I don't know, ten, fifteen minutes before you're allowed to leave. I want you to consider how important it is for you to have a warning ticket handed to you and then pulled away. It's almost like fishing or something like that. The process is as important as anything else that goes on when you talk about convicting people.

I'd ask you to -- to consider that we've heard a lot of things about where my client went, where he didn't go, and you've had -- you've heard testimony and you've had maps drawn, and I think you've got State's Exhibit Number 2 and State's Exhibit Number 3, which appears to be some sort of chart. You've got photographs taken of the alleged -- my client's truck and then you have this elaborate testimony about there being license plate readers that have taken pictures of my client leaving South Carolina, coming back into South Carolina, going to Georgia, turning around and coming back, but do you have those pictures? It's a license plate reader. It takes a picture, right? Why do we not pick those things which you can tangibly hold in your hand and look and use your own mind to say well, I think this is what this is. We just don't have those to review and that's why there was a question asked earlier about well, you're guessing at the amount of time it -- because this is a guess.

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It's guessing how long it takes to go from one area to another and coming back and you can't say who's in the car and all that other stuff, but if you had pictures you could see who was in the car and who wasn't in the car. You know that you can tell the travelling of a car by virtue of a cell phone if the cell phone's in the car. The general population knows that. But we don't have that. That wasn't done. We don't have that. That's what they admit. They don't have that. Well, why not have that? Are any of these things -- do they tend to make you think that I'm not firmly convinced of what's going on?

Further, everybody says it's Steve's phone. Everybody says it's Steve's phone and phone number, right? What's the easiest way to prove that a phone is yours or that your phone number is such and such? I don't know. You probably pay a telephone bill. You probably could get a copy of a telephone bill which has the name of the person who owns the telephone, as well as where he lives and what the phone number is. Why not present that? But we want to insinuate that Steve-O is Steve and "T" is some guy he's dealing with. Some people call me "T", but I assure you I don't live in Georgia and I wasn't on the phone talking to Steve. Why not just bring the records that prove these things? Unless you

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don't want to know all the answers.

Well, the most bothersome thing in this whole mess is that once these license plate readers come on, then supposedly there is this communication, there is this phone calling to various individuals with law enforcement, there are texts sent out notifying them of what to do and things like that or the fact that this is occurring. We don't have any -- have you noticed we don't have anything in writing? I mean, nothing. We don't even -- nothing in writing. Why? I bet if you were going home and had to prove something to somebody you could pull out a piece of paper that you had that you own a phone or that you had gone somewhere or something like that to substantiate all this.

We even had people who tell us what words mean, what things mean. It's called an expert in drug slang. I don't know what that is. Why not have the box that these drugs were in? There's a picture in there of a Smirnoff box, right? That's what they were allegedly in. You'll see the pictures. Why don't we have that box so that we can -- I don't know, did somebody test that to see if he actually touched it? No. Yet you're concerned about the drugs in the back if there are drugs there.

Everything's just kind of based on surmise. Did

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you hear Steve say that in the back seat, on the back seat, in the floorboard there is methamphetamine? He never said what was back there. He made some comment oh, it's back there. Who knows what he was talking about?

You've -- you've got the heavy burden of trying a case and making sure that there's proof beyond a reasonable doubt, but it would be so easy if you were trying to prove that to give you something tangible to hold, to look at, to prove that. And you see Mr. Brown has nothing that he has to prove. He doesn't have a thing to do. The burden of proof is -- I kind of -- I don't know how to express this to you because sometimes you're in a difficult position and you want people to understand that with all the available sources that people have to prove things, you could prove it if you wanted to prove it and you could prove anything you wanted to prove, whether it were true or not, but we don't do that. We bring out what we think will convince somebody. Well, this is not a magic show for me and I want everyone here to do what their job is.

And I know there was a lot going on this week, but I've never known a jury not to do what they're supposed to do, and that is think about the case and make decisions based on the evidence or the lack thereof, and if the

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jurors feel like there's not enough evidence or that it hasn't been proven beyond a reasonable doubt, they normally come back with that decision.

I want you to remember I talked about the twelve wise men here. That means that each and every one of you is a judge in itself. It's your decision in regards to what you believe. Of course, you listen to other people, but it's your decision, so don't be swayed to some decision that you don't believe in.

I'm gonna sit down here because what I'm saying basically is I'm just kind of talking right now. I hope I've indicated to you that if it's not there, you can't make a decision, and there was a lot of other stuff that they could have brought to indicate if it was there. So maybe there's something that they're not bringing that they don't want you to see.

Thank you.

THE COURT: Thank you, Mr. Williams.

Madam Clerk, will you hand me up the indictment, please, ma'am.

THE CLERK: (Handing.)

THE COURT: Now, Mr. Foreman and ladies and gentlemen of the jury, please give me your attention for a few more moments now. You have been patient throughout the trial of this case, you've listened to

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the lawyers as they have presented their final arguments, and I ask that you please give that same attention to me as I instruct you or charge you as to what the law is because that, as I have told you from the outset, is my responsibility; that is, to charge you, to instruct you, as to what the law is in this case, and it is your duty as jurors to accept the law as I state it to you now to be the correct law.

Both the State and the defendant have the right to expect that you will conscientiously consider and evaluate the evidence in this case and that you will apply the law of the case to that evidence to the end that both the State and the defendant will receive a fair and impartial trial at your hands.

Throughout the course of this charge, ladies and gentlemen, when I use the word "defendant", I'm referring to Mr. Steven Daniel Brown. Mr. Brown has been indicted and in this indictment he is charged with trafficking methamphetamine. The indictment says in salient part, that Steven Daniel Brown did in Lexington County on or about June the 29th of 2020 knowingly and intentionally bring into this state or was knowingly and intentionally in active or constructive possession or did knowingly and intentionally attempt to become in actual or constructive possession of methamphetamine in a quantity of 400 grams

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or more in violation of the law.

I remind you, again, as I told you before we started the trial, that the indictment itself is not evidence of the charge. It is not proof of the charges. It's just a charging document that tells any of us what this case is all about. And to the charges in the indictment, as you know, Mr. Brown has entered pleas of not guilty and has requested a jury trial at your hands.

The plea of not guilty by a defendant in a criminal case has a legal effect of placing the burden of proof on the State to prove by evidence the guilt of the accused beyond a reasonable doubt before you can convict him and find him guilty. Mr. Brown is presumed in law to be innocent of the charges contained in this indictment. It is a cardinal and fundamental rule of our law of evidence that a defendant regardless of the nature of the charge or the seriousness of the charge against him will always be presumed innocent of that charge unless and until the State has proven that he is guilty beyond a reasonable doubt.

The presumption of innocence is not an empty legal theory or an empty phrase. The presumption of innocence is like a robe of righteousness which is placed about the shoulders of the defendant. It assigns to that defendant the class known as the innocent and that presumptive role

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of righteousness continues to rest about the shoulders of a defendant until it has been stripped from his person by evidence, evidence that satisfies of you of his guilt beyond a reasonable doubt. It follows him from the time of his arrest and throughout the course of this trial. It even continues to exist to his benefit after you go into the jury room and start talking about this case among yourselves. The presumption of innocence continues to exist to the benefit of the defendant unless and until you, as the jury, reach the conclusion that the State has proven his guilt beyond a reasonable doubt and so the State then has that burden of proof beyond a reasonable doubt.

Some of you have perhaps served as jurors in civil cases before and if you served as a juror in a civil case, you were told by the judge in that particular case that it was only necessary for the party that had the burden of proof to present evidence to you on that party's side of the issue that was more convincing to you than the evidence was on the other side. But here in criminal cases, the State's proof has to be more powerful than that. It has to be more powerful than something is more likely true than not true. Here it has to be proof beyond a reasonable doubt.

So what do we mean by proof beyond a reasonable

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doubt? Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. Now there are very few things in this would, ladies and gentlemen, that you and I know with absolute certainty, and in criminal cases the law doesn't require proof that overcomes every possible doubt and so if, based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crime charged, you must find him guilty. If, on the other hand, you think that there's a real possibility that he is not guilty, you must give him the benefit of the doubt and find him not guilty.

And reasonable doubt can arise from evidence in the case. It might arise from the lack of evidence in the case, but you, ladies and gentlemen, have to decide whether or not reasonable doubt exists as to the guilt of this defendant.

I tell you that the defendant is entitled to every reasonable doubt arising in the case and so if on any issue of fact which is essential to a conviction and a verdict of guilty, you have a reasonable doubt as to how that issue should be resolved, it is your duty to resolve that reasonable doubt in favor of the defendant.

A defendant, I remind you, is never required to prove his innocence, but the State is required in law to prove

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every essential element of the offense charged against him by evidence that satisfies you, as a jury, of his guilt beyond a reasonable doubt before you can convict him and find him guilty.

And in that regard, I tell you that the fact that this defendant did not testify in this case is not a factor to be considered by you in any way in your deliberations and in your consideration on the question of his guilt or his innocence. It must not be considered by you in any way whatsoever because an accused has a constitutional right to remain silent and if he chooses to exercise that right, that fact cannot be considered by you in your deliberations, and so under your oath you are to reach no inference or you draw no conclusion whatsoever from the fact that Mr. Brown did not testify in this case. His decision not to testify should not even be discussed by you in the jury room. It is not to enter into your mind in making your decision.

The State has the entire burden of proof and the accused has no burden of proof at all and, therefore, then if upon the whole case you have a reasonable doubt as to the guilt or the innocence of the defendant, he is entitled to that reasonable doubt and would be entitled to an acquittal and a verdict of not guilty. But on the other hand, if upon the whole case you find that

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the State has proven by evidence that satisfies you of his guilt beyond a reasonable doubt, then in such circumstances it is equally your duty to convict the defendant and to find him guilty.

