

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Barnwell County

Honorable Doyet A. Early, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TYLER SHIGGS,

APPELLANT

APPELLATE CASE NO. 2016-000467

RECORD ON APPEAL

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2 COUNTY OF BARNWELL

CIRCUIT COURT
2016-GS-06-00047, 00048

3
4 STATE OF SOUTH CAROLINA,

5 -vs-

TRANSCRIPT OF RECORD

6 TYLER SHIGGS,
7 Defendant.

8
9 HEARD ON TUESDAY, FEBRUARY 23, 2016

10
11
12 BEFORE:

13 THE HONORABLE DOYET A. EARLY, III

14 AND A JURY

15
16 APPEARANCES:

17 Counsel on behalf of the State:

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18 Jack W. Hammack, Jr., Esq.

19 David W. Miller, Esq.

Counsel on behalf of the Defendant:

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21 Cheri L. Young, RPR
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25

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1 ON TUESDAY, FEBRUARY 23, 2016 AT 10:28:

2 THE COURT: State, you may call your first
3 case.

4 MS. HAMMACK: Thank you, Your Honor.

5 The State calls the State of South Carolina
6 versus Tyler Shiggs charged in Indictments
7 2016-GS-06-47, with distribution of cocaine;
8 2016-GS-06-48, with distribution of cocaine in
9 proximity to a school, park or playground.

10 THE COURT: Thank you. All right. Ladies
11 and gentlemen of the jury, the State has called
12 for trial two indictments against the same
13 person, Mr. Tyler Shiggs. Is that how you say
14 it?

15 MR. PRICE: Yes, sir.

16 THE COURT: S-H-I-G-G-S. Mr. Shiggs has
17 been indicted by the Barnwell County Grand Jury
18 for the offenses of distribution of cocaine,
19 that's the sale of cocaine, and a distribution of
20 cocaine in close proximity to a school, park or
21 playground. That means the sale -- the alleged
22 sale took place within a one-half mile radius of
23 a school or park. In this particular case it was
24 the Barnwell Primary School.

25 These indictments are simply the charging

1 document, the legal document by way this case
2 comes into the courtroom. It informs the
3 Defendant of the charges against him. These are
4 merely charges. That is not evidence in the
5 case.

6 He has pled not guilty to both indictments.
7 A plea of not guilty ensures that he has the
8 constitutional right of being presumed to be
9 innocent unless the State is able to prove his
10 guilt to you beyond a reasonable doubt.

11 THE COURT: So please do not infer anything
12 from the fact that he has been indicted. He's
13 pled not guilty and he's presumed to be innocent
14 unless the State can prove his guilt to you
15 beyond a reasonable doubt.

16 Now, I need to ask a few questions. If any
17 of my questions pertain to you, please stand and
18 we will answer the question.

19 First of all. Mr. Shiggs, if you would
20 stand, please, and face the jury panel.

21 THE DEFENDANT: (Complying.)

22 THE COURT: Thank you.

23 Any member of the jury panel related now or
24 in the past by blood or marriage to Mr. Tyler
25 Shiggs or do you now or have you in the past had

1 a close personal or social relationship with
2 Mr. Shiggs? If so, please stand.

3 (No response.)

4 THE COURT: I'm going to ask you those same
5 two questions. I'm going to read the list of
6 potential witnesses in the trial of the case.

7 Mr. Price, you don't have --

8 MR. PRICE: No, Your Honor.

9 THE COURT: If you happen to be in the
10 courtroom when I read your name, please stand.

11 Darren Towne. He's with the Barnwell
12 County Sheriff's Office.

13 Rodney Brown with the sheriff's office.
14 You may be seated. Thank you.

15 Amber Collins with the Aiken County
16 Sheriff's Office.

17 Joseph Hair, and Terry Jarrell,
18 J-A-R-R-E-L-L.

19 Any member of the jury panel related by
20 blood or marriage or do you now or have you in
21 the past had a close personal or social
22 relationship with any of the potential witnesses
23 in the trial of the case? If so, please stand.

24 (No response.)

25 THE COURT: In this particular case the

1 Defendant, Mr. Tyler Shiggs, is represented by
2 Mr. Jason Price. He practices out of Aiken but
3 most -- and a lot of times in the Barnwell and
4 Bamberg areas.

5 The State will be represented by two of our
6 able assistant solicitors, the husband and wife
7 team of Jack and -- strike that, of Ashley and
8 Jack Hammack. They are assistant solicitors with
9 the Second Judicial Circuit which is Bamberg,
10 Barnwell and Aiken. Thank you.

11 Question: Any member of the jury panel now
12 or in past have had legal services provided by
13 any of the lawyers involved in the case? If so,
14 please stand.

15 Yes, ma'am. Your name and number?

16 THE JUROR: Kimberly Richardson. I was
17 111. My house was broken into a couple of years
18 ago and the Hammacks represented us.

19 THE COURT: Okay. Well, they didn't
20 actually represent you. You were victims and
21 they prosecuted the case. I remember that case.

22 THE JUROR: Yes, sir.

23 THE COURT: The fact that the Second
24 Circuit Solicitor's Office prosecuted a case when
25 your house was broken into in the past,

1 Ms. Richardson, would that in any way preclude or
2 keep you from being a fair and impartial juror
3 and try this case based solely on what is
4 presented in the courtroom?

5 THE JUROR: No, sir.

6 THE COURT: Thank you very much.

7 Any member of the jury panel now or in the
8 past been related by blood or marriage to any of
9 the three lawyers, or do you now or have you in
10 the past had a close personal or social
11 relationship with any of the attorneys involved
12 in the case? If so, please stand.

13 (No response.)

14 THE COURT: Ladies and gentlemen, allow me
15 to explain what my role is and what your role is.
16 And then I'm going to ask you a couple of
17 questions.

18 Any time we have a trial, whether it be a
19 criminal trial such as this or a civil trial
20 where someone is suing their lawyer for
21 malpractice or a car wreck or any of those type
22 of cases, when the parties are unable to resolve
23 their differences we will select a jury.

24 And under our system of government when we
25 have a trial we have two judges involved in the

1 case. The law makes me in my position as the
2 Circuit Court Judge, I am the judge of the law in
3 the case. I will instruct you and tell you what
4 the law is as it applies to these facts.

5 So you have taken an oath to accept the law
6 as I give it to you, notwithstanding what you may
7 think it ought to be or what it should be. So
8 you have to accept the law that I give you. I'm
9 the judge of the law.

10 Being the judge of the law, I have one
11 other main responsibility and that is to make
12 sure that all of the testimony and the evidence
13 is presented to you under our rules of evidence
14 and that it is permissible testimony.

15 The lawyers have to ask their questions
16 that comply with the rules of evidence and the
17 rules of criminal procedure. Now, it may very
18 well may be that one witness will answer a
19 question that is a proper question, complies with
20 all the rules of evidence and he'll tell you that
21 Suzie did it. And then the next witness will get
22 up and the rules of evidence will be complied
23 with and that witness will tell you that John did
24 it. And third witness will tell you that Sam did
25 it. In other words, all of that testimony is

1 admissible but somebody is not telling the truth.

2 So I have to have another judge. And that
3 is the judge of the facts in the case. And that
4 judge listens to the evidence and uses your good
5 old common sense that you deal with people day in
6 and day out. You know who's telling the truth.
7 And you make a determination as to what the true
8 facts are.

9 That's the judge of the facts. And that
10 consists of 12 citizens from the community. You
11 will listen to the evidence and you will
12 determine what the true facts are in the case.
13 You are the judge of the facts.

14 And the way it works is that you take those
15 true facts that you judge them to be and you
16 apply it to the law as I give it to you and
17 you'll be in a position to render a verdict that
18 speaks the truth. That's what verdicts means; to
19 speak the truth, a Latin phrase.

20 Now I explain all of that to you to ask you
21 these questions.

22 Do I have any member of the jury panel for
23 any reason whatsoever, just a personal belief
24 against the judicial system, a religious belief,
25 a political belief, any kind of belief that you

1 cannot perform your civic duty of sitting on the
2 jury and determining what the true facts are in
3 the case and applying those true facts to the law
4 as I give it to you.

5 Do I have anyone who cannot perform that
6 civic duty for any reason whatsoever? I need to
7 know now.

8 THE JUROR: My daddy and brother were both
9 police officers. I tend to have -- if an officer
10 says --

11 THE COURT: Your name and number?

12 THE JUROR: Jodi Powers, 106.

13 THE COURT: You got a daddy and a brother
14 who's a police officer?

15 THE JUROR: Yes, sir.

16 THE COURT: Do you think you would favor
17 the police over the other side?

18 THE JUROR: Absolutely.

19 THE COURT: Thank you. You may be seated.
20 Set her aside.

21 Anyone else?

22 (No response.)

23 THE COURT: We've got the best judicial
24 system in the world. This is a judicial system
25 that has been formed back during the Magna Carta

1 age, 1200s. It's been refined and refined and
2 refined. We let citizens -- when someone is
3 accused of a crime and pleads not guilty, we let
4 the citizens from the community make the decision
5 as to whether or not the State can prove their
6 guilt beyond a reasonable doubt.

7 We don't have a dictator doing it. We
8 don't have a firing squad doing it. We don't
9 have a terrorist group doing it. We let our
10 citizens do it. And there's no finer system of
11 justice anywhere in the world than what we have
12 here in the United States. And you today will be
13 a part of it. And that's why I asked you was
14 anybody not able to do that.

15 Any member of the jury panel aware of any
16 prejudice towards either the State or the
17 Defendant in this case?

18 (No response.)

19 THE COURT: Any member of the jury panel
20 know of any reason whatsoever that you can't be a
21 fair and impartial juror in the trial of this
22 case? If so, please let me know now.

23 (No response.)

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

1 MS. HAMMACK: Not from the State, Your
2 Honor.

3 THE COURT: By the Defendant?

4 MR. PRICE: None, Your Honor.

5 THE COURT: All right. Give me -- you got
6 five strikes, five and five; is that correct?

7 MR. HAMMACK: Yes, sir.

8 THE COURT: Ladies and gentlemen, here's
9 the way we draw a jury in a criminal case. The
10 clerk is -- now we have a computer program that
11 they're running it as I speak. And they will
12 randomly put your name in the computer -- your
13 name will be drawn randomly. She will call out
14 the names as they come out randomly.

15 And if your name is called, would you
16 please come forward, come through this little
17 door over here, come down and stand right here.

18 The State has five strikes. The Defendant
19 has five strikes. They can strike you for most
20 any reason or no reason at all within certain
21 bounds that the lawyers obviously know about it.
22 So if you get struck, don't let your feelings get
23 hurt.

24 But we'll go through that process until we
25 have selected 12 jurors and two alternates and

1 then we'll start the trial of the case.

2 If we were trying a wreck case or a legal
3 malpractice case or a civil case, it would take
4 the names randomly and we put them on a strike
5 sheet. The Plaintiff gets four strikes, the
6 Defendant gets four strikes. So 20 less eight
7 gives you the 12. It's little different in civil
8 court than in criminal court.

9 So we almost have the list ready, and
10 Ms. McElveen will call out the names, your name.
11 As I said, please come down through the gate,
12 stand right here. And if they say, "Swear the
13 juror," you sit on the jury. If they say,
14 "Excuse the juror," go back to your seat.

15 If you got any personal items, bring those
16 with you. So if you get chosen on the jury
17 you'll have it with you.

18 THE CLERK: Juror Number 94, Stephanie
19 Nix.

20 (White female comes forward.)

21 THE CLERK: What say the State?

22 MS. HAMMACK: Please present Ms. Nix.

23 THE CLERK: What says the defense?

24 MR. PRICE: Please excuse Ms. Nix.

25 THE CLERK: Juror Number 16, Susan Burnett.

(White female comes forward.)

THE CLERK: What says the State?

MS. HAMMACK: Please present Ms. Burnett.

THE CLERK: What says the defense?

MR. PRICE: Please seat Ms. Burnett.

THE CLERK: Juror Number 30, Travis Dyches.

(White male comes forward.)

THE CLERK: What says the State?

MS. HAMMACK: Please excuse Mr. Dyches from
this case.

THE CLERK: Juror Number 54, Jason Haskins.

(White male comes forward.)

THE CLERK: What says the State?

MS. HAMMACK: Please present Mr. Haskins.

THE CLERK: What says the defense?

MR. PRICE: Please seat Mr. Haskins.

THE CLERK: Juror Number 146, Melania
Williamson.

(Black female comes forward.)

THE CLERK: What says the State?

MS. HAMMACK: Please present
Ms. Williamson.

THE CLERK: What says the defense?

MR. PRICE: Please excuse Ms. Williamson.

THE CLERK: Juror Number 87, Tiffany Mays.

1 (Black female comes forward.)
2 THE CLERK: What says the State?
3 MS. HAMMACK: Please present Ms. Mays.
4 THE CLERK: What says the defense?
5 MR. PRICE: Please seat Ms. Mays.
6 THE CLERK: Juror Number 18, Queen Byas.
7 (Black female comes forward.)
8 THE CLERK: What says the State?
9 MS. HAMMACK: Please present Ms. Byas.
10 THE CLERK: What says the defense?
11 MR. PRICE: Please seat Ms. Byas.
12 THE CLERK: Ms. Byas.
13 THE JUROR: Oh.
14 THE CLERK: Juror Number 141, Melissa
15 Waltz.
16 (White female comes forward.)
17 THE CLERK: What says the State?
18 MS. HAMMACK: Please present Ms. Waltz.
19 THE CLERK: What says the defense?
20 MR. PRICE: Please excuse Ms. Waltz.
21 THE CLERK: Juror Number 93, Bailey Morrow.
22 (White male comes forward.)
23 THE CLERK: What says the State?
24 MS. HAMMACK: Please present Mr. Morrow.
25 THE CLERK: What says the defense?

1 MR. PRICE: Please seat Mr. Morrow.

2 THE CLERK: Juror Number Eight, Wanda Birt.

3 (White female comes forward.)

4 THE CLERK: What says the State?

5 MS. HAMMACK: Please present Ms. Birt.

6 THE CLERK: What says the defense?

7 MR. PRICE: Please seat Ms. Birt.

8 THE CLERK: Juror Number 107, Roger

9 Pritchard.

10 (White male comes forward.)

11 THE CLERK. What says the State?

12 MS. HAMMACK: Please present Mr. Pritchard.

13 THE CLERK: What says the defense?

14 MR. PRICE: Please excuse Mr. Pritchard.

15 THE CLERK: Juror Number 92, William

16 Morris.

17 (White male comes forward.)

18 THE CLERK: What says the State?

19 MS. HAMMACK: Please present Mr. Morris.

20 THE CLERK: What says the defense?

21 MR. PRICE: Please seat Mr. Morris.

22 THE CLERK: Juror Number 86, Marlon

23 Matthews.

24 (Black male comes forward.)

25 THE CLERK: What says the State?

1 MS. HAMMACK: Please excuse Mr. Matthews
2 from this case.

3 THE CLERK: Juror Number 55, Jackie
4 Hawkins.

5 (White male comes forward.)

6 THE CLERK: What say you for the State?

7 MS. HAMMACK: Please present Mr. Hawkins.

8 THE CLERK: What say you for the defense?

9 MR. PRICE: Please seat Mr. Hawkins.

10 THE CLERK: Juror Number 110, Jocelyn
11 Rhodall.

12 (Black female comes forward.)

13 THE CLERK: What say you for the State?

14 MS. HAMMACK: Please present Ms. Rhodall.

15 THE CLERK: What says the defense?

16 MR. PRICE: Please seat Ms. Rhodall.

17 THE CLERK: Juror Number 111, Kimberly
18 Richardson.

19 (White female comes forward.)

