

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM UNION COUNTY

John C. Hayes, III, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

LASHAD DEMOND BREWTON,

APPELLANT

APPELLATE CASE NO. 2014-000880

RECORD ON APPEAL

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1 Mr. Anthony - Well, but -- but I think if you --
2 if you take the -- If you take the testimony of Mr. Smith
3 and what I will expect the defense will argue is the
4 implication from that testimony, then the jury could
5 conceivably find that there was possession here less than
6 ten grams, so that -- I could see there being a basis for
7 that in the -- in what the jury heard.

8 Mr. St. Pierre - Judge, if I may, at no point
9 did the expert witness testify in his expert opinion that
10 that bag of crack cocaine contained less than ten grams of
11 crack cocaine. The State has married the theory that this
12 was the buy for a half an ounce which is fourteen grams,
13 well over the ten gram threshold.

14 Mr. Anthony - That was clear implication of the
15 cross examination. And I -- If that's going to be argued,
16 that ought to be an option for the jury.

17 The Court - All right, let's take a break. Let
18 me think about that a minute and -- Anything else so I can
19 be thinking while I'm breaking?

20 Mr. St. Pierre - Yes, sir. I would object to
21 the definition of conspiracy as it is contained in the
22 definition of constructive possession. In Ralph King
23 Anderson's charge book, section 4.2, he says the three
24 elements to the offense of trafficking in crack cocaine
25 that the State must prove beyond a reasonable doubt. If

1 the substance is, in fact, crack, the defendant has
2 possession of that crack either actual or -- actual
3 possession or constructive possession and that there were,
4 in fact, ten grams or more of crack cocaine involved. I
5 believe all the language in the indictment is boiled up
6 into actual constructive possession.

7 The Court - Well, based on where we're ending
8 up, I -- My trafficking charge, I don't follow Judge
9 King's, but I guess based on what's requested by the
10 State, I need to charge what constitutes aiding and
11 abetting, need to charge attempt, need to charge conspire,
12 of course, sell and deliver would be normal context, but
13 I think I need to tell them what conspire means. Yes,
14 sir?

15 Mr. Brannon - I know you want to take a break,
16 but I ---

17 The Court - No, I'm not in no hurry to take a
18 break. I ---

19 Mr. Brannon - I do have a motion, Your Honor,
20 and it may take some time.

21 The Court - Okay.

22 Mr. Brannon - Your Honor, I would -- I
23 understand that you have allowed the drugs in over
24 objection. I certainly understand that, but I now raise
25 a new objection to the drugs themselves, Your Honor. This

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1 is not a chain objection, but it is an evidentiary
2 objection. Your Honor, Officer Vinson -- Deputy Vinson
3 testified that he found some -- something that he believed
4 to be crack cocaine in the backseat of his car. He
5 testified that he gave that contraband to Lieutenant
6 Sherfield. Lieutenant Sherfield took some drugs to -- or
7 took a substance to SLED to be tested. The Court's well
8 aware of that. What did not occur in this case is the
9 State never picked up that bag that contained allegedly
10 crack cocaine and showed it to Officer Vinson and asked
11 him to identify it as the drugs that he found in the
12 backseat of his car and then hand it to Sherfield. So,
13 Your Honor, we don't -- There's no evidence in the record
14 that -- that State's Exhibit Number 2 I think is the
15 number on it -- is the drugs that Vinson found in the back
16 seat of his car. There is absolutely no evidence and
17 that's why, Your Honor, I thought it might take a while.
18 You might want to go back and look at Vinson's testimony,
19 because they never picked the bag up, they never showed it
20 to them, they never said is this what you found in the
21 backseat of your car. That was never asked. He never
22 identified it. Nowhere. So, Your Honor, there's no
23 evidence in the record that what he says he found in the
24 backseat of his car is what's in that bag marked State's
25 Number 2, so I would move to suppress based on the fact,

1 Your Honor, that that evidentiary step was never made by
2 the State?

3 The Court - What do you have to say about that?

4 Mr. Anthony - We don't have to make that step.
5 Lieutenant Sherfield testified -- Well, Sergeant Vinson
6 testified that he found the crack in his car. He called
7 Lieutenant Sherfield, Lieutenant Sherfield came out to the
8 jail and the crack was turned over to him by Corporal
9 Vinson. Lieutenant Sherfield identified the crack that's
10 in evidence as the crack that was turned over to him and
11 Corporal Vinson testified that he turned the crack over to
12 Lieutenant Sherfield at the jail. So we've shown our
13 chain and the evidence has been admitted.

14 Mr. St. Pierre - Judge, I would join in the
15 motion and further add that there's evidence that at least
16 two crack buys happened on that day and possible a third.
17 I think Sherfield said that there was a third sting later
18 after the arrest of these -- of these defendants and I
19 believe that in order for Vinson to say the crack that I
20 gave Sherfield was, in fact, that crack, he has to look at
21 it and identify it, because there's a substantial -- We
22 don't know about the possible third sting and all we know
23 about is this sting and then the other ones before it. So
24 I think that it is a necessity, an evidentiary standards
25 that the officer at the very least take a look at it and

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1 identify it and say, yes, that's what I found in the back
2 of my car.

3 The Court - Mr. McKinnon, your turn.

4 Mr. McKinnon - Your Honor, I just briefly add to
5 that and also will join in this motion and my recollection
6 also is that Corporal Vinson did not say that he took me
7 out of the of the car and gave it to Lieutenant Sherfield.
8 He said he put it in his trunk is my recollection.

9 Mr. Brannon - Your Honor, I don't know that I
10 agree with Mr. McKinnon's recitation of the testimony. My
11 recollection is that he found the drugs, he went to the
12 trunk of his car and got a bag and put it in the bag that
13 was in the trunk of his car, but, Your Honor, State's
14 Number 2 doesn't have Deputy Vinson's name on it anywhere.
15 So there has to be some -- He has to identify it. He's
16 the one who found it. He has to make a identification of
17 the evidence that's in this case. And he's not done it.

18 The Court - Well, I deny the motion. The chain
19 does not have to be proven a hundred percent. Has to be
20 proven -- I hate to use the word substantially, but each
21 person who was in the chain has to be accounted for and
22 that is the case here and that's a jury argument for you
23 to make, but I think I -- The testimony of Vinson and
24 Sherfield coupled is sufficient, so I deny that motion.
25 All right, we'll take a short break and then get the jury

1 in for closing arguments and charge and we'll have them
2 order lunch so they can -- not have to stop deliberations.
3 So let's take a break.

4 Mr. Brannon - Your Honor, the Court's been so
5 convenient and courteous, would the Court consider
6 allowing us to break for lunch before we do closing
7 arguments, because it's going to take probably two hours?

8 Mr. Anthony - I would join in that.

9 The Court - All right, I'm going to bring them
10 in and we'll break for an hour. How about that?

11 Mr. Brannon - That's perfect.

12 The Court - All right, bring in the jury.
13 That'll give me time to think through all of this morass
14 of stuff.

15 (Jury returns to the courtroom)

16 The Court - Members of the jury panel, the State
17 as I've told you has rested and that's put us in a
18 position of having to take up some legal matters which is
19 what we've been doing. The defense now has a right to
20 present a case if they wish. I have been told by each
21 that they do not intend to call any witnesses, but I will
22 let them or call on each of them to put on the record
23 their intentions.

24 Mr. St. Pierre - Thank you, Your Honor. At this
25 point Mr. Brewton rest.

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1 Mr. Brannon - Thank you, Your Honor. On behalf
2 of Mr. Pope I rest.

3 Mr. McKinnon - Your Honor, Randy Crosby rest.

4 The Court - All right. So now we've received
5 all the evidence through the testimony and exhibits. The
6 next stage of the trial will be the arguments of the
7 attorneys and then my charge on the law. It's lunchtime
8 and I don't want to work through lunch, so we'll stop --
9 well, we'll stop til 1:15. That's an hour and fifteen
10 minutes. You're not yet in a position to make up your
11 mind. You're not yet in a position to discuss the case,
12 and of course I told you what to do if anybody tries to
13 discuss the case with you, so have a pleasant lunch and be
14 back at 1:15 and we'll start with the closing arguments of
15 the attorneys.

16 (Jury exits the courtroom)

17 The Court - All right, we'll break til 1:15 and
18 I don't want to leave everybody up in the air, but I'm
19 still thinking through the lesser included request by the
20 State, so I'll be looking at that over lunch. I'll
21 certainly have a decision before we go to the jury. All
22 right. See you back at 1:15.

23 (Lunch recess taken)

24 The Court - I have looked at my charges and what
25 I have charged in the past and find that the charges in

1 trafficking do include the lesser included of
2 distribution, possession with intent to distribute and a
3 charge to that I feel like I -- incumbent upon me to
4 charge simple possession, so that's my intentions at this
5 time. Any comment on that by the State?

6 Mr. Anthony - No, I assume when you charge --
7 part of the PWID charges inference and all of that?

8 The Court - Yes, it is.

9 Mr. Anthony - Okay.

10 The Court - Any comments?

11 Mr. St. Pierre - No, sir. If, in fact, if
12 you're going to PWID, just ask that you do the lesser
13 included as well.

14 The Court - All right.

15 Mr. Brannon - No comment.

16 Mr. McKinnon - Nothing.

17 The Court - All right, we've got the copies of
18 a little bit more we're going to add in as far as the
19 lesser included and conspiracy. And then with that I
20 believe we're ready to -- State ready to proceed?

21 Mr. Anthony - Well, I would appreciate just a
22 couple of minutes to look at ---

23 The Court - Sure. Take a minute. We're getting
24 the verdict forms typed right now so it'd be in ascending
25 order of the possible verdicts, including, of course, not

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1 guilty. (Pause) In first on possession with intent to
2 distribute, I'm not going to charge that all of the
3 elements of trafficking except crack -- of the crack
4 cocaine and then for the addition I'm just -- I'm going to
5 say possession with intent to distribute requires active
6 or constructive possession of crack cocaine as I have
7 already defined these terms for you, additionally, the
8 State must prove beyond a reasonable doubt that the
9 defendant had the intent to distribute crack, then that --
10 then the inference. And I don't see where the Clerk's
11 printed out the other ones I wanted yet. Aiding and
12 abetting and conspiracy. Maybe you've already done those.
13 I don't see them.

14 Mr. Anthony - I have the conspiracy.

15 The Court - Okay, he -- I just -- Yes, I've got
16 it. I'm sorry, we've got it. It is in there. But I'll
17 get the aiding and abetting. All right, anything else?

18 Mr. Anthony - If I could just have one moment.

19 The Court - Okay.

20 Mr. Anthony - I think it's when the Court -- as
21 to the conspiracy, the Court will just couch that in the
22 trafficking charge since they're not --

23 The Court - I'm not going to charge as a
24 separate offense. I've haven't really read through it,
25 but I'm going to charge it as a definition of conspire ---

1 Mr. Anthony - Yes, sir.

2 The Court - --- not as a charge ---

3 Mr. Anthony - Not ---

4 The Court - -- not as a substantive offense.

5 Mr. Anthony - Okay. The only concern I have is
6 I would just renew my request to charge hand of one, hand
7 of all in that the conspiracy and aiding and abetting
8 attempted language is couched in the trafficking statute
9 and so for the jury to understand that that type theory
10 would work for a PWID, I would submit that they ought to
11 be charged as the hand of one is the hand of all.

12 The Court - Well, is the hand of one the hand of
13 all on possession with intent to distribute?

14 Mr. Anthony - Well, I think that if a jury found
15 that three people had an agreement to come to Union and
16 sell ---

17 The Court - Well, you're back in the conspiracy
18 now ---

19 Mr. Anthony - Well, ---

20 The Court - --- as opposed to hand of one is
21 hand of all.

22 Mr. Anthony - They can't -- I don't know that
23 the jury would understand that -- Say the jury decided
24 that this was a PWID case, not a trafficking case, the
25 charge on PWID does not encompass a conspiracy theory, the

1 ---

2 The Court - Right. I understand what you're ---

3 Mr. Anthony - Conspiracy is part of trafficking,
4 not PWID.

5 The Court - I understand that.

6 Mr. Anthony - But I do think if they believe
7 that they came to Union to sell less than ten grams of
8 crack, that ---

9 The Court - Well, the problem I have is I'm
10 going to charge them actual constructive possession and --
11 - charging mere presence and to possess -- I'm not going
12 to charge -- I'm not going to charge the hand of one is
13 the hand of all. All right, Mr. St. Pierre, I think you
14 were standing.

15 Mr. St. Pierre - Your Honor, with the
16 conspiracy, my concern is that if a jury convicts any of
17 these clients for conspiracy to traffick or conspiracy to
18 possess with intent, I believe by statute our clients'
19 penal liability would be cut in half. If there's any way
20 for us to put on the verdict form or -- or if they do come
21 back with guilty, could we then ask them to determine
22 whether or not it was based on the conspiracy?

23 The Court - You're on record requesting that.
24 I don't -- I don't believe that's the law because I know -
25 - I know what you're talking about. I know conspiracy

1 statute, but this -- This is part of a substantive
2 offense, so I'm not going to charge that. I'm not going
3 to have them do the breakdown. All right, Mr. Brannon?

4 Mr. Brannon - Your Honor, you may have already
5 answered this question, but in your conspiracy charge,
6 right under the heading that says the defendant is charged
7 ---

8 The Court - No, I'm not going to charge that.

9 Mr. Brannon - Okay. Thank you. And then the
10 last paragraph of that charge where it says in order to
11 convict ---

12 The Court - I'm not going to charge that.

13 Mr. Brannon - Thank you very much. That's all
14 I have.

15 The Court - Okay. Anything, Mr. McKinnon?

16 Mr. McKinnon - No, Your Honor.

17 The Court - All right.

18 Mr. Anthony - I don't really need to see the
19 aiding and abetting. I think I got a pretty good idea how
20 you explain that, so I'm ready whenever.

21 The Court - All right, bring in the jury.

22 (Jury returns to the courtroom)

23 The Court - Members of the jury panel, the State
24 will argue first, then the attorneys will have their
25 opportunity. We'll probably take a break sometime before

1 we get to my charge, depending on the length of the
2 arguments.

3 Mr. Anthony - Thank you, Your Honor. All right,
4 the way our rules work, I do the argument that I have and
5 then I have to sit down and all three of the defense
6 lawyers get to go and I don't get to say anything else, so
7 I'm -- I feel like I'm kind of at a disadvantage, but all
8 I'm going to do is just try to outline to you what I
9 think's important in this case and then that'll -- I won't
10 be able to respond, so I hope that you'll be able to make
11 some responses based on what I'm going to suggest to you.
12 What I'd like for you to think of -- I know in Mr.
13 Brannon's opening statement he talked about a box and he
14 talked about a box with a cat and a mouse, and I want you
15 to imagine a box, too, only I don't want you to think
16 about a box with a cat and a mouse and a hole. I want you
17 to think about a closed up box or a secured box and I want
18 you to think about animal, but I don't want you to think
19 about a cat and a mouse. I want you to think about a box
20 with no holes and a snake. And you put -- Some of you may
21 be thinking you'd never pick up a snake, but just kind of
22 work with me here for a minute. You put the snake --
23 Well, first of all you look in the box and you check the
24 box real close and there's nothing in the box at all,
25 completely clean, and you take the snake and you put the

1. snake in the box and you take that box somewhere, maybe
2. you take it to somebody who likes snakes or something, I
3. don't know, but you take the box somewhere, and you get
4. the box to where it's going, you open up the box, you take
5. the snake out of the box and then you look in the box and
6. what's in the box. There's a snake skin in the box.
7. Well, I would submit to y'all that this is the snake skin
8. of our case, because what you have -- What happened that
9. night was that you had a patrol car that two arrested
10. people were about to be placed into, and the sheriff's
11. office knew -- They knew that somewhere on somebody there
12. was some crack, because they had this deal set up, and
13. they hadn't found any crack in the Expedition, so they
14. knew there had to be some crack somewhere, and Lieutenant
15. Sherfield knew that. This is what he does for a living.
16. So he goes to Corporal Vinson before they go and they put
17. Mr. Brewton and Mr. Crosby in Corporal Vinson's car and he
18. tells him, he says you check that car. And then Corporal
19. Vinson goes and he gets his -- He gets his seat up, he
20. looks in his car and he's got a clean box. He knows that
21. there's nothing in that car, and he does that routinely
22. anyway, but he was sure going to do it this time, because
23. his superior had told him to and as you know, if you're on
24. the job and one of your superiors tells you to do
25. something and he's right there with you, you're going to