Now during the trial, ladies and gentlemen, each of us has our separate and distinct duties to perform. As I have told you, I'm the trial judge and it's my responsibility to preside over the trial of this case and I also have the duty to rule upon or pass upon the admissibility of the evidence which has been offered during the course of the trial. You are to disregard and disavow from your mind anything that I've ordered stricken from the record during the course of this trial, if there's been anything like that, and you are to consider only the testimony which has been presented from this witness stand together with the exhibits, which have been admitted into the record of this case.

And I have the additional duty to instruct you then as to the applicable law of the case. I am the sole judge of the law and it is your duty to accept and apply the law as I state it to you now to be the correct law.

You may have brought with you into your service as jurors this week some preconceived idea about what you think the law is or you might have some preferences

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about what you would like the law to be, but I tell you if your preconceived ideas about what you think the law is or your preferences about what you would like for the law to be disagree with what I'm telling you now the law actually is, you are obligated under your oath to forget what you think about what the law should be or what you would like for the law to be because you're bound to accept the law precisely as I state it to you now to be the correct law.

And so in every case then tried in this court before a jury, you, as the jury, are the sole and exclusive judge of the facts. You're the judge of the facts and since I'm the judge of the law, our constitution has said I can't comment upon the facts, so I can't intimate to you anything that I might have an opinion about the facts on any issue in this particular case and so since you're the sole judge of the facts of the case, you're not to gather from anything that I have said during the course of this trial or anything that I'm saying to you right now that I have an opinion about the facts of the case. That is solely a matter for you, ladies and gentlemen, to decide.

And so as jurors then in deciding the facts of the case, it is your duty to determine the effect and the value and the weight and the importance of the evidence

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which has been offered during the course of the trial.

Now as you make this decision about the facts of the case and what you believe, there are a lot of things that you can take into account. You must necessarily pass upon the credibility, which is another word that just means believability, of the witnesses and you must decide the effect and the value and the weight that you will give to their testimony. You and you alone have to decide the force and the effect and the believability of the testimony that you have heard.

Now there are a lot of things that you can take into account when you're making this decision about credibility and believability. You can take into account the appearance of the witness as he or she testified from the witness stand, the manner of the witness, in other words, as he or she testified. We sometimes call that the demeanor of the witness. How did the witnesses appear to you as he or she was testifying? Was the witness testimony consistent or was it inconsistent? Was it forthright? Was it hesitant? What was the ability of that witness to know the things that the witness was talking about? Did the witness have a reason to be biased or prejudiced in favor of the testimony that was being given? Was the testimony made stronger by other evidence or was it made weaker by other evidence?

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Because as jurors, folks, you've got the right to believe a small portion of the testimony of a single witness and to disbelieve the larger portion of the testimony of that same witness or you can do it the other way around. You can believe all of what a witness tells you or none of what a witness tells you, but you don't exercise these considerations just arbitrarily. There's got to be a reason for it. There has to be a reason for you to exercise your discretion in that regard and what that means is you use your mental process and as you determine what you consider to be true -- excuse me -- as you determine what you consider to be the facts of the case, what you consider to be believable, the law simply requires that you exercise your good judgment, your common sense, your sense of logic and reason and your experiences in life, and you apply these abilities that you have to the evidence that you have heard and you determine what you consider to be the credible witness -- credible evidence in the case and then to the credible witnesses and evidence that you find to exist you apply the law that I'm giving you now and, thus, arrive at a verdict which will speak what the true facts are in this particular case.

Now, ladies and gentlemen, I instruct you now as to what the law is on the specific charge of trafficking

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in methamphetamine. Before I do that, let me tell you one more thing about witnesses. The rules of evidence don't normally allow a layperson like you or me to testify about opinions on what we have seen or heard. We can tell you what we saw or what we heard, but we can't tell you what conclusions we drew from that, but expert witnesses are different. Expert witnesses are those folks who because of their training, their knowledge, their experience they have become experts in certain fields and certain areas and those persons are allowed to express their opinions on matters in which they have been qualified to be an expert and you will consider expert opinion testimony just like you would any other evidence and you give it the weight you think it should receive.

If you think that the opinion of an expert is not based on sufficient training or education or experience or if you conclude that the reasons given in support of that opinion are not sound or that that opinion evidence is outweighed by other evidence, you can disregard it entirely because, as I have said, the testimony of an expert witness is to be given no greater weight than that of any other witness. You can accept it or reject it or believe it or not believe it according to your view of the evidence in the case.

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Now the statute charging trafficking in methamphetamine says in essential part, the defendant is charged with trafficking in methamphetamine and the State has to prove beyond a reasonable doubt that the defendant knowingly brought into this state or was knowingly in actual or constructive possession or knowingly tempted to become in actual or constructive possession of methamphetamine, and the State must also prove beyond a reasonable doubt that the amount of the methamphetamine was 400 grams or more. So the burden then is on the State to prove beyond a reasonable doubt that this defendant brought into this state or was knowingly in actual or constructive possession or attempted to become in actual or constructive possession of more than -- of 400 grams or more of methamphetamine.

Now to prove that somebody is in possession of something, the State must prove beyond a reasonable doubt that the defendant had both the power and the intent to control the disposition or the use of the methamphetamine. In possession can either be actual or constructive.

Actual possession means that methamphetamine was in the actual physical custody of the defendant himself and constructive possession means that the defendant had dominion and control or the right to exercise dominion

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or control over either the methamphetamine itself or the property or place on which the methamphetamine was found. Mere presence at the scene, however, where drugs are found are not enough to prove possession.

In order to establish criminal liability, the State has to prove criminal intent. The defendant is charged with knowingly being in possession or knowingly bringing into the state and that means that he -- the State has to prove his intent to do these things. Criminal intent has to be proven beyond a reasonable doubt.

Now criminal intent is a mental state. It is a conscious wrongdoing. It's impossible for us to take off a person's head and look into his brain to decide what he or she had in mind at the time and so it's up to you as the jury to determine what the defendant intended to do based on the circumstances which were actually shown to have existed at the time.

Now the State attempts to meet its burden of proof beyond a reasonable doubt by introducing both direct and circumstantial evidence. Because there are two types of evidence which are generally presented in the course of the trial and direct evidence is evidence that directly proves the existence of a fact. It doesn't require any deduction or conclusion. Circumstantial evidence, on the other hand, is proof of a chain of facts and

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circumstances which indicate the existence of another fact. Crimes can be proven by circumstantial evidence and the law doesn't make any distinction between the weight or the value that you give to either direct or circumstantial evidence; however, to the extent that the State relies on circumstantial evidence, the circumstances must be consistent with each other and when taken together they must point conclusively to the guilt of the accused beyond a reasonable doubt. If the circumstances merely portray a defendant's behavior as suspicious, then the proof has failed. So the State then has the burden of proving the defendant guilty beyond a reasonable doubt and that burden rests with the State regardless of whether it relies on direct evidence, circumstantial evidence or some combination of the two.

Now, ladies and gentlemen, finally, let me tell you -- finally. That's a word you've been hanging on to hear.

Finally, let me tell you that you are not partisans or advocates for either the State of South Carolina or this defendant. You don't serve as jurors to reward your friends, nor to punish your enemies. Obviously such a perverted system of justice would not be justice at all. You've been selected by both the State and this defendant to be fair and impartial jurors and so it is

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your duty then by your joint deliberations to determine the facts in the case giving to this defendant the benefit of every reasonable doubt on each and every issue and then to the facts which you determine to exist you take and apply the law which I've just given you and, thus, arrive at a verdict which will determine the facts of this case, and once you have accomplished that, you will take the facts that you have found and apply the law that I have just given to you and those two things will come together to result in a verdict in this case and you will have satisfied your oath as jurors and you will have discharged your duty to this Court.

I now want to instruct you as to the forms of verdict in this case.

Mr. Paris, if you will give this verdict form to the foreman.

BAILIFF: Uh-huh.

THE COURT: Thank you.

The verdict from is being given to the foreperson because he's the one that's got to fill it out, but obviously it will be the verdict of all of you. The verdict has to be unanimous.

And, Mr. Foreman, you're not authorized to fill out that verdict form nor decide it until all twelve of

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your number have agreed as to what the verdict shall be.

There are only two possible verdict forms in this particular case and the order that I have written those down on that sheet of paper doesn't mean anything at all. You're not to draw any conclusion or reach any inference whatsoever from the order that I have written them down there. I have simply written them in the order that I find easiest to explain them.

The forms of the verdicts are we, the jury, as to the indictment number, for the charge of trafficking in methamphetamine, 400 grams or more, unanimously find beyond a reasonable doubt that the defendant, Steven Daniel Brown, is, and the first possible choice of verdicts is guilty. That's a verdict that you will arrive at if you found that the State has met its burden of proof beyond a reasonable doubt as I have instructed you on the elements of the charge of possession -- excuse me, of trafficking in methamphetamine, 400 grams or more. If the State has met its burden that the defendant -- that you're firmly convinced that the defendant is guilty of trafficking methamphetamine, 400 grams or more, that's the verdict you will arrive at. And you will indicate that, Mr. Foreman, but putting an X or a checkmark in the blank that you see we have provided by that possible verdict form.

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The other possible verdict form is we, the jury, as to the indictment charging trafficking in methamphetamine, 400 grams or more, unanimously find beyond a reasonable doubt that the defendant, Steven Daniel Brown, is not guilty. That's a verdict that you will arrive at if you find that the State has failed to meet its your burden of proof as I have instructed you as to the elements of that charge.