20 THE CLERK: Clerk what says the State?

21 MS. HAMMACK: Please present

22 Ms. Richardson.

23 THE CLERK: What says the defense?

24 MR. PRICE: Please excuse Ms. Richardson.

25 THE CLERK: Juror Number 58, Kevin Herman.

1 (White male comes forward.)
2 THE CLERK: What says the State?
3 MS. HAMMACK: Please present Mr. Herman.
4 THE CLERK: What says the defense?
5 MR. PRICE: Please seat Mr. Herman.
6 THE CLERK: Juror Number 41, Kathy Grubbs.
7 (White female comes forward.)
8 THE CLERK: What says the State?
9 MS. HAMMACK: Please present Ms. Grubbs.
10 THE CLERK: What says the defense?
11 MR. PRICE: Please seat Ms. Grubbs.
12 THE CLERK: Juror Number 19, Megan Carroll.
13 (White female comes forward.)
14 THE CLERK: What says the State?
15 MS. HAMMACK: Please present Ms. Carroll.
16 THE CLERK: What says the defense?
17 MR. PRICE: Please seat Ms. Carroll.
18 THE COURT: Two alternates, two and one.
19 THE CLERK: Juror Number 31, Donna Elkins.
20 (White female comes forward.)
21 THE CLERK: What says the State?
22 MS. HAMMACK: Please present Ms. Elkins.
23 THE CLERK: What says the defense?
24 MR. PRICE: Please excuse Ms. Elkins.
25 THE CLERK: Juror Number 129, Warren

1 Stephens.

2 (White male comes forward.)

3 THE CLERK: What says the State?

4 MS. HAMMACK: Please present Mr. Stephens.

5 THE CLERK: What says the defense?

6 MR. PRICE: Please seat Mr. Stephens.

7 THE CLERK: Have a seat over there.

8 THE COURT: All right. Alternate number

9 two, two and one.

10 THE CLERK: Juror Number 123, Helen Smith.

11 (White female comes forward.)

12 THE CLERK: What says the State?

13 MS. HAMMACK: Please present Ms. Smith.

14 THE CLERK: What says the defense?

15 MR. PRICE: Please seat Ms. Smith.

16 THE COURT: Any motions by the State in

17 connection with the selection of the jury?

18 MS. HAMMACK: No, Your Honor.

19 THE COURT: By the Defendant?

20 MR. PRICE: No, Your Honor.

21 THE COURT: All right. Ladies and

22 gentlemen, those of you who were not selected I

23 am now going to release you for the balance of

24 the day. Where is the call number?

25 We will hand you a call back number as you

1 exit the rear of the courthouse. Please call
2 back after six for instructions dealing with the
3 balance of the week. After six for instructions
4 dealing with the balance of the week.

5 All right. You may leave. Thank you.

6 (Jury panel exits at 10:53 a.m.)

7 THE COURT: Ladies and gentlemen, while
8 we're letting our other jurors exit the
9 courtroom, I'm going to let you follow the
10 bailiff back -- are you cold? We'll work on
11 that. Let y'all step back into the jury room,
12 stretch your legs. We'll probably start up in
13 about 15 minutes. Plan to go till about 12:30
14 quarter to one, take an hour 15, 20-minute break
15 for lunch and plan to go until about five o'clock
16 this afternoon.

17 Does that suit everyone? If you have to
18 make some calls or do anything, do that over the
19 lunch hour. So I'm going to let you go back and
20 we'll come right back out at about 11 or shortly
21 thereabouts and we'll get started and go until
22 about 12:30.

23 (Jury exits courtroom at 10:55 a.m.)

24 THE COURT: Ms. Bowman, if you'd come
25 forward for us, please. I'm going to let

1 Ms. McElveen swear you in for this term and then
2 I'm going to let you go.

3 (Grand Jury matter heard.)

4 THE COURT: Anything from the State before
5 we start the trial?

6 MS. HAMMACK: No, Your Honor.

7 THE COURT: Mr. Price, your client said he
8 wanted to say something. I don't have any idea
9 what he wants to say.

10 THE DEFENDANT: Your Honor, I don't
11 really --

12 THE COURT: Get your hands out of your
13 pockets.

14 THE DEFENDANT: I don't want to proceed.

15 THE COURT: I can't understand a word
16 you're saying.

17 THE DEFENDANT: I really don't want to go
18 and proceed. I had hired --

19 THE COURT: I'm so sorry you don't want to
20 go on.

21 THE DEFENDANT: I have hired Byron Gypson.

22 THE COURT: No, you haven't. We talked to
23 Mr. Gypson this morning. He informed the
24 solicitor's office that's he's not been hired.
25 He'll be here in just a few minutes to tell us

1 that.

2 THE DEFENDANT: I hired Mr. Gypson.

3 THE COURT: He's telling us different. And
4 even if you hired him, he's not here to represent
5 you. Your trial started at 9:30 this morning.

6 THE DEFENDANT: He told me last week that
7 we were having trial. I'm not even prepared for
8 trial.

9 THE COURT: I am so sorry. When did you
10 hire Mr. Gypson?

11 THE DEFENDANT: Well, after he told me last
12 week and then he told me --

13 THE COURT: Stand up.

14 THE DEFENDANT: He told me last week that we
15 were getting ready for a trial. It been a year
16 case. I only seen him three times. He brung me
17 some papers, he left. And he come back and then
18 he showed me a video and he said we're getting
19 ready for trial this week.

20 THE COURT: That's correct. The trial's
21 been set for a long time.

22 THE DEFENDANT: Yeah. But we never had a
23 chance to go over the case.

24 THE COURT: You should have called him. I
25 can't get into that. Mr. Price has been

1 appointed to represent you for however long.

2 Mr. Price is an excellent lawyer.

3 Are you ready to go forward?

4 MR. PRICE: Yes, Your Honor.

5 THE COURT: Have you seen all the evidence,
6 reviewed all the evidence?

7 MR. PRICE: Yes, Your Honor.

8 THE COURT: When did you try to hire
9 Mr. Gypson?

10 THE DEFENDANT: After Mr. Price told me, he
11 said --

12 THE COURT: I asked you a question. When?

13 THE DEFENDANT: I hired him yesterday.

14 THE COURT: Well, that's not what
15 Mr. Gypson said. Mr. Hammack, did you speak with
16 Mr. Gypson this morning?

17 MR. HAMMACK: Yes, sir, Your Honor, I did.
18 He's on the way down. He's stated they have not
19 signed any paperwork. He did receive a small --
20 couple hundred dollars but he has not been
21 retained at this point, not been paid in full and
22 no paperwork's been signed.

23 THE COURT: Thank you.

24 And even if he were paid in full and had
25 been retained, he would have to be here ready to

1 go this morning because I'm not going to continue
2 the case at the last minute for somebody going
3 out to hire a lawyer.. If I did, everybody would
4 go out and hire a lawyer.

5 THE DEFENDANT: No, Your Honor. I
6 understand.

7 THE COURT: Thank you. Trial is started.
8 He's incarcerated. We'll get started in about 15
9 minutes. Thank you.

10 MR. HAMMACK: Thank you, Your Honor.

11 THE COURT: Mr. Price, let me see you,
12 please.

13 (Off-the-record discussion.)

14 (Break taken at 10:59 a.m. At 11:15 a.m.,
15 the trial resumed:)

16 THE COURT: Come over here Ms. Mays.
17 Ms. Mays, I was informed by -- Ms. Mays is Juror
18 87 -- I was informed by the clerk that you
19 represented to her or told her that after having
20 reflected that you are first cousin or a
21 cousin --

22 THE JUROR: (Nods head.)

23 THE COURT: -- to the Defendant,
24 Mr. Shigg's girlfriend?

25 THE JUROR: Yes.

1 THE COURT: Is that correct?

2 THE JUROR: (Nods head.)

3 THE COURT: All right. Well, that's too
4 close to this case. I'm going to excuse you from
5 the trial of this case.

6 THE JUROR: Okay.

7 THE COURT: And, so you want to just leave
8 us your badge? We'll give you a number to call
9 back in after six.

10 And I thank you for making that -- that's
11 what we're supposed to do when that situation
12 comes up. You're a wonderful juror. And I
13 appreciate that. And just call back after six.
14 We may not need you tomorrow, I don't know for
15 sure.

16 THE JUROR: Okay.

17 THE COURT: But thank you very much.

18 We'll elevate the first alternate,
19 Mr. Stephens, he'll replace Ms. Mays.

20 MR. PRICE: Yes, sir.

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

23 MS. HAMMACK: Mr. Gypson's not here?

24 MR. HAMMACK: Not yet.

25 THE COURT: We got someone here for

1 Mr. Sapp?

2 PROBATION OFFICER: Yes, sir, Your Honor.

3 (Probation matter heard by the Court.)

4 THE COURT: Bring the jury in for me,
5 please.

6 (Jury enters courtroom at 11:21 a.m.)

7 THE COURT: A couple things before we get
8 started.. We had somebody left a jacket out
9 there. Is that yours?

10 THE JUROR: Yes, sir.

11 THE COURT: And I think it was an umbrella
12 and a --

13 THE JUROR: Baseball cap.

14 THE COURT: -- baseball cap.

15 THE JUROR: Yeah. I left the baseball cap.

16 THE COURT: We got it. It's right there.

17 Now if you get cold or you get
18 uncomfortable, just let me know. We can adjust
19 the air one way or the other. It's all right.

20 The first thing order of business,
21 Mr. Stephens, Mr. Stephens, I'm going to elevate
22 you to the regular jury. So if you'd just come
23 around and sit back here for me. We had one
24 juror we had to release before we got started.

25 So there's no hidden secrets, that juror

1 was related to the Defendant's girlfriend and she
2 told me that. So. That was just -- it's too
3 close anytime when you have that.

4 The first order of business we have to do,
5 you have to please stand once again, raise your
6 right hand. Let me swear you in, please -- let
7 the clerk swear you in.

8 (Jury sworn.)

9 THE COURT: Please be seated.

10 Ladies and gentlemen of the jury panel, let
11 me just give you a quick overview of where we're
12 going here today and how we will get there.

13 As I told you when we selected the jury,
14 this case, the Defendant, Mr. Shiggs, has been
15 indicted by the Barnwell County Grand Jury for
16 two separate offenses. One is for the
17 distribution of cocaine which is a sale of
18 cocaine, and the other one is for the
19 distribution of that cocaine or the alleged
20 distribution of that cocaine within one-half mile
21 of the Barnwell Primary School.

22 Both of those factual situations are
23 governed by certain statutory provisions in our
24 law and I will go over those with you at the
25 conclusion of the case.

1 Please bear in mind the fact that he's been
2 arrested and indicted and charged in this case,
3 that is not evidence in the case. He's pled not
4 guilty to these charges and he has the
5 constitutional presumption of innocence unless
6 the State is able to prove to you beyond a
7 reasonable doubt each element of both offenses to
8 you beyond a reasonable doubt.

9 Now the way we go and the way the trial
10 will go is this. Since the State has the burden
11 of proof they go first. So in just a few minutes
12 they will start calling their witnesses. At the
13 conclusion of their case or calling of their
14 witnesses, the Defendant, if he chooses to do so,
15 has an opportunity to put up a defense. And
16 after his defense is put up the State has the
17 opportunity to put up anything in reply.

18 Now that's how the trial will proceed. The
19 State goes first followed by the Defendant and
20 then the State has the right to reply.

21 When the State calls a witness, the State
22 will conduct what's called a direct examination.
23 They will be able to ask them, the witness,
24 relevant questions. Once they have completed
25 their direct examination the Defendant has a

1 right to cross-examine and then the State has a
2 right to redirect.

3 If the Defendant puts up witnesses, then
4 the Defendant directly examines them,
5 cross-examined by the State and then redirect by
6 the Defendant. That's how the testimony will go.

7 Prior to taking testimony both sides will
8 make what's called an opening statement. Opening
9 statements is not evidence in the case for you to
10 consider. That's simply what the lawyers contend
11 the issues are in the case. They'll sort of give
12 you a road map as to what, which way they're
13 going to go, how they're going to go, and how
14 they intend to get there. So when the lawyers
15 make their opening statements, that is not
16 evidence in the case. The only thing you can
17 consider, obviously, is testimony and exhibits
18 that are introduced through the trial of the
19 case.

20 Once the opening statements are made the
21 testimony is taken. Then the lawyers have the
22 right to make their final arguments which, too --
23 or likewise is not evidence in the case. That's
24 simply their argument of what the facts were,
25 what the evidence showed.

1 Once they've completed their final
2 arguments, then I'll be in a position to charge
3 or instruct you on the law. I will instruct you
4 on some general propositions of law dealing with
5 criminal cases and then we'll go specifically to
6 the two statutory provisions that they claim the
7 Defendant has violated.

8 Once I finish my charge then obviously you
9 will start your deliberation on the evidence and
10 once you've completed your deliberations then we
11 will receive your verdict back in the courtroom.

12 As I told you when we took a break, we'll
13 probably go until about 12:30 today, maybe a
14 little longer than that. We'll break for about
15 an hour and 15 minutes for lunch. We'll come
16 back and go to about five o'clock this afternoon
17 or depending on where we are with the trial. I
18 fully believe we will finish this trial by
19 lunchtime tomorrow, perhaps earlier than that.

20 Even though I'm trying to run an efficient
21 courtroom and not keep you back there waiting,
22 I'm not trying to run a race either. So if at
23 any time during the trial of the case you become
24 uncomfortable, you get cold, you get hot, let me
25 know so we can try to adjust the temperature. If

1 you need a bathroom break, just get tired of
2 listen to me, whatever, raise your hand. Do not
3 get uncomfortable and I will make sure whatever
4 needs you have are met.

5 I will ask you each time we take a break
6 and at lunch and if we break for the evening, do
7 not start any deliberating, don't start your
8 deliberations on the case until all the evidence
9 has been introduced, any exhibits, the lawyers
10 have made their final arguments and I've charged
11 you on the law. So when you go back to the jury
12 room obviously you can talk about anything you
13 want to, but please don't start talking about the
14 case until we have reached the final conclusion.

15 I will ask that you select a foreperson
16 between, amongst the 12 of you. The foreperson
17 is simply someone who acts as a spokesperson for
18 the jury, brings to me matters that you think
19 need to be brought to my attention. If you have
20 any questions, do it through the foreperson and
21 the foreperson will head up the jury
22 deliberations.

23 I will ask that you please do not engage in
24 any social media, anything on the Internet,
25 Facebook, Twitter, whatever, whatever, whatever.

1 Don't do any computer research. We try these
2 cases based solely on what's presented in the
3 courtroom. And please don't try to do any
4 research on your own concerning this matter.

5 I look forward to working with you.
6 Obviously you and I have two different jobs to
7 perform. Your job is the most important in the
8 courtroom. You will be listening to testimony.
9 It will be your job as the judge of the facts to
10 determine what the true facts are.

11 So, please, don't leave your common sense
12 at the door. Bring it into the courtroom. Y'all
13 are grown adults. You've dealt with wives,
14 husbands, children, employees, employers,
15 friends. You know how to judge when someone's
16 telling you the truth. So use that common sense
17 to determine what the true facts are and then
18 you'll be in a position to apply the facts to the
19 law as I give it to you and render your final
20 verdict.

21 Any objections to my opening remarks by the
22 State?

23 MS. HAMMACK: No, Your Honor.

24 THE COURT: By the Defendant?

25 MR. PRICE: None, Your Honor.

1 THE COURT: All right. At this time the
2 State will make their opening remarks followed by
3 the Defendant's lawyer. Then we'll get right
4 into the testimony.

5 Ms. Hammack.

6 MS. HAMMACK: Mr. Price. Madam Clerk.
7 Your Honor.

8 THE COURT: Yes, ma'am.

9 MS. HAMMACK: Members of the jury.

10 Illegal narcotics, undercover sales, video
11 surveillance, confidential informants. All of
12 this sounds like an episode of Law and Order but
13 today the story that you're going to hear is not
14 a TV episode. It's real life, and it happened
15 right here in Barnwell County.

16 Now you're going to hear about how law
17 enforcement works with the community to try to
18 deal with people selling illegal narcotics, or
19 drugs, here in town. You'll hear how members of
20 the community come to law enforcement with
21 information about where illegal narcotics are
22 being sold and about who's selling them. You'll
23 hear how law enforcement works with those people
24 in order to find where these illegal narcotics
25 are.

1 You'll hear that they'll send these members
2 of the community out to purchase these drugs and
3 to identify who's selling them.