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1 go do it. So you know that Corporal Vinson had a clean
2 box. He had a clean backseat when he put those two guys
3 into it, and part of the reason for that was, there was an
4 expectation that maybe, just maybe -- They didn't know for
5 sure who had the crack. They knew somebody had crack and
6 they knew that Captain McNeil wasn't able to just strip
7 them down buck-naked there on the side of the road. He
8 couldn't do something like that, so they knew that there
9 was a pretty good chance that that crack was going to wind
10 up in the backseat of that car, and that's why they
11 checked it so close was to make sure it would be clean.
12 And so sure enough, when Corporal Vinson just makes the
13 trip to the jail, he takes them in the jail and then what
14 was the very next thing he did once he got them to the
15 jail, he goes out and checks his car, and sure enough when
16 he checks his car, what does he find. And it's just
17 really interesting that the skin was found where Mr.
18 Crosby was sitting, not where Mr. Brewton was sitting,
19 where Mr. Crosby was sitting, and it's really interesting
20 that this scale was found underneath where Mr. Crosby was
21 sitting. See they can't -- this scale, it didn't come out
22 of Venson -- from Venson Harris. This isn't Venson
23 Harris' scale. This is Mr. Crosby's scale. It didn't
24 come from a patrol car. It came from their car and it
25 came where (sic) the man who turned out left the crack in

1 the backseat. It came from where he was sitting. You
2 know, drug dealers and scales are kind of like barbers and
3 cutters. If you were a barber and you went to cut
4 somebody's hair, what would you take? You'd take a
5 cutter. You'd take your scissors, whatever they -- the
6 technical word for it is. I call it a cutter. You go
7 somewhere and sell crack, you're a crack dealer, you're
8 going to take a scale. But Mr. Crosby, he didn't take the
9 scale with him. He just left the scale in the Expedition,
10 but once they hand-cuffed his hands behind his back, they
11 put him in that car, he was able to get that crack out
12 from wherever it was on his body, probably in his
13 underwear, but wherever it was in his body, he was able to
14 get it out and he was able to just work it down underneath
15 that seat that Corporal Vinson said he didn't even keep
16 locked down, because he has to check it all the time, so
17 it couldn't have been that hard. Your hands are behind
18 your back, you reach down in your underwear, you pull the
19 bag out, you work it down in the seat. And that's what he
20 did. And that is really the key to this whole case,
21 because there's no other reasonable explanation for how
22 that crack got to where it was, how this bag got to --
23 Russell Vinson's to the backseat of his car other than
24 Randy Crosby left it there. The box was checked before
25 the snake got put in it. It got checked again after the

1 snake was taken out, there was the skin. There's no
2 reasonable explanation as to where that skin could've come
3 from, other than it was left by Randy Crosby. And when
4 you get to that point, everything else about the case
5 really just sort of falls into place. Mr. Pope got a call
6 from Mr. Harris. He rounded up his crew. He got Mr.
7 Brewton to be his driver. He got Mr. Crosby to bring the
8 -- to hold the crack and hold the scale and down 176 they
9 go. And that, ladies and gentlemen, makes them drug
10 traffickers. And the Judge will give you this definition
11 of trafficking, but basically there's just a couple of
12 words I want you to listen for. There's two ways really
13 in this case that you can find somebody is a drug
14 trafficker. The first way is to find that they agreed,
15 which the legal word for that is conspire, or that they
16 participated, and the legal word you'll hear for that is
17 aided or abetted in the delivery of crack cocaine,
18 basically that everybody got together with the intent to
19 deliver crack down here in Union and everybody had a role.
20 So that's the first way. The second way is under what --
21 what's called a possession outlook. And either way,
22 either way it works, they both apply, but either one you
23 could reason this out either way. As to possession,
24 there's two kinds of possession. One is actual
25 possession, which is what Mr. Crosby had before he dropped

1 the crack in the car. And then the other is what's called
2 constructive possession which is basically the Judge will
3 use the words dominion and control. And, you know, I was
4 thinking about how to try to illustrate this, and I think
5 a good way to look at it is, I had three guys over to my
6 house last week, because I had these big old bushes that
7 I had to have taken down, and they are all part of the
8 same yard business, and I'm sure they have tools, saws and
9 lawn mowers and shovels and whatever, they all have tools
10 that they -- belong to the yard business, that they just
11 all use. Well, at any given time one person is in actual
12 possession say of a shovel, but all three of them have
13 constructive possession of that shovel, because it's the
14 yard business shovel and they all three have access to it.
15 They all three have dominion and control over it. So just
16 because the crack wasn't found on Mr. Brewton, the crack
17 wasn't found on Mr. Pope, that doesn't mean that they
18 aren't legal -- from a legal standpoint that they aren't
19 legally in possession, and as long as you find that there
20 was an agreement between the three of them, you -- As long
21 as you find from these circumstances that we've proven to
22 you that these three guys came to this agreement to come
23 to Union and deliver crack, then they're all three guilty.
24 And the only other thing you have to consider is the
25 weight, because if you have over ten grams -- This is

1 trafficking based on weight -- If you have over ten grams,
2 you're considered a drug trafficker. If you have some
3 doubt about the amount, that you'll have an option to
4 convict them of what's called possession with intent to
5 distribute, which is a lesser offense of trafficking, and
6 basically that means that you are possessing less than ten
7 grams of crack with the intent to distribute it, but the
8 law allows y'all, it allows the jury to find that
9 possession is being made with the intent to sell when a
10 person has over a gram, so if there's some doubt in your
11 mind about the trafficking, you can still find them guilty
12 of possession with intent to distribute. Now, one other
13 thing or a couple other things I need to mention to you,
14 Mr. Pope has made this other defense claim, and I need to
15 talk to you about that a minute. He is claiming what is
16 known as the entrapment defense. And basically the Judge
17 will give you this explanation, this legal explanation of
18 entrapment, but I would submit to you that when you break
19 down entrapment, what it really boils down to is somebody
20 saying, well, I did it, but I didn't really want to, I was
21 made to do it. And the legal term that is used for that
22 is what's called predisposition, and if you find as jurors
23 that a defendant had any predisposition, that's what the
24 government say, any predisposition to commit a crime, then
25 they're not -- there hasn't been entrapment. Well, I was

1 thinking about this entrapment, and maybe some of y'all
2 have had to call people from Spartanburg to come to your
3 place in Union and do something. It's probably not
4 uncommon for people in Union every now and then to have to
5 get somebody from Spartanburg to come to where they live.
6 And I know for me, I need -- I wanted to get my chimney
7 cleaned out so I can burn wood in it this winter, and I
8 couldn't find anybody local that did that, so I called
9 this man up in Spartanburg last week, and I called him up
10 and I told him who I was and where I lived and told him
11 what I wanted him to do and I asked him how much he'd
12 charge me to come here and do it and asked him when he
13 wanted to come, and I was thinking about that conversation
14 and I thought, well, shoot, did I entrap that chimney man,
15 because that's pretty much what Mr. Harris did. Mr.
16 Harris called Mr. Pope up, he told him what he wanted, he
17 got him a -- got a price, he asked him to come. Sergeant
18 Johnson heard the whole -- you know, heard the whole
19 thing. Doesn't sound like there was any begging, wasn't
20 any begging, you know, please, Mr. Pope, come down here
21 and bring me some crack cocaine. Doesn't sound like there
22 was any of that. So if Mr. Pope comes -- And you can call
23 a man-up and get a price, find out when he's coming,
24 that's not entrapment. Nobody made Mr. Pope do anything.
25 As a matter of fact, if you remember back to those phone

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1 calls -- The phone's in evidence, so you can examine that
2 phone if you want to, but by my recollection -- Obviously,
3 this is for you to decide, but I counted eleven calls that
4 day, eleven times that Mr. Pope was on the phone trying to
5 call Mr. Harris doing the back and forth trying to set all
6 this up. And Mr. Pope was down here in about two hours.
7 You know, he made it down here in two hours. He made
8 eleven calls to Mr. Harris and now they want y'all to
9 think that he was entrapped, that he just had to do this.
10 Well, now, come on, he wasn't entrapped. He did what he
11 wanted to do. Nobody made that man over there get in his
12 vehicle, get his crew together and do anything. He did it
13 because he wanted to do it, because he wanted to sell some
14 dope and he wanted to make some money. That's what this
15 boils down to. When these lawyers get up here after I sit
16 down -- I'm going to sit down pretty soon. I'm trying to
17 keep this short. But when these lawyers get up here, I
18 imagine you're going to hear an awful lot from them about
19 things that they say that the sheriff's office did wrong,
20 and you probably going to hear a whole lot about, well,
21 this isn't in the report, this is mis-stated in the
22 report, this time is wrong and this date is wrong, on and
23 on. That's what I expect you'll hear an awful lot. Well,
24 as you're listening to that, I would ask that you -- you
25 think to yourself, how much of that matters. Okay?

1 That's what I'd ask that you think about. How much of it
2 matters and how much of it is just complaining because
3 there's not really much else to say. And what I would ask
4 you to remember about this case is that the sheriff's
5 office here, they're not on trial. You know, your verdict
6 is not a judgment for the sheriff's office. These three
7 men over here, they're the three that are on trial. Now,
8 I am not excusing mistakes, but your job, your verdict is
9 not whether or not the sheriff's office made a perfect
10 case. Your verdict is are these three men guilty, and you
11 know these three are guilty because there's no explanation
12 as to how this crack wound up in the back of Corporal
13 Vinson's car, other than Randy Crosby put it there, and
14 all these paper problems, and that's essentially what they
15 are, problems with paper, don't really matter to what
16 y'all have to decide. Now, the Sheriff of Union County
17 has been in this courtroom pretty much this whole case.
18 Okay? And his office is downstairs in the courthouse and
19 I'm sure that he would be glad to hear anything that y'all
20 have to say about what you think about how his department
21 made this case, but I would just ask you, I'd just beg
22 you, that if you think that these three guys are guilty,
23 then don't acquit drug dealers because the sheriff's
24 office paperwork isn't perfect. If you've got a complaint
25 about the way the sheriff's office handled this case,

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1 there's another way to address it, but don't make a
2 verdict as a judgment on the sheriff's office, because the
3 sheriff's office isn't on trial. And I'll -- I know when
4 y'all get back there in the jury room and you start
5 deliberating this case, you start thinking about that car
6 and how that crack could've wound up in that car, you're
7 going to use your common sense, and one thing in this case
8 just kind of falls from the other, because once you figure
9 out how the crack, that there's no reason -- no way -- no
10 other way the crack could've got in the car, everything
11 just kind of falls from that, and I know once you get back
12 there and start thinking about this, you're going to reach
13 that conclusion, you're going to figure that out, because
14 you've got common sense and that's what the jurors have to
15 have. Jurors have to have their -- use their common sense
16 and figure out that sometimes, you know, one thing just
17 sort of flows from something else. And then I'd ask you
18 to just think about your role. Once you've figured out
19 what happened here, just think about what your verdict
20 means to Union County, because crack cocaine is bad.
21 Crack cocaine is bad for people. It's poison, and selling
22 crack is the wrong way to make money, and the last thing
23 we need are people like Mr. Pope and his crew hauling it
24 down here into our county. All you got to do is call Mr.
25 Pope up here and he'll get his crew together and he'll

1 have poison here in our county in two hours. I'd ask that
2 you give a verdict that shuts down Roderick Pope's
3 delivery wagon, because we don't need more people selling
4 poison in Union County that what we've got right now.
5 Give a verdict that lets Mr. Pope and Mr. Brewton and Mr.
6 Crosby and every drug dealer up there, every drug dealer
7 up the road know to keep it up there, because we've got
8 enough here already. Find all three of these men guilty
9 of trafficking crack cocaine. Thank y'all.

10 The Court - Mr. St. Pierre?

11 Mr. St. Pierre - May it please the Court.

12 The Court - Yes, sir.

13 Mr. St. Pierre - And we don't need drug dealers
14 on video and audio-tape being bonded out for two hundred
15 dollars when they've been sentenced to fifteen years
16 before. This isn't a pitty party for the sheriff's
17 office. This is about the liberty of these three men who
18 are sitting there innocent until proven guilty. Now, I
19 told you about coverups, lies and deceits at the very
20 beginning of this trial, and you saw it with your own eyes
21 and your own ears. You heard from Sherfield that his job
22 is centered around being deceitful, a snake. You've heard
23 from him be approached about a scale missing a battery.
24 And when he was approached, whoop, here's the battery. He
25 was trying to deceive you. He was trying to deceive me

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1 and everyone of these people at this table, and it wasn't
2 until Mr. Brannon took a close look at it and Mr.
3 Sherfield said, oh, that's not the real battery, in fact,
4 I don't even know where the battery is. You've got two
5 stories from the same person Sherfield saying, my incident
6 report is accurate, honest and complete, and my incident
7 report says, Corporal Vinson got the drugs from Brewton,
8 Pope and Crosby and then three months later he fills out
9 an affidavit with his buddy, Mr. Johnson, who notarized it
10 for him, I swear under oath that I got it from Brewton,
11 Pope and Crosby. You also heard the reason for seizing
12 the car. I seized the car, because a large amount -- Oh,
13 wait, we hadn't found that yet. Let's talk about
14 coverups. Let's talk about white-out on the incident
15 report. Okay? Let's talk about incident reports written
16 three weeks prior to the incident. Let's talk about the
17 price of dope once we reveal the big discrepancy. They
18 had to call back Mr. Johnson and say, oh, well, you know,
19 you can get two and a half grams for two forty, but you
20 know what, for an extra two sixty I'll throw in -- You
21 know, you can get twelve and a half more grams. Real
22 convenient. You heard the facts saying you get a ten
23 dollar discount if you buy two and a half grams. You
24 don't get an eight hundred dollar discount. Okay? All
25 the other I don't remembers whenever it's very convenient

1 for them to say so. These are all lies, deceit and
2 coverup that you heard from the stand. And these are all
3 law enforcement officers. Now, why would they do this?
4 Frustration? Had the whole stop planned out, called his
5 boss, the sheriff, boss, I got a big -- I got a big deal
6 coming through. In fact, I'm going to get the captain of
7 investigations. Captain of investigation, I've got a big
8 deal coming through, let's set up surveillance, let's set
9 up -- Let's get some road officers in here. But, you
10 know, surveillance -- We've already done our surveillance
11 for the day. We need zero videos, we need zero audio and
12 we need zero photographs. They wanted the arrest. They
13 wanted arrest number 358, 359 and 360 for that year. Can
14 that explain the dope? You bet you. Which brings me to
15 ulterior motives. Got two people with ulterior motives.
16 We've got the sheriff's office. We've got Venson Harris.
17 Mr. Harris doesn't want to go to prison for thirty years.
18 The sheriff's office wants to save face. Can that explain
19 the dope? You bet. Got some simple math for you.
20 Fourteen minus 2.5 equals 11.5. You heard it all here in
21 trial. That's reasonable doubt. Reasonable doubt is not
22 guilty. Now, everyone of those gentlemen at the table
23 with their lawyers is charged with trafficking in cocaine,
24 crack cocaine. And when the Judge reads you the charge
25 about trafficking in crack cocaine, you're going to hear

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1 the word knowingly three times, definition of crack
2 cocaine, and in order to convict any three of those
3 gentlemen at the table, you have to find beyond a
4 reasonable doubt that they knowingly trafficked in
5 cocaine. And what is trafficking in cocaine? Possessing
6 either actually or constructively crack cocaine in an
7 amount over ten grams. Now, last night when I was at home
8 sitting down in my chair, hand tucked (sic) behind my back
9 smoking a cigarette I was thinking how can I explain
10 trafficking in crack cocaine and constructive possession?
11 Let's consider this as a thirteen passenger van and you're
12 driving the van. And each one of you are sitting on a
13 chair containing a cushion, and sir, if you believe the
14 State's theory, you're responsible for whatever is under
15 every one of these people's cushions, but we must
16 differentiate this, because this van is going to get
17 stopped, everyone is going to get searched, nothing
18 illegal is going to get found, you're all getting arrested
19 and guess what, sir, now you're responsible for crack
20 cocaine found in a police car and all of y'all are at
21 trial. Makes a lot of sense doesn't it? So, yes, that's
22 a lot reasonable doubt. Is there any doubt that this
23 substance is crack cocaine? No. Is there any doubt the
24 substance is ten grams or more of crack cocaine?
25 Absolutely. You have the scientist saying I scraped a

1 little piece of crack cocaine off a rock, but I can't
2 remember which one it is. And you'll get to look at this
3 bag. And there's plenty of rocks in here. Puts a little
4 drop on it and it turns blue and he test it again through
5 a machine and wham bam it's crack cocaine. So -- Because
6 a little piece of something from one of these rocks he
7 can't remember turns blue, that's all crack cocaine, 11.5
8 grams of crack cocaine. Now, ladies and gentlemen, my
9 client, Lashad Brewton, is presumed innocent by the State.
10 He's presumed not to have knowledge of any crack cocaine
11 deal. Okay? He's presumed innocent of any of these slew
12 of charges that are getting thrown at him. And for the
13 ladies and mothers, ladies, I'm going to define reasonable
14 doubt, little mother's intuition, where you just know
15 something just ain't right and you can't quite put your
16 finger on it. That's reasonable doubt. If you find
17 reasonable doubt, you must find my client not guilty. And
18 for the gentlemen, those of you may who watch football,
19 the ruling on the field is my client is innocent, and when
20 you go back to that jury room and you take a look at all
21 the evidence, you need to have conclusive evidence that my
22 client is guilty of trafficking in crack cocaine. I
23 submit to you that doesn't exist. So I'm simply asking
24 you to consider all the lies, all the deceit and all the
25 coverups that you heard on the witness stand and compare

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1 that with my client's liberty and I ask you to come back
2 with a verdict of not guilty. Thank you.