And, likewise, Mr. Foreman, you will indicate that if that's the verdict form that the jury arrives at by placing an X or a checkmark there to the left of that choice.

Once that you have filled out the verdict form, then you will sign it and date it and knock on the door and we'll bring you out and receive the verdict at your hands.

There is, as I told you at the outset, electronic evidence in this particular case. We can either send that technology in or bring you out to look at that depending on what it is and what you need to see. You let us know what you need and we'll see that you are provided with it. We want you to have the benefit of all of the evidence that's here and spend as much time as you want to and examine that in as great a depth as you want to, and you let us know if you have any

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difficulty accessing any of that.

Of course, there's drugs and some other material here. I don't have to instruct you not to handle that directly. It will be placed in there somewhere where you can have access to look at it. You know that you should not handle it directly, but if you need to have it and move it around we'll give you some gloves so you can use that, but we would prefer that you not handle it or examine it any more than you need to to satisfy yourself as to what it is.

Now I'm gonna send you to your jury room. I ask that you wait just a moment before you begin your deliberations. I've got to talk with the lawyers to see if I've misstated anything or if I have left out anything and if I have I'll bring you back out to correct that, but if I don't have to bring you back out, we will send in the items of evidence.

Once the items of evidence have been brought in, Mr. Foreman, that will be your signal to begin your deliberations. You will deliberate then until you have reached a verdict at which time you will fill out the verdict form and, as I said, knock on the door and we'll bring you out to receive the verdict at that time.

Ladies and gentlemen, please retire to your jury room.

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Mr. Jones, if you'll stay in place where you are, I'll deal with you in just a moment, okay?

The rest of you folks if you will retire to your jury room at this point in time.

Thank you so much.

(Whereupon, the jury retires to the jury room at 11:50 AM.)

THE COURT: Are there any exceptions or requests for additional charges from the State, Mr. Smith?

MR. SMITH: Nothing from the State, Your Honor.

THE COURT: Mr. Williams?

MR. YONGE: Your Honor, just -- I probably missed it. Was it said it needed to be unanimous?

MS. OPPENHEIMER: (Nods head.)

THE COURT: Right.

MR. YOUNG: Okay. Well, I'm good now. I apologize.

THE COURT: That's okay.

MR. WILLIAMS: I saw no exceptions, Your Honor.

THE COURT: All right. And that's okay. I have -- you know, on occasion I have forgotten. One time I actually sent an alternate into the room -- into the jury room.

(Discussion off the record.)

THE COURT: And that's what I'm about to do right now, Mr. Jones, with you.

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While I'm talking to Mr. Jones, if you-all want to look at the evidence and get it together and make sure it's all in order.

Mr. Jones, I'm gonna be able to excuse you now and let you -- and let you go home with our thanks for having served faithfully and being equally capable as any of those folks who will now render a verdict. Your role as you have no doubt figured out was if any of those had not been here today and we'd been short a juror, if you had not been there, we'd have to start this whole case all over from scratch. We couldn't just throw in somebody else. So when I saw you were here every day and knew that you were here, I knew that we were gonna be able to conclude it.

You're free to go now. You can talk about this case with anybody if you want to, but you don't have to. You don't have to discuss it with anybody if you don't want to. You'll get a check sometime in the not too distant future. Not to begin to pay you for the time that you spent with us, but please add our gratitude to your services and I hope you will be somehow or another compensated.

If you need a juror slip explaining to anyone where you've been during these -- the rest of this week, you can get one from the clerk's office, all right?

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Thank you.

(Pause in proceedings.)

THE COURT: Okay. Does the evidence all appear to be in order?

All right. Is it all in order?

THE COURT REPORTER: Yes.

MR. SMITH: Yes, Your Honor.

MS. OPPENHEIMER: Yes, Your Honor.

THE COURT: Madam Clerk, do you take it in or does a bailiff take it in?

THE CLERK: They can.

THE COURT: All right. As soon as it's all properly loaded, if you'll take it in and instruct them to begin their deliberations, and you can talk with them about the lunch possibilities.

THE CLERK: Yes, sir.

THE COURT: Mr. Williams, Mr. Yonge, I have asked the security folks to escort Mr. Brown into a separate holding area during these deliberations. I hope you understand that. Just separate from the courtroom itself during deliberations.

And I appreciate the fact that he has been faithful to his responsibility to be here since we started, but it's a little bit different situation now.

All right, folks. We'll stand aside until we hear

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from the jury.

(Whereupon, the evidence was submitted to the jury room and deliberations commenced at 12:00 PM.)

(Back on the record at 1:46 PM.)

BAILIFF: All rise. Court is back in session.

THE COURT: Thank you, folks. You-all can be seated.

Ladies and gentlemen, I'm advised that the jury has reached a verdict.

Are both the State and the defense ready to receive the verdict?

MR. SMITH: The State is ready to proceed, Your Honor.

THE COURT: Is the defense ready?

MR. WILLIAMS: The defense is ready, Your Honor.

THE COURT: Thank you. Bring us the jury, please.

Come on in.

(Whereupon, the jury return to the courtroom at 1:49 PM.)

THE COURT: Thank you, folks. You-all can be seated.

THE CLERK: Mr. Foreman, were you-all able to reach a verdict?

FOREPERSON: Yes, ma'am.

THE COURT: Is the verdict unanimous?

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FOREPERSON: Yes, ma'am.
THE CLERK: If I may have it.
FOREPERSON: (Handing.)
THE CLERK: Thank you, sir.
THE COURT: Madam Clerk, you can publish the verdict.
THE CLERK: Okay. Indictment 2020-GS-32-01970, the State versus Steven Daniel Brown. We, the jury, as to the following charge of trafficking in methamphetamine, 400 grams or more, unanimously find beyond a reasonable doubt the defendant guilty.
So signed by the foreperson today, August the 10th, 2023.
THE COURT: Ladies and gentlemen, if that's the verdict of each of you, would you indicate by raising your right hand, please.
Thank you.
The record should reflect that all twelve of the jurors are recorded in the verdict.
Ladies and gentlemen, the Clerk is now going to poll you individually regarding the verdict. She will call your number and then ask you two questions and you respond appropriately to those questions, please.
Madam Clerk.
THE CLERK: Juror Number 165, if you'll raise your

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hand.

Is this your verdict and still your verdict?

JUROR NUMBER 165: Yes.

THE CLERK: Juror 24, is this your verdict and still your verdict?

JUROR NUMBER 24: Yes, ma'am.

THE CLERK: Juror 160, is this your verdict and still your verdict?

JUROR NUMBER 160: Yes, ma'am.

THE CLERK: 29, is this your verdict and still your verdict?

JUROR NUMBER 29: Yes, ma'am.

THE CLERK: 184, is this your verdict and still your verdict?

JUROR NUMBER 184: Yes, ma'am.

THE CLERK: 186, is this your verdict and still your verdict?

JUROR NUMBER 186: Yes.

THE CLERK: Juror 209, is this your verdict and still your verdict?

JUROR NUMBER 209: Yes, ma'am.

THE CLERK: 53, is this your verdict and still your verdict?

JUROR NUMBER 53: Yes, ma'am.

THE CLERK: 211, is this your verdict and still your

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verdict?

JUROR NUMBER 211: Yes, ma'am.

THE CLERK: 65, is this your verdict and still your verdict?

JUROR NUMBER 65: Yes.

THE CLERK: 254, is this your verdict and still your verdict?

JUROR NUMBER 254: Yes, ma'am.

THE CLERK: 137? Is there any juror number I did not call? Anyone?

MR. SMITH: I believe it's Juror 20, one of the alternates that we put on the jury, Your Honor.

THE COURT: Excuse me? You're right. That was the alternate that was not on the jury and has been excused.

THE CLERK: Is there anyone I did not call?

(Juror Number 20 raises his hand.)

THE CLERK: What's your juror number?

THE COURT: Juror Number 20, Mr. Billingsly.

I'm sorry I had to call your name, but I just wanted to make sure.

THE CLERK: Is this your verdict and still your verdict?

JUROR NUMBER 20: Yes.

THE CLERK: Thank you, sir.

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All jurors polled, Your Honor.

THE COURT: All right. Thank you.

Is there anything further before the jury is dismissed from the State or the defense?

MR. SMITH: Nothing from the State, Your Honor.

THE COURT: Thank you.

The defense?

MR. WILLIAMS: I was somewhat questioning in regards to the -- there was some confusion about the last juror. Number 20 was the one who acknowledged that it was his vote?

THE COURT: Juror Number 20 was the one whose name was drawn out of the hat you'll recall yesterday and he replaced the juror who was excused, Juror Number 226, and he is in place and he has appropriately answered the question.

MR. WILLIAMS: Then we have nothing further for the jury, Your Honor.

THE COURT: Okay. Everybody is accounted for.

Thank you.

Ladies and gentlemen, I want to thank you now for your service as jurors in this case. I've already commented upon the quality of your service; that is, your punctuality and your attention. I never comment or either condemn nor commend the juries for the verdicts

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that they reached. I'm delighted to be able to hand those things over to you and let you make the difficult decisions in cases of this sort and I appreciate the work that you do and what you've done in this case as well.

So my comment is directed toward the quality of your service, the attention that you gave, the patience that you've shown throughout and your willingness to submit yourself to jury service in the first place. I thank you for that.

I hope that you have gained through your service as a juror in this case some greater appreciation of the importance of jury service and why it is necessary for us to intrude into the lives of people like you and ask you to come into this courtroom and deal with matters that you have no interest in other than as jurors and to listen and pay attention and make difficult decisions on the matters that are thrust on you that you would probably rather have not had to deal with, but you've done that and you've been good natured about it and you've been thoughtful about it and you've done what we asked you to do.