4 Now you'll hear about the measures that
5 they use to make sure that this is safe and that
6 it's as controlled as possible. You'll hear
7 about video cameras and surveillance cars, all to
8 find out where these drugs are and who's selling
9 them.

10 Now, in this case you'll be hearing about
11 January 14th, 2015, and how on that day the
12 Defendant, Tyler Shiggs, sold illegal narcotics
13 to a confidential informant, someone from town
14 working with law enforcement. You'll get to see
15 the evidence. You'll get to hear the testimony
16 about how that took place.

17 This is not going to be a long trial. And
18 at the end of the trial, I'm going to come back
19 in front of you. I'm going to summarize
20 everything you've seen and everything you've
21 heard. And then I'm going to ask you to do
22 exactly what the Judge has already talked to you
23 about. I'm going to ask you to speak the truth.
24 I'm going to ask you to find the Defendant guilty
25 of selling cocaine and selling that cocaine right

1 down the street, less than half a mile from
2 Barnwell Primary School.

3 Thank you.

4 THE COURT: Mr. Price.

5 MR. PRICE: Ms. Hammack, Madam Clerk, Your
6 Honor.

7 Good morning. My name is Jason Price and I
8 represent the Defendant, Tyler Shiggs, in this
9 matter.

10 And the State is going to present evidence
11 to you that's compiled by law enforcement. And
12 we've grown up thinking of law enforcement as
13 doing everything perfect by the books. But in
14 this case you probably will see inconsistencies.
15 Please keep that in mind over the course of the
16 trial.

17 Now my client is robed with a cloak of
18 innocence. That means he is innocent beyond a
19 reasonable doubt. That means that the State must
20 prove beyond a reasonable doubt that my client is
21 in fact guilty of the charges alleged.

22 Now I'm confident at the end of this trial
23 you will find my client, Tyler Shiggs, not
24 guilty. Thank you.

25 THE COURT: You may call your first

JOSEPH MAURICE HAIR - DIRECT BY J HAMMACK

1 witness.

2 MS. HAMMACK: Thank you, Your Honor. The
3 State calls Joseph Hair.

4 JOSEPH MAURICE HAIR, having been duly
5 sworn, was examined and testified as follows:

6 THE CLERK: If you would, please, sir, be
7 seated and then state your full name for the
8 record.

9 THE WITNESS: Joseph Maurice Hair.

10 DIRECT EXAMINATION

11 BY MR. HAMMACK:

12 Q. Good morning, Mr. Hair. How are you doing today?

13 A. I'm all right.

14 Q. Mr. Hair, are you from around the Barnwell area?

15 A. Yeah.

16 Q. All right. Let me ask you something, Mr. Hair.
17 Did you have an opportunity to work with the narcotics
18 division here with the sheriff's office?

19 A. Yes.

20 Q. Do you recall when you were back helping them?

21 A. Yes.

22 Q. What made you decide to do that?

23 A. It kind of ruined a couple relationships. Caught
24 the mother of my daughter shooting up dope and just got
25 tired of the whole deal. My brothers are strung out.

JOSEPH MAURICE HAIR - DIRECT BY J HAMMACK

1 Just got tired of it all.

2 Q. So you decided to go help them out?

3 A. Yes, yes, sir. Somebody needed to step up.

4 Q. Let me ask you this. Were you working off any kind
5 of charges?

6 A. No, sir.

7 Q. What were you doing this for?

8 A. Cash buy.

9 Q. How much were they paying you?

10 A. \$50 a buy or something like that.

11 THE COURT: Speak up for me, Mr. Hair.

12 THE WITNESS: \$50 a buy.

13 BY MR. HAMMACK:

14 Q. Okay. Okay. Well, back on or about January 14th,
15 2015, do you recall working with them?

16 A. Yes.

17 Q. Do you recall going over to Elberta Circle?

18 A. Yes.

19 Q. Here in Barnwell?

20 A. Yes.

21 Q. What was going on? Tell me what happened that day.

22 A. Made a buy, bought a gram of cocaine, 60 bucks.

23 Q. Who did you buy cocaine from?

24 A. Tyler Shiggs.

25 Q. Tyler Shiggs. How did you know him?

JOSEPH MAURICE HAIR - DIRECT BY J HAMMACK

1 A. Known him for a long time.
2 Q. How do you know him?
3 A. Just know him from around town.
4 Q. So you know him when you see him?
5 A. Yes.
6 Q. Do you see him in the courtroom?
7 A. Yeah.
8 Q. Which one is Tyler Shiggs?
9 A. That one right there.
10 Q. Can you describe what he's wearing for me?
11 A. Brown jacket.
12 Q. So the gentleman over here in the brown jacket?
13 A. (Points.)
14 Q. That's Mr. Shiggs?
15 A. Yes.
16 Q. Okay. Now, not to ask you -- not to get too far,
17 but -- all right. So back on January 14th, 2015, who's
18 house did you go to?
19 A. Tyler Shiggs.
20 Q. That's on the Elberta Circle?
21 A. Yes.
22 Q. And did you set this up? Did he set -- how did you
23 know to go there, I guess?
24 A. I was working with the department.
25 Q. Okay. So you went to Tyler Shiggs' house?

JOSEPH MAURICE HAIR - CROSS BY PRICE

1 A. Yeah.

2 Q. And you bought how much cocaine?

3 A. A gram. I think 60 bucks.

4 Q. \$60 worth?

5 A. Uh-huh.

6 Q. Now is all of this audio recorded? Video
7 recorded? How does that work?

8 A. It's, it's a video recorder on your side or
9 whatever.

10 Q. So it is recorded?

11 A. It's recorded.

12 Q. Does it tell you what went on?

13 A. Yes, yes.

14 MR. HAMMACK: Beg the Court's indulgence.

15 All right.

16 Nothing further right now.

17 THE COURT: Cross-examination.

18 CROSS-EXAMINATION

19 BY MR. PRICE:

20 Q. Good morning, Mr. Hair.

21 A. Good morning.

22 Q. Had you known Mr. Shiggs for a long while?

23 A. I've known him for a while. Yes, sir.

24 Q. What's a long while, you'd say?

25 A. Probably 10 or 15 years.

T DARREN TOWNE - DIRECT BY A HAMMACK

1 Q. In what capacity have you known him?

2 A. He's bought dogs off my dad several times. Been
3 out at my dad's place.

4 Q. All right.

5 MR. PRICE: No further questions.

6 THE COURT: Anything on redirect?

7 MR. HAMMACK: No, sir, Your Honor.

8 THE COURT: All right. You may step down.

9 May he be released?

10 MR. HAMMACK: Yes, sir, Your Honor, please.

11 THE COURT: Mr. Hair -- or, Mr. Price, any
12 objection?

13 MR. PRICE: None, Your Honor.

14 THE COURT: Thank you, Mr. Hair.

15 THE WITNESS: Yes, sir.

16 THE COURT: Next witness, please.

17 MS. HAMMACK: The State calls Darren Towne.

18 THOMAS DARREN TOWNE, having been duly
19 sworn, was examined and testified as follows:

20 THE CLERK: If you would, sir, please be
21 seated and state your name for record.

22 THE WITNESS: Thomas Darren Towne.

23 DIRECT EXAMINATION

24 BY MS. HAMMACK:

25 Q. Good Morning, Investigator Towne.

T DARREN TOWNE - DIRECT BY A HAMMACK

- 1 A. Good morning.
- 2 Q. Can you tell the jury what do you do for a living?
- 3 A. Narcotics Investigator for Barnwell County
- 4 Sheriff's Office.
- 5 Q. And, can you tell them, what does it mean to be a
- 6 narcotics investigator?
- 7 A. We conduct undercover buys of drugs throughout the
- 8 county.
- 9 Q. And you say undercover buy. What are you buying?
- 10 A. Illegal narcotics.
- 11 Q. Why don't you go out and buy illegal narcotics?
- 12 A. They won't sell to the police.
- 13 Q. So, if you can't go buy these illegal narcotics,
- 14 how do you go about doing that?
- 15 A. We get CIs also known as confidential informant or
- 16 informants.
- 17 Q. Where do you find these informants?
- 18 A. They usually come to us wanting to work off
- 19 charges, misdemeanor charges or such, or either just
- 20 wanting to come out and help or either make some money.
- 21 Q. And tell me, when you work with an informant, where
- 22 do you get the information about where to send these
- 23 informants?
- 24 A. The informant himself will provide the information.
- 25 Q. Okay. Tell me this: When you work with

T DARREN TOWNE - DIRECT BY A HAMMACK

1 informants, does your department have any kind of policy
2 or paperwork to make it official?

3 A. Yes, ma'am. We do. We call it a CI packet. A CI
4 packet consists of an application, narcotics application,
5 narcotics initial -- cooperation individual agreement and
6 fingerprints as well.

7 Q. Okay. So once a CI or an informant goes through
8 this and decides to work for you, how do y'all set up on
9 the day that they actually go to make a buy?

10 A. Okay. We usually meet up at a predetermined
11 location. We'll sit down and talk. He'll give us
12 information about where he can go and purchase certain
13 drugs. And we go from there and we start the process
14 then.

15 Q. Okay. Well, let's talk about that process. What's
16 the first thing that you do with a confidential informant
17 when you get to that predetermined location?

18 A. Like I say, we get together, we decide where he
19 wants to go buy. We then search him and search his
20 vehicle as well. And then we also check or monitor our
21 camera equipment, make sure it's working, place it on
22 him. And then we issue documented funds for the CI to go
23 make that purchase.

24 Q. Okay. And I want to go through all of those things
25 with you. First you said that you search the informant

T DARREN TOWNE - DIRECT BY A HAMMACK

1 and you search his vehicle?

2 A. Correct.

3 Q. What are you searching for?

4 A. Make sure he doesn't have any illegal drugs or
5 money on him.

6 Q. You also said that you outfit him with video
7 equipment?

8 A. Yes, ma'am.

9 Q. How does that work?

10 A. We have video equipment that we place on his side
11 that will actually video the whole deal going down, the
12 transaction. And also it was for his safety as well to
13 make sure nothing happens to him.

14 Q. You also said that you issue the informant
15 documented funds. What are documented funds?

16 A. It's the money used to purchase the drugs.

17 Q. And where does that money come from?

18 A. From the Barnwell County Sheriff's Office.

19 Q. You said that it's documented. What does that
20 mean?

21 A. We write the serial numbers down of the money.

22 Q. And, why do you do all of this to control the money
23 that the informant has?

24 A. To make sure that that is the money that is used to
25 buy the exact drugs that we had discussed.

T DARREN TOWNE - DIRECT BY A HAMMACK

1 Q. Okay. Once you do all these things, do you send
2 the informant out at that time?

3 A. Yes, ma'am. We -- after we get everything together
4 and we send our informant out, we follow behind him in a
5 surveillance team to make sure he goes to the location we
6 discussed as well.

7 Q. Okay. Now, after you send the CI out and you
8 follow as the surveillance team, tell me what happens
9 after that.

10 A. Well, we follow. We don't get too close. We stay
11 back as far as we can and as the CI and undercover make
12 their way to the target location we'll sit back
13 approximately a couple streets over or something, and
14 monitor that, that buy going down.

15 Q. Okay. And now, in your words after the buy goes
16 down, what happens?

17 A. Then the CI and the undercover, they head back to
18 our predetermined location to meet up with us.

19 Q. Let me ask you this. You've mentioned the CI and
20 undercover.

21 A. Uh-huh.

22 Q. Do you always send a CI alone or how does that
23 work?

24 A. No. We don't always send them alone but, I mean,
25 it's basically up to the CI how he wants to do it.

T DARREN TOWNE - DIRECT BY A HAMMACK

1 Q. Okay. What would the use of an under -- first of
2 all. What would an undercover be when you mentioned CI
3 and an undercover?

4 A. Undercover is an undercover officer.

5 Q. And why would you send an undercover officer with
6 your CI?

7 A. Number one, it's for the CI's protection as well as
8 help us to keep eyes on inside the vehicle as well as
9 transporting illegal drugs back to us.

10 Q. Now, after a buy has gone down and you meet back at
11 that predetermined location, what's the first thing that
12 you do?

13 A. Have the CI hand over the narcotics.

14 Q. And, so you just hang onto the narcotics? Do you
15 put them in your pocket? What do you do with them?

16 A. No, ma'am. We place them in a BEST kit.

17 Q. Do you have a BEST kit with you now, Investigator
18 Towne?

19 A. Yes, ma'am. I do.

20 Q. Can you explain to the jury what that BEST kit is?

21 A. BEST kit is a sealed narcotics evidence kit. You
22 place this inside. Once we get the drugs back we place
23 it inside here. You have to put the date that it's
24 sealed and the time and officer. And then you have a
25 piece of tape here you have to take off and it sticks

T DARREN TOWNE - DIRECT BY A HAMMACK

1 together. Once you stick that together you cannot pull
2 it apart. If you do it has a distinctive graphics here.
3 If you try to tamper with that to pull it apart it will
4 make that graphic come off and they'll know it's been
5 tampered with.

6 Q. And why do you use that BEST kit when you retain
7 drug evidence?

8 A. To protect the evidence.

9 Q. After you receive the narcotic evidence from the
10 informant, do you do anything else while you're there at
11 that predetermined location?

12 A. Yes, ma'am. We search the CI and we search the
13 undercover and the vehicle as well.

14 Q. And, again, why do you do that?

15 A. Just to make sure there's no moneys or illegal
16 drugs in the vehicle after the transaction.

17 Q. After you complete all of that, where does the
18 evidence go?

19 A. To the narcotics dropbox at the Barnwell County
20 Sheriff's Office.

21 Q. Can you explain to the jury how that dropbox works?

22 A. Yes, ma'am. It's a safety box that protects the
23 evidence. Only one person has the key to this box. It's
24 the lead investigator.

25 Q. Now do you have to have that key to put evidence

T DARREN TOWNE - DIRECT BY A HAMMACK

1 into the dropbox?

2 A. No, ma'am.

3 Q. So, how about getting evidence out of the dropbox?

4 A. You got to have that key.

5 Q. Do you have that key?

6 A. No, ma'am.

7 Q. And you said that only one person has that key?

8 A. Yes, ma'am.

9 Q. And why do you do that?

10 A. Because we know who's in control.

11 Q. Tell me this, Investigator Towne, were you working
12 on January 14th of 2015?

13 A. I was.

14 Q. And did you have a chance to make an undercover buy
15 on that day?

16 A. I did.

17 Q. Did you meet up with a confidential informant that
18 day?

19 A. I did.

20 Q. And who is that confidential informant?

21 A. Mr. Hair, Joseph Hair.

22 Q. Now, you mentioned that there are different types
23 of confidential informants. Some work off charges if
24 they've been charged with a crime and some get paid.

25 What type of informant was Mr. Hair?

T DARREN TOWNE - DIRECT BY A HAMMACK

- 1 A. Mr. Hair was a paid informant.
- 2 Q. When you met up with him, did you tell him who he
3 was going to buy drugs from?
- 4 A. No, ma'am.
- 5 Q. Where did you get the information of where that buy
6 was going to take place that day?
- 7 A. Mr. Hair provided the information.
- 8 Q. Okay. Did you have a chance to meet up with him?
- 9 A. Yes, ma'am.
- 10 Q. And what did you do when you met up with him?
- 11 A. We discussed what -- how -- we pre-planned what we
12 was going to do. He told me how he wanted to do it and
13 everything. So we got together and started our normal
14 procedure, started searching the CI, searched the
15 undercover, searched the vehicle. Started over that way.
- 16 Q. So did you use an undercover officer with Mr. Hair
17 this day?
- 18 A. We did.
- 19 Q. And tell me, you said you searched Mr. Hair. What
20 were the results of that search?
- 21 A. Negative results.
- 22 Q. And negative results for what?
- 23 A. Meaning he had nothing on him.
- 24 Q. You said you searched the undercover officer?
- 25 A. Yes, ma'am.