3 The Court - Mr. Brannon?

4 Mr. Brannon - May it please the Court.

5 The Court - Certainly.

6 Mr. Brannon - First off I'd like to say thank
7 you for your time and your patience. I know it's been a
8 long trial and probably having to get up and walk back
9 there and forth so much is a bit exhausting, but thank you
10 for your time and your patience. You've probably also
11 noticed during this trial that I'm a bit of a storyteller
12 and I'm going to tell you a couple more. When I was in
13 college, I had this friend named John Barker and we used
14 to hang out at a little lake near Tryon, North Carolina
15 called Lake Lanier and we were water ski buddies, and one
16 summer I came home from school and I see my buddy, John,
17 across the lake and he's got a dog on his dock and it's a
18 beautiful dog. It's kind of a charcoal grey chow,
19 beautiful dog and I ride in the boat over the John's house
20 and I meet his dog and his dog's name is Niche, beautiful
21 dog. And I looked at John and I said, Niche? He said,
22 yes, Niche is named after some german philosopher. Well,
23 John's clearly smarter than me because my dog's name is
24 Bubba, but I went home and I did a little bit of research
25 and I looked up Niche, and what I found out is that Niche

1 is a guy named Frederick Niche who was born in Germany in
2 1844 and he lived til 1900. He was a german philosopher
3 and kind of a social critic, maybe the first something of
4 a movie critic, but Niche said a couple of really neat
5 things. I'm sure that he said hundreds of really neat
6 things, but I'm going to use two of them today. The first
7 one that comes to mind is, in about 1880 Niche said, I'm
8 not mad because you lied to me, I'm mad because I can
9 never again trust you. And then about two years later,
10 Niche said something along the lines of, when performing
11 a task, there's my way to do it and there's your way to do
12 it, but the right way and the perfect way and the only way
13 does not exist. Now, I'm going to tell you that when
14 you're dealing -- When the law enforcement in this state
15 or in this county are performing tasks and doing their
16 job, Niche was wrong, because there is the right way to do
17 things, and any other way is the wrong way to do that. In
18 this case what we know because of witnesses that the State
19 themselves put up right on that witness stand, and I'm
20 speaking specifically of Lieutenant Sherfield, he sat
21 right here and he told you that he signed an affidavit
22 that was false. He signed an affidavit that said he
23 personally seized something from Lashad Brewton, Roderick
24 Pope and Randy Crosby. He signed a sworn statement that
25 said, I seized it, but we all know that he didn't.

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1 Officer Vinson found something in the backseat of his car.
2 I'm going to tell you right now, I'm not mad at Lieutenant
3 Sherfield because he lied, but what I know is I can never
4 again trust him. When I approached Agent Smith, the
5 State's drug expert and I said to him, if you knew this
6 affidavit that was the beginning point of your chain of
7 custody was false, what would you have done with it? He
8 said I would've returned the substance to the agency and
9 told them they had a problem with their chain. Let me
10 tell you something, ladies and gentlemen, if those drugs,
11 if that substance, whatever it is, was not tested, y'all
12 wouldn't be sitting in those uncomfortable chairs, I
13 wouldn't be in this courtroom, those three men would be at
14 home doing whatever it is that they would do on a Thursday
15 afternoon and I'd probably be trying another case
16 somewhere else. So this whole case, the fact that you're
17 in these chairs is based on a lie. I'm not mad because he
18 lied, but I know that I'm doing something that I shouldn't
19 have to be doing. I want to talk to you for a minute
20 about an individual who we do not know, but he's called a
21 confidential informant or a confidential reliable
22 informant, because you see, on June 24th, 2010 about 1:30
23 in the afternoon, there was a deal arranged between
24 officers with the Union County Sheriff's Department and
25 somebody that they knew to be a confidential reliable

1 informant whereby that person was going to go to a
2 convenient store in Jonesville and buy some dope from a
3 guy named Venson Harris. And what we know, based on the
4 testimony is that Lieutenant Sherfield and Investigator
5 Johnson knew what that person's name was, they knew his or
6 her sex, they knew if he or she had a job, they knew where
7 they lived, they knew where they hung out, they knew their
8 phone numbers and they knew that in the past that
9 individual had given them information that was reliable,
10 upon which they were able to make arrest and make other
11 investigations. They could go to that person and say,
12 hey, we've heard this, can you confirm or deny this, and
13 they did, but when they arranged that buy with Venson
14 Harris, they did more than just send him with some money.
15 They sent him with a video camera, a video camera that
16 also had audio with it, just a little tiny body camera.
17 So when they went -- When that CRI went to that
18 convenience store to make a buy from Venson Harris, it was
19 all on tape. They show Venson Harris, you heard the
20 informant, you saw the transaction, there was marked
21 money, it was all right there. Remember, in this case
22 there is the right way and the only way to do it. Niche
23 was wrong and when they went with the CRI to the
24 convenience store to pop Harris, they did it the right
25 way. Now, let's talk about what -- excuse me -- Union

1 County Sheriff's Department knew about Venson Harris when
2 he's sitting in the Union County Detention Center. They
3 knew that he had just bought the dope for -- excuse me --
4 just sold dope to their CRI. They knew that he needed a
5 bond so that he could go to work the next day, but they
6 didn't know if he'd ever told the truth in his life. They
7 didn't know where he worked. They didn't know his phone
8 number. They didn't know who he hung out with and they
9 didn't know and had never used him in the past for any
10 information. He apparently approaches law enforcement or
11 they approach him and said, look, I need a bond so that I
12 can go to work in the morning. Investigator Johnson says,
13 if you want my help, you're going to have to help
14 yourself. You're going to have to do something for me.
15 Please keep in mind that I asked both Sherfield and
16 Johnson, was Harris working for you, and they both said
17 yes. That makes him the State's agent. That makes him
18 the State's actor. He was working for them. Now, I want
19 -- want you to understand, they claim that the only deal
20 offered him and the only benefit he received for working
21 for them was Officer Johnson going to the magistrate and
22 saying give this guy a lower bond. That's the deal they
23 want you to believe, but guess what, that's enough. If
24 that's all you believe he got, that's enough. That's
25 payment for services rendered, but in this case, ladies

1 and gentlemen, let's look beyond the deal. He was looking
2 at thirty years in prison. He got three. His wife was
3 arrested the same day and charged with exactly the same
4 crime. Never served a day in jail. She never pled guilty
5 to anything and she's not in jail today. So you can
6 believe that the only deal was I'm going to go talk to the
7 magistrate and get you a lower bond. You can believe that
8 if you want. And quite frankly, that's fine, because
9 that's enough. But the truth of the matter is he got ten
10 times fewer years in prison than he could have and his
11 wife's charge was dismissed. Now, let's talk about the
12 traffic stop. I don't know about y'all, but I've been
13 stopped by the police a time or two for going a little bit
14 too fast. That's a traffic stop. Ooops, the blue-light
15 goes off, you sit there kind of nervous, police officer
16 walks up, can I see your driver's license and
17 registration. That's a traffic stop. Now, let's talk
18 about what happened here. A vehicle was driving down 176.
19 The next thing the occupants of that vehicle know, there's
20 at least two police cars behind it. There's at least two
21 police cars in front of it, and there's any number of law
22 enforcement officers approaching the vehicle with guns
23 drawn. Now, I know, everybody asked the police officers,
24 were your guns drawn and they said, we don't remember, but
25 it wouldn't be unusual. Let me tell you something. That

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1 means the guns were drawn. That's what it means. This
2 was not a traffic stop. This was an ambush. Another
3 piece of evidence that leads us to know it wasn't a
4 traffic stop is because nobody got a ticket. They didn't
5 get a speeding ticket. They didn't get charged with
6 reckless driving. They didn't get, you know, no seat-
7 belts. There were no traffic citations issued. The other
8 thing that might lead you to believe that it wasn't a
9 traffic stop is immediately after they got these people
10 out of the car, they're hand-cuffed. I'm sorry. If it's
11 a traffic stop, they don't hand-cuff you. These three men
12 were immediately put into hand-cuffs. Then when talking
13 about this traffic stop with Lieutenant Sherfield he said
14 something that led me to tell the story about the little
15 red wagon. Did you hear him? He said we were going to
16 seize this vehicle because of the large quantity of
17 cocaine. He said that. But he was pushing the wagon,
18 because they hadn't found any cocaine. They got a call
19 from somebody at the sheriff's department, said he could
20 help them. The guy was facing thirty years in prison,
21 said he could help them, and by God somebody was going to
22 get arrested. Somebody was going down. Something was
23 going to happen. We're going to seize this vehicle
24 because of the large quantity of cocaine. They hadn't
25 found it yet. It wasn't there. He was pushing his wagon.

1 He says that he found a scale. After hand-cuffing the
2 three individuals they searched the vehicle. You know,
3 constitution says that we are free from unreasonable
4 searches and seizures in our homes. There's some case law
5 that talks about the ability of law enforcement to search
6 your car, and it's not quite as strict as searching your
7 home, and that's because the car can move. Right? But
8 who was going to move the car once the three guys were out
9 of it and their hands were cuffed? Nobody. They never
10 asked, can we search the car. They never went to a Judge
11 and got a search warrant. They just went in and got it.
12 And now Sherfield says he found a scale, and you got a
13 scale. I've seen it. You've seen it. Here's my problem
14 with the scale. The scale has been kept in a file cabinet
15 for a year and a half. Kept in a file cabinet that any
16 number of people have access to and, oh, by the way, in
17 that year and a half the scale has changed. A part of the
18 scale that was there when he says he found it ain't there
19 no more. Now, that's kind of nonsensical, doesn't really
20 matter, but what does matter is remember the sequence of
21 events. You see, law enforcement gets word that this
22 Harris guy might be able to help them and they go into
23 action. Sherfield calls in his gang and they meet at the
24 drug task force where the file cabinet's at. And
25 remember, according to Sherfield himself, that file

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1 cabinet's got all kinds of scales in it, it's got dozens
2 of scales that they've collected over the years. Now,
3 keep in mind I'm trying to tie these things together.
4 This is the same guy that said we're going to seize this
5 vehicle because of the large quantity of cocaine that's
6 supposed to be in it, but it ain't in it. I don't know
7 that Sherfield took a scale out of a file cabinet. I
8 don't know that, but what I know is this box has got a
9 hole in it, and it could've been that, it could've been
10 that. Could've been. I mean keep in mind, this is the
11 same guy that told SLED I seized dope from three people
12 and I want you to test it, but he admits that that was not
13 true. This is the same guy that told you that he often
14 and regularly entices people to do something by lying to
15 them. I don't know that he did it, but he says he found
16 a scale. And then he says that on this scale he found
17 something that based on his experience he believed to be
18 residue cocaine, and based on his finding that without a
19 search warrant, without consent to search the vehicle,
20 without any of that, he places them all under arrest for
21 possession of cocaine. And that's okay. The problem is,
22 you don't have that cocaine here. It's not here. So he
23 charged them. He arrested them for something he says he
24 saw on the scale but he didn't -- He didn't have it
25 tested. Remember there is a right way and one way and the

1 only way to do it when it comes to law enforcement, and he
2 didn't do that, and you don't have that white powder
3 residue he says based on his experience was cocaine. You
4 don't have it. He also says in his incident report, I
5 took everyone's cell phone. It's in his report. But he
6 didn't take everyone's cell phone. He changed it. He
7 said, no, I only took everyone that had one. I'm sorry.
8 I'm a defense attorney. You know, earlier Mr. Anthony
9 said I feel like I'm at a disadvantage, because they get
10 to go after me. Well, what about us defense attorneys?
11 We have an incident report that says I took everybody's
12 cell phone, but they didn't, and we found that out here.
13 On 176 during this ambush they get these three guys out of
14 the car and all they find is money. That's all they find.
15 And they want you to say -- They want you to think that,
16 oh, they got to be drug dealers because they had two
17 hundred and eighty dollars in their pocket, five hundred
18 and thirty dollars or something like that. Well, keep in
19 mind Mr. Pope didn't have a damn penny on him. He didn't
20 have any money in his pocket. And because they have money
21 in their pocket, they're drug dealers. Well, I'm going to
22 tell you what, I don't have any money in my pocket,
23 because I don't want them to think I'm a drug dealer.
24 They didn't find guns. Nobody had a gun, but yet
25 Sherfield said guns are normally and typically found on

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1 people that sell drugs. Didn't find any guns. This is
2 something that's kind of technical. This bag right here
3 was sent to SLED and inside of this bag was this yellow
4 bag that they say they found the dope in. Well, you know,
5 I'm sorry that Officer Vinson doesn't think that he could
6 test this bag for fingerprints because of the wrinkles in
7 the bag. I tell you they can at SLED. They can. And
8 that bag was at SLED, but they didn't -- They didn't have
9 it tested because, see, that would've been proof positive
10 who had touched it. They didn't do that, but they could
11 have and they didn't do that. But this is -- These people
12 at this table want you to believe that this is the drugs,
13 this is the stuff that Officer Vinson found in his police
14 car and that he immediately after transporting Mr. Crosby
15 and Mr. Brewton, this is what he found in his police car
16 under the seat and then he gave it to Officer Sherfield,
17 but you know what they didn't do? Please keep this in
18 mind. They didn't do this. When Officer Vinson was
19 sitting up here and testifying under oath, they never
20 handed him this bag and said, is this the stuff that you
21 got out of your car? They never asked him that. And you
22 see, to prove that Mr. Crosby or Mr. Pope had dope that
23 they deposited in that car, they have to show you the dope
24 that they alleged they found in the car. This ain't it.
25 They never proved that. They didn't. Now, what you might

1 be able to believe is that this is the drugs or this is
2 the substance that Officer Sherfield took to Columbia to
3 have tested, but keep in mind his affidavit is false. So
4 while this might be what he took to be tested, I would
5 just ask you to think about something here. This is the
6 same guy that told SLED I seized it from three people and
7 brought it to you for testing, but that's not how it
8 happened. I don't doubt that this is something that
9 Sherfield took to Columbia to test, but what I know is
10 this package right here was never put in the hand of
11 Officer Vinson, was never even shown to Officer Vinson to
12 say, yep, that looks like what I found in my car. He
13 never said it. Now, please keep in mind not one of those
14 three men sitting over there with their lawyers and, of
15 course, my client in the striped shirt, not one of these
16 three men were ever found to have had drugs on them by law
17 enforcement. Never. Never, never, never. Nothing was
18 ever checked for fingerprints to say, yep, it was Pope or
19 yep it was Crosby or yep it was Brewton. Doesn't happen.
20 It's not there. I want to talk to you for a minute about
21 entrapment. Entrapment has two steps, has two steps.
22 First, I have to give you what's called a scintilla.
23 Actually, I have to give you more than a scintilla of
24 evidence that Mr. Pope was enticed by a state actor to
25 come to Union County. There were five calls made from

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1 Venson Harris to Mr. Pope while he was sitting in the
2 Union County jail. Johnson and Sherfield both testified
3 he was working for them. I then asked them and Mr.
4 Harris, as well, do you have any evidence that Mr. Pope
5 would've come to Union that day but for the phone calls
6 from Harris? Nope. He was working. He was benefited by
7 calling Mr. Pope. No question about it. There's evidence
8 that he was and there's absolutely no evidence that he
9 wasn't. None. Okay, and then after I show you a
10 scintilla of evidence that he was enticed, then the State
11 has to prove beyond a reasonable doubt, beyond a
12 reasonable doubt that -- there's three things -- an
13 existing course of criminal conduct by the defendant.