I've been telling you up until now that you can't talk about this case with anybody or let anybody talk with you about it. Now obviously those restrictions no longer apply. You're free to talk with anybody that you

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want to about this case if you choose to. If somebody asks you about it and you want to talk with them about, you can, but equally if somebody asks you about it and you don't want to talk with them about it, just tell them you don't want to talk with them about it and you don't have to, and that should end that discussion right there. If for some reason it doesn't, if someone tries to continue to talk with you after you've said no, just find out who they are and report them to the clerk's office and we'll take care of that matter, but that's not gonna happen. I have been admonishing jurors in that regard and warning them about that and letting them know about that for thirty years now and nobody has ever had to come back on it, so you won't either. Because in the final analysis, folks, you only have to answer to your own self and to your own conscious for the decisions that you make in cases like this. You don't have to explain it to anybody else or justify it to anybody else. You have spoken your conscious and you have made your decision in this case and you're satisfied with that and you've indicated that when you raised your hand again and said it's still your verdict.

I've heard everything you've heard about this case and been sitting here just like you have and I can tell you when it comes to the matter of your conscious, you

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have no reason to fear your conscious for the decision that you've made in this case.

I'm gonna let you go now. We still have some matters of -- post-trial that we always deal with and the matter of sentencing that does not involve you, does not concern you. If for some reason you want to see what goes on then, you're free to go and they'll let you come in the back of the courtroom and sit over there.

If you have any questions about your jury service and this case in particular, if you will hang around, I or one of the court personnel will be glad to try to address your questions and your concerns if you have any. I would imagine that about now after the better part of four days in this courthouse, you want to get out of here as quickly as you can, and so you're free to do that as well.

You will get a check, I suppose, or a card or something in the mail.

How do you-all do it? Gift card? Check?

THE CLERK: I believe it's a check.

THE COURT: Okay. You'll get a check in the mail sometime in the not too distant future. You're gonna be overwhelmed by the amount of the check. Seriously, even the taxpayers of Lexington County can't afford to pay folks like you the true value of your service and just

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-- and to reimburse you for the time that you have spent with us and so what you have done this week largely is make a contribution of your time as well as of your effort and everything else that you've put in in this case as jurors.

I hope you will add, if you will, please, to the small amount of that check the sincere gratitude of those of us who make up this court system and I hope that you feel compensated in some way for -- for what you've spent with us.

You-all are free to go now and there's -- you've already been given your juror slip explaining to anybody where you have been and so that matter is taken care of. The clerk's office here is very efficient and they're way ahead of the game in most of these matters.

Thank you, folks, for your service this week and you're free to go.

(Whereupon, the jury was dismissed at 1:58 PM.)

THE COURT: Mr. Williams, Mr. Yonge, gentlemen, I will note, once again, the renewal of all motions that have been made up until this point in the trial of the case and the renewal of my earlier rulings in each of those motions.

I will also invite any additional grounds for any of those motions at this time or any additional motions

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that you wish to file or be heard on at this time.

MR. WILLIAMS: Your Honor, we would -- we would move for a new trial based on the sufficiency of the evidence, and if the Court will entertain this, we would move for a new trial based on -- and I wouldn't be saying this if I didn't think it was important, Your Honor --

THE COURT: Right. No, sir. You go ahead.

MR. WILLIAMS: The cumulative -- the cumulative motions for mistrial that were made during this trial; one dealing with an officer who commented about crimes that they were not supposed to comment about in regards to what my client was charged with, the juror misconduct because it was adjudicated in this particular case some juror misconduct has occurred in this case.

THE COURT: That's right.

MR. WILLIAMS: And, thirdly, the -- a motion for mistrial for the inclusion by the prosecution of drugs that were unrelated to the charges that my client was charged with.

THE COURT: Yes, sir.

Mr. Williams, those obviously were matters of varying concern. Quite frankly, the -- the last one, the greatest concern that this Court has already expressed in that regard. I have -- I have had trials that ran smoother in my time and I'm sure you have as

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well. We all as trial judges and as trial lawyers and as people who have interests in the outcome like for things to go smoothly and -- and in a way that does not call the fairness of the process into question, but there are times, and this is one of them, when that did not -- when that did not occur.

And so what we hope for even in the event of those sorts of circumstances that in spite of -- of those things that occurred and have been heard and argued about in this particular case that the integrity of the process has survived and that a fair trial was obtained in spite of those things.

That will ultimately be for a higher court than me to determine that. I've done what I felt I could do -- all that I felt that I could do under the circumstances to ensure the integrity of the process and to maintain it, but I can see you've raised valid points in that regard that somebody else is gonna have to resolve.

MR. WILLIAMS: Thank you, Your Honor.

THE COURT: All right. Thank you.

All right. Is the State ready to proceed to the matter of sentencing?

MR. SMITH: We are, Your Honor.

THE COURT: Thank you.

Is the defense ready?

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MR. WILLIAMS: The defense is ready, Your Honor.

THE COURT: Do you have a sentencing sheet?

MR. SMITH: We do, Your Honor.

May I approach?

THE COURT: Yes, sir.

MR. SMITH: Your Honor, I will be brief in my portion of the presentation. As Your Honor well knows trafficking at this level of -- of narcotics is a violent and serious offense and the range on -- the sentencing range on this crime is clearly set out by law from twenty-five to thirty years.

I will note for Your Honor -- and Investigator Gietz would like to address the Court in just a moment. I'll give him the opportunity to expand on this.

Let's see. Mr. Brown is a validated member of the Warlocks motorcycle gang. This is a group of individuals who are known to be involved in the trafficking of narcotics and weapons in South Carolina and in other states.

Your Honor, Mr. Brown's prior record, in 2011 from the State of Virginia he has a unlawful carry of a concealed weapon. In the state of South Carolina, he has a driving under suspension and a simple possession of marijuana from 1991 and in 2012 a petit larceny.

Your Honor, as I noted in closing, the highest

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threshold for trafficking methamphetamine under our law is 400 grams or more. Mr. Brown did not edge over or just barely cross that line into -- into this level offense. He flew over it. The total amount of methamphetamine discovered in his truck was 2,917 grams, just short of three kilograms. That's enough to clear that threshold by some seven times.

Your Honor, we would ask for a sentence in the higher end of that range, and I'll turn it over to Investigator Gietz.

THE COURT: Mr. Gietz, I'll be glad to hear from you.

MR. GIETZ: Your Honor, if it pleases the Court?

THE COURT: Yes, sir.

MR. GIETZ: Steven Daniel Brown, the defendant, a/k/a Steve-O is a -- is a validated member of Warlocks MC motorcycle gang. It's a validated gang per state statute. The Warlocks have been linked to violent crimes, drug distribution, drug trafficking. The defendant himself has been linked to other cases that involve trafficking narcotics and the distribution and the production of such narcotics.

Furthermore, as -- to echo the solicitor's points, Mr. Brown didn't just commit the highest level of trafficking, he committed it almost eight times what

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the highest level of trafficking would be. It's the State's position that -- we would ask for the higher sentencing of the -- and I get it's already twenty-five years, but we would ask for a higher sentence than twenty-five years.

THE COURT: Thank you, Mr. Gietz.

MR. SMITH: And briefly, Your Honor. I apologize.

Before I forget, as -- when we conclude today, there are three further pending charges against Mr. Brown that will be nol-prossed.

THE COURT: Okay. Anything further from the State, Mr. Smith?

MR. SMITH: No, Your Honor.

THE COURT: Thank you.

All right. Mr. Williams, Mr. Yonge, gentlemen, I'll be glad to hear from you and from Mr. Brown or anyone on his behalf.

MR. WILLIAMS: May it please the Court?

THE COURT: Yes, sir.

MR. WILLIAMS: Steve stand up and walk over here with me.

I can tell you, Your Honor, that -- I can tell you, Your Honor, that I have known Steve Brown for several years and the Steve Brown I know is not some fearless, mean-spirited person. He pays taxes. You know, he pays

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taxes. He's works every day. He got -- he does carpentry work. He does construction work. He has -- he does have a family, and I guess we can call them whatever we want to call them, who are associated together. He is a human being, Your Honor, with -- with kindness in him just as he has committed a crime.

That -- Your Honor's been around like I have. It's not unusual to find people who have violated the law, but who have a bit of humanity in him, which is -- sometimes it's extremely commendable. Taking care of people. Doing kind deeds for people. He probably is embarrassed that I say that kind of thing about him because, I guess, when you're associated with some of the guys he's associated with, he's supposed to be this tough guy.

He has a lovely young lady who he's associated with. I don't know if I want to call her a paramour or a girlfriend or what have you. She's just as gentle as she can be. She's a grandmother.

He has -- he has -- he's fifty years old. He has lung problems with blood clots in his lung, and I know this is not gonna change. We're talking about twenty-five to thirty years, Your Honor. You know what I'm saying.

THE COURT: Yes, sir.

MR. WILLIAMS: But he's just a human being with a lot of frailties, physical and other, but he has to

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take his pills twice a day. I don't know that he'll live that long, but I just thought I'd say that about him, so.

And, Your Honor, I want to make sure -- I want to make sure I say this. We have absolutely no qualms with jurors' verdicts. I have always said that. Your Honor knows me. I've been practicing law for forty-seven years.

THE COURT: Right.

MR. WILLIAMS: It's a tough job. We can't be critical for what people decide to do in their own minds.

THE COURT: Right.

MR. WILLIAMS: I am an advocate for my client and for -- for my friend.

THE COURT: Thank you. Unequivocally. I appreciate that.

Mr. Brown, do you want to add anything to what's been said on your behalf?