T DARREN TOWNE - DIRECT BY A HAMMACK

1 Q. And what were the results of that search?

2 A. He didn't have nothing on him as well.

3 Q. You stated that you searched the vehicle. Whose
4 vehicle was that?

5 A. It was the undercover's vehicle.

6 Q. And what were the results of the search of that
7 vehicle?

8 A. It was negative results as well.

9 Q. After searching the informant and the undercover
10 officer and the vehicle, what did you do next?

11 A. We, we made -- excuse me. We had the CI sign all
12 paperwork and had to give a written statement saying
13 where he went and bought from.

14 Q. Before you actually sent him out to do the buy, did
15 you outfit him with any type of surveillance equipment in
16 this case?

17 A. We did; an audio-video camera.

18 Q. Did you do anything to make sure that that works
19 before you send him out?

20 A. Yes, ma'am. We do test it prior, before going out.

21 Q. Did you test it in this case?

22 A. Yes, ma'am.

23 Q. And was that operating properly?

24 A. Yes, ma'am.

25 Q. Did you issue Mr. Hair any documented funds?

T DARREN TOWNE - DIRECT BY A HAMMACK

1 A. Yes, ma'am.

2 Q. What did you issue him?

3 A. Three \$20 bills.

4 Q. After you issued him those funds, did he go to make

5 a buy?

6 A. Yes, he did.

7 Q. And did anybody -- did y'all do the surveillance

8 team that y'all talked about earlier?

9 A. Yes, ma'am.

10 Q. And who was on surveillance team?

11 A. Myself and Rodney Brown.

12 Q. And where did the informant and the undercover

13 officer go on this occasion?

14 A. They went to 37 Peach Tree Gardens.

15 Q. And is that here in Barnwell County?

16 A. Yes, ma'am, it is.

17 Q. And what main road is that off of?

18 A. Heygood Avenue.

19 Q. You said that they went out to Peach Tree Garden.

20 Did you meet up with them after the buy?

21 A. Yes, we did.

22 Q. What was the first thing that you did when you met

23 up with them afterwards?

24 A. Retrieved -- he handed over the drug evidence.

25 Q. And what was done with the drug evidence at that

T DARREN TOWNE - DIRECT BY A HAMMACK

1 point?

2 A. Placed in the BEST kit.

3 MS. HAMMACK: Permission to approach, Your
4 Honor?

5 THE COURT: Yes, ma'am.

6 BY MS. HAMMACK:

7 Q. Investigator Towne, I'm showing you what's been
8 premarked as State's Exhibit Three. Do you recognize it?

9 A. Yes, ma'am. I do.

10 Q. And what is it?

11 A. That is the, that's the actual drug we bought from
12 Tyler Shiggs that day.

13 Q. Okay. Now, you said that y'all went to Peach Tree
14 Garden?

15 A. Yes, ma'am.

16 Q. Is that the same thing as Elberta Circle?

17 A. Yes, ma'am.

18 Q. And you said that was right off of Heygood?

19 A. Yes, ma'am.

20 Q. After you retrieved those narcotics from the
21 confidential informant, what did you do next?

22 A. We took the video equipment. I searched the CI and
23 the vehicle and the undercover again. We took the
24 audio-video camera, downloaded it to a disk and we had
25 the CI write a statement stating where he went and bought

T DARREN TOWNE - DIRECT BY A HAMMACK

1 the drugs.

2 Q. Okay.

3 A. And then -- and that was it.

4 Q. Okay. And did you -- you said you searched the CI,
5 the undercover and the vehicle again. What were the
6 results of those searches?

7 A. Negative results.

8 Q. Okay. Now, Investigator Towne, you stated that you
9 put the video from this buy on the disk?

10 A. Yes.

11 Q. Investigator Towne, I'm showing you what's been
12 premarked as State's Exhibit One.

13 A. Uh-huh.

14 Q. Do you recognize that?

15 A. Yes, I do.

16 THE COURT: Hold on a second.

17 MR. HAMMACK: Your Honor, may we have the
18 alternate move for just a second? We need to get
19 that box out of the corner. It will be easier
20 for her to see the video in a moment.

21 THE COURT: Mr. Webb, let her come down and
22 sit right over here. Right over here. You'll
23 get a lot of exercise walking back and forth.

24 THE JUROR: I know.

25 (Juror moves.)

T DARREN TOWNE - DIRECT BY A HAMMACK

1 MS. HAMMACK: Your Honor, beg the Court's
2 indulgence while we renovate a little bit.

3 THE COURT: Yes, ma'am.

4 (Pause.)

5 BY MS. HAMMACK:

6 Q. Now, Investigator Towne, --

7 A. Yes, ma'am.

8 Q. -- you're holding what's been premarked as State's
9 Exhibit One. Do you know what that is?

10 A. Yes, ma'am; that's the actual buy.

11 THE COURT: That's the what?

12 THE WITNESS: Actual buy, the video of the
13 buy.

14 BY MS. HAMMACK:

15 Q. And I'm going to make you speak into this
16 microphone. So -- we got all of this stuff, so you can
17 be loud for me.

18 A. Yes, ma'am.

19 Q. Is that a video from January 14th of 2015?

20 A. Yes, ma'am, it is.

21 Q. How do you recognize it?

22 A. Because it has my initials on it.

23 Q. Have you viewed that video?

24 A. Yes, ma'am. I have.

25 Q. Is it a fair and accurate representation of what

T DARREN TOWNE - DIRECT BY A HAMMACK

1 happened that day?

2 A. Yes, ma'am, it is.

3 MR. PRICE: At this time the State would
4 enter State's Exhibit One into evidence.

5 THE COURT: Any objection?

6 MR. PRICE: None, Your Honor.

7 MS. HAMMACK: And, Your Honor, at this time
8 we would publish State's Exhibit One.

9 THE COURT: You may.

10 (State's Exhibit No. 1, CD of video,
11 received into evidence.)

12 (Video played.)

13 BY MS. HAMMACK:

14 Q. Investigator Towne, can you tell us where this is
15 right now?

16 A. This is a predetermined location we all agreed to
17 meet up on. This is where we staged, basically known as
18 a staging area.

19 Q. Okay.

20 (Video resumed.)

21 BY MS. HAMMACK:

22 Q. Investigator Towne, can you tell us what's going on
23 at this point?

24 A. Yes, ma'am. They had done left the predetermined
25 location -- or the staging area and they're now en route

T DARREN TOWNE - DIRECT BY A HAMMACK

1 to 37 Peach Tree Garden.

2 (Video resumed.)

3 BY MS. HAMMACK:

4 Q. Investigator Towne, do you know where they are at
5 this point?

6 A. Yes, ma'am. They're at 37 Peach Tree Garden.

7 Q. Now, Investigator Towne, the last thing that we see
8 on that video, is that what you received from the
9 confidential informant when they returned back to your
10 predetermined location?

11 A. Yes, it was.

12 Q. And tell me, are you familiar with the person that
13 you saw on the video?

14 A. Yes, ma'am.

15 Q. And who is that?

16 A. Tyler Shiggs.

17 Q. Do you see Tyler Shiggs here in the courtroom?

18 A. Yes, I do.

19 Q. Can you describe him for the Court by describing
20 what he's wearing?

21 A. A brown pair of coveralls.

22 Q. Investigator Towne, I'm showing you what's been
23 premarked as State's Exhibit Two. Do you recognize that?

24 A. Yes, ma'am.

25 Q. What is that?

T DARREN TOWNE - DIRECT BY A HAMMACK

1 A. That's an aerial photo of Peach Tree Gardens.
2 Q. And you said -- did I ask you where you were from?
3 A. No, ma'am. I don't think you did.
4 Q. Where are you from?
5 A. Barnwell County.
6 Q. Are you familiar with Barnwell County?
7 A. Yes, ma'am.
8 Q. Both through your duties as an officer and from
9 living here?
10 A. Yes, ma'am.
11 Q. And you said that's an aerial shot of Peach Tree
12 Gardens?
13 A. Yes, ma'am.
14 Q. Is that a fair and accurate representation of that
15 area of Barnwell?
16 A. To my knowledge, yes, ma'am.
17 MS. HAMMACK: Your Honor, at this time we
18 would offer State's Exhibit Three {sic} in
19 evidence.
20 MR. PRICE: No objection.
21 THE COURT: Without objection.
22 (State's Exhibit No. 2, aerial photograph,
23 received into evidence.)
24 MS. HAMMACK: At this time we would ask to
25 publish State's Three.

T DARREN TOWNE - DIRECT BY A HAMMACK

1 THE COURT: Okay.

2 MS. HAMMACK: Or State's Two. I apologize.

3 THE COURT: Two is what, aerial?

4 MS. HAMMACK: That's correct.

5 THE COURT: Any objection to Two, aerial?

6 MR. PRICE: None, Your Honor.

7 MS. HAMMACK: Your Honor, may I have the

8 witness step --

9 THE COURT: You may.

10 BY MS. HAMMACK:

11 Q. Investigator Towne, if you can, will you show the

12 jury where on this map Elberta Circle or Peach Tree

13 Gardens is located?

14 A. Right in here.

15 Q. And is that here in Barnwell County?

16 A. Yes, ma'am, it is.

17 Q. Do you know if that's within a half mile of any

18 school, park or playground here in Barnwell?

19 A. Yes, ma'am.

20 Q. Can you show us what school, park or playground

21 that would be within a half mile of?

22 A. You have Lemon Park which is here and you also have

23 Barnwell Primary which is here.

24 Q. Okay. And did you have a chance to confirm whether

25 that's within a half mile of Elberta Circle?

T DARREN TOWNE - CROSS BY PRICE

1 A. Yes, ma'am.

2 Q. Is it?

3 A. Yes, ma'am.

4 Q. Are you familiar with [REDACTED] Garden?

5 A. Yes, ma'am.

6 Q. Do you know who lives there?

7 A. Yes, ma'am.

8 Q. Who lives there?

9 A. Tyler Shiggs.

10 Q. Thank you, Investigator. You can sit back down.

11 A. (Complying)

12 MS. HAMMACK: Thank you, Investigator

13 Towne. Please answer any questions that

14 Mr. Price has for you.

15 THE WITNESS: Okay. Thank you.

16 CROSS-EXAMINATION

17 BY MR. PRICE:

18 Q. Good afternoon, Investigator Towne.

19 A. Good afternoon, Mr. Price.

20 Q. You mentioned that at the predetermined location

21 where you met up with the CI and the undercover you

22 searched the vehicle; is that correct?

23 A. Yes, sir.

24 Q. How thorough was that search of the vehicle?

25 A. I go through the glove box, in the console, under

T DARREN TOWNE - CROSS BY PRICE

1 the seats, front seat, back seat, both sun visors. If
2 it's a truck I go in the back of the bed, look in the
3 toolbox. Everywhere you could possibly think anything
4 could be hidden.

5 Q. And how thorough is the search of the CI and
6 undercover?

7 A. Pants pockets, outer socks, inner socks and shirt.

8 Q. How long would you think it would take to do all
9 that?

10 A. Well, because me and my partner are working
11 together and he's doing different things as well as I'm
12 doing different things. We're working as a team.

13 Q. Do you use drug dogs to assist you in that?

14 A. Sir?

15 Q. Do you use drug dogs to assist you in that?

16 A. No, sir.

17 Q. Did you use drug dogs in this particular
18 instance --

19 A. No, sir.

20 Q. -- with Mr. Shiggs? Now you mentioned that once
21 the CI and the undercover came back to the predetermined
22 location, the drugs were placed in the BEST evidence kit;
23 is that correct?

24 A. Yes.

25 Q. How soon were they placed in the BEST evidence kit?

T DARREN TOWNE - CROSS BY PRICE

1 A. As soon as it was returned to Mr. Brown and
2 Mr. Brown placed it in the BEST evidence kit himself.

3 Q. Do you recall the BEST evidence kit that was
4 previously marked as State's Exhibit Three entered into
5 evidence today? Do you recall that bit of evidence?

6 A. Recall -- can you repeat that now?

7 Q. Do you recall what's been premarked as State's
8 Exhibit Three, the BEST evidence kit?

9 A. Yes.

10 Q. Do you recall seeing this? Did you fill everything
11 out on this?

12 A. Well, can I?

13 Q. Sure (item handed to the witness.)

14 A. My partner, Rodney Brown, did.

15 Q. Okay. And on the back --

16 A. Uh-huh.

17 Q. -- did you fill out anything at all?

18 A. No, sir. That was my partner, Rodney Brown.

19 Q. Okay. Thank you.

20 A. Uh-huh.

21 Q. Now how often does your, does your agency engage in
22 CI buys? Would you say it happens daily? Would you say
23 it happens weekly? How often would you say?

24 A. As long as I schedule, fix it to suit our schedule.

25 Q. On average, would you say it's daily? Every other

RODNEY BROWN - DIRECT BY A HAMMACK

1 day? Weekly? What would you say?

2 A. Occasionally every other day. It's just how our
3 schedules work out.

4 MR. PRICE: No further questions, Your
5 Honor.

6 THE COURT: Redirect?

7 MS. HAMMACK: I don't have any further
8 questions.

9 THE COURT: You may step down. Next
10 witness.

11 THE WITNESS: Thank you, Your Honor.

12 MS. HAMMACK: The State calls Rodney Brown.

13 THE COURT: Mr. Brown.

14 RODNEY BROWN, having been duly sworn, was
15 examined and testified as follows:

16 THE CLERK: If you would, please sit down
17 and state your full name for the record. Okay?

18 THE WITNESS: Rodney Brown.

19 DIRECT EXAMINATION.

20 BY MS. HAMMACK:

21 Q. Good afternoon.

22 A. Yeah.

23 Q. Officer Brown, can you tell the jury what do you do
24 for a living?

25 A. I'm employed by the Barnwell County Sheriff's

RODNEY BROWN - DIRECT BY A HAMMACK

1 Office.

2 Q. And how long have you been doing that?

3 A. Almost 10 years.

4 Q. Did you have a chance to become involved in this
5 case on January 14th, 2015?

6 A. Yes, ma'am.

7 Q. And on this date, did you have a chance to work
8 with an confidential informant making an undercover drug
9 buy?

10 A. Yes, ma'am.

11 Q. Once the confidential informant came back from the
12 buy location, did you have a chance to interact with him
13 at that point?

14 A. Yes, ma'am.

15 Q. I'm showing you what's been marked as State's
16 Exhibit Three. Do you recognize that?

17 A. Yes, ma'am.

18 Q. What is that?

19 A. This is a BEST kit.

20 Q. Okay. And what do y'all use BEST kits for?

21 A. To seal drugs in to be sent off for drug analysis.

22 Q. Okay. And do you know which case that BEST kit's
23 from?

24 A. Yes, ma'am.

25 Q. Is that from the case we're here on today?

RODNEY BROWN - DIRECT BY A HAMMACK

- 1 A. Yes, yes, ma'am.
- 2 Q. And whose name is on that BEST kit?
- 3 A. My name. Rodney Brown.
- 4 Q. And why do you put your name on that BEST kit?
- 5 A. Because I'm the person that sealed it. I'm the
- 6 person that stored it -- the drugs in and sealed it. I'm
- 7 the last person before it gets sent off to the analysis.
- 8 Q. All right. Let's talk about that for a second.
- 9 After you seal the drugs in that BEST kit, what did you
- 10 do with them?
- 11 A. I put them in a drug -- at the sheriff's office,
- 12 you got a narcotics dropbox. I go back there, I seal it
- 13 up in an envelope and drop it into the narcotics
- 14 dropbox. And it's locked until we transport it to Aiken.
- 15 Q. And why would you all transport that evidence it to
- 16 Aiken?
- 17 A. Because they are certified to test the drugs of
- 18 that nature. We're not certified to do that.
- 19 Q. Okay. And were these drugs transported to Aiken
- 20 for analysis?
- 21 A. Yes, ma'am.
- 22 Q. And who transported them?
- 23 A. Myself.
- 24 Q. Okay. Tell me this, Investigator Brown, is there a
- 25 date on that BEST kit?

1 A. Yes, it is.

2 Q. And what's that date?

3 A. January 13th, 2015.

4 Q. Is that the actual date that you got those drugs?

5 A. No, ma'am. This should have been on the 14th.

6 Q. Okay. And did you have to correct -- I know that
7 paperwork was in there, but did you correct that on the
8 paperwork that you turned in to your packet?