14 Mr. Anthony - I'd object. I believe he's
15 reading part of the charge that the Court has advised it's
16 not going to be ---

17 The Court - Well, don't read what I'm not going
18 to charge and I ---

19 Mr. Brannon - Okay. Okay. All right. Let me
20 rephrase. They have to prove beyond a reasonable doubt
21 one thing, and that one thing is a willingness to commit
22 the crime charged as shown by the defendant's ready
23 response to be induced, ready response. Now, I want you
24 to remember the testimony of Venson Harris, Officer
25 Johnson and maybe even Sherfield. I'm not sure. Harris

1 said my client said he didn't have any dope. Harris said
2 that. And then Johnson said that's what Harris told him.
3 He didn't have any dope. He didn't have it. And then I
4 want you to understand this. The very first phone call
5 from Venson Harris' phone to the person he alleges was
6 Roderick Pope was made at 4:39 p.m. The ambush took place
7 and the arrest was made at 6:55 p.m. The difference is
8 one hour and forty-four minutes. He clearly was not
9 readily accessible. Five phone calls, one hour and forty-
10 four minutes, he didn't have any dope. If Pope ain't got
11 the dope you must acquit. Now, I want to talk to you just
12 for another minute about a few things. Already talked
13 about Mr. Anthony talking about he was kind of at a
14 disadvantage because he had to go first, and then he used
15 my box story and he changed it into a snake skin. And I'm
16 going to tell you, I like his story. I like his snake
17 skin, because if there's a skin in the box, there's your
18 snake right there. They said something about Vinson was
19 told by his superior to check the backseat of the car
20 before he put Crosby and Brewton in the car, because --
21 And we know that he did it because his supervisor was
22 there and his supervisor told him to do it, and by golly
23 you got to do that. Well, and then Mr. Anthony said, the
24 sheriff's been in here most of the time. It's interesting
25 he's not in here now, but the sheriff is his supervisor.

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1 Okay? Do you think the sheriff told Sherfield to lie on
2 the affidavit? Do you think he did? Bet you he didn't.
3 So you see, they don't always follow the rules. They
4 don't. And then John Anthony said to you they set up this
5 ambush on 176 because they knew there was a large quantity
6 of cocaine coming through on 176 in a black Expedition.
7 Ladies and gentlemen, they didn't know anything but what
8 Venson Harris told them. That's all they knew, a man who
9 had been sent to prison for ten years, sentenced to
10 fifteen suspended to ten for five different drug charges
11 and then arrested again looking at thirty years. Only
12 thing they knew is what he told them. They didn't know
13 squat. Drugs weren't found on anybody. They weren't
14 found on anybody. There's just been so much talk about
15 two grams or whatever it is. I don't know. Half an ounce
16 and all of that stuff. Lot of money talk. If it costs
17 two hundred and forty dollars to buy two and a half grams,
18 how can 12.5 -- or excuse me -- 11.5 more only cost
19 another two hundred and sixty dollars? I don't know. The
20 State's story just doesn't make any sense. And then Mr.
21 Anthony told you that Officer -- Investigator Johnson
22 heard the whole story over the telephone between Harris
23 and allegedly Mr. Pope. He said he heard the whole thing,
24 but he didn't hear the whole thing. He only heard half of
25 the thing. He only heard the known criminal talking.

1 That's all he heard. And then -- And then Mr. Anthony
2 attempted to make apology for the problems with the
3 paperwork and the State's case and he said, disregard that
4 stuff, disregard that stuff. Don't hold it against the
5 sheriff. Don't pay any attention to the mistakes in the
6 paper. Again, there is only one right way to do it in law
7 enforcement, only one. So, ladies and gentlemen, you
8 can't disregard the mistakes. He said the sheriff's
9 department is not on trial, but maybe they should be.
10 Maybe they should be. I'm almost done. In a little while
11 the Judge is going to tell you about two different kinds
12 of evidence. There's this stuff called direct evidence.
13 And direct evidence is the stuff that you actually see,
14 feel, hear, taste or touch. So you go to bed at night,
15 there's no snow on the ground, you wake up the next
16 morning, you open the window and boom, there's snow on the
17 ground. That's direct evidence that it snowed last night.
18 Okay? But I'm -- I'm going to change it. You go to bed
19 at night and the ground is dry, you wake up the next
20 morning, you look out and there's puddles in the driveway,
21 there's drops of rain dripping off the trees, but there's
22 no -- It's not raining, but -- but you can suggest from
23 that that it rained. Right? You didn't see it rain, but
24 there's puddles in the ground, there's puddles on the
25 driveway an there's drops dripping off the trees. You got

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1 up in the morning and you saw the snow and you knew it
2 snowed. That's direct evidence. When you get up in the
3 morning and there's puddles in the driveway and there's
4 raindrops dripping off the branches but you don't see it
5 rain, that's circumstantial evidence. And I'm sorry, I
6 crossed up two stories there. I screwed that up. But if
7 you see it, touch it, taste it or feel it, that's direct.
8 If you have to add some things together to get there,
9 that's circumstantial. Okay? In this case there isn't
10 any direct evidence or even any circumstantial evidence
11 that Roderick Pope ever had dope. None. Ladies and
12 gentlemen, you're reasonable people. You've had the time
13 to listen to the evidence. You have the common sense that
14 makes you a great juror. If you look at all this stuff,
15 if you read all of this stuff that you're going to have
16 back there, you're going to find a hole in the bottom of
17 the box. Maybe you'll find more than one. I don't know,
18 but here's what I do know. There are certain things in my
19 life that I've very proud of. My two kids are the light
20 of my life. I can tell you when they were born. I can
21 tell you when they took their last breath (sic). And what
22 I also know is that Lieutenant Sherfield could tell you
23 that day how many arrests had been made in 2010. He even
24 counted those three arrests. He was going to make an
25 arrest. Was going to make three arrests. He had some

1 information from somebody. He had to make it real. He's
2 tried to make it real. I'm going to walk away and I'm
3 going to sit down and I want to thank you again, but as I
4 walk away, I'm going to throw one thing out at you. What
5 if Harris called Mr. Pope, the guy he had known for ten
6 years, to come and bond him out of jail? What if that's
7 what the call was about? Thank you. They're not guilty.

8 The Court - We're going to take a break before
9 we do the next argument and the charge, so don't start
10 discussing the case. You hadn't heard it all yet. Don't
11 try to make up your own mind and we'll send for you in
12 just a little bit.

13 (Jury exits the courtroom)

14 The Court - Before we take our break, I've got
15 two issues to deal with. I think I know the answer to one
16 and the other we're dealing with. On two of the -- Mr.
17 Pope and Mr. Brewton, have the CDR Code as 450. On the --
18 Mr. Crosby you have 451. 451 is trafficking second. 450
19 is trafficking first. I'm just calling that to your
20 attention because that may be what it's supposed to be,
21 but I just ---

22 Mr. Anthony - I think that -- Yes, sir, I think
23 that's it.

24 The Court - Okay, I just noticed that we had --
25 The other is the Court Reporter informed me right before

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1 came in, Aminah, the Court Reporter yesterday did not
2 leave her tapes her. So we were trying to get those at
3 this time and we're calling to see -- She's supposed to be
4 working for Judge Alford this afternoon or at least
5 according to what she told me. Hopefully, she has the
6 tapes with her there at the Moss Justice Center. We are
7 contacting the solicitor's office to try to touch base
8 with Aminah and get some method to dispatch those over
9 here. I would appreciate whatever help the solicitor's
10 office can give us in going that. And that's just where
11 we are on that.

12 Mr. Anthony - You want us to call up to York and
13 see if somebody can get ---

14 The Court - Well, I've got my Clerk working on
15 it, but couple of things, one, we've got to find Aminah,
16 but I think she's supposed to be with Judge Alford, number
17 two, let's hope she has the tapes with her, because she
18 doesn't have an office at the Moss Justice Center, so ---

19 Court Reporter - She doesn't use tapes. She
20 doesn't have a tape backup.

21 The Court - She doesn't have any tapes.

22 Court Reporter - She uses ---

23 The Court - She has real time.

24 Court Reporter - Yes, she does real time. So
25 she would have to be here to do that.

1 The Court - Well, it may be that we may have to
2 try to get Aminah over here then. Anyway, we've got that
3 situation. I'm concerned about it. If I'd known about it
4 earlier, we would've gotten started working on it earlier.
5 Anyway, we'll take a break and try to get her over here,
6 and I'd appreciate any help from the solicitor's office.

7 Mr. Anthony - Well, if there's something we can
8 do, we'll be happy to ---

9 The Court - Well, I don't know. We're going to
10 try to get in touch -- Now, that I know she doesn't have
11 tapes ---

12 (Discussion is held between the Court and the
13 Law Clerk which was not reported.)

14 The Court - All right, we'll work on that.
15 We'll take a break.

16 (Recess taken)

17 The Court - State ready?

18 Mr. Anthony - Yes, sir.

19 The Court - Mr. St. Pierre?

20 Mr. St. Pierre - Yes, sir.

21 The Court - Mr. Brannon?

22 Mr. Brannon - Yes, Your Honor.

23 Mr. McKinnon - Yes, Your Honor.

24 Mr. Anthony - Your Honor, just to advise the
25 Court with the situation with Ms. Hardy, we are more than

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1 happy to bring her -- I talked to Mr. Brackett and he said
2 that he -- He would be more than happy to arrange for her
3 transportation to Union if need be. He just hadn't been
4 able to -- We can't find her.

5 The Court - I know. Okay, I don't know that
6 we'll ultimately need her, but I just -- at least have
7 some way we can get in touch with her and have her -- if
8 it pops up that we need her to get her here -- requires
9 some downtime ---

10 (Discussion is held between the Clerk and the
11 Court which was not reported.)

12 The Court - Did you say Mr. Brackett is looking
13 into it?

14 Mr. Anthony - I just talked to him. Yes, sir.

15 (Discussion is held between the Clerk and the
16 Court which was not reported.)

17 Mr. Anthony - I just -- He can't figure out a
18 way --

19 The Court - I understand, but we are trying to
20 see if we can get in touch with her and have her get in
21 touch with Mr. Brackett. All right, bring in the jury.

22 (Jury enters the courtroom)

23 The Court - All right, Mr. McKinnon?

24 Mr. McKinnon - Thank you, Your Honor. Ladies
25 and gentlemen, you're almost through. I'll try not to

1 take too long here. What do we know about this case?
2 These three gentlemen were pulled over in a car,
3 subsequently arrested, put in two different vehicles where
4 Mr. Crosby, Mr. Brewton later put in one police car and
5 when they were taken out the police say they found 11.5
6 grams of crack underneath the seat. That's the State's
7 actual case. There's other filler, there's other State's
8 theory that they want you to believe. They want to fill
9 in the gaps of how this happened and, ladies and
10 gentlemen, there is something else, one other thing that
11 we know for sure. The only person that day from Union
12 County that was found beyond a reasonable doubt to possess
13 crack cocaine was Venson Harris. Now, Mr. Harris, as
14 you've heard several times, certainly had a desire to get
15 out of jail. He was facing a lot of time. His wife was
16 arrested, he couldn't make bond, so he -- He says he wants
17 out, the State -- use your phone, help us. So they
18 reasonably expect based on what Mr. Harris apparently told
19 them that they're going to find large amount of crack
20 cocaine, fourteen grams or half an ounce. So what do they
21 do? They mustered their troops, they get uniformed
22 officers, they get narcotic's officers, they even get the
23 captain of the sheriff's department, Captain McNeil's
24 getting involved, so excited, this is going to be big.
25 What else? They get the elected sheriff, Sheriff Taylor

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1 involved in a car to go out and make a bust that they're
2 so excited about. They pull these guys over and ambush I
3 believe Mr. Brannon referred to it as, bunch of police
4 cars converging, pulling them over, probably coming out
5 with their guns drawn and they address in stance, pulling
6 them out, all right, we're going to get -- this is
7 fantastic. Okay? Now, they searched the vehicle.
8 There's some discrepancy as to who searched who, but
9 Captain McNeil himself searched Randy Crosby. Not one bit
10 of narcotics, no firearms, no bit of contraband, nothing
11 illegal was found on any of these three gentlemen. They
12 searched the car. Again, nothing. Now, they got these
13 scales with a white smear on it that they said believed to
14 be controlled substance, again, crack cocaine, but that
15 wasn't -- That's not in front of you here today. Wouldn't
16 you like to have seen that, seen, you know, a chemist say
17 what that was? That's the reason they arrested them.
18 Now, also wouldn't you also like to hear who when Mr.
19 Brewton and Mr. Crosby were put into the car first? The
20 State can't even tell you who sat them in the car and when
21 it happened, who was at first. How long was the first
22 person in there before the second was put in there. We
23 don't know. Wouldn't that be important? If their -- If
24 you believe the State's theory that one of them had drugs
25 hidden on them and then later somehow extricated it from

1 themselves while they're hand-cuffed in the car and hid it
2 in there, wouldn't you like to know who had that
3 opportunity with no one around, no one else in the car?
4 Ladies and gentlemen, once they go back to the police
5 station they say or Mr. Anthony said when I -- the seat,
6 there's the drugs, how else could they possibly have
7 gotten there. Well, obvious these drugs weren't ever
8 found on any of the three, how would the State
9 conclusively prove that. Fingerprints, DNA. They
10 could've done that and they did not. Would be so much
11 simpler. We probably wouldn't even be here if that was
12 done. We would all know conclusively whether those --
13 that package was handled by any of these three guys. We
14 don't know that. That's a gap. They want to fill that
15 gap in and say oh, of course, must've -- drugs were put in
16 there, because that's the only thing that makes sense.
17 You deserve better than that. You deserve to know beyond
18 a reasonable doubt these drugs were possessed by one, two,
19 three or none of them. Now, ladies and gentlemen, also
20 Mr. Anthony asked you not to worry about paper issue, this
21 affidavit. Everybody's brought it up. But it's just not
22 paperwork. That is the sworn affidavit, the same thing
23 when Lieutenant Sherfield testifies here in Court on
24 Wednesday, they swear under oath that they're telling the
25 truth. We know that affidavit was false. We know he

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1 swore to tell the truth. He's there and he's telling the
2 truth. That's what an affidavit is, and it's not true.
3 He said it's not true. But it's obvious we know that.
4 Here today and all week, that's the basic testimony you
5 hear in Court. You're supposed to believe or not believe
6 someone because they are swearing an oath that they are
7 telling the truth. Now, the Judge in a little while will
8 give you his charge. One of those charges will be it's
9 your job as jurors or your prerogative to believe or not
10 believe someone's testimony, any witness, all the
11 witnesses, you know, what they say, part of what they say,
12 that's your prerogative and I want to just inject keep
13 that in mind when you decide the credibility of everyone's
14 testimony, what you know about their credibility and what
15 you know about the truth they've already told in Court and
16 under oath. What else would be helpful for you guys to
17 know? There was no testimony whatsoever about officer
18 searching the car that Mr. Pope was in before or after the
19 arrest. Strange they did that for two guys that they say
20 found drugs in. Didn't do that in the other car. There
21 was no testimony of it. Would like to know that? Another
22 thing the Judge will tell you in his charge is something
23 called merely present. Ladies and gentlemen, I will say
24 to you that these two gentlemen in a car with no
25 contraband found in it were merely present in that car and

1 that Mr. Crosby and Mr. Brewton in a car that was later
2 found to have drugs under the backseat, you know, had to
3 flip up to get to were merely present in that car. Again
4 that is not actually possessing. They're going to try --
5 The State's trying to tell you that's constructive
6 possession when they've got long theory that they must've
7 actually possessed it for it to get there. But the actual
8 tangible evidence says otherwise. And, ladies and
9 gentlemen, I'll bring this up. And I've been wondering
10 about it the whole week, maybe you have, too, sort of like
11 an elephant in the room. Again, the one person June 24th,
12 2010 that's been found conclusively beyond a reasonable
13 doubt to possess crack cocaine was Venson Harris. This
14 alleged deal, one half ounce which according to testimony
15 is fourteen grams, Mr. Harris sold two and a half grams.
16 That leaves 11.5. Wouldn't you like to know what that
17 crack looked like, that 2.5? Agent Smith from SLED said,
18 well, I can sort of tell, you know, looking at the crack,
19 how hard it is, the color, a few other descriptive items,
20 looking at two pieces of crack, I can kind of tell if
21 they're equivalent or from the same batch, can't remember
22 what his exact wording was, but he can tell based on look
23 and touch and so forth. Well, wouldn't you like to see
24 what that 2.5 grams that Mr. Harris sold? He did not tell
25 you that. Wouldn't you like to see if that matched up

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1 with the 11.5 grams? One guy definitively sold crack and
2 possessed crack that day. Ladies and gentlemen, a lot of
3 things that I think you deserve to know that you don't.
4 These three gentlemen, Mr. Crosby, Mr. Brewton, Mr. Pope
5 deserve for you to have had that information to make your
6 decision. Please consider that. At the end of the day
7 when you deliberate I'm confident that you will all find
8 that the State has not proven beyond a reasonable doubt
9 the guilt of these gentlemen. They laid out a few facts
10 and tried to fill it in with a story. Thank you.