THE DEFENDANT: I try to be a good person. I try to help person and I made a mistake and I guess that's what I've got to pay for.

THE COURT: All right. Thank you.

Of course, everything that's been said on both sides of this courtroom today in regard to this has been true. The amount of the drugs themselves speak for

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themselves. In comparison to the 400 grams proscribed by statute, of course, this somehow far exceeds that. The State has built into the sentencing scheme of crimes like this a sentencing range of twenty-five years to thirty years. Twenty-five is the minimum mandatory time, thirty is the maximum time. I would concede, folks, that except for the cosmetic value of saying twenty-five or thirty that there's not one nickel's bit of difference to a person who gets a sentence whether he or she gets twenty-five or thirty. It sounds like there's a great deal of difference when the book gets thrown at somebody like this and somebody who gets thirty years is going to -- is going to create a greater deterrent for that thirty-year sentence than it would if I sentenced to twenty-five.

Twenty-five to thirty is a legislative comment upon the seriousness the law attaches to this particular crime. It has built into the minimum sentencing scheme a sufficient range of sentences to punish severely for something like this. There are crimes in which lives are taken that do not carry any more time than this and so -- and I say that not to -- not to quarrel with the sentencing. The General Assembly in its wisdom has done this and I commend them for doing this and hope that in some way the sentencing range and the -- and the process

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itself operates to deter others from committing a similar crime and operates to keep the rest of us safer than we would be without -- without that type of punishment to be imposed.

Mr. Brown is fifty years old. I don't know how old that will make him when he has to serve 80 percent, and I think this is an 80 percent -- 85 percent of the -- of the sentence before he will be considered to be released into society. We can do the quick math on that and know that it's gonna be a considerable length of time, past seventy years, and so I'm trying to figure out how much more punishment is necessary to address the crime itself, as serious as it is, and to -- and to register society's disdain for this type of conduct.

I'm not unmindful of the drug -- of the concept behind enhanced drug penalties. I'm not unmindful of the connection with the gang, but being a member of a gang, even though it has its own baggage and carries its own terrible connotations and is certainly not a healthy thing for us on the other side of society to have to confront, in and of itself it's not a gang that carries additional crime -- or additional sentences I should say to an outstanding sentence.

What I'm getting at or what I'm going into some detail in trying to explain is that whatever sentence is

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imposed today, twenty-five or thirty, is sufficient to address this crime and to address Mr. Brown as well and that -- and that no one should construe from a 25-year sentence that this Court is lenient, any more than it would consider a 30-year sentence as being overreaching. Either of those sentences are valid under the law and anywhere within that range is valid under the law. I simply make these comments because I think in view of the fact of the age of Mr. Brown primarily and the fact that his -- that his record, although not crystal clear and not perfectly clean, is not something that justifies anything that would lead to the higher level of this -- of this range.

Therefore, Mr. Brown, the sentence is you be committed to the State Department of Corrections for a period of twenty-five years. You'll pay a fine of $200,000.00. That is mandated by law for some reason as if anyone who has completed a 25-year sentence still has $200,000.00 laying around to apply toward a fine, nonetheless it is a minimum mandatory just as the sentence itself is.

You will get credit for any time that you've served. Twenty-five years with credit for time served and a $200,000.00 fine.

I thank all of you for your input into this process.

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I appreciate the officers who have done a wonderful job in running this down and have educated us all about the sophistication of what it takes, frankly, to address sophisticated criminals. Thank you for that.

Good luck, Mr. Brown.

MR. SMITH: Thank you, Your Honor.

THE COURT: Thank you-all.

(Whereupon, the proceedings were concluded for August 10, 2023, at 2:15 PM.)

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C E R T I F I C A T E

I, Stacy S. Johnson, Official Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the trial of the captioned case in Circuit Court August 7th-10th, 2023.

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

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

October 15, 2023

/s/ Stacy S. Johnson

STACY S. JOHNSON
CIRCUIT COURT REPORTER

600

10-AUG-2023 SCANNED

COUNTY OF LEXINGTON

[redacted]

CLERK OF COURT

IN THE COMMON PLEAS / GENERAL SESSIONS / FAMILY COURT

CASE NO. 2020GS3201970

JUDGE T. Cooper

CT. REP. Stacy Johnson DATE 8/7/23

CLOCK - IN AREA

(NOTES) Court's Exhibits

(1)

(2)

(3)

PLAINTIFF State VS. DEFENDANT Steven Daniel Brown

Atty. Kyle Smith Atty. Theo Williams

NO.	ID.	EV.	DESCRIPTION	NO.	ID.	EV.	DESCRIPTION
1			Clip				
2			Clip				
3			Clip				
4			Clip				
5			Memo 3/2/22				
6			SCPIF vs SLED				
7			SCPIF vs. SLED				
8			Juror Note				
9			Alternate Selection				

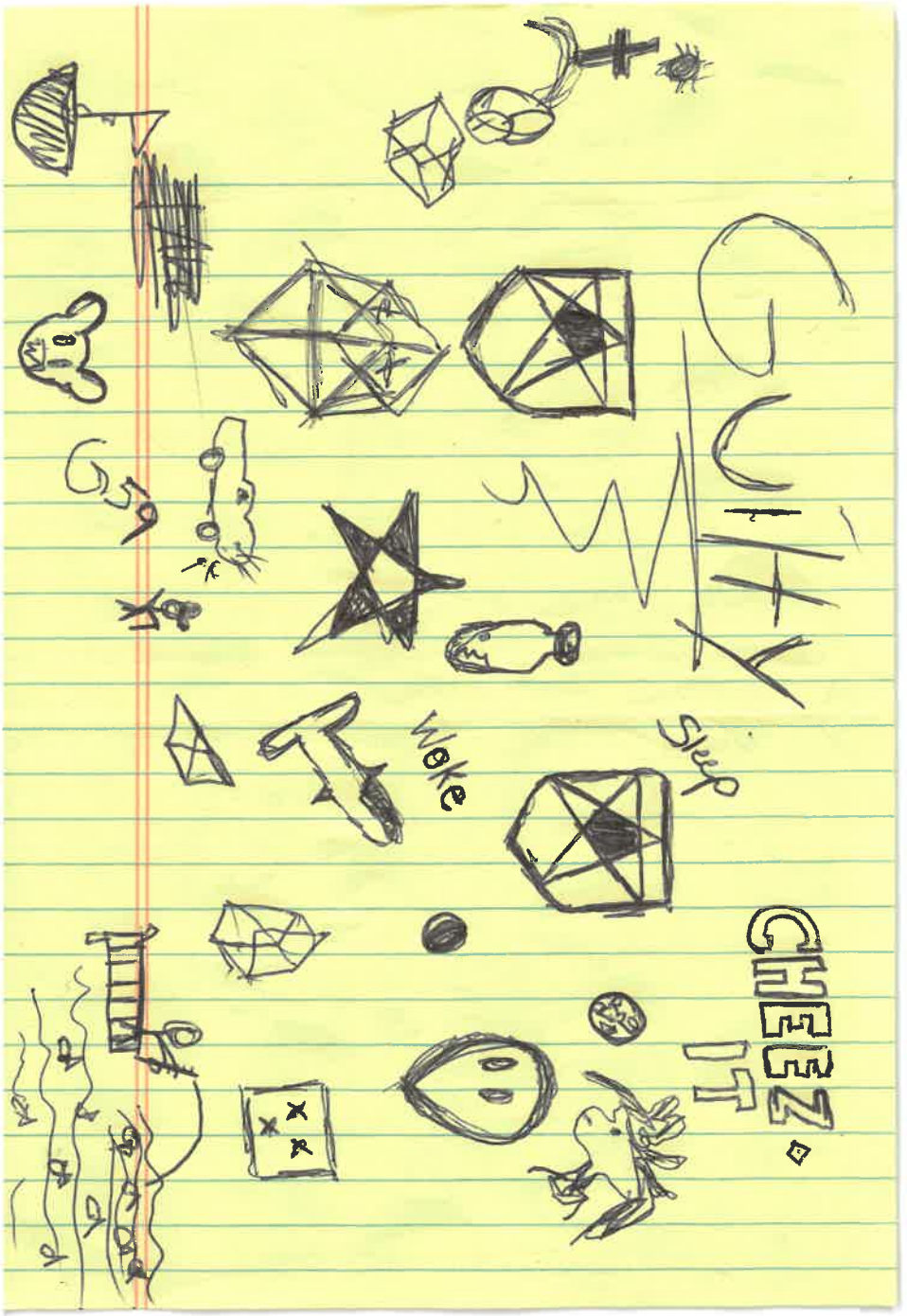
CT. REP Stacy Johnson

REC. BY L. Lewis TITLE Clerks office

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LISA M. COMER
CLERK OF COURT
LEXINGTON, SC

STATE OF SOUTH CAROLINA | IN THE COURT OF GENERAL SESSIONS

COUNTY OF LEXINGTON

THE STATE OF SOUTH CAROLINA, **Indictment No(s). 2020GS3201970**

Plaintiff,

vs.

STEVEN DANIEL BROWN,

Defendant.

NOTICE OF MOTION AND MOTION TO SUPPRESS EVIDENCE

TO: MATT EDGERTON, ASST. SOLICITOR, ELEVENTH JUDICIAL CIRCUIT AND KYLE SMITH, ASST. SOLICITOR, ELEVENTH JUDICIAL CIRCUIT

YOU WILL PLEASE TAKE NOTICE that the Defendant, by and through his undersigned attorney, shall move, as soon as counsel may be heard, for an Order of the Court Suppressing any introduction of evidence seized as a result of the stop and search of Defendant's vehicle on June 29,2020 as well as the introduction of any other evidence attained by virtue of this unlawful stop and seizure. Any statements allegedly made by the Defendant are likewise sought to be suppressed.