9 A. Yes, ma'am. I can.

10 Q. Okay. Thank you. Give me just a minute.

11 A. Okay.

12 MS. HAMMACK: Thank you.

13 THE WITNESS: Yes, ma'am.

14 THE COURT: Cross?

15 MR. PRICE: None, Your Honor.

16 THE COURT: You may step down. Next
17 witness.

18 MR. HAMMACK: Your Honor, if I may check --
19 our next witness is coming from out of town --
20 just to make sure he's here.

21 Oh. Your Honor, if I may. May Officer
22 Brown be released from his subpoena?

23 MR. PRICE: No objection, Your Honor.

24 THE COURT: Yes, ma'am.

25 MS. HAMMACK: And, Your Honor, I

1 apologize. When we were trying to schedule
2 witnesses and having people come from different
3 places, I gave Mr. Jarrell a little bit more
4 time.

5 MR. HAMMACK: He's outside the front door.

6 MS. HAMMACK: Okay. Perfect.

7 Sounds like he went to the wrong door.

8 THE COURT: Sounds like to me you gave him
9 the right time.

10 MR. HAMMACK: Your Honor, may we approach?

11 THE COURT: Mr. Price.

12 (Off-the-record discussion.)

13 MS. HAMMACK: The State calls Terry
14 Jarrell.

15 THE COURT: Do you need a few minutes?

16 MS. HAMMACK: If we could have just a
17 moment, Your Honor, very briefly.

18 THE COURT: Y'all sit tight. This is going
19 to be a relatively short witness. We'll break
20 after this witness. I don't think we got but
21 just a couple more, so we're moving along good.

22 (Pause.)

23 MS. HAMMACK: Thank you, Your Honor.

24 THE COURT: All right, sir. Come around.
25 The clerk will swear you in, please.

TERRY JARRELL - DIRECT BY A HAMMACK

1 TERRY JARRELL, having been duly sworn, was
2 examined and testified as follows:

3 THE CLERK: If you would, please, sir, be
4 seated and state your name for the record.
5 Okay?

6 THE WITNESS: My name's Terry Jarrell.

7 DIRECT EXAMINATION

8 BY MS. HAMMACK:

9 Q. And, Mr. Jarrell, what do you do for a living?

10 A. Right now I farm full time for a living.

11 Q. And where are you from originally?

12 A. Estill, South Carolina, Hampton County.

13 Q. Now, let me draw your attention to January 14th,
14 2015.

15 A. Yes, ma'am.

16 Q. Where were you working on that day?

17 A. I was working for Barnwell County Sheriff's
18 Office. Been there several years.

19 Q. And on that date did you have a chance to become
20 involved in an undercover buy of narcotics?

21 A. Yes, ma'am. I did.

22 Q. And did you make that buy by yourself or did you go
23 with a confidential informant?

24 A. We had a confidential informant with us.

25 Q. And, how did you get to the location where the buy

TERRY JARRELL - DIRECT BY A HAMMACK

1 took place?

2 A. I met with the confidential informant and the other
3 officers with the sheriff's office. And, the
4 confidential informant, he's familiar with the area, took
5 us to a brick house on Peach Tree.

6 Q. Did you know where you were going before you talked
7 to the confidential informant?

8 A. No, I did not.

9 Q. Did you know who he was going to buy drugs from?

10 A. No, I did not.

11 Q. And who drove to the Peach Tree Garden?

12 A. I drove.

13 Q. Okay. Was the confidential informant with you the
14 whole time from when y'all left the predetermined
15 location to when you returned?

16 A. Yes, ma'am. He was with me in the vehicle, plus he
17 was within eyesight of me during all transactions.

18 Q. Did y'all make any other stops?

19 A. No, ma'am.

20 Q. Y'all didn't go get McDonald's or anything?

21 A. No, ma'am.

22 Q. At any time did the confidential informant have
23 anything other than what he bought in this case?

24 Did he have any other drugs on him?

25 A. No, ma'am. No, ma'am. He didn't. He was searched

1 before. Searched before we left the location and then
2 searched again once we got back to make sure he didn't
3 hold any. So.

4 Q. And you stated that you were with him and he was in
5 your eyesight the whole time?

6 A. Yes, ma'am.

7 MS. HAMMACK: Thank you, Mr. Jarrell.

8 THE WITNESS: Thank you.

9 MS. HAMMACK: Answer any questions that
10 Mr. Price may have for you.

11 MR. PRICE: None, Your Honor.

12 THE COURT: You may step down. May he be
13 released from his subpoena?

14 MS. HAMMACK: We would request that, Your
15 Honor.

16 MR. PRICE: No objection, Your Honor.

17 MS. HAMMACK: Your Honor, the State's next
18 witness is the analyst coming from Aiken County.
19 And we had previously scheduled her for after
20 lunch.

21 THE COURT: So that's your last witness?

22 MS. HAMMACK: That's correct, Your Honor.

23 THE COURT: All right. Ladies and
24 gentlemen, this is working out okay.

25 We've got one witness left on the State

1 side. I'm not sure what we'll have on the
2 defense side. And that witness won't take long.
3 It's a chemical analyst, the chemist who analyzed
4 the stuff, the drugs.

5 Let's start back at two o'clock. That
6 gives you an hour and 40 minutes for lunch.
7 Please don't discuss the case. Don't
8 deliberate. Don't let anyone discuss it with
9 you.

10 We're going to start right back on time.
11 I've got something at one and 1:30. I've got a
12 couple matters at one and 1:30 but I should be
13 through before two o'clock. I know I will be.
14 So we'll be ready to go at two.

15 Have a nice lunch. Everybody else remain
16 seated. Go ahead and follow the bailiff out and
17 he'll show you how to get back up to where you
18 should be.

19 (Jury exits courtroom at 12:30 p.m.)

20 THE COURT: All right. Anything from the
21 State before we break for lunch?

22 MS. HAMMACK: No, Your Honor.

23 THE COURT: Anything from the defense?

24 MR. PRICE: None, Your Honor.

25 THE COURT: All right. Defendant's in

1 custody. We'll stand at ease until two o'clock.

2 MS. HAMMACK: Your Honor, did you wish to
3 see Mr. Gypson? He's here.

4 THE COURT: Yeah. Let's just go ahead and
5 take care of that while he's here. Somebody go to
6 the solicitor's office and bring Mr. Gypson out,
7 please.

8 (Byron Gypson enters courtroom at
9 12:33 p.m.)

10 THE COURT: Good morning, Mr. Gypson.

11 MR. GYPSON: Good morning, Your Honor.

12 THE COURT: Mr. Gypson?

13 MR. GYPSON: Yes, sir.

14 THE COURT: Mr. Shiggs is being tried for
15 two indictments, for distribution of cocaine and
16 proximity charge. Informed us this morning that
17 he had retained you to try this case which was
18 scheduled to be tried at 9:30 this morning. It's
19 been scheduled to be tried. When was the notice
20 sent out?

21 MR. MILLER: At least three weeks ago, Your
22 Honor.

23 THE COURT: And I was informed that you had
24 had a telephone conversation with some members of
25 the solicitor's office advising us that you had

1 not been retained. Mr. Shiggs said you had been
2 retained. Where do we stand?

3 MR. GYPSON: Can I -- I have my notes, if I
4 can just pop this thing open.

5 THE COURT: Absolutely.

6 MR. GYPSON: Judge, Mr. Shiggs and I did
7 meet yesterday around 2:30 in my Orangeburg
8 office and we discussed this case. I was under
9 the impression that it had been continued through
10 this term.

11 So based on my notes, Judge, I mean, we
12 spoke about -- I'll just tell you my recollection
13 and then I have my notes. We spoke about just
14 some confidential matters as a result to this
15 case. I know that Jason was representing him in
16 this matter and that it was his plan to relieve
17 him of counsel in the near future.

18 I did not have the warrants. My
19 understanding was I think there were several
20 charges. I think six or so. And he, meaning
21 Mr. Shiggs, related to me that one of them would
22 be going forward at some point in time but he
23 wasn't completely understanding the scenario
24 behind that.

25 Judge, at that point I called the

1 solicitor's office. That would have been around
2 2:45 yesterday. And Mr. Shiggs was present. I
3 just left a message that he was in my office,
4 wanted to retain me but I needed to know
5 everything that was going on with the case so I
6 could quote him a fee.

7 And so what I did at that point, Judge,
8 is -- he offered to pay portion of money. I
9 said, "Look, I cannot tell you what the entire
10 fee will be, I'll give you a range. But once I
11 see the paperwork and speak with the solicitor's
12 office, then we can do a contract and we can, you
13 know, determine what we'll do from there."

14 But all of that was under the belief that
15 this had been continued and would be taking place
16 sometime in the near future.

17 You know, meaning in one of the future
18 terms and I have a chance to get up to speed. I
19 have a receipt -- I gave him for a receipt for
20 what I -- I collected \$800 yesterday. I have a
21 receipt for that that I do have a copy of on my
22 iPad and I just have the notes that I took.

23 But we did not do a contract because I
24 could not specifically give him an absolute fee
25 until I knew exactly what he was facing and what

1 was going to trial.

2 THE COURT: Well, did you ever advise him
3 that you were going to represent him and be ready
4 to go today?

5 MR. GYPSON: No, sir. Not today.
6 Absolutely not

7 THE COURT: And he indicated the case was
8 to be tried today?

9 MR. GYPSON: No, sir.

10 THE COURT: When did you learn it was to be
11 tried today?

12 MR. GYPSON: About 8:45 this morning.

13 THE COURT: Had you known it was to be
14 tried today, would you have even agreed to come
15 on board?

16 MR. GYPSON: No, because I couldn't be
17 effective in that situation. You know, I believe
18 in my abilities to a certain extent, but I do
19 like to take a look at -- out of fairness to the
20 client --

21 THE COURT: Absolutely.

22 MR. GYPSON: -- look at the discovery,
23 discuss that, figure out what's going on, meet
24 with his prior lawyer for a moment, meet with the
25 solicitor's office and, you know, determine what

1 our defense is and what our evidence is. And
2 that has absolutely not been done. We've had
3 about a 30- to 45-minute conversation. So.

4 THE COURT: He informed you that he thought
5 the case was being continued?

6 MR. GYPSON: Yes. That was my belief, Your
7 Honor.

8 THE COURT: And once you talked to the
9 solicitor's office you realized it wasn't going
10 to be continued?

11 MR. GYPSON: Correct. I learned this
12 morning around 8:45. Mr. Hammack gave me a call
13 and let me know it was up for trial, the jury was
14 coming in at 9:30 and it would be in my best
15 interests to get here.

16 THE COURT: Are you going to return the
17 \$800?

18 MR. GYPSON: Absolutely.

19 THE COURT: Well, you've always been an
20 asset to the bar and I appreciate you coming.
21 I'm sorry you had to come over with this, but I
22 just wanted to clear up any misunderstanding.

23 So there is no understanding. You're not
24 his lawyer. You have not been retained. You
25 would not be able to be his lawyer had you known

1 the case was going to trial this morning. And I
2 know you're not going to come in here half
3 prepared.

4 MR. GYPSON: Absolutely not.

5 THE COURT: There's no way to get prepared
6 on a case like this overnight.

7 Mr. Price, anything you want to ask him?

8 MR. PRICE: No, Your Honor.

9 MR. GYPSON: And, Judge, we collected the
10 money in our Orangeburg office. I came out of
11 Columbia this morning, but I would have actually
12 brought the money with me.

13 THE COURT: I have no problem. I know you
14 will return it. I have no problem with that.
15 We're old fashioned.

16 MR. GYPSON: Yes, sir, I will.

17 THE COURT: Any question about by the
18 State?

19 MS. HAMMACK: No, Your Honor.

20 THE COURT: That's exactly what Mr. Byron
21 Gypson told y'all on the phone this morning; is
22 it not?

23 MR. HAMMACK: Yes, sir.

24 THE COURT: He's a man of his word, always
25 has been. Mr. Shiggs, anything you want to say?

1 THE DEFENDANT: No, sir. I only met with
2 him. I didn't know the trial was going -- I
3 didn't know I was going to trial last week. He
4 said the case was up for trial.

5 MR. PRICE: Your Honor, I do want to place
6 on the record. I have a letter where I wrote
7 Mr. Shiggs on February 4th that -- to contact me
8 this week, stating that this case was going to
9 trial this week and I made a copy of the envelope
10 as well with the dates.

11 THE COURT: Let's put that in the record.
12 What's the address you sent it to?

13 MR. PRICE: 37 Peach Tree Garden and
14 February 4th it was mailed out.

15 THE COURT: Thank you. All right.
16 Mr. Gypson, thank you very much.

17 MR. GYPSON: Thank you.

18 THE COURT: Have a nice day.

19 MR. GYPSON: Thank you, sir.

20 (Court's Exhibit No. 1, attorney letter and
21 copy of envelope, received into evidence.)

22 THE COURT: Sir, I can't hear you.

23 THE DEFENDANT: I don't stay at [REDACTED]
24 [REDACTED]. I stay at [REDACTED] Peach Tree
25 Garden.

1 THE COURT: What's the address he gave you
2 with your initial contact?

3 MR. PRICE: I have all his contact
4 information as [REDACTED] Garden.

5 THE COURT: Very well. Well I certainly
6 understand that. That's where you've been
7 corresponding with him, have you not.

8 MR. PRICE: Yes, Your Honor.

9 THE COURT: All right. Mr. Gypson, thank
10 you very much. Sorry for the problem.

11 MR. GYPSON: Thank you.

12 THE COURT: We'll stand at ease until two
13 o'clock.

14 (Luncheon recess taken at 12:39 p.m. Other
15 matters were heard and then the trial of this
16 matter reconvened at 1:23 p.m.:)

17 THE COURT: As I understand the State has
18 one additional witness, the chemist?

19 MS. HAMMACK: That's correct, Your Honor.
20 We may briefly recall a previous witness but it
21 wouldn't be longer than about 20 seconds, maybe
22 two minutes.

23 THE COURT: All right. Mr. Price, what
24 about you?

25 MR. PRICE: No witnesses to call, Your

1 Honor.

2 THE COURT: All right. So we're going to
3 be through with testimony by 2:15, more than
4 likely. I'll send the jury out at that time and
5 inquire about your Defendant, your client, about
6 testifying.

7 And we'll go over the jury charge and the
8 verdict form and then y'all be prepared to
9 argue. Since you're not putting up any
10 testimony, you'll have the last argument.
11 Everybody understand that?

12 MR. PRICE: Yes, sir.

13 THE COURT: All right. Bring the jury in,
14 please.

15 (Jury enters courtroom at 2:13 p.m.)

16 THE COURT: All right. Did y'all pick a
17 foreperson? Forgot to do that? You know what
18 that means? You won't get paid, but other than
19 that.

20 I tell you what. We're going to go -- I'm
21 going to tell you where we are and y'all can pick
22 me one in just a few seconds.

23 If everything goes according to plan we've
24 got one witness left. So, it's a not a very long
25 witness and maybe one other witness who they

1 promised me it's two minutes. I don't think the
2 Defendant's going to put up any testimony but
3 I've got to talk to him a little about that.

4 So what we'll do is finish this one witness
5 and perhaps two, then I've got to send you back
6 in there because I've got to spend about 10
7 minutes with the lawyers and then you'll come
8 back out and we'll go into final arguments and
9 then I'll charge you on the law.

10 So if everything goes according to plan we
11 should be moving right down the road this
12 afternoon. But when we take this next break, if
13 you don't mind, get me somebody out of the 12 of
14 you, just get me a foreperson.