11 The Court - Members of the jury panel, I ask you
12 to give me your attention. I appreciate the attention
13 you've give to me and the attorneys and the witnesses to
14 this point. I am now going to charge you the law that you
15 are to apply to the facts as you determine them to be.
16 Now, these indictments against these three gentlemen you
17 will have with you in the jury room. They're not
18 evidence. They are the allegations, the charges against
19 Mr. Crosby, Mr. Pope and Mr. Brewton, but they're not
20 evidence, so you're not to consider them as evidence. And
21 madam forelady, they'll ultimately be where the unanimous
22 verdict is enrolled and the paperwork by way of which this
23 case is processed through our Court system. Now, the fact
24 that these three gentlemen has been arrested, the fact
25 that they have been charged, the fact that they have been

1 indicted, the fact that they are on trial is not evidence
2 either. That is no indication of their guilt. That's
3 just the way our system works. When the State believes
4 someone has committed an offense, they are charged,
5 indicted, tried, it's up to the jury to determine whether
6 or not the State has proven that person's guilt beyond a
7 reasonable doubt. The fact that they are on trial, should
8 not, cannot and must not weigh against them in any way
9 whatsoever. The fact there are three defendants is of no
10 importance. Therefore, you are not to assume or conclude
11 that because there are three individuals or one is guilty
12 and -- if one's guilty, they're all guilty or they're all
13 guilty because there are three of them. That is you are
14 to look at these charges as to each. You look at the
15 evidence as to each. You look at the law as I charge it
16 to you as to each. As to each defendant before you could
17 convict and find that defendant guilty as to that
18 defendant, the State must prove to your satisfaction that
19 defendant's guilt independent of the other defendants
20 guilty of the elements of the offense as I charge it to
21 you. Each of these defendants is presumed innocent. Our
22 law gives each defendant charged with any offense the
23 presumption of innocence. This is a substantial right.
24 It is not just a mere legal theory or mere legal phrase.
25 The presumption of innocence is a substantial right that

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1 enures to the benefit of a defendant at the time they're
2 arrested, remains with them as their case is processed
3 through our Court system and remains with them as they are
4 on trial. This presumption of innocence remains in favor
5 of Mr. Crosby, Mr. Pope and Mr. Brewton as I speak and
6 even as you deliberate. The presumption in their favor
7 remains with them and is removed if and when and only if
8 and when you as the trial jury in this case determines the
9 State has proven one or more's guilt beyond a reasonable
10 doubt. The State has to prove beyond a reasonable doubt
11 all of the elements of an offense before you could convict
12 a defendant of an offense. Now, the State is not required
13 to prove one's guilt beyond all or beyond every doubt but
14 beyond a reasonable doubt. A reasonable doubt is the kind
15 of doubt that would cause a reasonable person to hesitate
16 to act. Proof beyond a reasonable doubt is proof that
17 leaves you firmly convinced of someone's guilt. There are
18 very few things in our world that we know of absolute
19 certainty and our law does not require that in criminal
20 cases. If based on your consideration of the evidence you
21 are firmly convinced of one's guilt as to the crime
22 charged, you would find him guilty. On the other hand if
23 you think there is a real possibility that a defendant is
24 not guilty, then you would find him not guilty. Again,
25 the State must prove one's guilt as to all elements of the

1 charge beyond a reasonable doubt. I told you two days ago
2 when we started that I have several jobs, one of which is
3 to charge you the law. You must take, accept and apply
4 the law as I charge it. This is true even if you think I
5 charge the law in error or even if you think I -- the law
6 should be different. Your oath requires you to take,
7 accept and apply the law as I charge it. You're not to
8 infer from anything I have said or done or anything I now
9 say or do as indicating an opinion of mine on the facts.
10 Our law does not allow a trial Judge to formulate or
11 express to a jury any opinion on the facts. It is solely
12 up to you. It's solely up to you as trial jury in this
13 case to examine the evidence, give to the evidence the
14 effect, the value, the weight and the truth you believe it
15 should have. In doing this you may believe one witness as
16 opposed to several, several witnesses as opposed to one.
17 You may believe all, part or none of a witnesses'
18 testimony. As Judges of the facts, you must of necessity
19 judge the credibility, that is the believability of the
20 witnesses who have testified. In assessing believability,
21 use the things I just talked to you about, use the things
22 that you in your day-to-day life find as indicative of the
23 truthfulness in an individual. You can use certain
24 evaluators, how a witness acts on the stand, their
25 demeanor, are they hesitant or straight forward in

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1 responding to questions. You could consider and look at
2 consistences and inconsistencies of a witness, that is
3 whether there are statements that make, testimony or
4 compared to statements that were made at an earlier time.
5 You can look at consistencies and inconsistencies to
6 determine one's credibility, that is one's believability.
7 You can consider the opportunity a witness had to know who
8 things about which the witness testified in assessing
9 credibility. You can look to see if anyone has any bias
10 or prejudice, that is any reason to help or hurt one side
11 or the other and as to credibility, you could consider
12 whether or not an individual has a criminal record. You
13 can consider that in determining whether and to what
14 degree to believe them. Now, in cases such as this there
15 are generally two types of evidence presented, direct and
16 circumstantial. Direct evidence is testimony by someone
17 who claims to have actual knowledge of a fact such as an
18 eyewitness. Direct evidence is evidence which immediately
19 establishes the main facts sought to be proven.
20 Circumstantial evidence is proof of a chain of
21 circumstances indicate the existence of a fact.
22 Circumstantial evidence is evidence which immediately
23 establishes collateral facts in which the main fact may be
24 inferred. Circumstantial evidence is based on inference
25 and not on personal knowledge or personal observation.

1 Our law makes absolutely no distinction between the weight
2 or value to be given even direct or circumstantial
3 evidence. Our law does not require a great degree of
4 certainty for circumstantial evidence as -- as -- that it
5 does to direct evidence. What you should do in this case
6 is weigh all of the evidence. If you determine after
7 weighing all the evidence that the State has not convinced
8 you of an individual's guilt beyond a reasonable doubt,
9 you would find that person not guilty. In this case we've
10 had an expert testify, a chemist. Generally, an
11 individual can only testify as to something they've
12 observed from one of their five senses. It's usually
13 something they've seen or heard, but it could be taste,
14 touch or smell. However, where an individual has certain
15 qualifications because of education, skill, knowledge and
16 training in a certain area, that person can take facts and
17 from those facts render opinions. Now, opinions are
18 allowed into evidence through experts to assist you.
19 They're not binding on you. You look at an expert witness
20 with all the criteria you look at any other witness. In
21 addition, as to an expert witness, you look at their
22 ability, that is their -- you determine whether or not you
23 believe they have the ability to render an opinion in that
24 certain area, here it's chemistry in drug analysis, and
25 you also can determine and look at the reason they reached

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1 the opinion they reached. You can accept or reject in
2 whole or in part an expert's testimony. I charge you that
3 mere present at the scene of a crime does not make a
4 person guilty of that crime. A defendant -- A defendant's
5 presence where a crime is committed or mere association
6 with one who commits a crime does not make that person an
7 accomplice, an aider or an abetter with a person
8 committing a crime. The burden, as I've told you a couple
9 of times is on the State to prove every element of the
10 charges. If you find after reviewing all the evidence the
11 State has proved only that a defendant was present at the
12 scene and has not proven beyond a reasonable doubt any
13 participation by a defendant in a crime, then you would
14 find that defendant not guilty. The law is that proof at
15 the scene of a crime by an individual is not going to be
16 sufficient to find someone guilty. Each of these
17 defendants have exercised their constitution right to
18 remain silent. That is a constitution right, both State
19 and Federal. I advise you that you cannot use against a
20 defendant in any way whatsoever the fact that they have
21 exercised their constitution right to make -- to not
22 testify. Again, this is an important, substantial
23 constitutional right that enures to the benefit of anyone
24 charged with an offense. The fact that they exercise that
25 right cannot be used against them, cannot be discussed by

1 you and cannot in your own deliberations, in your own mind
2 be a factor in your reaching your verdict. They do not
3 have to prove their guilt. I'm sorry. They do not have
4 to prove their innocence. They do not have to prove their
5 innocence. The State must prove their guilt beyond a
6 reasonable doubt by proving each and every element of an
7 offense before you could convict a defendant of a charge.
8 Now, in order to establish criminal liability, criminal
9 intent is required. For example, the mental state
10 required to prove a -- to be required to be proven by the
11 State for a particular crime could be purpose, intent,
12 knowledge -- or knowledge. Criminal intent must be proven
13 beyond a reasonable doubt. Criminal intent is always a
14 matter that must be determined by you, the jury in this
15 case, from the circumstances surrounding the situation at
16 issue. There is, of course, no way to prove to a
17 mathematical certainty and no way medical science can
18 dissect and determine what's in a person's mind. So our
19 law says that criminal intent may be inferred from the
20 circumstances that are shown by the evidence to have
21 existed. This is how we make a determination or how you
22 would make a determination as to whether or not the
23 element requiring intent was present. It is not necessary
24 to establish intent by direct and positive evidence, but
25 intent may be established by inference in the same way as

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1 any other fact in this case, taking into consideration the
2 acts of the parties, all the facts and circumstances
3 presented in this case. Criminal intent is a mental
4 state, a conscious wrongdoing. It is up to you to
5 determine whether a defendant -- what intent a defendant
6 intended to do based on the circumstances shown to have
7 existed at the time. Criminal intent can arise also from
8 acts and/or failure to act. Each of the defendant is
9 charged with trafficking in crack cocaine. The State must
10 first prove that the substance at issue was, in fact,
11 crack cocaine. The State must also prove beyond a
12 reasonable doubt that a defendant aided, abetted,
13 attempted or conspired to sell, deliver or was knowingly
14 in actual or constructive possession of crack cocaine.
15 The State must prove beyond a reasonable doubt as to
16 trafficking that the amount of crack was by weight ten
17 grams or more. I used the word conspire. Conspiring
18 means to have a mutual understanding, agreement or common
19 intent and plan. To constitute conspiring, mere passing
20 knowledge or consent to the criminal conduct of someone
21 else alone is not enough to make a person a conspirator.
22 One had conspired, that person must have guilty knowledge
23 and be a participant. Similarly, the mere fact that one
24 defendant may have associated with others or met with
25 others to disclose common names and interest does not

1 necessarily establish proof of the existence of a
2 conspiracy or that a defendant was involved in a
3 conspiracy. On the other hand, it is not necessary to
4 show that there was a formal agreement or an agreement in
5 writing or that a meeting was held or that there was any
6 express -- expressly stated terms of any common plan or
7 agreement. The agreement of a criminal conspiracy may
8 come into being through an implied mutual understanding.
9 The willful intentional and knowing adoption by two or
10 more persons of a common plan, that is, is sufficient. No
11 overt acts need to be shown to establish a conspiracy. A
12 conspiracy may be shown by circumstantial evidence and the
13 conduct of the parties. I used the words aiding and
14 abetting. A person who is present at the scene of a crime
15 and intentionally or through a common plan aided, abetted
16 or assisted in the commission of that crime through some
17 overt act is guilty as an accomplice. So to be liable as
18 an accomplice, a defendant must have knowledge of the
19 principal actor's criminal conduct. As I told you and
20 remind you, mere presence at the scene is not sufficient
21 to establish guilt and is not sufficient to establish
22 guilt as an accomplice. Intentionally means willfully
23 intending the results which actually occurred. Intention
24 is something that's not accidental or involuntary. I also
25 used the words actual and constructive possession. Actual

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1 possession means that the crack cocaine, if you determine
2 that's what it was, was in the actual, physical custody of
3 a defendant. Constructive possession means that a
4 defendant had dominion and control or the right to
5 exercise dominion or control over either the crack itself
6 or the property where it was located. Mere presence again
7 I tell you is not enough to prove one guilty of actual or
8 constructive possession. Actual knowledge of the presence
9 of a drug, here crack cocaine, is strong evidence of a
10 defendant's intent to control its disposition or use. A
11 defendant's knowledge and possession may be inferred when
12 a substance is found on property under that defendant's
13 control. However, this inference is simply an evidentiary
14 fact to be taken into consideration by you along with the
15 other evidence in this case and be given the weight you
16 decide it should have. Two or more persons may have joint
17 possession of a drug. Now, what I have just gone over
18 with you is the charge as set forth in the indictment
19 which is trafficking in crack cocaine. Simply reminding
20 you at this time that the State must prove what -- To
21 prove trafficking, the State must prove beyond a
22 reasonable doubt that one of the defendants or more aided,
23 abetted, attempted or conspired to sell deliver or was
24 knowingly in actual or constructive possession of ten or
25 more grams of crack cocaine. Now, our law provides for

1 what are called lesser included offense. If the State
2 cannot prove trafficking as I have defined it for you,
3 then the State -- then you by law can consider whether or
4 not the facts in this case, applying the law that I am
5 charging you now, from that conclude that a defendant
6 committed what we call a lesser included offense. I look
7 at this as steps. The top step and the most severe step,
8 that is trafficking. If you step down one step to a less
9 severe offense, that would be possessing crack cocaine
10 with intent to distribute. There's another step below
11 that which is simple possession of crack cocaine, and I
12 will charge you on the lesser, and of course, there's
13 another step down that's not a lesser included and that
14 would be a finding of not guilty and I will go over with
15 that with you in a moment on my verdict form. But if you
16 find that the State has failed to prove -- If you find
17 that the State has failed to prove that one or more of
18 these defendants was involved in trafficking and they've
19 not proven that beyond a reasonable doubt, you can
20 consider whether or not the State has proven that first
21 step down, the lesser included of possession of crack
22 cocaine with intent to distribute. I've already defined
23 for you the terms actual or constructive possession. So
24 that must be proven. The State must prove that a
25 defendant had actual or constructive possession of crack

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1 cocaine. Additionally, as to this second step, this lower
2 one, the State must prove beyond a reasonable doubt that
3 a defendant intended to distribute the crack cocaine. The
4 next step down, the next lesser is simple possession. If
5 you find the State has failed to prove trafficking of
6 crack cocaine, if you find the State has also failed to
7 prove one or more of the defendants guilty of possession
8 of crack cocaine with intent to distribute, you can
9 determine whether or not the State has proven beyond a
10 reasonable doubt whether the State has proven a defendant
11 guilty of simply possessing crack cocaine. That's called
12 simple possession. Simple possession does not require an
13 intent to distribute the crack cocaine, nor any set
14 amount. It only requires possession. Going back just a
15 moment to possession with intent to distribute, that
16 lesser included, I told you that the elements of that
17 which are possessing crack cocaine with intent to
18 distribute, actual or constructive possession as I have
19 defined, and that the defendant -- a defendant intended to
20 distribute it. I did not tell you that our law says that
21 possession of one or more grams of crack cocaine creates
22 an inference that a defendant possessed the crack cocaine
23 with intent to distribute it. This inference does not
24 relieve the State from proving beyond a reasonable doubt
25 that a defendant intended to distribute the crack cocaine

1 if you find was that and they possessed it. This
2 presumption based on one or more grams as to an intent to
3 distribute is simply an evidentiary fact to be taken into
4 consideration by you along with the other evidence in the
5 case and be given such weight, if any, you decide it
6 should have. And then I remind you that the third step
7 down is a defendant simply had in their possession crack
8 cocaine, not -- just simple possession. The Defendant,
9 Pope, in this case has raised a defense known in law as
10 entrapment. Entrapment is shown if one, the crime was
11 conceived and planned by an officer or someone acting as
12 an agent or -- of law enforcement, two, the officer or
13 agent induced, solicited, proposed, initiated, suggested
14 or persuaded a defendant to commit a crime, and three,
15 that the defendant would not have committed the crime
16 without the trickery, persuasion or fraud of the officer
17 or agent. The State is required to prove beyond a
18 reasonable doubt that the defendant is predisposed to
19 commit the crime without the inducement of the officer or
20 agent. Predisposed to commit the crime means that the
21 defendant had the intent, purpose, readiness or
22 willingness to commit the crime without the inducement or
23 persuasion of the officer or agent. The fact that the
24 officer or agent merely presented opportunities or
25 facilities for the commission of a crime is not