The basis of this motion is provided by protections ordered by the 4th, 5th, 6th and 14th Amendment rights under the South Carolina Constitution and the United States Constitution.

Defendant further requests the Court suppress the search also as based on Federal, State and Appellant Court cases as exist.

WILLIAMS, STITELY & BRINK, PC

By: 

ROBERT T. WILLIAMS, SR.
P.O. Box 2390
200 East Main Street
Lexington, SC 29071
(803) 359-9000

ATTORNEYS FOR DEFENDANT

Lexington, South Carolina

JULY 2, 2021

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STATE OF SOUTH CAROLINA	IN THE COURT OF GENERAL SESSIONS
COUNTY OF LEXINGTON	ELEVENTH JUDICIAL CIRCUIT
THE STATE OF SOUTH CAROLINA, Plaintiff,	**Indictment No(s). 2020GS3201970**
vs.	**CERTIFICATE OF SERVICE**
STEVEN DANIEL BROWN, Defendant.	

I, GLENDA M. AMICK, a Legal Secretary with the Law Firm of Williams, Stitely & Brink, PC, do hereby certify that I have this date served a copy of the **NOTICE OF MOTION AND MOTION TO SUPPRESS EVIDENCE** upon the individual(s) named below by placing a copy of same in the United States Mail, postage prepaid and return address clearly indicated to the address(es) below:

Matt Edgerton, Asst. Solicitor
Eleventh Judicial Circuit
205 East Main Street
Lexington, SC 29072

Kyle Smith, Asst. Solicitor
Eleventh Judicial Circuit
205 East Main Street
Lexington, SC 29072

Glenda M. Amick
GLENDA M. AMICK

Lexington, South Carolina

July 2, 2021

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CLERK OF COURT
LEXINGTON SC

STATE OF SOUTH CAROLINA COUNTY OF LEXINGTON	IN THE COURT OF GENERAL SESSIONS ELEVENTH JUDICIAL CIRCUIT
State of South Carolina Plaintiff, v. Steven D. Brown Defendant.	Indictment No(s). 2020GS3201970 **Memorandum in Support of Motion for Suppression of Evidence**

Steven Brown is charged with Trafficking Methamphetamine. This matter comes before the Court on Brown's motion to suppress any evidence stemming from a traffic stop and subsequent search of his truck.

FACTS

On June 29, 2020, at approximately 1:14 PM, Trooper Shropshire pulled Steven Brown over for following another vehicle too closely and failing to maintain his lane. The traffic stop was captured on Trooper Shropshire's bodycam (**Exhibit 1**) and dashcam (**Exhibit 2**).

Trooper Shropshire issued Brown a warning less than 10 minutes after he pulled Brown over. However, he did not end the stop there. Instead, he began to question Brown about whether he had any contraband in his truck. After about a minute of continued questioning, Trooper Shropshire handed the warning to Brown but continued to cling to it while he asked for consent to search Brown's truck. When Brown did not consent to the search, Trooper Shropshire pulled the ticket from Brown's hand and informed him that a narcotics detection canine would be performing a free-air sniff around the exterior of Brown's truck. Trooper Shropshire further explained that if the canine did not alert on the truck, Brown would be free to leave.

The canine handler—Trooper Atwood—and his canine—K-9 Parker—circled Brown's truck multiple times. The canine sniff was recorded on Trooper Atwood's bodycam. (**Exhibit 3**). As they circled, Trooper Atwood constantly tapped different areas of the truck and K-9 Parker jumped onto those areas, putting his paws on the truck and sniffing. K-9 Parker eventually stopped sniffing and sat near the truck's front bumper.

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LEXINGTON SC

When officers confronted Brown with K-9 Parker's alert, Brown told them that what they were looking for was "in the back floorboards." When officers searched the interior of the truck, they discovered a box containing approximately 7.1 pounds of methamphetamine.

ISSUES

I. Whether Trooper Shropshire unlawfully seized Brown by extending the traffic stop beyond the time reasonably necessary to issue a warning without reasonable suspicion that a serious crime was occurring.

II. Whether an unconstitutional search occurred when Trooper Atwood and K-9 Parker repeatedly touched Brown's truck during the canine sniff without probable cause to believe that evidence of a crime would be discovered in the truck.

ANALYSIS

For the purposes of this motion to suppress, Brown does not contest that Trooper Shropshire had the reasonable suspicion necessary to initiate this traffic stop. See State v. Tindall, 388 S.C. 518, 521, 698 S.E.2d 203, 205 (2010) ("[A] routine traffic stop constitutes a Fourth Amendment seizure."); State v. Provet, 405 S.C. 101, 108, 747 S.E.2d 453, 457 (2013) ("Violation of motor vehicle codes provides an officer reasonable suspicion to initiate a traffic stop.").

I. Trooper Shropshire unlawfully seized Brown by extending the traffic stop beyond the time reasonably necessary to issue a warning without reasonable suspicion that a serious crime was occurring.

"A seizure for a traffic violation justifies a police investigation of that violation." Rodriguez v. United States, 575 U.S. 348, 354 (2015). The "mission" of the traffic stop is "to address the traffic violation that warranted the stop and attend to related safety concerns." Id. (internal citations omitted). "Beyond determining whether to issue a traffic ticket, an officer's mission includes 'ordinary inquires incident to the traffic stop." Id. at 355 (internal quotation marks omitted).

As such, after Trooper Shropshire pulled Brown over, he was permitted to instruct Brown to exit the vehicle, request Brown's driver's license and vehicle registration, run a computer check, and issue a citation. See Tindall, 388 S.C. at 521, 698 S.E.2d at 205 ("In carrying out a routine traffic stop, a law enforcement officer may request a driver's license and vehicle registration, run a computer check, and issue a citation."); State v. Pichardo, 367 S.C. 84, 98, 623

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LEXINGTON SC

S.E.2d 840, 847 (Ct. App. 2005) ("Once a motor vehicle is detained lawfully for a traffic violation, the police may order the driver to exit the vehicle without violating Fourth Amendment proscriptions on unreasonable searches and seizures").

Although an officer may ask off-topic questions and even perform a canine sniff on the vehicle if such activities are performed *within the time reasonably required to complete the traffic stop's mission*, "a traffic stop prolonged beyond that point is unlawful." Rodriguez, 575 U.S. at 357 (2015) (internal quotation marks omitted); see also Illinois v. Caballes, 543 U.S. 405, 407-408 (2005). "If an officer can complete traffic-based inquires expeditiously, then that is the amount of 'time reasonably required to complete [the stop's] mission.'" Rodriguez, 575 U.S. at 357. In other words, an officer must be reasonably diligent in his investigation of the traffic violation, and he is not permitted to use dilatory tactics to extend the traffic stop for additional questioning or investigation. See Rodriguez, 575 U.S. at 357 ("[T]he government acknowledges that 'an officer always has to be reasonably diligent.'"); Provet, 405 S.C. at 108, 747 S.E.2d at 457 ("The officer cannot avoid this rule by employing dilatory tactics.").

"This is a temporal inquiry, not a reasonableness inquiry." Id., 405 S.C. at 111, 747 at 459 (2013). "[T]he proper inquiry is not whether an officer 'unreasonably' extended the duration of the traffic stop with his off-topic questions but whether he 'measurably' extended it." Id. "[E]ven a *de minimis* extension of a traffic stop is unconstitutional absent reasonable suspicion." State v. Moore, 415 S.C. 245, 252, 781 S.E.2d 897, 901 (2016) (citing Rodriguez, 575 U.S. 356-57).

Here, once Trooper Shropshire issued the warning, the purpose of the traffic stop was complete. Any further investigation or questioning constituted an unlawful second detention under the Fourth Amendment unless Trooper Shropshire had reasonable suspicion that a serious crime was occurring. See Tindall, 388 S.C. at 521, 698 S.E.2d at 205 ("Any further detention for questioning is beyond the scope of the stop and therefore illegal unless the officer has reasonable suspicion of a serious crime."); Pichardo, 367 S.C. at 98, 623 S.E.2d at 848 ("Once the purpose of the stop has been fulfilled, the continued detention of the car and the occupants amounts to a second detention.").

"The question therefore becomes whether the officer reasonably suspected a serious crime *at the point at which he chose not to conclude the traffic stop*." Tindall, 388 S.C. at 523, 698 S.E.2d at 206 (emphasis added). "The burden is on the State to articulate facts sufficient to support reasonable suspicion." State v. Pichardo, 367 S.C. at 104, 623 S.E.2d at 851.

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Trooper Shropshire drafted a report after this traffic stop. (**Exhibit 4**). In that report, he described his conversation with Brown on the side of the interstate as follows:

> While speaking with Mr. Brown, he showed signs of extreme nervousness and labored breathing. When he walked back to the vehicle, he stopped and shut the toolbox down. He stood with a bladed stance away from me while speaking to him. While standing near him, he kept shuffling away from me as if he didn't want to be near me. When asking him simple questions about where he was coming from and going, he would pause and take a few seconds before asking. He would hold his breath when asked certain questions and would swallow hard every time. He would rub the paperwork and his nervousness never subsided. When asked about where in Georgia he went, he said somewhere around Augusta and he did not know where he went. Mr. Brown then stated that they went to his friend's elderly lady house and they were going to put a wheel chair ramp up.

The scene described above differs significantly from the scene depicted in Trooper Shropshire's bodycam and dashcam footage. In the bodycam and dashcam footage, Brown can be seen calmly answering Trooper Shropshire's questions on the side of a busy interstate, in the middle of the day, in the heat of the summer.