15 Any objection to those regards by the
16 State? By the Defendant?

17 MS. HAMMACK: No, Your Honor.

18 THE COURT: All right. You may call your
19 next witness.

20 MS. HAMMACK: Thank you. The State calls
21 Amber Collins.

22 THE COURT: Ms. Collins, if you'd come
23 around, please.

24 AMBER WAY COLLINS, having been duly sworn,
25 was examined and testified as follows:

AMBER WAY COLLINS - DIRECT BY A HAMMACK

1 THE CLERK: If you would, please, ma'am, be
2 seated and state your full name for the record.

3 THE WITNESS: Amber Way Collins.

4 DIRECT EXAMINATION

5 BY MS. HAMMACK:

6 Q. Ms. Collins, good afternoon.

7 A. Hi.

8 Q. Can you tell the jury, what do you do for a living?

9 A. I'm the forensic chemist for the Aiken County
10 Sheriff's Office.

11 Q. And what in the world does it mean to be a forensic
12 chemist?

13 A. I simply analyze unknown substances that are turned
14 in to me from police officers and let them know what it
15 is.

16 Q. And tell me: Did you have to go to any types of
17 training or get any degrees in order to be a forensic
18 chemist?

19 A. Yes. I have a bachelor's degree in chemistry and
20 was trained by SLED, the South Carolina Law Enforcement
21 Division, up in Columbia.

22 Q. And tell me: Did you have to -- or -- or -- or
23 tell me this. How long have you been doing that?

24 A. Ten years.

25 Q. And can you tell me about how many substances

AMBER WAY COLLINS - DIRECT BY A HAMMACK

1 you've -- or samples of substances you've tested in that
2 10 years?

3 A. Over 10,000.

4 Q. Have you ever testified in court before?

5 A. Yes, ma'am.

6 Q. And when you testified in court, were you qualified
7 as an expert?

8 A. Yes, ma'am.

9 MS. HAMMACK: Your Honor, at this time we
10 would move to have Ms. Collins qualified as an
11 expert in substance analysis.

12 THE COURT: Any cross-examination on her
13 qualifications?

14 MR. PRICE: No, Your Honor.

15 THE COURT: All right. Ladies and
16 gentlemen, normally a witness is not able to
17 testify about opinions. There's an exception to
18 that rule. When someone's been qualified as an
19 expert she will be allowed to give opinion
20 testimony. And I'll tell you about that at the
21 conclusion of the case, what weight and all you
22 can give expert testimony.

23 But she will be allowed to give opinions as
24 to the substances that she's tested.

25 MS. HAMMACK: Thank you, Your Honor.

AMBER WAY COLLINS - DIRECT BY A HAMMACK

1 Q. Ms. Collins, did you have a chance to become
2 involved in this case?

3 A. I did.

4 Q. And can you tell the jury, this whole time we've
5 been talking about Barnwell County but you said that you
6 work for Aiken County. Why were you involved in this
7 case in Barnwell?

8 A. Different agencies from outside our county often
9 bring drugs to me to test because we're a localized
10 regional laboratory and a lot of counties don't have
11 their own.

12 Q. Ms. Collins, I'm showing you what's been premarked
13 as State's Three. Do you recognize that?

14 A. I do.

15 Q. What is it?

16 A. It is the final, I guess you'd call it the final
17 project of what I did. Once I opened up the evidence
18 that was given to me, I sealed it in a tamper-evident
19 pouch with my initials and the date that it was sealed.

20 Q. Is that the evidence from --

21 THE COURT: Ms. Hammack, don't we already
22 have a Three? Let's see. Okay. My bad. Go
23 ahead. You're right. I'm off.

24 BY MS. HAMMACK:

25 Q. And is that the evidence from this case?

AMBER WAY COLLINS - DIRECT BY A HAMMACK

1 A. Yes, ma'am.

2 Q. And do you have any way of organizing the
3 substances that you test so that you know that it's from
4 this case?

5 A. I do. I have individual pouches that have an AA or
6 control number that is of significance to that pouch and
7 I also identify each case by a lab number.

8 Q. Now, can you tell the jury in very general terms
9 what you do to test substances when you receive them?

10 A. I weigh them without packaging. And I do a
11 preliminary test and a confirmatory test which is done by
12 instrumentation, the confirmatory is.

13 Q. So you do two different tests to confirm what a
14 substance is?

15 A. That's correct.

16 Q. Now how do you -- when you received this package,
17 how did you receive it?

18 A. In person and it was in -- sealed in a BEST kit
19 which is a BEST evident pouch. So that you can tell if
20 anything's been tampered with once drug evidence or
21 unknown substance evidence has been placed in it.

22 Q. If you received a substance that was in a BEST kit
23 that had been tampered with, would you be able to know
24 that?

25 A. I would and I would not test it.

AMBER WAY COLLINS - DIRECT BY A HAMMACK

1 Q. When you received the substance in this case, was
2 it in a BEST kit?

3 A. Yes, ma'am.

4 Q. And did it appear to have been tampered with in any
5 way?

6 A. No, ma'am.

7 Q. Once you received it in that BEST kit, what did you
8 to do?

9 A. I assigned it a lab number and logged it into our
10 evidence area and performed my tests from there on.

11 Q. Now this final pouch that this is in, can you
12 explain how that works?

13 A. This is kind of a heat-sealed pouch so it has just
14 this area here that I put the finished lab work in and I
15 seal it myself. And it's also tamper evident so the only
16 way you're getting in here is to cut it, basically.

17 Q. Now, Ms. Collins, were you able to get any results
18 from your test of the substance in this case?

19 A. I was.

20 Q. And what were the results of your examination?

21 A. It's my report.

22 Q. Okay.

23 A. The results were cocaine found .061 grams.

24 Q. Did you in fact create a report --

25 A. I did.

DARREN TOWNE - REBUTTAL/DIRECT BY A HAMMACK

1 Q. -- based on that?

2 A. Yes.

3 MS. HAMMACK: Your Honor, at this time we
4 would enter State's Three into evidence.

5 THE COURT: Any objection?

6 MR. PRICE: No objection.

7 (State's Exhibit No. 3, drugs, received
8 into evidence.)

9 BY MS. HAMMACK:

10 Q. And, Ms. Collins, give me one second.

11 A. Okay.

12 (Pause.)

13 MS. HAMMACK: Thank you. Please answer any
14 questions that Mr. Price might have for you.

15 MR. PRICE: No questions, Your Honor.

16 THE COURT: You may step down.

17 MS. HAMMACK: And, Your Honor, may
18 Ms. Collins be released from her subpoena?

19 THE COURT: She certainly may.

20 MS. HAMMACK: Your Honor, at this time the
21 State would briefly recall Investigator Towne.

22 THE COURT: Come around, please.

23 T. DARREN TOWNE, testified further under
24 oath as follows:

25

DARREN TOWNE - REBUTTAL/DIRECT BY A HAMMACK

REBUTTAL - DIRECT

BY MS. HAMMACK:

Q. Investigator Towne, you testified previously that this buy was video recorded; is that correct?

A. Yes, ma'am.

Q. Investigator, I'm showing you what's been premarked as State's Exhibits Four through Eight. Will you take a second to look through those?

A. (Complying.) Yeah.

Q. Do you recognize those?

A. Yes, ma'am, I do.

Q. What are they?

A. They're the photos off of the camera itself.

Q. Did those come from the video in this case?

A. Yes, ma'am.

Q. Are they a fair and accurate representation of what they purport to show?

A. Yes, ma'am.

Q. Has there been any changes or deletions to those?

A. No, ma'am.

MS. HAMMACK: Your Honor, at this time we would move State's Exhibits Four through Eight into evidence.

MR. PRICE: Without objection.

THE COURT: Without objection.

1 (State's Exhibit Nos. 4 through 8,
2 photographs, received into evidence.)

3 MS. HAMMACK: Thank you, Investigator
4 Towne.

5 THE COURT: Any questions?

6 MR. PRICE: No, Your Honor.

7 THE COURT: You may step down. Next
8 witness, please.

9 MS. HAMMACK: Your Honor, at this time the
10 State rests.

11 THE COURT: All right. As represented I
12 need about 10 minutes, 15 minutes with the
13 lawyers. And if y'all will step back in the jury
14 room, come back out, we'll start the final
15 arguments and then you'll be getting the case
16 here real shortly.

17 If you don't mind, pick me a foreperson or
18 select a foreperson or designate a foreperson.
19 Thank you.

20 (Jury exits courtroom at 2:23 p.m.)

21 THE COURT: All right. Any motions by the
22 State?

23 MS. HAMMACK: None by the State, Your
24 Honor.

25 THE COURT: Mr. Price?

1 MR. PRICE: Yes, Your Honor.

2 We'd move for a directed verdict. The
3 State has not met its -- proving beyond a
4 reasonable doubt the jury would render a guilty
5 verdict based on the evidence presented and the
6 testimony given.

7 THE COURT: All right. That's respectfully
8 denied. There's ample evidence in the record if
9 the jury believes it to support that the
10 Defendant as identified by the CI sold to him a
11 substance that's been analyzed by the chemist to
12 be cocaine within a one-half mile radius of the
13 park and a school. . So, if the jury were to
14 believe that, then it would certainly be
15 sufficient evidence to support the conviction.

16 I respectfully deny your motion.

17 Mr. Shiggs, would you please stand and
18 raise your right hand?

19 (Defendant placed under oath.)

20 THE COURT: Mr. Shiggs, we've reached the
21 stage of the trial now where obviously you can
22 present your defense or your side of the story.
23 And that includes you getting on the witness
24 stand and testifying if you so choose. If you do
25 that obviously you'll be subjected to cross-

1 examination like all other witnesses and all
2 relevant exhibits.

3 Does he have a prior record?

4 MS. HAMMACK: Not one that can be used to
5 impeach him.

6 THE COURT: So you'll be subject to cross-
7 examination like everybody else.

8 If you choose not to testify, you have the
9 constitutional right not to testify. You have a
10 constitutional right to remain silent. And
11 obviously if you don't testify I will instruct
12 the jury that -- a couple things. Number one,
13 you don't have anything to prove. The burden of
14 proof is on the State. So you don't have to
15 offer any testimony. And I will tell them that
16 by exercising your constitutional right to remain
17 silent they can't hold that against you in any
18 manner whatsoever.

19 And I will further instruct them that they
20 can't even consider the fact that you did not
21 testify when they deliberate your guilt or
22 innocence. And they're not to discuss it in the
23 jury room. It's not to be brought up and they
24 can't use it in any manner whatsoever in making
25 their decision.

1 So, do you understand your rights to remain
2 silent?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And do you wish to exercise
5 those rights and not testify in this case?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you need any additional time
8 with your lawyer to make that decision or have
9 you already made it?

10 THE DEFENDANT: No, sir. I already made
11 it.

12 THE COURT: Already made. Do you have any
13 questions you want to ask me about that?

14 THE DEFENDANT: No.

15 THE COURT: All right. Thank you very
16 much.

17 All right, ladies and gentlemen, I intend
18 to charge presumption of innocence, burden of
19 proof, credibility of witnesses, duties between
20 judge and jury, expert witness, failure of the
21 Defendant to testify not to be held against him
22 in any manner whatsoever.

23 And then I'm going to simply charge two
24 statutes on distribution of cocaine, and
25 distribution within one-half mile radius of a

1 park or school.

2 Anything else that y'all deem necessary to
3 be charged, ma'am?

4 MS. HAMMACK: I don't think so, Your Honor.

5 THE COURT: Any requests to charge by --

6 MR. PRICE: No, Your Honor.

7 THE COURT: Y'all ready to make your final
8 arguments?

9 MR. PRICE: Yes, Your Honor.

10 MS. HAMMACK: Yes. Your Honor, I would ask
11 that we just have a minute to set this up so that
12 the jury doesn't have to wait when they come
13 out. And if Mr. Bamberg goes over a minute
14 then --

15 THE COURT: No, ma'am. You run the show.
16 You got 55 seconds left.

17 MS. HAMMACK: Thank you.

18 THE COURT: Just kidding. Mr. Bamberg, you
19 get that set up for her.

20 (Pause.)

21 (Jury enters courtroom at 2:30 p.m.)

22 THE COURT: Did y'all get a foreperson for
23 me? How about y'all switch if you don't mind.

24 All right. Mr. Foreman, ladies and
25 gentlemen of the jury. What's left now in the

1 trial is the final arguments. Final arguments,
2 like opening statements, is not evidence in the
3 case. Obviously both sides will be arguing the
4 evidence in the light most favorable to their
5 clients. This is not evidence. You've heard all
6 the evidence from which you'll make your
7 decision.

8 So please pay close attention. The State
9 will go first followed by the Defendant and then
10 I'll instruct you on the law.

11 Ms. Hammack?

12 MS. HAMMACK: Barnwell Primary School, Head
13 Start through third grade. Kids as young as
14 five-years-old go to school there, play there,
15 and learn there.

16 Barnwell Primary is right off Heygood
17 Avenue, not that far from right where we are
18 right now.

19 And right down that same street, less than
20 half a mile away, the Defendant sold drugs.

21 Now members of the jury, I told you I'd
22 come back up here after you heard from everybody
23 and you saw the evidence. And I forgive you --
24 or y'all forgive me for being a little close. I
25 like to walk and I don't really want to touch

1 that thing, but I just want to go through all the
2 evidence that y'all saw today and the testimony
3 that you heard.

4 Now the defense told you at the beginning
5 of this trial that there were going to be
6 inconsistencies. What inconsistencies?

7 You heard from everyone involved in this
8 case. Joseph Hair sat up here and told you that
9 he went to law enforcement to work as an
10 informant, that he had information that could
11 help them, and that in his words "It was time for
12 somebody to stand up to get drugs off the
13 street."

14 He told you that he gave law enforcement
15 the Defendant's name. And that he took law
16 enforcement there to get this. (Displaying.)
17 Cocaine.

18 Now Investigator Towne told you how
19 informants work, how they use them and the
20 security measures that they take to make sure
21 that what Mr. Hair told you is what happened.
22 That they met with the confidential informant on
23 January 14th, 2015; that they searched him,
24 searched the vehicle to make sure that there
25 wasn't anything that didn't belong there; that

1 there wasn't anything that would mess up this
2 (displaying), anything he shouldn't have.

3 Not just that but they sent an undercover
4 officer with him. He wasn't alone. The
5 undercover officer came and met with y'all today.
6 He said -- in fact, they took his vehicle, the
7 police officer's vehicle. The vehicle was
8 searched. He was searched. The informant was
9 searched. And that the informant stayed with him
10 the whole time, that he was in his eyesight the
11 whole time. They didn't even stop at
12 McDonald's. They came straight back.

13 And they came back with this (displaying).

14 Mr. Hair told you that he bought those
15 drugs from the Defendant for three \$20 bills,
16 \$60.

17 Investigator Towne told you the same thing.
18 Investigator Brown told you the same thing. They
19 talked about the security measures that they
20 use. Like this BEST kit that's heat-sealed
21 tamperproof. Ms. Collins told you about the bag
22 that she uses. That's tamperproof. All of this
23 to make sure that what you've heard today is what
24 happened.

25 But still, that's not all. In addition to

1 putting the police officer with the informant
2 having a surveillance team follow behind him we
3 have a video. And you can watch that video. And
4 it's in evidence and it shows you everything that
5 you need to see.

6 (Video played.)

7 That video is in evidence. You can watch
8 that video. And you can look at the still shots
9 that were taken from that same video.

10 Members of the jury, when you came in here
11 this morning you didn't have to leave your common
12 sense at that door right there. You've got it
13 right here. And you've got all you need to see.

14 The Judge is going to talk to you about the
15 law and what the elements are that the State has
16 to prove beyond a reasonable doubt. And
17 Mr. Price talked to you about that at the
18 beginning, that we have the burden of proving
19 this case beyond a reasonable doubt.

20 But when you listen to that, think. What
21 does reasonable doubt mean? It doesn't mean
22 beyond all doubt, or beyond any doubt. It means
23 exactly what it says, what's reasonable.

24 Members of the jury, technically an alien
25 could have come down and grabbed the informant on

1 his way walking back to the truck from buying
2 those drugs and planted drugs on him. That's not
3 reasonable. And you don't have to consider
4 things like that. Look at the time on the
5 video. You can watch it, and you can look at
6 these pictures. Look at the time between when
7 the Defendant handed the informant the drugs and
8 the time that the informant shows you on that
9 same camera those same drugs that you have right
10 here.