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1 entrapment. If you find that a defendant did -- as Mr.
2 Pope is the one who has raised this -- If you find that
3 Mr. Pope had any re-disposition without any governmental
4 inducement and influence to commit the crime, a defense of
5 entrapment would not apply. In deciding whether a
6 defendant had any predisposition to commit the crime, you
7 may consider evidence such as their willingness to commit
8 the crime charged as shown by their ready response to any
9 inducement. If you find that Mr. Pope was entrapped in
10 committing an offense, you would find him not guilty.
11 Your verdicts as to these three must be separate. As I
12 told you before, you must look at the facts and apply the
13 law as I have charged as to each defendant. Your verdicts
14 must be unanimous. All twelve jurors must agree. Madam
15 forelady, you will preside over the deliberations and
16 enroll the jury's verdict and I'll go over the verdict
17 forms with you in just a moment. Your verdict cannot be
18 based on passion, prejudice, public opinion, sympathy or
19 matters outside the record. If while you're deliberating
20 you have a question, write them down, knock on the door,
21 tell the bailiff. I have some other work to do, but I'll
22 send for you as promptly as I can. If you ask a question
23 and I can answer that question by writing an answer on the
24 note, after conferring with the attorneys, I will send the
25 note back in with the answer. Keep that note if that

1 happens and turn it back in with the evidence, madam
2 forelady, because it has to be part of the record. It may
3 be that I can bring you back here in open Court and answer
4 any questions you may have. In South Carolina we do not
5 send a written charge on the law in with you, but if you
6 wish me to go over any part or all of the law, please
7 knock on the bailiff (sic), send out a note and say we
8 want a charge on this, that or the other. I will bring
9 you back in and here in open Court charge you whatever you
10 want to -- want me to re-charge. When you've reached a
11 verdict, known on the door, tell the bailiff, the bailiff
12 will come and get us and we will send for you -- or come
13 and alert me and I will send for you as promptly as I can.
14 I understand I have some other work to do, but I will send
15 for you as promptly as I can. Mr. Booker, you will remain
16 in here. As alternate you will not have to go back out
17 again. Now, when you first go in, madam forelady and
18 ladies and gentlemen of the jury, do not start
19 deliberating yet. I have to go over with the attorneys my
20 charge. As I have told you, you have to follow the charge
21 as I give it, so it's incumbent on me to make sure that I
22 haven't made a mistake. If I have, I will bring you back
23 in and correct it. If I have not, I will send in the
24 exhibits, the verdict forms I'm going to show you in just
25 a moment and the bailiff will tell you to start

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1 deliberating. As to all three gentlemen, the verdict
2 forms are the same. They're on a piece of paper that's
3 been stapled to the indictment. There are four options
4 and the order they're in is of no significance. I have to
5 put them in some and this is the way I've been doing it
6 for quite a while, so the fact that one precedes the other
7 is not of any importance. If you find the State has
8 proven one or more of the defendants guilty of trafficking
9 in crack cocaine, you would simply put an X or a check in
10 front of that first line that says, we find the defendant
11 guilty of trafficking in crack cocaine. If you find that
12 the State has failed to prove the defendant guilty of that
13 offense, looking at the steps as I talked about earlier,
14 you can go down to the next step and determine and make a
15 finding if you deem it appropriate. The second step is,
16 we find the defendant guilty of the lesser included
17 offense of possession with intent to distribute crack
18 cocaine. Then the third line says, we find the defendant
19 guilty of the lesser included offense of possession of
20 crack cocaine. If the State has proven either of those
21 three beyond a reasonable doubt, you would simply put a
22 check in front of that as to that defendant. The fourth
23 line on each verdict form says, we find the defendant not
24 guilty. If the State has failed as to a defendant to
25 prove that defendant's guilt of any of those three

1 offenses, you will put a check on that third line that
2 says we find the defendant not guilty. I've already put
3 a date on here and there's a place for you to sign it,
4 madam forelady. I'm going to let y'all go to the jury
5 room at this time, but do not start deliberating. Mr.
6 Booker, I'll be with you in a minute. You just wait.

7 (Jury exits the courtroom)

8 The Court - I'll be with you in just a minute.
9 Anything with regard to the charge from the State?

10 Mr. Anthony - No, sir.

11 The Court - Mr. St. Pierre?

12 Mr. St. Pierre - Just renew my motion for the
13 probable cause charge as I feel this -- the facts in this
14 case warrants that.

15 The Court - All right. Mr. Brannon?

16 Mr. Brannon - Nothing, Your Honor.

17 Mr. McKinnon - Nothing, Your Honor.

18 The Court - All right, if you will all check the
19 exhibits and make sure they're in order. Check the
20 verdict forms and make sure they're in order. As soon as
21 that's taken care of, if you'll give them to the bailiff
22 and he'll take them back and tell them to start
23 deliberating. All right, Mr. Booker, you're through for
24 the week. You can stick around and see what the verdict
25 is or you can leave. You'll be mailed a check I believe.

1 Have you got the check?

2 Mr. Brannon - Your Honor, there is one issue
3 dealing with the telephone that was allegedly Mr. Pope's -
4 --

5 The Court - All right, well, let me get through
6 with Mr. Booker first.

7 Mr. Brannon - Oh, okay. Yes, sir, I'm sorry.

8 The Court - You can go ahead and go. Did you
9 leave anything the jury room?

10 Mr. Booker - Yes.

11 The Court - You did? All right, if you'll tell
12 the bailiff what it is, he'll get it for you and then you
13 can leave.

14 (Whereupon, Mr. Booker exits the courtroom)

15 The Court - All right, tell me ---

16 Mr. Brannon - If you remember, Your Honor, there
17 were some phone calls before June 24th, 2010 between Mr.
18 Harris and Mr. Pope allegedly. I objected. You sustained
19 that objection and so I do have a problem with the phone
20 going back with those communications still visible to the
21 jury.

22 The Court - What do you have to say about that?
23 I don't know of any way you can redact it.

24 Mr. Anthony - No, we can't. I would just advise
25 -- ask the Court to advise them if they want to see the

1 admissible phone messages for them to send a note out and
2 we'll show them to them.

3 Mr. Brannon - I have no objection to that.

4 Mr. St. Pierre - No, Your Honor. No objection.

5 Mr. Hall - Your Honor, I would only assert here
6 is the messages my recollection were not entered into
7 evidence. Whether they can retrieve them off the phone or
8 not, I don't know, but what was shown us on the form was
9 a photocopy and my recollection is those pictures were
10 never entered into evidence.

11 Mr. Anthony - Well, no, but ---

12 The Court - If you have a bottle of beer, you
13 can move the bottle in, the beer doesn't go too?

14 Mr. Hall - I've never had a bottle of beer in
15 Court so I couldn't answer that.

16 The Court - I'm just wondering whether or not
17 when you put an object the contents. -- My point is that
18 when you put an object into evidence, the beer probable
19 wasn't a good analogy, but it's the first one that came to
20 my mind, and I don't even drink, so I don't know why it
21 came.

22 Mr. Brannon - Mr. Hall brings up a great point,
23 though. In discovery we were provided a series of photos
24 that were actually ---

25 The Court - Here's what I'm going to do unless

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1 the State has some objection. They know there's a phone.
2 I'm going to let that remain in the courtroom unless they
3 ask for it.

4 Mr. Anthony - I'd just ask them -- ask the Court
5 to advise them that it's available if they want to see it.

6 The Court - All right. Do you mind if I just --
7 Let me just send back a note with the exhibits. (Pause)

8 (Whereupon, the Court is writing a note to be
9 sent to the jury with the exhibits)

10 The Court - All right, come back to order. How
11 about -- I'm sending in a note that says, if the jury
12 wishes to see the phone call display, let me know and we
13 will bring you back in and show it to you in silence.

14 (No response)

15 Mr. Hall - Your Honor, and this may be that we
16 have missed the timing of it, but I'm not sure how the
17 Court would -- is going to view it. When we look at the
18 indictment that's going back to the grand jury, it was
19 true billed on August the 26th, 2010. The drug report
20 that we believe should've been the basis of the true bill
21 indictment was not -- the drugs weren't tested until some
22 time in September of 2010. I know that we probably
23 should've probably raised that issue certainly prior to
24 this point, but that --- That appears to be what happened
25 with this. I don't see how they could return a true bill

1 indictment in August of 2010 without ---

2 The Court - There's been no motion to quash and
3 we've got it in the jury's hand and the jury will have all
4 of that and they can certainly -- I don't know if they'll
5 know what in the world true bill means and they can do
6 with it what they will. I don't -- Mr. Hall, you're on
7 the record and I'm not being short ---

8 Mr. Hall - Right. I understand.

9 The Court - --- but I don't that there's
10 anything I can do that this point. Wait just a minute
11 now. We're losing -- Has the bailiff got everything now?

12 (No response)

13 The Court - All right, I appreciate everybody's
14 courtesies and we'll be at ease and I'll see if the
15 solicitor has any work for us, but we'll be at ease.

16 (Jury deliberates at 3:45 p.m.)

17 (Court in recess awaiting verdict)

18 The Court - All right, we've received a note
19 from the jury that indicates they would like to have a
20 definition of trafficking and the only way I know to do
21 that is to bring them in and re-charge them. Any comments
22 before I bring them in from the State?

23 Mr. Anthony - I'm sorry, Your Honor?

24 The Court - Any comments before I bring them in
25 by the State?

1 Mr. Anthony - No, sir.

2 The Court - Mr. St. Pierre?

3 Mr. St. Pierre - No, sir, Your Honor.

4 The Court - Mr. Brannon?

5 Mr. Brannon - No, sir.

6 Mr. McKinnon - No, Your Honor.

7 The Court - Bring in the jury.

8 (Jury returns to the courtroom)

9 The Court - Madam forelady, your note read that
10 I come and tell the jury the definition of trafficking and
11 it said cocaine, but of course the charge is crack
12 cocaine, and while I appreciate the invitation to come
13 visit, I can't come in the jury room, but I can bring you
14 back out here and recharge you what I charged you about
15 trafficking and those lesser included offenses, so would
16 that help?

17 Forelady - It would.

18 The Court - Okay. I told you earlier that the
19 defendants each are charged with trafficking. As to this
20 charge the State must prove beyond a reasonable doubt that
21 a defendant aided, abetted, attempted or conspired to
22 sell, deliver or was knowingly in actual or constructive
23 possession of crack cocaine. And, of course, I told you
24 probably several times that the State must prove as to any
25 of these offenses trafficking or the two lesser that the

1 substance was, in fact, crack cocaine. The State must
2 prove beyond a reasonable doubt as to trafficking that the
3 crack cocaine weight exceeded ten grams -- I'm sorry --
4 was ten grams or more in order to convict an individual
5 defendant of trafficking in crack cocaine. And I remind
6 you that I used the word conspired in the statute and in
7 the indictment that you have in the jury room with you and
8 conspire requires a mutual understanding, agreement or
9 common intention or plan to commit an offense. Mere
10 passive knowledge of or consent to criminal conduct of
11 another is not enough to make a person a conspirator.
12 There must be guilty knowledge and participation.
13 Similarly the mere fact that a defendant may have
14 associated with another person or met with another person
15 and discussed common aims and interest are not necessarily
16 established to prove of the existence of a conspiracy or
17 that a defendant was involved in a conspiracy. On the
18 other hand it is not necessary to create a conspiracy that
19 there be a formal agreement. It is not required that it
20 be in writing. No requirement that people hold a meeting
21 or express and state the terms of any common plan or that
22 the agreement was stated between them orally, that is in
23 words. An agreement of a criminal conspiracy may come
24 into being through an implied mutual understanding. The
25 willful, intentional and knowing adoption by two or more

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1 persons of a common plan is sufficient. No overt act
2 needs to be shown to establish a conspiracy and a
3 conspiracy may be shown by circumstantial evidence in the
4 conduct of the parties alleged to have conspired. I used
5 the term aid and abet or aiding and abetting. A person
6 who was present at the scene of a crime and intentionally
7 or through a common plan aided, abetted or assisted in the
8 commission of a crime through some overt act is guilty as
9 an accomplice, that is for aiding and abetting. To be
10 able of aiding and abetting, a defendant must have
11 knowledge of the principal's criminal conduct. I told you
12 several times and remind you that mere presence at the
13 scene where a crime is committed alone is not sufficient
14 to establish an individual guilty of a crime or guilty as
15 an accomplice. Intentionally means willfully, intending
16 a result which actually occurred. Something that is
17 willful is not accidental and is something that's not
18 involuntary. I used the words actual and constructive
19 possession, knowing -- knowingly being in actual or
20 constructive possession of crack cocaine. Simple
21 possession means that a defendant had dominion and control
22 or the right to exercise dominion or control over either
23 the substance itself, here crack cocaine, or the property
24 where it was found. Again, mere presence at the scene
25 where drugs are found alone is not sufficient to prove

1 possession. Actual knowledge of the presence of the drug,
2 crack cocaine, is strong evidence of a defendant's intent
3 to control its disposition or use. A defendant's
4 knowledge and possession may be inferred when a substance
5 is found on property under that person's control.
6 However, this inference is simply an evidentiary fact to
7 be taken into consideration by you along with the other
8 evidence in this case and be given any weight, if any, you
9 should determine it should have. Two or more individuals
10 may have possession of the drugs. I told you if the State
11 has failed to prove the allegations of the indictment and
12 failed to prove trafficking of crack cocaine, then you
13 could consider whether or not the State has proven
14 possession of the crack cocaine with intent to distribute.
15 That's those steps I talked about, the second step.
16 Possession with intent to distribute crack cocaine
17 requires proof of possession, actual or constructive and
18 I've already defined those for you. In addition to
19 proving actual or constructive possession of crack -- of
20 the crack cocaine by a defendant, the State must also
21 prove beyond a reasonable doubt that a defendant had the
22 intent to distribute the crack cocaine and there must, of
23 course, be proof again that the substance -- beyond a
24 reasonable doubt that the substance was crack cocaine.
25 Our law provides that possession of one or more grams of

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1 crack cocaine creates an inference that a defendant
2 possessed the crack cocaine with intent to distribute it.
3 This inference does not relieve the State from proving
4 beyond a reasonable doubt that a defendant had the intent
5 to distribute the crack cocaine. It is simply an
6 evidentiary fact to be taken into consideration by you
7 along with the other evidence in the case and to be given
8 such weight, if any, as you determine it should be. The
9 next step down, trafficking, possession of crack cocaine
10 with intent to distribute would be the less severe, simple
11 possession. If you find the State has failed to prove
12 either trafficking or possession with intent to
13 distribute, you could determine whether or not the State
14 has proven beyond a reasonable doubt that a defendant is
15 guilty of possessing crack cocaine, that is, simple
16 possession. Simple possession does not require an intent
17 to distribute the crack cocaine. It requires possession
18 only. Before you could find the defendant guilty -- a
19 defendant guilty of any of these, the State would have to
20 prove -- prove to your satisfaction that person's guilt
21 beyond a reasonable doubt. Was that helpful?

22 Forelady - (Indicating yes)

23 The Court - All right, if you need anything
24 else, let me know. All right, I'll let you return to the
25 jury room.

1 (Jury exits the courtroom and further
2 deliberates at 4:34 p.m.)

3 The Court - Anything from the State?

4 Mr. Anthony - No, sir.

5 Mr. St. Pierre - Nothing, Your Honor.

6 Mr. Brannon - No, Your Honor. Thank you.

7 Mr. McKinnon - Thank you, Your Honor.

8 The Court - All right, we'll be at ease.

9 (Court in recess awaiting verdict)

10 (Document marked as Court's Exhibit Number 6.)

11 (Note sent out at 4:45 whereupon the Judge sent
12 back a response which was not on the record.)

13 The Court - I understand we have a verdicts.
14 Anything from the State before we get the jury in?

15 Mr. Anthony - No, sir.

16 Mr. St. Pierre - Nothing, Your Honor.

17 Mr. Brannon - Your Honor, no. I was just
18 talking with the family.

19 The Court - Okay, that's fine. Just let me know
20 when you're ready.

21 Mr. McKinnon - No, Your Honor.

22 The Court - Okay.

23 Mr. Brannon - Thank you, Your Honor.

24 The Court - All right, bring in the jury.

25 (Pause) While we're waiting on the jury, I want to thank

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1 everybody for their courtesies, all counsel during the
2 course of the trial.

3 (Jury returns to the courtroom with verdict at
4 5:19. p.m.)

5 The Court - Madam forelady, I understand you've
6 reached a verdict. Hand it to the bailiff and the bailiff
7 will hand it up to me.

8 (Whereupon, verdict is handed up to the Court
9 and the Court hands the verdict to the Clerk.)