However, even if Brown's behavior could be classified as "nervous," the Supreme Court of South Carolina has noted "that nervousness is typically present in any encounter with police." State v. Frasier, 437 S.C. 625, 636, 879 S.E.2d 762, 768 (2022) (citing State v. Moore, 415 S.C. 245, 781 S.E.2d 897 (2016)). Furthermore, The Supreme Court of South Carolina has "cautioned law enforcement" that it has "become weary with the many creative ways law enforcement attempts to parlay the single element of nervousness into a myriad of factors supporting reasonable suspicion." Id. (internal quotation marks omitted).

Nervousness alone is not sufficient to establish reasonable suspicion. Rather, a court must "consider the totality of the circumstances—the whole picture." Moore, 415 S.C. at 253, 781 S.E.2d at 901. Unless an officer has "an objective, specific basis for suspecting the person stopped of criminal activity," the officer does not have reasonable suspicion. Frasier, 437 S.C. at 635, 879 S.E.2d at 767.

Trooper Shropshire did not have an objective, specific basis for suspecting Brown of criminal activity. Before he issued Brown the warning, he saw "numerous tool boxes in the bed

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of the truck," and he learned that Brown did construction for a living and had been "around Augusta for a couple of hours" that day. He did not see any contraband in plain view. This innocuous information simply cannot support a finding of reasonable suspicion, even when paired with Brown's alleged nervousness. At most, Trooper Shropshire had an unparticularized hunch, which is not sufficient to extend the stop.

II. Trooper Atwood performed an unconstitutional search of Brown's truck when he and K-9 Parker repeatedly touched the truck during the canine sniff without probable cause to believe that evidence of a crime would be discovered in the truck.

"The Fourth Amendment provides in relevant part that '[t]he right of the people to be secure in their persons, houses, papers, and *effects*, against unreasonable searches and seizures shall not be violated." United States v. Jones, 565 U.S. 400, 404 (2012) (emphasis added). "It is beyond dispute that a vehicle is an '*effect*' as that term is used in the Amendment." Id. (emphasis added).

"[F]or most of our history the Fourth Amendment was understood to embody a particular concern for government trespass upon the areas ("persons, houses, papers, and effects") it enumerates." Jones, 565 U.S. at 406. Therefore, when "[t]he [g]overnment physically occupie[s] private property for the purpose of obtaining information," a Fourth Amendment search has occurred. Id. at 404. As such, "a valid search of a vehicle moving on a public highway may be had without a warrant, but *only* if probable cause for the search exists." Brinegar v. United States, 338 U.S. 160, 164 (1949) (emphasis added); see also Collins v. Virginia, 138 S.Ct. 1663, 1670 (2018) ("[O]fficers may search an automobile without having obtained a warrant so long as they have probable cause to do so.").

Here, both Trooper Atwood and K-9 Parker physically occupied Brown's truck during the canine sniff for the purpose of obtaining information. Throughout the canine sniff, Trooper Atwood constantly touched different areas on Brown's truck and K-9 Parker jumped onto the truck with his paws.

The present case sits at the intersection of two United States Supreme Court cases: United States v. Jones and Florida v. Jardines. In Jones, the Court held "the Government's installation of a GPS device on a target's vehicle, and its use of that device to monitor the vehicle's movements, constitutes a 'search'" because the government physically intruded a constitutionally protected area to obtain information. Jones, 565 U.S. at 404. In Jardines, the Court held that "[t]he

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LEXINGTON

government's use of trained police dogs to investigate the home and its immediate surroundings is a 'search' within the meaning of the Fourth Amendment." Florida v. Jardines, 569 U.S. 1, 11-12 (2013).

The Supreme Court of Idaho recently decided a case involving similar facts. In State v. Dorff, it analyzed Jones and Jardines and held that "a 'search' occurs when a drug dog trespasses against the exterior of a vehicle during a 'free air' sniff if its physical contact with the vehicle amounts to 'intermeddling' at common law." Dorff, 526 P.3d 988, 990 (2023), *petition for cert. filed*. The court defined "'intermeddling' as 'intentionally bringing about a physical contact with the chattel . . . as when [an actor] beats another's horse or dog, or by intentionally directing an object or missile against it[.]" Id. at 996 (quoting Restatement (Second) of Torts § 217 cmt. E (1965)). It went on to explain that intermeddling is "the difference between a dog's tail that brushes against the bumper of your vehicle as it walks by—and a dog who, without privilege or consent, approaches your vehicle to jump *on* its roof, sit *on* its hood, stand *on* its window or door—or enter *into* your vehicle." Id. at 998 (emphasis in original). The court concluded that the Fourth Amendment "is certainly implicated in situations like those above, where no one would dispute the dignitary interest in maintaining the inviolability of one's chattel," and "no one (including common sense) could doubt your *right* to protest and exclaim: . . . 'Hey! Get your dog off my car!" Id. (emphasis in original).

We would respectfully request that this Court follow the reasoning of the Supreme Court of Idaho and find that Trooper Atwood and K-9 Parker's canine sniff was a Fourth Amendment search. Furthermore, since Trooper Shropshire did not have reasonable suspicion to extend the stop, we would request this Court find that Trooper Atwood did not have probable cause to perform a search of the truck, which is a more stringent standard.[1]

[1] Probable cause is a stronger standard than reasonable suspicion, but weaker than what is required for a criminal conviction. See State v. Blassingame, 338 S.C. 240, 525 S.E.2d 535 (Ct. App. 1999) ("Probable cause may be found somewhere between suspicion and sufficient evidence to convict."). "Probable cause exists where 'the facts and circumstances within [the officer's] knowledge and of which they had reasonably trustworthy information (are) sufficient in themselves to warrant a man of reasonable caution in the belief that' an offense has been or is being committed.'" Brinegar, 338 U.S. at 175 (quoting Carroll v. United States, 267 U.S. 132, 162 (1925)).

CONCLUSION

Because the heroin seized from Brown's truck was the product of an unconstitutional seizure and search, it should be suppressed at the trial of this case. See State v. Copeland, 321 S.C. 318, 323, 468 S.E.2d 620, 624 (1996) ("The 'fruit of the poisonous tree' doctrine provides that evidence must be excluded if it would not have come to light but for the illegal actions of the police, and the evidence has been obtained by the exploitation of that illegality."). Furthermore, the fact that Brown told officers where the heroin was located inside the truck after the unconstitutional seizure and search does not change this result. See Dunaway v. New York, 442 U.S. 200, (1979) (Confession given by defendant when he was seized without probable cause and taken to police station for questioning was inadmissible where no intervening events broke the connection between his illegal detention and his confession.).

For the reasons stated above, we respectfully request that this Court suppress all evidence seized as a result of this traffic stop.

Respectfully Submitted,

s/Jason Yonge
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Robert T. Williams, Sr., Esq.
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Attorneys for Steven Brown

August 4, 2023

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LEXINGTON SC

Brown

Drugs Seized- 3.2 Kilograms Methamphetamine
6/29/20
CAD #20BW083518HP32

Initial Observations:

On June 29, 2020 at 1314 hours, I Lance Corporal Shropshire, observed a White Ford F350 following another vehicle too closely and failing to maintain lane on Interstate 20 east at the 41 mile marker in Lexington County. I activated my blue lights to initiate a traffic stop on the Ford F350 with South Carolina Tag R[redacted]. While approaching the vehicle I noticed that it the subject (Steven Daniel Brown) was the sole occupant in the vehicle. I made contact with the driver who was identified as Steven Daniel Brown by his South Carolina driver's license [redacted] I then asked the driver (Brown) for his driver's license, registration and insurance on the vehicle. He was able to provide me with his South Carolina License, but had to be asked for his registration and insurance again. Mr. Brown was showing signs of extreme nervousness. He had a much ridged posture in his seat, and would not look directly at me while speaking to him. The vehicle was registered to Mr. Brown and had numerous tool boxes in the bed of the truck. I then asked Mr. Brown to step out of the vehicle to handle the remainder of the traffic stop. While roadside, a casual conversation ensued and went as follows.

Brown Related:

1. He was coming from some were around Augusta, GA.
2. They were heading back home to West Columbia, SC.
3. He went to see a buddy and find work.
4. He is a builder.

Drugs Seized- 3.2 Kilograms Methamphetamine.
6/29/20
CAD #20BW083518HP32

(Brown related continued)

5. He was only down there around Augusta for a couple of hours.
6. He didn't know where they went.

Troopers Observations (Brown):

While speaking with Mr. Brown, he showed signs of extreme nervousness and labored breathing. When he walked back to the vehicle, he stopped and shut the toolbox down. He stood with a bladed stance away from me while speaking to him. While standing near him, he kept shuffling away from me as if he didn't want to be near me. When asking him simple questions about where he was coming from and going, he would pause and take a few seconds before asking. He would hold his breath when asked certain questions and would swallow hard every time. He would rub the paperwork and his nervousness never subsided. When asked about where in Georgia he went, he said somewhere around Augusta and he did not know where he went. Mr. Brown then stated that they went to his friend's elderly lady house and they were going to put a wheel chair ramp up. I went to the vehicle and checked the VIN. When I came back, I asked him some more questions.