11 On January 14th, 2015, an informant working
12 for the Barnwell County Sheriff's Office went to
13 the Defendant's house at 37 Peach Tree Garden
14 here in Barnwell County, and he paid \$60 for that
15 bag of cocaine. And he got it from the
16 Defendant.

17 The Defendant's house is less than half a
18 mile from the Barnwell Primary School. Right off
19 of the same road. You can almost see it from his
20 front door.

21 Members of the jury, the Defendant sold
22 drugs here in Barnwell County. It was cocaine.
23 There's no question about that. The analyst told
24 you. And he did it less than half a mile from
25 where five-year-olds, six-year-olds, seven- and

1 eight-year-olds go to school everyday.

2 Find him guilty.

3 THE COURT: Mr. Price.

4 MR. PRICE: Good afternoon, members of the
5 jury.

6 I mentioned earlier on in my opening
7 statements about inconsistencies that the
8 officers of the State could present. The main
9 one is here. BEST evidence kit. Y'all see the
10 State sealed on January 13th, 2015. The alleged
11 incident date is January 14th, 2015.

12 So which date did my client allegedly sell
13 drugs? January 13th or January 14th?

14 In addition, you heard the testimony of
15 Investigator Towne and Rodney Brown. Towne said
16 that he searched thoroughly throughout the car
17 and searched my client -- or searched the
18 undercover officer and the CI. He didn't use
19 drug dogs at all in searching the car. We don't
20 know how thorough the sweep of the car is.

21 In addition, he said he searched underneath
22 the clothes of the CI and the undercover
23 officer. But he didn't do a full body cavity
24 search.

25 In addition, with Jarrell, the undercover

1 officer, he said he had complete eyesight on the
2 CI at all times. How could you have complete
3 eyesight on the CI at all times if you're having
4 to focus on the road to get to the incident
5 location?

6 Ladies and gentlemen of the jury, all that
7 coupled shows that my client is not guilty.

8 Now, you're going to hear the Judge issue
9 or give you instructions on what reasonable doubt
10 is. That means if you hesitate at any moment you
11 must issue a verdict of not guilty, and I'm
12 confident that y'all will issue a verdict of not
13 guilty. Thank you.

14 JURY CHARGE

15 THE COURT: All right.

16 Mr. Foreman, ladies and gentlemen of the
17 jury. The first part of the instructions or the
18 jury charge is general propositions of law that
19 we charge in criminal cases all over the state no
20 matter what the charge is. And then the second
21 part will be specific as to the two indictments
22 in this case.

23 In this case the indictments, two
24 indictments charge the Defendant with
25 distribution or sale of cocaine and distribution

1 or sale of cocaine within close proximity, a
2 half-mile proximity to a school or playground or
3 park.

4 I remind you the fact that the Defendant
5 was arrested, charged and indicted in this case
6 is not evidence in the case and cannot be
7 considered by you as evidence of guilt in the
8 case nor does it create any presumption of
9 innocence or guilt. The indictment is simply the
10 formal written instruments by way this case comes
11 into court. It contains the charges against the
12 Defendant and informs him of the charges. That's
13 simply the charging document. That is not
14 evidence. So don't infer anything from that.

15 In this case we're dealing with two
16 different indictments. As I told you, one for
17 the sale of cocaine, distribution of cocaine, and
18 one for distribution of cocaine within proximity
19 of a school. Each indictment contains a separate
20 and distinct offense. You must decide each
21 indictment separately on the evidence and the law
22 applicable to it, uninfluenced by your decision
23 as to any other indictment.

24 Now, as to these two indictments the
25 Defendant has pled not guilty. And a plea of not

1 guilty puts the burden on the State of South
2 Carolina to prove the Defendant guilty beyond a
3 reasonable doubt.

4 A person charged with committing a criminal
5 offense in our state is never required to prove
6 himself innocent. He has no burden of proof. I
7 charge you that it is an important constitutional
8 rule of law that a defendant in a criminal trial,
9 no matter what the charge may be, will always be
10 presumed to be innocent of the crime for which
11 the indictments were issued unless guilt has been
12 proven by you -- satisfying you of that guilt
13 beyond a reasonable doubt.

14 The presumption of innocence does not end
15 when you begin your deliberations but it stays
16 with the Defendant throughout the trial until you
17 reach a verdict of guilt based on evidence
18 satisfying you of that guilt beyond a reasonable
19 doubt.

20 Now the presumption of innocence is not a
21 mere legal theory or phrase. It's a substantial
22 constitutional right to which every defendant is
23 entitled unless you, the jury, are satisfied from
24 the evidence of the Defendant's guilt beyond a
25 reasonable doubt.

1 Now our Supreme Court has defined the term
2 reasonable doubt in a number of cases. Basically
3 two definitions. One is that a reasonable doubt
4 is the kind of doubt that would cause a
5 reasonable person to hesitate to act. It's the
6 kind of doubt that would cause a reasonable
7 person to hesitate to act. The State has the
8 burden of proving the Defendant guilty beyond a
9 reasonable doubt.

10 Proof beyond a reasonable doubt is proof
11 that leaves you firmly convinced of the
12 Defendant's guilt. There are very few things in
13 the world that we know with absolute certainty
14 and in criminal cases the law does not require
15 proof that overcomes every possible doubt.

16 If based on your consideration of the
17 evidence you are firmly convinced that the
18 Defendant is guilty of the crimes charged, then
19 you must find him guilty.

20 However, on the other hand, if you think
21 there's a real possibility that he is not guilty,
22 you must give the Defendant the benefit of the
23 doubt and find him not guilty.

24 Ladies and gentlemen, I remind you, once
25 again, that during the trial of the case you and

1 I have had two distinct functions to perform. My
2 job makes me the judge of the law so therefore
3 you have to accept the law as I give it to you.
4 More importantly, you are the judges of the
5 facts.

6 So by me being the judge of the law, you
7 are the judges of the facts. Obviously I cannot
8 have any role in determining what the facts are.

9 The law does not allow me to have any opinion
10 whatsoever about the facts in the case.

11 Therefore, if at any time during the trial
12 of this case, I have rolled my eyes, smiled,
13 frowned or yawned or did anything, shrugged my
14 shoulders, that you think that I have an opinion
15 about the facts, please disregard that. The law
16 does not allow me to have any opinion about the
17 facts. I try cases all over the state and I have
18 to tell you what the law is. You are the judges
19 of the facts. So don't infer anything from what
20 I may have done up here in this black robe that I
21 have an opinion about the facts. That is your
22 job and your job solely.

23 And in order to do that job, finding the
24 facts and the true facts, you have to determine
25 the credibility of the witnesses who have

1 testified in the case. Credibility simply means
2 believability. It becomes your duty as jurors to
3 analyze and evaluate the evidence and determine
4 which evidence convinces you of its truth.

5 In determining the believability or the
6 credibility of witnesses who have testified in
7 the case you can believe one over several,
8 several over one. You can disbelieve everything
9 a witness says. You can believe everything a
10 witness says. You can believe a part, disbelieve
11 a part. Use your common sense, as I told you
12 earlier, to determine the true facts and the
13 believability of the witnesses who have testified
14 in this case.

15 You may consider whether any witness has
16 exhibited to you any interest, bias, prejudice or
17 other motive in the case. And you may also
18 consider the appearance and the manner of the
19 witness while on the witness stand.

20 We had one witness who I qualified as an
21 expert witness, the chemist. Ordinarily our
22 rules of evidence do not permit a witness to
23 testify and give opinions or conclusions. I told
24 you there was an exception to that rule. A
25 witness who by education and experience has --

1 who has become an expert in some science such as
2 chemical analysis may give opinion testimony and
3 state their reasons for that opinion.

4 You should consider any expert opinion
5 received in evidence and, like any other
6 evidence, give it the weight you think it
7 deserves. An expert witness's testimony is to be
8 given no greater weight than that of any other
9 witness simply because the witness is an expert.
10 And, further, you're not required to accept an
11 expert's opinion even though it's not
12 contradicted.

13 In this case the Defendant exercised his
14 constitutional right to remain silent. I
15 instruct you and emphasize that the fact that the
16 Defendant did not testify is not, not, a factor
17 to be considered by you in any way whatsoever in
18 your deliberations and in your consideration on
19 the question of the guilt or innocence of the
20 Defendant. It must not be considered by you in
21 any manner whatsoever. The Defendant has the
22 constitutional right to remain silent and the
23 assertion of this right must not be considered by
24 you in your deliberations. And I repeat, you're
25 to draw absolutely no conclusion whatsoever from

1 the fact that the Defendant did not testify in
2 this case. It should not even be discussed in
3 the jury room.

4 The burden of proof, as I've told you many
5 times in this case, is on the State. The
6 Defendant is not required to prove his
7 innocence. The burden remains on the State to
8 prove guilt beyond a reasonable doubt.

9 Now, Mr. Foreman, ladies and gentlemen of
10 the jury, that's the -- those are the general
11 propositions of law. Let's go now to -- let's go
12 now to the case -- the two indictment in this
13 case which are set out in Indictment 16-GS-6-47.
14 That indictment is for distribution of cocaine.
15 And that's set out in Code Section 44-53-110.

16 In that indictment the Defendant is charged
17 with distribution of cocaine. It's exactly what
18 it says it is. The State must prove to you
19 beyond a reasonable doubt that the Defendant
20 distributed cocaine.

21 The law defines distribute as a means to
22 deliver or attempt to transfer a drug. Transfer
23 can involve any exchange for money, barter or
24 gift. It does not have to be anything given in
25 exchange for the drugs for a transfer to

1 constitute distribution. In other words, they
2 have to prove to you beyond a reasonable doubt in
3 this particular case that the Defendant sold
4 cocaine. That's what distribution of cocaine is.
5 They have to prove that to you beyond a
6 reasonable doubt.

7 The other indictment in this case is
8 attached to that or is connected to that because
9 that is an indictment for distribution of cocaine
10 in proximity to a school or park. And that's set
11 out in 44-53-110. As I said, the indictment
12 charges him with distribution of cocaine within
13 proximity of a school or park.

14 The State must prove to you beyond a
15 reasonable doubt that the Defendant distributed,
16 sold, or possessed -- distributed or sold in this
17 case while in, on or within a one-half mile,
18 one-half mile of the grounds of a public or
19 private elementary, middle or secondary school, a
20 public playground or park. A person must have
21 knowledge he or she is in or within one-half mile
22 of the grounds of the school or park.

23 So, really the two statutes that we're
24 dealing with in this case, it's not a difficult
25 legal principle. You have to prove beyond a

1 reasonable doubt that he sold cocaine. And you
2 have to prove beyond a reasonable doubt that when
3 he sold the cocaine that he was within a one-half
4 mile radius of the school. Those are the two
5 indictments.

6 Mr. Foreman, ladies and gentlemen of the
7 jury, in the jury room you will have two verdict
8 forms for each indictment. It's a simple verdict
9 form. We find the Defendant not guilty; or we
10 find the Defendant guilty.

11 If you find that he is guilty of
12 distributing cocaine, then you have to consider
13 the second indictment, whether or not it was
14 within a one-half mile of the park or school.
15 Obviously if you find that he didn't sell cocaine
16 or distribute cocaine, then you wouldn't go to
17 the second one because there wouldn't be any
18 sale. But if you find beyond a reasonable doubt
19 that he distributed cocaine then you would
20 consider the second to determine whether or not
21 it was within one-half mile radius.

22 Mr. Foreman, your verdict has to be
23 unanimous. All 12 jurors must unanimously agree
24 as to what the verdict is. And so you will do
25 each one of them separate and apart from the

1 other one.

2 Oftentimes when you get back in the jury
3 room you'll have some type of question. The
4 protocol on that is to write the question out on
5 a piece of paper, knock on the door, give it to
6 the bailiff, they'll give it to me. Sometimes I
7 can answer it, sometimes I can't. Depends on
8 what the question is. But that's what you do on
9 that.

10 When you've reached a unanimous verdict on
11 both indictments, knock on the door, the bailiff
12 will come, we'll receive the verdict back in the
13 courtroom.

14 We're here to -- we don't have any enemies
15 to punish or friends to reward. We're here to
16 deliberately consider the testimony that has been
17 given. You find out what the true facts are, you
18 decide what those are, you apply it to the law as
19 I have given it to you and then you'll be in a
20 position to reach the verdict.

21 I'm going to let you go back to your jury
22 room now. Don't start deliberating quite yet. I
23 have to ask the lawyers if I've left anything
24 out. One thing we have to do, we have to gather
25 the evidence. It's not many pieces of evidence

1 in this case. It won't take us but a few
2 minutes.

3 I will send the evidence back in the jury
4 room with you along with the verdict forms. If
5 you need to review or revisit the tape, I can
6 either do it one of two ways. I can take it back
7 there and get someone to play it or we can come
8 out here and play it, but you got still
9 photographs of a lot of it. So, whatever you
10 need you let me know.

11 I'm going to let you go back to your jury
12 room now, and don't deliberate until I send all
13 of this back.

14 (Jury exits courtroom at 2:56 p.m.)

15 THE BAILIFF: What do you want to do with
16 the alternate?

17 THE COURT: Just hang tight.

18 Are there any objections, requests for
19 additions or deletions to the charge by the
20 State?

21 MS. HAMMACK: No, Your Honor.

22 THE COURT: By the Defendant?

23 MR. PRICE: None, Your Honor.

24 THE COURT: Y'all please come review the
25 verdict form, review the evidence to make sure we

1 have it all accounted for so I can send it back
2 to the jury room.

3 (Attorneys comply.)

4 THE COURT: Let the record reflect that we
5 have reviewed all the exhibits. They're in
6 order. The verdict form has been reviewed.
7 There's no objection to that.

8 Mr. Bailiff, if you'll give the exhibits
9 and the verdict forms to the jurors, please.
10 Separate the alternate from the regular jurors.
11 I think it's Ms. Smith. You can just tell her
12 she's excused. You can excuse her. She can go.

13 THE BAILIFF: She can go?

14 THE COURT: (Nods head.)

15 Okay. The Defendant's in custody. We will
16 stand at ease. If you'll tell Mr. Miller I'm
17 available for additional matters.

18 MR. HAMMACK: Yes, sir, Your Honor.

19 (Deliberations commenced. At 3:19 p.m.,
20 the trial resumed:)

21 THE COURT: Y'all bring the Defendant in,
22 please, so I can receive the verdict.

23 (Defendant enters courtroom.)

24 THE COURT: State ready to receive the
25 verdict?

1 MR. HAMMACK: Yes, sir, Your Honor.

2 THE COURT: Are you ready?

3 MR. PRICE: Yes, sir, Your Honor.

4 (Jury enters courtroom at 3:19 p.m.)

5 THE COURT: Mr. Foreman, have you reached a
6 verdict?

7 FOREPERSON OF THE JURY: Yes, sir, we have.

8 THE COURT: Just hand it to the bailiff,
9 please.

10 FOREPERSON OF THE JURY: (Complying.)

11 THE COURT: Madam Clerk, you may publish
12 the verdict.

13 THE CLERK: In the matter of the State of
14 South Carolina versus Tyler Shiggs on Indictment
15 2016-GS06-00047, as to the offense of the
16 distribution of cocaine, we, the jury, find the
17 Defendant guilty.

18 Unanimously agree. Signed by the
19 Foreperson, Jackie Hopkins, on February 23rd,
20 2016.

21 In the matter of the State of South
22 Carolina versus Tyler Shiggs in the Indictment
23 Number 2016-GS-06-00048, as to the offense of the
24 distribution of cocaine in proximity to a school,
25 park or playground, we, the jury, find the

1 Defendant guilty.

2 We unanimously agree. Signed by Jackie
3 Hopkins, February 23rd, 2016.

4 THE COURT: Anything in addition for the
5 jury by the State?

6 MS. HAMMACK: No, Your Honor.

7 THE COURT: By the Defendant?

8 MR. PRICE: No, Your Honor.

9 THE COURT: Thank you. Mr. Foreman, ladies
10 and gentlemen, short trial but an important
11 trial. You've done a great job. You paid close
12 attention even though it was a quick trial. They
13 all are very important, and it means a lot to the
14 community.