10 Clerk - In the case of Lashad Brewton, we find
11 the defendant guilty of the lesser included offense of
12 possession with intent to distribute crack cocaine. In
13 the case of Roderick Pope, we find the defendant guilty of
14 the lesser included offense of possession with intent to
15 distribute crack cocaine. In the case of Randy Crosby, we
16 find the defendant guilty of the lesser included offense
17 of possession with intent to distribute crack cocaine.

18 The Court - If this be your verdict, so say you
19 all by raising your right hand.

20 (Whereupon, all jurors affirm)

21 The Court - The record will reflect that all
22 twelve jurors raised their right hand.. Anything from the
23 State before the jury's dismissed?

24 Mr. Anthony - No, sir.

25 The Court - Mr. St. Pierre?

1 Mr. St. Pierre - Nothing, Your Honor.

2 The Court - Mr. Brannon?

3 Mr. Brannon - No, Your Honor. Thank you.

4 The Court - Mr. McKinnon?

5 Mr. McKinnon - No, Your Honor.

6 The Court - Members of the jury panel, I
7 appreciate your help. This concludes the jury work for
8 the week. You'll be mailed a check. The office
9 downstairs is closed, but if you need anything to take
10 back to work, if you'd stop by the Clerk's office tomorrow
11 they will give it to you. And, madam forelady, the Clerk,
12 Mr. Gault, is going to meet with you in the jury room just
13 a minute. We need to get you to also -- You didn't do
14 anything wrong, but you did exactly right, but we need to
15 get this verdict enrolled on the actual indictment itself,
16 and this is the way we always do it. We wait until after
17 you come back with the verdict form, so Mr. Gault will
18 meet with you in there and everybody else feel free to
19 leave. Thank you so much. Have a good holiday.

20 (Jury exits the courtroom)

21 The Court - All right, the jury's been
22 dismissed. Anything from the State before -- before we
23 get into sentencing?

24 Mr. Anthony - Not as to the trial phase, no.

25 The Court - All right, Mr. St. Pierre, anything?

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1 Mr. St. Pierre - Yes, sir, I'd move at this time
2 for a new trial and renew all of my objections that I
3 stated during the course of the trial and of course the
4 directed verdict motion after the State rested, after the
5 defense rested and my objections to the -- one second,
6 Your Honor -- the jury charge ---

7 The Court - Not charging probable cause.

8 Mr. St. Pierre - Yes, sir. And my objection to
9 the jury charge of the lesser included.

10 The Court - All right. Motions are denied. I
11 think the verdict, as I said, was an appropriate verdict
12 under the facts and the law. Mr. Brannon?

13 Mr. Brannon - Your Honor, I would at this point
14 renew all my motions and objections understanding the
15 Court's prior rulings. At this point I would continue to
16 move for a new trial, Your Honor.

17 The Court - All right, motion's denied. Just
18 like I said as to Mr. Brewton, I believe the facts and the
19 law supports the verdict. All right?

20 Mr. McKinnon - Your Honor, I'd like to renew all
21 objections and motions and ask for a new trial.

22 The Court - All right, well, that motion's
23 denied. Again as to Mr. Crosby also I find that the facts
24 and the law support the verdicts. All right, if we could
25 bring the defendants around for sentencing and we'll need

1 to get a sentencing sheet, Mr. Solicitor.

2 Mr. Anthony - They were attached to the
3 indictments. I would expect that maybe ---

4 The Court - Oh, I -- I think I do have them. I
5 forget y'all do it like that over here. All right, I have
6 them.

7 Mr. Anthony - And, Your Honor, I apologize. I
8 cannot find -- Well, I bet Mr. St. Pierre has it.

9 (Discussion is held between Mr. Anthony and Mr.
10 St. Pierre which was not reported.)

11 The Court - All right, and these are first
12 offenses to Pope and Brewton and second as to Crosby? Is
13 that correct?

14 Mr. Anthony - Yes, sir. Mr. -- Mr. Pope has a
15 prior drug conviction from 1989, but I believe that this
16 would be a sentence under the new law and as far as I can
17 tell that that conviction would not count. So this would
18 be a first offense for Mr. Pope, first drug offense for
19 Mr. Brewton and second drug offense for Mr. Crosby.

20 The Court - All right, here's what I'm going to
21 do. The sentencing sheets I'm going to hand down and make
22 so that the solicitor and the attorneys can make sure that
23 the information set forth on them are right as far as the
24 code section, CDR codes and the code sections and whether
25 or not they're violent, serious, most serious, anything

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1 like that. So I'm going to let the solicitor fill those
2 in before I go further and I want the defense counsel to
3 review them also. (Pause) Mr. Anthony, while they're
4 looking at those, what do you have for the CDR code for
5 the first offense.

6 Mr. Anthony - First offense is 3014 and second
7 offense is 3015.

8 Mr. St. Pierre - Judge, my client doesn't have
9 to sign anything, does he?

10 The Court - My understanding if it's a trial
11 that they're not required ---

12 Mr. St. Pierre - Thank you.

13 The Court - Well, Mr. Anthony, if you'd come
14 around and counsel bring the three defendants, I'll be
15 glad -- and we'll stick with the order that we've been
16 going through and does -- Anybody present that would like
17 to speak on any of these gentlemen's behalf, I'll be glad
18 to hear from them. All right, I need to hear from Mr.
19 Anthony first as to Mr. Brewton. Does he have any record?

20 Mr. Anthony - Mr. Brewton has a CDV conviction
21 from 2010. That's the extent of his criminal record.

22 The Court - All right, Mr. St. Pierre?

23 Mr. St. Pierre - Yes, sir. If it please the
24 Court. You obviously have heard the facts of the case and
25 we would just ask in the sentencing portion that you

1 consider a few things. He's 22 years old, has two young
2 children, a one year old and a two year old. He's got a
3 great family support as evidenced by his family members
4 standing behind him today. We would ask at this juncture
5 to consider a little equity in the sentencing. You've
6 heard testimony today -- or I'm sorry -- during this week
7 that Mr. Venson Harris, who's had five prior crack
8 convictions and had sentences of fifteen years and ten
9 years and has spent a significant part of his life in the
10 Department of Corrections for crack cocaine was sentenced
11 in this very courtroom, the fact for a period of three
12 years. Your Honor, I would also ask that you consider
13 that the amount of drugs that my client and his co-
14 defendants were convicted of possessing had a street value
15 of less than six hundred dollars and provided they're all
16 convicted of possessing that, and I would submit that
17 their equal share of that is around two hundred dollars
18 each, which is very similar to Mr. Venson Harris' -- the
19 amount of dope he was caught that (sic). So with that
20 being said, Your Honor, I would respectfully request due
21 to my client's lack of criminal history, his young age,
22 his family support, his family -- He needs the support --
23 that you would consider him for a suspended sentence and
24 allow him probation and the chance to move on in his life.

25 The Court - All right. There's a lady and

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1 gentlemen who appear to be with Mr. Brewton. I'll be glad
2 to hear from either one of those. Ma'am, would you give
3 me your name if you want to speak?

4 Ms. Brewton - Yes. My name is Joyce Brewton.
5 I'm his mother and that's his father, Greg Crocker. And
6 I never seen nothing like this before, but on behalf of my
7 son he never been no problem to me. He also help -- I
8 have a disabled daughter. She can't talk and -- Well, she
9 -- A lot of stuff she can't do, but helps -- help me a lot
10 with her. He ain't never been disrespectful, hard-headed.
11 He always went to church with me, whatever I needed him to
12 do.

13 The Court - Okay. All right, Mr. Brewton,
14 anything you want to say?

15 Mr. Brewton - No, sir.

16 The Court - All right. The sentence on Mr.
17 Brewton is for ten years, but that's suspended upon
18 service of five years, with five years probation. Have
19 you finished high school?

20 Mr. Brewton - Yes, sir.

21 The Court - Okay. While you're on probation
22 you're to have substance abuse counseling, random drug and
23 alcohol testing and addition to other fees, you'll owe
24 five hundred dollars for having appointed attorney. You
25 understand that?

1 Mr. Brewton - Yes, sir.

2 The Court - Thank you. Step over here. Mr.
3 Pope? All right, Mr. Crosby, you want to go next?

4 Mr. McKinnon - Sure.

5 The Court - All right, tell me Mr. Crosby's
6 record again, Mr. Anthony? Crosby.

7 Mr. Anthony - I was just -- As to Mr. Crosby, he
8 has a habitual traffic offender in 2010, has a DUS in
9 2008. He has a possession of crack in 2006, has a CDV in
10 2004, a disorderly conduct in 2003 and a operating
11 uninsured motor vehicle in 2002.

12 The Court - All right. Mr. McKinnon?

13 Mr. McKinnon - Thank you, Your Honor. May it
14 please the Court. Mr. Crosby is 27 years old. He lives
15 with his girlfriend. They have four children together.
16 They are 5 -- What are the ages again?

17 Mr. Crosby - 7, 5, 4 and 3.

18 Mr. McKinnon - Your Honor, I wanted to point out
19 again -- I guess what Mr. Anthony just said, his only
20 previous felony conviction I believe was the habitual
21 traffic offender and his previous drug conviction was a
22 simple possession. It's not nothing -- intent to
23 distribute or trafficking. Your Honor, we're simply
24 asking for any leniency you can provide in his sentence.
25 We realize the range is great, exposure is great. Mr.

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1 Crosby realizes that. And we would just ask something
2 commensurate with his not atrocious record and his family
3 situation and as Mr. St. Pierre said, the shared
4 responsibility of this crime.

5 The Court - Anybody want to speak on his behalf?

6 Mr. McKinnon - No, Your Honor. His girlfriend
7 had to get back and get their kids from school.

8 The Court - All right. Mr. Crosby, anything you
9 want to -- Well, wait just one second. Anything you want
10 to say?

11 Mr. Crosby - I'm sorry I put y'all through all
12 this. It won't happen again.

13 The Court - All right. Sentence on Mr. Crosby
14 is fifteen years. That's suspended upon service of ten
15 years and you'll be on probation for five years with
16 substance abuse counseling and random drug and alcohol
17 testing and in addition to other fees, you owe five
18 hundred dollars for having appointed attorney. You
19 understand that?

20 Mr. Crosby - Can you say that again?

21 The Court - Fifteen years suspended upon ten
22 years and that's to be followed by five years probation
23 with substance abuse counseling and drug testing. You
24 understand that?

25 Mr. Crosby - (Indicating yes)

1 The Court - He indicated he did.

2 Mr. Crosby - Yes, sir.

3 The Court - Thank you.

4 Mr. McKinnon - Thank you, Your Honor.

5 The Court - All right, Mr. Brannon?

6 Mr. Brannon - Your Honor, are we okay here?

7 The Court - Well, why don't you step over here.

8 The Court Reporter can hear you a little better.

9 Mr. Brannon - Your Honor, my client's 49 years
10 of age. He became disabled in 2008, injured at work.
11 However, Your Honor, he did not begin -- And I say that he
12 became disabled in 2008 because when he began to receive
13 his disability benefits in 2010 after this incident
14 occurred, they dated the disability back to a time in
15 2008. Your Honor, my client had not had any involvement
16 with law enforcement since 1989. He's married. His wife
17 is here with us in Court today. On June 24th, 2010 my
18 client had not yet received his disability payments. His
19 wife was working and doing what she could do, but Your
20 Honor, the power was going to be cut off. A phone call
21 came in and he initially said no, I don't have any drugs.
22 But, Your Honor, in an effort to keep the power on because
23 of his children who at that point were still living at
24 home and his wife, he did something he shouldn't have
25 done. Your Honor, it's somewhat ironic to me that the

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1 sentence on a trafficking charge is three to ten and the
2 sentencing on the lesser included exposes him to more
3 time. I am just respectfully asking this Court to
4 consider a probationary sentence. Not only does my client
5 have the injury that caused him to be determined disabled,
6 he now has heart problems. He's -- He's required to take
7 significant medications to deal with the heart trouble.
8 Your Honor, I have met with Roderick Pope on I would say
9 to the Court so many times I can't count. I mean we have -
10 - We've met regularly. My client is a nice person. You
11 know, the Court is aware of all of the evidence that was
12 introduced in this case and, you know, there's no evidence
13 that Mr. Pope had ever sold drugs to anyone else. The
14 Court is also aware that when this traffic stop occurred,
15 he didn't even have any money in his pockets. Your Honor,
16 he's accompanied as well as his wife by his brother
17 Michael and his sister, and, Your Honor, I believe they
18 would like to speak, but again I'm asking this Court to
19 consider a probationary sentence in this case. Thank you.

20 The Court - Yes, sir, your name?

21 Mr. Michael Pope - Michael Pope. I can pretty
22 much confirm most of what the lawyer said, that -- Because
23 me and my wife have kept their lights, not only their
24 lights but have paid their rent for them on numerous
25 occasions until he got his disability approved. I was

1 very shocked when I found out he was incarcerated and we
2 had to set his bond. He couldn't even come up with his
3 own bond money, and I can assure you that honestly from my
4 heart have no recollection -- I'm out of Greenwood, South
5 Carolina, and I had no recollection anything like this was
6 going on and I could honestly say we have had to take care
7 of them basically until -- This is my wife -- until the
8 disability got approved, and honestly he is a good brother
9 and a good friend. I know he made a mistake, but he is a
10 good fellow, and I do not believe in any kind of way,
11 shape or form that that would be the type lifestyle he
12 would want to live, selling drugs. Thank you.

13 The Court - Thank you. All right. Your name?

14 Ms. Pope - Shatisha (phonetic) Pope. I'm his
15 sister-in-law. Thank you, Judge, for letting me speak.
16 I'm just going to wrap mine up in a nutshell. I was a
17 dispatcher for highway patrol. I left there -- I retired
18 from there about two weeks ago. I'm studying to become a
19 practicing pastor. I believe in God and I'm a christian,
20 and I believe God has second chances and I would just wish
21 this Court would be lenient with my brother-in-law and
22 give him a second chance as God would all of us, but also
23 our family has been through so much. Our family has had
24 so much death. My step -- My son hanged himself in the
25 prison system. My other son was shot accidentally by death

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1 (sic). We've lost our -- his mother which was my mother-
2 in-law. I've lost my aunt which was his sister, and that
3 was all within a four to five year period of time. And I
4 know he's thinking about the fact and I know that stays on
5 his mind constantly, and what I want to do when I became
6 my pastor (sic) became to be ordained I wanted to minister
7 to him to help him get on the right track, the right track
8 in life, and that's all I want to say. I just want to
9 thank you for giving me a chance to speak.

10 The Court - Yes, ma'am. Thank you for speaking.

11 All right?

12 Mrs. Pope - My name is Barbara Pope. That's my
13 husband and if you could just give him probation. I mean
14 he made a mistake. Everybody make mistakes and everybody
15 deserves a second chance, Judge, and this would never
16 happen again. You know, he helps in my catering business.
17 I just started a catering business and he help me in it,
18 and everything. I just pray that, you know, your heart go
19 the right way and just, you know, give him probation. I
20 understand, you know, what was done was wrong, but I'm
21 hoping that you was a fair Judge, you know, and be lenient
22 with him. You know, just think about his health, you
23 know, all the health that he -- you know, he's dealing
24 with, and he's dealing with pretty much -- you know a lot
25 of health. Thanks.

1 The Court - Mr. Pope, anything you want to say?

2 Mr. Pope - I'm just sorry, Your Honor, sorry
3 that it happened. I wish you would be lenient with me,
4 Your Honor.

5 The Court - All right ---

6 Mr. Anthony - Your Honor, if I could give the
7 Court his record.

8 The Court - Oh, I -- Okay.

9 Mr. Anthony - He had a -- has a '89 conviction
10 for PWID schedule 4, a '88 conviction for CDV and a '88
11 conviction for burglary and grand larceny and a '87
12 disorderly conduct.

13 The Court - Mr. Pope, the sentence -- Your
14 sentence is fifteen years, but that's suspended on seven
15 and a half years with five years probation to follow with
16 substance abuse, drug and alcohol counseling and in
17 addition to other costs and fees, you owe five hundred
18 dollars for having an appointed attorney. Thank you.

19 (Back on record)

20 The Court - Mr. Anthony's informed me -- We'll
21 get Mr. Crosby in here in a minute -- this is a no parole
22 offense. I looked at my sheet and my --- the sheet
23 indicated -- The sheet I used for sentencing I looked to
24 see if it indicated that and it did not, so I'm now told
25 by -- or maybe I just didn't look at it close enough. Let

1 me see my sheet.