Drugs Seized- 3.2 Kilograms Methamphetamine
6/29/20
CAD #20BW083518HP32

Mr Brown Continued:

1. Asked the exact city in near Augusta and he could not tell me.
2. Asked if there was anything in the vehicle or on him illegal, he just shook his head no while looking down.
3. Asked if he consumed any alcohol or proscription drugs in the last 24 hours, he stated no.
4. Asked about large amount of money, he stated no.
5. Asked about marijuana, he stated no.
6. Cocaine, he stated no.
7. Methamphetamine, he stated no

8. Heroin, he stated no.

Troopers Actions:

I then explained to Mr. Brown that he was receiving a warning for following too closely and failing to maintain his lane and that he needs to practice good driving distance between him and other vehicles and stay with in his lane. At that time I handed him his warning and asked for consent to search the vehicle. He then began to question why I needed to search the vehicle. I told him that it was a yes or no question and he had the right to refuse the search. He stated no to letting me search the vehicle, and I advised him that Lance Corporal Atwood would deploy K-9 Parker around the exterior of the vehicle for a free air sniff. After K-9 Parker was deployed, he gave positive indication to the vehicle. At that time, Lance Corporal Atwood advised Mr. Brown that we would be conducting a probable cause search on the vehicle.

Vehicle Search and Person(s):

As I went to the rear of the vehicle to search, Mr. Brown stated out loud that the Methamphetamine was in the back seat in a box. I open the right rear passenger door and located a black and yellow box that was open that had 3.2 kilograms of Methamphetamine in 3 separate containers.

Drugs Seized- 3.2 kilograms Methamphetamine
6/29/20
CAD #20BW083518HP32

Arrest and Transport:

Mr. Brown was placed under arrest and read his Miranda rights by L/ Cpl. Atwood. Deputy Gietz with the Lexington County Narcotic and Gang taskforce was on scene and took possession of Mr. Brown and the 3.2 Kilograms of Methamphetamine and will be handling all charges for this stop.

(Driver's Information)

Name: Steven Daniel Brown

Address: [redacted]

DOB: [redacted]

DL #: SC/[redacted]

Drugs Seized- 3.2 Kilograms of Methamphetamine
6/29/20
CAD #20BW083518HP32

(Vehicle Information)

Year: 2001

Make: Ford

Model: F350

VIN: 1FTSW31F11EC75473

Owner: Steven Daniel Brown

[redacted]
West Columbia, SC 29169

Report by SCHP Lance Corporal G. S. Shropshire, 6/29/2020

WITNESSES

Lexington County Sheriffs Department

John T Gietz

Law Enforcement Case #: 20012777

ME

ARREST WARRANT NUMBER

2020A3210201734

ACTION OF GRAND JURY

TRUE BILL

Wendy Steil

Foreperson of Grand Jury
Date: 10/12/20

VERDICT

GUILTY

E C Dain

Foreperson of Petit Jury
Date: 8/10/2023

DOCKET NO. 2020GS3201970

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

OCTOBER TERM 2020

THE STATE

vs.

Steven Daniel Brown

CDR #: 0370

Indictment for

Trafficing Methamphetamine

§ 44-53-0375(C)(5)

S.R. Hubbard III, SOLICITOR

616

617

ARREST WARRANT

2020A3210201734

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Lexington

THE STATE 20012777

against

Steven Daniel Brown

Address: [redacted]

Phone: [redacted] SSN: [redacted]

Sex: M Race: W Height: 6 Weight: 220

DL State: SC DL #: [redacted]

DOB: [redacted] Agency ORI #: SC0320000

Prosecuting Agency: Lexington County Sheriff

Prosecuting Officer: John T Gietz - A04109

Offense: Drugs / Trafficking in meth. or cocaine base - 400 g or more (Felony, 25Y to 30Y)

Offense Code: 0370

Code/Ordinance Sec: 44-53-0375(C)(5)

This warrant is CERTIFIED FOR SERVICE in the

[ ] County/ [ ] Municipality of

_____

The 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 Steven Brown on 6-30-20

Corvell

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
Mark H. Westbrook Judicial Center
205 East Main Street
Lexington, SC 29072

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Lexington)

ORIGINAL

AFFIDAVIT

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

Personally appeared before me the affiant John T Gietz who being duly sworn deposes and says that defendant Steven Daniel Brown did within this county and state on or about 6/29/2020 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Lexington) in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in meth. or cocaine base - 400 g or more (Felony, 25Y to 30Y)

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:

On June 29th, 2020 at the 41 mile marker of I20 East bound in the Leesville area of Lexington County South Carolina, Steven Daniel Brown did commit the crime of Trafficking Methamphetamine Greater than 400 grams during a traffic stop for multiple moving violations. During a probable cause search, Steven Brown was found to be in possession of over 7 pounds (over 3200 grams) of methamphetamine. Post Miranda, Steven admitted knowledge that the methamphetamine was in his vehicle. The narcotics were found in multiple packages. This incident is further supported by LCSD case number # 20-012777.

Signature of Affiant

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Lexington)

Affiant's Address 521 Gibson Road
Lexington, SC 29072-

Affiant's Telephone (803)201-3501

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 6/29/2020 defendant Steven Daniel Brown did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Lexington) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in meth. or cocaine base - 400 g or more (Felony, 25Y to 30Y)

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 6/30/2020

(L.S.)

Signature of Issuing Judge

Gary W. Reinhart

Judge Code: 5059

Judge's Address Lexington County Judicial Center
Lexington, SC 29072-

Judge's Telephone (803)785-2594

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

618

25-30 years + $200,000

STATE OF SOUTH CAROLINA)
COUNTY OF Lexington)

IN THE COURT OF GENERAL SESSIONS

STATE
VS.
Steven Daniel Brown
AKA:
Race: White Sex: M Age: 50
DOB: [redacted] SS#: [redacted]
Address: [redacted]
City, State, Zip: West Columbia, SC 29169-4431
DL#* [redacted] SID#

INDICTMENT/CASE#: 2020 - GS - 32 - 01970

A/W#: 2020A3210201734
Date of Offense: 6/29/2020
S.C. Code §: 44-53-0375(C)(5)
CDR Code #: 0370

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Drugs / Trafficking in meth. or cocaine base - 400 g or more (Felony, 25Y to 30Y)

In violation of § 44-53-0375(C)(5) of the S.C. Code of Laws, bearing CDR Code # 0370

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor | 103281 SC Bar # | Defendant | Attorney for Defendant | SC Bar #

WHEREFORE, the Defendant is committed to the ☒ **State Department of Correction** ☐ **County Detention Center,**

for a determinate term of 25 ~~days/months~~/years/Time Served ☐ **Youthful Offender Act** not to exceed ___ years

and/or to pay a fine of $___, provided that upon the service of ___ days/months/years/Time Served and or payment of $___, plus costs and assessments as applicable*; the balance is suspended with **probation** for ___ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run
☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC. _____ days/months
☐ To include time spent on monitored house arrest prior to trial and sentencing.
☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Steven Daniel Brown INDICTMENT/CASE#: 2020 - GS - 32 - 01970

SPECIAL CONDITIONS:

☐ **PTUP** after _____ months/years

And Other Terms Listed Below:

☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing

☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program

☐ Mental Health Counseling ☐ May serve W/E beginning: _____

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

☐ Other: _____

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total $_____ plus 20% fee: _____ $_____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:		$
Fine may be pd. in equal consecutive weekly/monthly pmts. of $ _____ Beginning _____		
§14-1-206 (Assessments 107.5%)		$
§14-1-211 (A)(1)(Conv. Surcharge)	$100	$ 100
§14-1-211 (A)(2)(DUI Surcharge)	$100	$
§56-5-2995 (DUI Assessment)	$12	$
§56-1-286 (DUI Breath Test)	$25	$
§14-1-212 (Law Enforce. Funding)	$25	$ 25
§14-1-213 (Drug Court Surcharge)	$150	$ 150
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	$41	$
§50-21-114 (BUI Breath Test Fee)	$50	$
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)	TBD	$
☐ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees	$500	$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	$
	TOTAL	$ 275.00

Clerk of Court/Deputy Clerk: Lisa Comer

Court Reporter: Stacy Johnson

Presiding Judge: [signature]

Judge Code: 057

Sentence Date: 8/10/23

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LEXINGTON SC

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County
Court of General Sessions

The Honorable Thomas W. Cooper, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

STEVEN DANIEL BROWN,

APPELLANT.

Indictment No(s). 2020-GS-32-01970

NOTICE OF APPEAL

Steven Daniel Brown appeals his conviction and sentence in this matter. The sentence was imposed by the Honorable Thomas W. Cooper on August 10, 2023.

s/Jason Yonge
Jason T. Yonge (SC Bar No. 102869)
Robert T. Williams, Sr.
Williams, Stitely & Brink, PC
200 E. Main St.
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August 11, 2023

Other Counsel of Record:

Kelly Oppenheimer, Asst. Solicitor
Kyle Smith, Asst. Solicitor
Eleventh Judicial Circuit
205 East Main Street
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2023 AUG 11 PM 4:04
CLERK OF COURT
LEXINGTON SC

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County
Court of General Sessions

The Honorable Thomas Cooper, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

STEVEN DANIEL BROWN,

APPELLANT.

Indictment No(s). 2020-GS-32-01970

PROOF OF SERVICE

I, Jason T. Yonge, certify that I served the Notice of Appeal on the following individuals pursuant to Rule 262, SCACR, and S.C. Sup. Ct. Order 2022-05-06-03:

Kelly Oppenheimer, Esquire
Eleventh Circuit Solicitor's Office
KOppenheimer@lex-co.com

Kyle Smith, Esquire
Eleventh Circuit Solicitor's Office
KSmith@lex-co.com

I further certify that all parties required by Rule to be served have been served.

s/Jason Yonge
Jason T. Yonge (SC Bar No. 102869)
Williams, Stitely & Brink, PC
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Lexington, SC 29072
(803) 359-9000
jyonge@wsblegal.com
Attorney for Appellant

August 11, 2023

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

RECEIVED
Aug 30 2024
SC Court of Appeals

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ATTORNEY FOR APPELLANT

August 30, 2024