15 What do we got tomorrow?

16 MR. HAMMACK: Your Honor, if we could have
17 the jury call back after six. It's my
18 understanding that Deputy Solicitor Miller may
19 have a trial for tomorrow.

20 THE COURT: How many jurors do you have?

21 THE CLERK: Approximately 45.

22 THE COURT: I bet we can do it without
23 these jurors.

24 THE CLERK: If you want to. They might
25 want to come back.

1 THE COURT: Do y'all want to come back and
2 do another one or do you want to be released?

3 THE JUROR: No. Released.

4 THE COURT: Ms. Smith might want to come
5 back.

6 THE JUROR: Oh, I love it.

7 THE COURT: Madam Clerk, if you would,
8 please, take all of these jurors' names out of the
9 hat. I think we got one more trial but I got
10 plenty jurors that I can do it. Y'all have
11 already served, unless Ms. Smith wants to come
12 back.

13 I thank you. I enjoyed being with you. I
14 feel like sometimes I'm from Barnwell. I married
15 a girl over here in 1969. So, gosh knows that's
16 a long time ago. But we come over here all the
17 time. Her mom's still alive and we visit her a
18 lot.

19 When I was practicing law I used to
20 practice a lot in this courtroom. I practiced in
21 Bamberg but I had a lot of business in Barnwell.
22 I practiced before Judge Peeples for many years.
23 I enjoyed that.

24 I enjoyed being with y'all over here this
25 week. You'll get a check from the clerk.

1 Everybody -- got all their addresses? Anything
2 we need, Madam Clerk?

3 THE CLERK: I think we're good. Might not
4 be able to get to it tomorrow, we'll see what we
5 can do tomorrow.

6 THE COURT: You know, she's up for
7 re-election. If she gets those checks out this
8 afternoon, won't that help her a lot? Just
9 kidding.

10 She'll get your checks out sometime this
11 week and we'll go from there.

12 Thank y'all very much and I enjoyed being
13 with you. That will conclude your service for
14 this week. And have a pleasant rest of the
15 week. Anything I can ever do for any of you,
16 don't hesitate to call me. Ms. Rhonda, she'll
17 find me.

18 Mr. Foreman, I need you, if you would just
19 stick tight with me here a second.

20 FOREPERSON OF THE JURY: Okay. I'm going
21 to step to the side.

22 (Other matters heard by the Court. At
23 3:40 p.m., the trial resumed:)

24 THE COURT: Mr. Price, are you ready for
25 sentencing?

1 MR. PRICE: Yes, sir, Your Honor.

2 THE COURT: Prior record, Ms. Hammack?

3 MS. HAMMACK: Your Honor, he's got an
4 unlawful use of telephone from 2011, three
5 disorderly conducts from 2012, and then a trial
6 from 2014 where he was convicted of malicious
7 injury to personal property from kicking out a
8 police car window, and unlawful carrying of a
9 pistol. In that same trial he was acquitted of
10 trafficking crack cocaine.

11 THE COURT: What was the disposition on the
12 malicious injury of personal property and the
13 UCAP?

14 MS. HAMMACK: He pled to the malicious
15 injury of the first day of trial and he was pled
16 convicted of UCAP upon conclusion of the trial.

17 THE COURT: And time, please?

18 MS. HAMMACK: Oh. I apologize. He -- I
19 know he got time served on the malicious injury
20 because he had already maxed out on that time. As
21 far as the UCAP, I want to say -- it's not
22 showing up on his rap. I believe he was
23 sentenced to the maximum on that but I believe he
24 had already served that much time.

25 THE COURT: Do you recall when that was in

1 2014?

2 MS. HAMMACK: He was arrested on that
3 charge in August of 2013 and I believe we tried
4 that case in January or February.

5 THE COURT: Of 2014?

6 MS. HAMMACK: Of 2014.

7 THE COURT: And then he picked these
8 charges up in January of 2015?

9 MS. HAMMACK: That's correct, Your Honor.

10 He also has four more counts of
11 distribution of cocaine and distribution of
12 cocaine in proximity to a school that are
13 pending. Some of those occurred before this
14 incident date. He's also got two counts of
15 possession of controlled substance from a
16 subsequent search warrant that are still pending.

17 THE COURT: So he's got four distributions
18 pending, four proximities pending and two
19 controlled substance for 10 more charges?

20 MS. HAMMACK: That's correct, Your Honor.

21 THE COURT: All the same, different CIs?

22 MS. HAMMACK: Well, Your Honor, those -- I
23 know at least more than one of those involves the
24 same confidential informant that received threats
25 over the weekend prior to this trial.

1 THE COURT: All right. Anything else the
2 State needs to put on the record before I listen
3 to Mr. Price? I've got his prior record. I know
4 the facts of this case. I know what's pending
5 against him.

6 Tell me about the allegations of threats.
7 Who was being threatened?

8 MR. HAMMACK: Your Honor, I've met with the
9 CI several times. Mr. Bamberg and I actually
10 went to where he's currently living to meet with
11 him. The allegation are that Mr. Shiggs called
12 his father. Mr. Shiggs knows the CI's father,
13 made threats toward the CI through his father.
14 And then over the weekend the CI himself actually
15 received calls on his phone as a result of this
16 case, threats toward him.

17 He did come in and testify this morning.
18 Quite frankly, Your Honor, it took me a whole lot
19 of talking to him to assure him he would be safe
20 and that law enforcement would protect him and
21 they did a great job of doing that. And he was
22 willing to come in and do what he had to do and
23 testify, but he did absolutely receive threats
24 and Kenny and I went to meet with him about that.
25 Mr. Bamberg and meet with him about that, met

1 with his father about that and I spoke to
2 Mr. Hair at length about it today.

3 THE COURT: Anything else by the State?

4 MR. HAMMACK: No, sir.

5 THE COURT: Mr. Price.

6 MR. PRICE: Thank you, Your Honor. May it
7 please the Court.

8 Mr. Shiggs is 30 years of age. He works at
9 Stumpers in Allendale.

10 THE COURT: Where?

11 MR. PRICE: Stumpers. He builds pallet
12 plants is what he says. He's from the Barnwell
13 area. He has eight children, four of which is by
14 his girlfriend Sharee who's in the courtroom
15 today. She's sitting in the back. She has on a
16 pink shirt. He tells me with his other children
17 he pays child support and contributes significant
18 to them.

19 THE COURT: What are the ages of the
20 children?

21 MR. PRICE: He says they're from eight
22 years old down to, how old?

23 THE DEFENDANT: How old the baby, two?

24 THE COURT: Eight to two.

25 MR. PRICE: He doesn't have -- well, this is

1 his first drug conviction and we would ask that
2 in consideration that he provides significantly
3 with his children and this is the first time drug
4 conviction, we would ask for the charges to be
5 run concurrent.

6 THE COURT: I can do that. Anything else
7 you want to tell me?

8 MR. PRICE: No, Your Honor.

9 THE COURT: Sir, anything you want to tell
10 me?

11 THE DEFENDANT: Yes, sir. I did not call
12 his daddy --

13 THE COURT: Did what?

14 THE DEFENDANT: I did not call his daddy
15 about him threatening him. If his daddy was in
16 the courtroom he'll tell you, I buy dogs from
17 him.

18 MR. PRICE: And, Your Honor, to my
19 knowledge as far as the alleged threats, the
20 solicitor's office notified me of this but to my
21 knowledge there have been no charges filed
22 against Mr. Shiggs on this.

23 THE COURT: Obviously, they're not --
24 nobody's here to testify so I won't take that
25 into consideration in your sentence. It's not

1 what he's on trial for.

2 Well, Mr. Shiggs, it's unfortunate that you
3 opted to make a living selling drugs. You got
4 children. Baby children. When do you want guys
5 like you to selling to them?

6 THE DEFENDANT: Your Honor, I work, Your
7 Honor. That's what they charged me with.

8 THE COURT: Well, I saw you selling to that
9 that undercover agent on the film.

10 THE DEFENDANT: No, sir. If you crank up
11 the film I'm telling him, "Tell your daddy I
12 appreciate it about that dog." That's what I
13 told him.

14 THE COURT: All right. Well, I have an
15 obligation to rid the streets of drug dealers
16 because I don't want them selling to your
17 children who are eight and two years old. Drugs
18 are the -- directly or indirectly cause 90
19 percent of the problems society faces today. And
20 I don't know of any way to get rid of them other
21 than to get rid of the dealers.

22 All right.

23 HAVING BEEN FOUND GUILTY BY THE PETIT JURY
24 OF BARNWELL COUNTY AS TO INDICTMENT 16-6-47
25 DISTRIBUTION OF COCAINE FIRST FIRST OFFENSE, THE

1 SENTENCE OF THE COURT, YOU BE COMMITTED TO THE
2 STATE DEPARTMENT OF CORRECTIONS FOR A PERIOD OF
3 12 YEARS.

4 AS TO THE PROXIMITY, SENTENCE IS 10-YEARs.
5 SENTENCES RUNNING CONCURRENT.

6 Good luck to you.

7 MR. PRICE: Thank you, Your Honor.

8 END OF CASE: 3:53 P.M.

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CERTIFICATE OF REPORTER

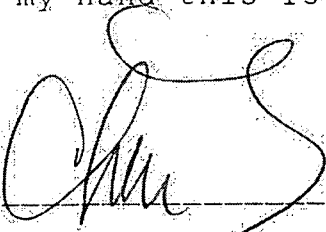
STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

I, Cheri L. Young, Registered Professional
Reporter and Official Court Reporter for the State of
South Carolina, Second Circuit-At Large, do hereby
certify that the foregoing proceedings were written
stenographically by me using computer-aided translation.
further, that the foregoing is a true, accurate and
complete record, to the best of my skill and ability, of
all the proceedings had and evidence introduced in the
hearing of the captioned case, relative to appeal, in
the Court of General Sessions for Barnwell County, on
the 23rd day of February, 2016.

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

I have hereunder set my hand this 15th day of
April, 2016.


Cheri L. Young, RPR
Official Court Reporter

STATE OF SOUTH CAROLINA)
)
COUNTY OF BARNWELL)
)

INDICTMENT FOR
DISTRIBUTION OF COCAINE

§ 44-53-0370(b)(1)

At a Court of General Sessions, convened on February 22, 2016, the Grand Jurors of Barnwell County present upon their oath:

That **TYLER SHIGGS** did in Barnwell County on or about January 14, 2015, knowingly or intentionally distribute a quantity of Cocaine, a controlled substance under provisions of §44-53-110, et seq., Code of Laws of South Carolina (1976), as amended, such distribution not having been authorized by law.

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


J. STROM THURMOND SOLICITOR

WITNESSES

Barnwell Sheriffs Office

Rodney Brown

Law Enforcement Case #: N15-01-00217

AAH

ARREST WARRANT NUMBER

2015A0610400057

ACTION OF GRAND JURY

True Bill

[Signature]
Foreperson of Grand Jury
Date: February 22, 2016

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2016GS0600047

The State of South Carolina

County of Barnwell

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2016

THE STATE

vs.

TYLER SHIGGS

CDR #: 0183

Indictment for

DISTRIBUTION OF COCAINE

§ 44-53-0370(b)(1)

J. STROM THURMOND, SOLICITOR

126
COUNTY OF
STATE

Barnwell

VS.

Tyler Shiggs

AKA:

Race: Black Sex: M Age: 30

DOB: 10- SS#: [REDACTED]

Address: [REDACTED] Garden

City, State: [REDACTED] a well, SC 29812-2285

DL#: [REDACTED] SID#: [REDACTED]

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

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

TO: Distribution of Cocaine, 1st offense

INDICTMENT/CASE#: 2016GS0600047

A/W#: 2015A0610400057

Date of Offense: 1/14/2015

S.C. Code § : 44-53-0370(b)(1)

CDR Code #: 0183

SENTENCE SHEET

0-15yr.
9/10 \$ 25,000☒ CONVICTED OF or ☐ PLEADS

in violation of § 44-53-0370(b)(1) of the S.C. Code of Laws, bearing CDR Code # 0183

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC § 17-25-45 w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Hammack, Ashley Agnew 80176 SC Bar#

Defendant

Attorney for Defendant

77457 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 12 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 _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

☐ 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 the 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

Total: \$ _____ plus 20% fee: \$ _____

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 \$ _____

§ 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

3% to County (if paid in installments) \$ 8.40

TOTAL \$ 288.40

+ 40.00 P.D. App Fee

Clerk of Court/ Deputy Clerk

Court Reporter: Cheri Young

SCCA/217 (03/2011)

PTUP _____

_____ days/hours Public Service Employment

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: _____

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

Presiding Judge

Judge Code: 0136

Sentence Date: 2-23-16

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	DISTRIBUTION OF COCAINE IN PROXIMITY
COUNTY OF BARNWELL	)	TO A SCHOOL, PARK OR PLAYGROUND
	)	

§ 44-53-0445(A)

At a Court of General Sessions, convened on February 22, 2016, the Grand Jurors of Barnwell County present upon their oath:

That **TYLER SHIGGS** did in Barnwell County on or about January 14, 2015, knowingly or intentionally distribute Cocaine, a controlled substance under provisions of Section 44-53-110, et. seq., Code of Laws of South Carolina (1976), as amended, while in, on, or within a one-half mile radius of the grounds of a public or private elementary, middle or secondary school; a public playground or park; a public vocational or trade school or a technical educational center; or a public or private college or university, to wit: Barnwell Primary School, such distribution not having been authorized by law.

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


 J. STROM THURMOND, SOLICITOR

WITNESSES

Barnwell Sheriffs Office

Rodney Brown

Law Enforcement Case #: N15-01-00217

AAH

ARREST WARRANT NUMBER

2015A0610400058

ACTION OF GRAND JURY

True B.U.

[Signature]

Foreperson of Grand Jury
Date: February 22, 2016

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2016GS0600048

The State of South Carolina

County of Barnwell

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2016

THE STATE

vs.

TYLER SHIGGS

CDR #: 0107

Indictment for

DISTRIBUTION OF COCAINE IN
PROXIMITY TO A SCHOOL, PARK OR
PLAYGROUND

§ 44-53-0445(A)

J. STROM THURMOND, SOLICITOR

COUNTY OF Barnwell
 STATE VS.
Tyler Shiggs

AKA:

Race: [REDACTED] Sex: [REDACTED] Age: 30DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED] GardeCity, State: well, SC 29812-2285DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Distribution of Cocaine within Proximity to a School, Park or Playground

in violation of § 44-53-0445(A) of the S.C. Code of Laws, bearing CDR Code # 0107

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

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Ashley A. Hammack 801716 [Signature] 77457
 Hammack, Ashley Agnew 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 _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 16-65-06-47
☐ 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 the 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

Total: \$ _____ plus 20% fee: \$ _____

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	\$
§ 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
3% to County (if paid in installments)		\$ 8.40
TOTAL		\$ 288.40

Clerk of Court/ Deputy Clerk Sharon H. Ritchie
 Court Reporter: Cheri Young
 SCCA/217 (03/2011)

INDICTMENT/CASE#: 2016GS0600048

A/W#: 2015A0610400058

Date of Offense: 1/14/2015

S.C. Code § : 44-53-0445(A)

CDR Code #: 0107

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

Presiding Judge

Judge Code: 0136

Sentence Date: 2-23-16

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Robert M. Pachak
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 22nd day of September, 2016.

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Robert M. Pachak
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 22nd day of September, 2016.

RECEIVED

SEP 22 2016

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

RECEIVED

SEP 22 2016

SC Court of Appeals

Appeal from Barnwell County
Honorable Doyet A. Early, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TYLER SHIGGS,

APPELLANT

APPELLATE CASE NO. 2016-000467

CERTIFICATE OF SERVICE

I certify that a copy of the Record on Appeal in the above-referenced case has been served upon J. Benjamin Aplin, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 22nd day of September, 2016.



George Vlasis
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 22nd day of September, 2016.

Christina Ford (L.S.)

Notary Public for South Carolina
My Commission Expires March 1, 2026