2 Mr. Anthony - I'm pretty sure second --

3 Mr. McKinnon - Mr. Anthony told me that and I
4 honestly thought it was not, but I ---

5 The Court - Well, let me see it.

6 Mr. McKinnon - -- I could be completely wrong.

7 The Court - I may overlooked it. I've got a
8 third as being no parole eligibility, but under 3015 --
9 Like I say, I checked earlier because I -- I was going to
10 factor that into my sentencing and mine did not -- I hate
11 to call it my cheat sheet, but the sheet I use does not
12 have it, although third does.

13 Mr. McKinnon - Unless the two previous I believe
14 are just simple possession ---

15 The Court - Well, I'm not going to get into ---

16 Mr. McKinnon - Well, I -- that's fine.

17 The Court - We've got enough to figure out right
18 now.

19 Mr. Anthony - Okay. I was really thinking that
20 it is, but maybe I'm wrong.

21 The Court - Well, if it is, it might make a
22 difference in what I sentence so why don't ---

23 Mr. Anthony - Let me check ---

24 The Court - Let everybody -- Clear the
25 courtroom. The Court Reporter stays for a few minutes.

1 The Clerk stays for a few minutes. You stay for a minute,
2 Ms. Ballou and then after we kind of get everybody and get
3 this -- I want to look at it.

4 Mr. McKinnon - Yes, sir. I appreciate it.

5 The Court - I want to make sure I'm going on the
6 right information. All right, we'll take a break while we
7 get this together. Thank you.

8 (Recess taken)

9 The Court - I have been informed by counsel for
10 Mr. Crosby that they want to make a motion for me to
11 reconsider the sentence I imposed today on Mr. Crosby for
12 possession of crack cocaine with intent to distribute.
13 Counsel?

14 Mr. Hall - That's correct.

15 The Court - So you are moving for me to
16 reconsider the sentence imposed on ---

17 Mr. McKinnon - Yes, sir, Your Honor, we are
18 making a motion for the Court to reconsider the sentence
19 imposed upon Mr. Crosby on possession with intent to
20 distribute second offense which was fifteen year suspended
21 upon the service of ten followed by five years probation
22 and substance abuse counseling.

23 The Court - I'm going to take it under
24 advisement.

25 Mr. McKinnon - Thank you.

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1 Mr. Brannon - Your Honor, may I make a like
2 motion?

3 The Court - Yes, sir.

4 Mr. Brannon - Your Honor, at this time I would
5 move to reconsider the sentence imposed on my client, Mr.
6 Roderick Pope. The sentence I believe was fifteen years
7 suspended to seven and a half with probation for five
8 years, move to reconsider that sentence.

9 The Court - While we're at it, Mr. St. Pierre,
10 you want to ---

11 Mr. St. Pierre - I sure do, Your Honor. I would
12 move to reconsider the sentence imposed by this Court of
13 ten years suspended on five active and five years
14 probation.

15 The Court - All right, well, I'll take all of
16 them under advisement, and if any of you want to submit
17 anything in writing, try to do it -- I know you've got
18 other stuff to do and I don't mean this fictitiously, but
19 defendants aren't going anywhere for a while so -- but
20 what do you think? How long do you think you'll need to
21 do something in writing?

22 Mr. Brannon - By next Friday.

23 Mr. St. Pierre - I'll be in Laurens next week.

24 The Court - By the end of next week will be
25 fine.

1 Mr. Anthony - And if I determine ---

2 The Court - You have five days to respond.

3 Mr. Anthony - And if I determine that it's not
4 a second offense, I'll just advise Mr. Crosby's lawyers
5 that that's my position.

6 The Court - All right, well, if you want to file
7 anything, when you get theres, if you let me know I can
8 give you like -- whatever time you need, five days ---

9 Mr. Anthony - Thank you.

10 (Notes marked as Court's Exhibits 7 and 8.)

11 (End of transcript)

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Certificate

I, Shirley G. Broom, the undersigned Court Reporter, hereby certify that the foregoing 364 pages consisting of Volumes I and III constitute a true record of proceedings taken in the case of State of South Carolina vs. Lashad Brewton, Randy Crosby and Roderick Pope, as taken by me at the time and place stated.

I do further certify that the persons were present as stated, that I am not of Counsel for, related to, or in the employee of any of the parties to this action and that I have no interest whatsoever in the outcome of this case.

This the 25th day of May, 2012.



Shirley G. Broom
Circuit Court Reporter
Sixteenth Judicial Circuit

STATE OF SOUTH CAROLINA)
COUNTY OF UNION)

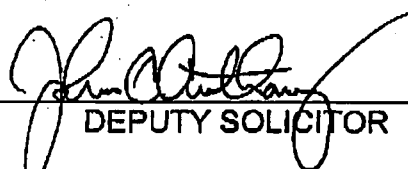
INDICTMENT

At a Court of General Sessions, convened on August 26, 2010, the Grand Jurors of Union County present upon their oath:

TRAFFICKING CRACK COCAINE

That in Union County, South Carolina, on or about June 24, 2010, Lashad Demond Brewton did wilfully, unlawfully and knowingly sell, manufacture, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of a quantity of Crack Cocaine, as defined and otherwise limited in Sections 44-53-110, 44-53-210(b)(4), 44-53-210(d)(1), or 44-53-210(d)(2), and did traffick in Crack Cocaine in an amount being more than 10 grams but less than 28 grams, such trafficking not having been authorized by law, all in violation of Section 44-53-375, Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


DEPUTY SOLICITOR

603
P005/008
Sep 24 2014 03:03pm

WITNESSES

erfield/UCSO

ARREST WARRANT NUMBER

K393877

ACTION OF GRAND JURY

TRUE BILL

Wix
person of Grand Jury
ate: AUG 26 2010

VERDICT

3 guilty

Lashad G. Venson 12/8/11
person of Petit Jury
ate: 12/8/11
Verdict for
possession with intent to distribute. *John C. Hays* CDR 3014

DOCKET NO. 2010-GS-44-1036

The State of South Carolina

County of Union

COURT OF GENERAL SESSIONS

AUGUST 30, TERM 2010

THE STATE

vs.

LASHAD DEMOND BREWTON

Indictment for

TRAFFICKING IN CRACK COCAINE

SC Code: 44-53-375

CDR Code: 450

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. AND G.S.

604 SOUTH CAROLINA

COUNTY OF Union
STATE

VS.

Lashad Demond Brewton

AKA:

Race: Black

Sex: Male

Age: 22

DOB:

SS#:

Address:

City, State, Zip:

DL#

SID#

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

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO: First Offense Possession of Cocaine Base (Crack Cocaine) with Intent to Distribute

In violation of § 44-53-075

of the S.C. Code of Laws, bearing CDR Code # 3014

☒ NON-VIOLENT

☐ VIOLENT

☐ SERIOUS

☐ MOST SERIOUS

☐ Mandatory GPS

☐ §17-25-45

(CSC w/minor 1st or Lewd Act)

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:

John C. Anthony

7116

Joseph St. Pierre

76122

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections

☐ County Detention Center,

for a determinate term of 10

days/months/years/or

☐ under the Youthful Offender Act not to exceed

years

and/or to pay a fine of \$

; provided that upon the service of thirty (30)

days/months/years and or payment

of \$; plus costs and assessments as applicable; the balance is suspended with probation for five (5)

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ 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 the State Department of Corrections.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

Total: \$ plus 20% fee: \$

days/hours Public Service Employment

Payment Terms:

Obtain GED ☐

☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp.

Recipient:

*Fine:

\$14-1-206 (Assessments 107.5%)

\$14-1-211 (A)(1)(Conv. Surcharge)

\$14-1-211 (A)(2)(DUI Surcharge)

\$56-5-2995 (DUI Assessment)

\$56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

\$14-1-212 (Law Enforce. Funding)

\$14-1-213 (Drug Court Surcharge)

\$50-21-114 (BUI Breath Test Fee)

\$56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCCJA Surcharge)

3% to County (If paid in installments)

TOTAL

\$
\$
\$ 100.00
\$
\$
\$
\$
\$ 500.00
\$ 25.00
\$ 150.00
\$
\$
\$ 5.00
\$ 23.40
\$ 803.40

May serve W/E beginning

Substance Abuse Counseling ☒

Random Drug/Alcohol Testing ☒

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ Beginning

\$ Paid to Public Defender Fund

Other: Sentence Amended pursuant to this Court's Order of January 11, 2012

☒ Appointed PD or appointed other counsel, \$47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/Deputy Clerk

William F. Gault

Presiding Judge

Judge Code: 2040

Sep 24 2014 03:03pm P006/008
IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010 -GS- 44 - 1036

AW#: K-393877

Date of Offense: 6/24/2010

S.C. Code §: 44-53-0375

CDR Code #: 0450

Amended
SENTENCE SHEET

Page 1 of 2

STATE OF SOUTH CAROLINA

COUNTY OF Union

STATE

VS.

Lashad Demond Brewton

AKA: _____
 Race: B Sex: M Age: 22
 DOB: _____ SS#: _____
 Address: _____
 City, State, Zip: _____
 DL# _____ SID# _____
 *CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010-GS-44-1036

A/W#: K-393877

Date of Offense: 06/24/2010
 S.C. Code #: 44-53-0375
 CDR Code #: 0 4 5 0

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was TO: 18 Offense PUSTO Creek

☒ CONVICTED OF or ☐ PLEADS

In violation of § 44-53-315 of the S.C. Code of Laws, bearing CDR Code # 3014
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45
 (CSC w/minor 1st or Lewd Act)

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: [Signature] 7116 [Signature] 76172
 Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed 3 years and/or to pay a fine of \$ _____; provided that upon the service of 3 days/months/years and or payment of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for 5 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ 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 the State Department of Corrections.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:
 §14-1-206 (Assessments 107.5%) \$ _____
 §14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00
 §14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____
 §56-5-2995 (DUI Assessment) \$12 \$ _____
 §56-1-286 (DUI Breath Test) \$25 \$ _____
 Proviso 47.9 (Public Def/Prob) \$500 \$ 500.00
 §14-1-212 (Law Enforce. Funding) \$25 \$ 25.00
 §14-1-213 (Drug Court Surcharge) \$150 \$ 150.00
 §50-21-114 (BUI Breath Test Fee) \$50 \$ _____
 §56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
 Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00
 §44-53-450(C) (Conditional Discharge) \$350 \$ 2340.00
 3% to County (if paid in installments) \$ _____ \$ 803.40
 TOTAL \$ _____
 Clerk of Court/Deputy Clerk W. O. O. O. O.
 Court Reporter: Shoom

Obtain GED ☐

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning
 Substance Abuse Counseling ☒

Random Drug/Alcohol Testing ☒
 Fine may be pd. in equal consecutive weekly/monthly
 pmts. of \$ _____ Beginning
 \$ _____ Paid to Public Defender Fund

Other: _____

☐ Conditional Discharge, §44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition
☒ Appointed PD or appointed other counsel, \$47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge Jane Hays
 Judge Code: 2049
 Sentence Date 12/8/11

FILE FOR RECORD

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS,
SIXTEENTH JUDICIAL CIRCUIT

COUNTY OF UNION)

Indictment No.: 2010-GS-44-1036

WILLIAM F. GAULT
CLERK OF COURT
UNION, SC

State of South Carolina,)

Plaintiff,)

ORDER

vs.)

Lashad Demond Brewton,)

Defendant.)

Upon his conviction for First Offense Possession with Intent to Distribute Cocaine Base (Crack Cocaine), the Defendant, Lashad Demond Brewton, was sentenced by the Court on December 8, 2011, to a sentence of ten (10) years suspended upon service of five (5) years with five (5) years of probation to follow his active sentence.

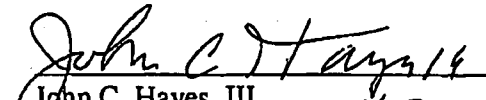
Counsel for Defendant, Lashad Demond Brewton, timely made a motion that the Court reconsider the sentence and reduce same in whole or in part. Counsel for Defendant, Lashad Demond Brewton, timely filed a brief in support of the Motion to Reconsider.

Defendant's Motion to Reconsider the sentence imposed is granted.

As set forth in the Amended Sentence Sheet attached hereto and in placement of the Sentence Sheet signed by the undersigned on December 8, 2011, Defendant, Lashad Demond Brewton, is sentenced to ten (10) years suspended upon service of thirty (30) months with five (5) years probation to follow the active thirty (30) months sentence.



IT IS SO ORDERED.


John C. Hayes, III
Presiding Judge #2

January 11, 2012
York, South Carolina

608-
STATE OF SOUTH CAROLINA

COUNTY OF Union
STATE

VS.
Lashad Demond Brewton
AKA:

Race: Black Sex: Male Age: 22
DOB: SS#: WILLIAM F GAULT
Address: UNION, SC
City, State, Zip:
DL# * SID#

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

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

TO: First Offense Possession of Cocaine Base (Crack Cocaine) with Intent to Distribute

In violation of § 44-53-075 of the S.C. Code of Laws, bearing CDR Code # 3014

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

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:

John C. Anthony
Solicitor

7116
SC Bar #

Defendant

Joseph St. Pierre
Attorney for Defendant

76122
SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of thirty (30) days/months/years and or payment
of \$; plus costs and assessments as applicable; the balance is suspended with probation for five (5)

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
incorporated by reference.

☐ 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 the State
Department of Corrections.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine: \$
\$14-1-206 (Assessments 107.5%) \$
\$14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00
\$14-1-211 (A)(2)(DUI Surcharge) \$100 \$
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\$50-21-114 (BUI Breath Test Fee) \$50 \$
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Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00
3% to County (if paid in installments) \$ \$ 23.40
TOTAL \$ 803.40

Clerk of Court/Deputy Clerk William F Gault

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010 -GS- 44 - 1036

AW#: K - 393877

Date of Offense: 6/24/2010

S.C. Code §: 44-53-0375

CDR Code #: 0450

Amended JCH
SENTENCE SHEET

Obtain GED ☐

Attend Voc. Rehab. Or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☒

Random Drug/Alcohol Testing ☒

Fine may be pd. in equal consecutive weekly/monthly
pmts. of \$ Beginning

\$ Paid to Public Defender Fund

Other: Sentence Amended pursuant to this
Court's Order of January 11, 2012

☒ Appointed PD or appointed other counsel,
\$47.12 requires \$500 be paid to Clerk
during probation.

John C. Harris Jr.
Presiding Judge
Judge Code: 7049

FILE FOR RECORD

2012 JAN 20 PM 1:17

STATE OF SOUTH CAROLINA ^{WILLIAM F. GAULT} IN THE COURT OF GENERAL SESSIONS
CLERK OF COURT ^{UNION, SC} SIXTEENTH JUDICIAL CIRCUIT

COUNTY OF UNION)

THE STATE)

v.)

Lashad D. Brewton)

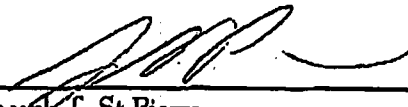
Warrant Numbers: 2010-GS-44-1036

NOTICE OF INTENT TO APPEAL

TO: THE HONORABLE FREDDIE GAULT

Please let this letter serve as notice that the Defendant intends to appeal the sentence handed down by Judge Hayes on January 11, 2012. The Defendant has been classified as indigent. Please forward this to the office of indigent defense.

Respectfully submitted,



Joseph F. St. Pierre
P.O. Box 722
Laurens, SC 29360
864.681.5297
864.681.5298 Fax
joe@josephstpierre.com

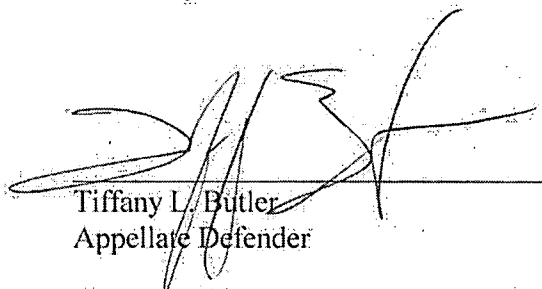
Date: January 19, 2012
Laurens, South Carolina

EXHIBIT B

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

September 14th, 2015



Tiffany L. Butler
Appellate Defender

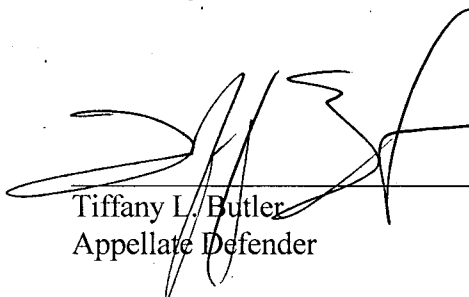
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

September 14th, 2015



Tiffany L. Butler
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
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(803) 734-1330

ATTORNEY FOR APPELLANT

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SEP 14 2015
SC Court of Appeals