

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SG Court of Appeals

Appeal from Greenville County

Honorable Perry H. Gravely, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JIMMY EDWARD DUNCAN,

APPELLANT

APPELLATE CASE NO 2016-002126

RECORD ON APPEAL

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1 control, access, and know where all the evidence is
2 at all times?

3 A Yes, any time evidence comes to SLED, we
4 generate a chain of custody for that evidence.

5 Q Now handing you State's Exhibit Number 85.
6 Do you recognize that document?

7 A This is a chain of custody for SLED case
8 L14-14335.

9 Q And is that the lab number that was
10 assigned to that BEST kit?

11 A Yes, it is.

12 MR. UNDERWOOD: Your Honor, at this time,
13 the State would seek to admit Exhibit Number 85
14 into evidence.

15 THE COURT: Any objection?

16 MR. WARDER: No, Your Honor.

17 THE COURT: All right. In without
18 objection.

19 (WHEREUPON, State's Exhibit 85 is admitted into
20 the record.)

21 BY MR. UNDERWOOD:

22 Q Mr. Smith, if you would, please summarize
23 the chain of custody from the time it was brought to
24 SLED until it got to you for analysis?

25 A On November 12th, 2014, John Albreicht

1 brought the evidence to SLED and delivered it to the
2 evidence room on that same date to Amy Stevens. Amy
3 Stevens took in the drugs and then Jennifer Aycock
4 took the evidence to me on the 13th of November, is
5 when I picked up the evidence from our log in
6 department. And that's when I started my analysis on
7 the case.

8 Q When you received the evidence, were the
9 seals on the BEST kit still intact?

10 A Yes, they were.

11 Q Would you have noticed if they were not?

12 A Yes, it's also noted on the evidence that I
13 received -- I indicate the word "seal intact" and I
14 date it before I start my analysis of the evidence
15 that was received.

16 Q And do you do that every time?

17 A Every single time for all the evidence that
18 I received.

19 Q Were you able to conduct an analysis on
20 that evidence?

21 A Yes, I was able to conduct an analysis on
22 this evidence.

23 Q And did you produce a report containing the
24 results of that analysis?

25 A Yes. For all my cases, I generate an

1 official SLED report for the results that I find from
2 the case.

3 Q I'm going to hand you State's Exhibit 84.
4 Do you recognize that exhibit?

5 A This is a report for SLED lab number L14-
6 14335 which corresponds to SLED BEST kit B-247039.

7 Q Is that the same BEST kit we've been
8 discussing?

9 A Yes, it is the same BEST kit that we have
10 been discussing.

11 MR. UNDERWOOD: Your Honor, at this time, I
12 would seek State's Exhibit 84 be admitted into
13 evidence.

14 THE COURT: Any objection?

15 MR. WARDER: No, Your Honor.

16 THE COURT: All right. In without
17 objection.

18 (WHEREUPON, State's Exhibit 84 is admitted into
19 the record.)

20 BY MR. UNDERWOOD:

21 Q And Mr. Smith, what were the results of
22 your drug analysis?

23 A After molecular testing and instrumental
24 testing, we get the molecular results for this case.
25 I did a chemical test and instrumental test with this

1 and the results that was found for this substance was
2 methamphetamine found, which is a Schedule II drug,
3 and it had a net weight of 3.88 grams.

4 Q Now handing you State's Exhibit Number 56.
5 You recognize that?

6 A Yes, I do. This is BEST kit B-247039 was in
7 correspondence to our SLED number that we generate,
8 lab number which is L14-14335 containing the BEST
9 kit. And as you can see, I wrote the words "seal
10 intact" and I dated it. When I examined this bag --
11 so when I received this evidence, it was sealed and
12 intact when I did my analysis before I even started
13 my analysis.

14 Q And since then, have you sealed it once you
15 were completed with your analysis?

16 A Every case that I complete, I put it into a
17 heat sealed bag and I seal it up with my initials
18 from the date that I did my analysis on this case.
19 And the date that I did my analysis on this case was
20 November 18th, 2014. It's still sealed and intact
21 from the date that I did my analysis on this case.

22 Q And is this the same substance that you
23 just testified about from your report?

24 A Yes, it is.

25 MR. UNDERWOOD: Your Honor, at this time, I

1 seek for the admittance of Exhibit -- State's
2 Exhibit Number 56.

3 **THE COURT:** All right. Any objection?

4 **MR. WARDER:** No.

5 **THE COURT:** All right. 56 is in without
6 objection.

7 **(WHEREUPON, State's Exhibit 56 is admitted into the**
8 **record.)**

9 **MR. UNDERWOOD:** Thank you. No further
10 questions, Your Honor.

11 **THE COURT:** Cross-examination?

12 **MR. WARDER:** No questions for this
13 witness.

14 **THE COURT:** All right. You may step down.

15 **MR. UNDERWOOD:** Your Honor, the State calls
16 Lynn Black.

17 **THE COURT:** All right. Ms. Black, if you
18 will, come forward.

19 **THE CLERK:** Please step forward to be
20 sworn in. Place your left hand on the Bible and
21 raise your right hand.

22 **LYNN BLACK**

23 having first been duly sworn, testifies as follows:

24 **THE CLERK:** Please state your full name.

25 **THE WITNESS:** Lynn Black.

1 **THE CLERK:** Please be seated, ma'am.

2 **DIRECT EXAMINATION**

3 **BY MR. UNDERWOOD:**

4 **Q** Good afternoon.

5 **A** Good afternoon.

6 **Q** Please tell the jury where you are employed
7 and what you do.

8 **A** I'm a drug chemist in the Forensic Services
9 Laboratory at the South Carolina Law Enforcement
10 Division commonly known as SLED.

11 **Q** And how long have you been a drug chemist?

12 **A** I've been a drug chemist for over 16 years;
13 however, only eight of those at SLED.

14 **Q** Where were the other years?

15 **A** I previously worked for the Georgia Bureau
16 of Investigation in Atlanta, Georgia, for about eight
17 years.

18 **Q** Doing the same job?

19 **A** Yes, I was a drug analyst there.

20 **Q** What training and experience do you have to
21 be a drug analyst?

22 **A** I have a Bachelor of Science degree in
23 Chemistry from Kentucky Wesleyan College, a
24 Certificate of Medical Technology from the University
25 of Louisville and a Master of Science degree in

1 Forensic Science from Marshall University. As I said,
2 previously, I worked as a drug chemist for Georgia
3 Bureau of Investigation for eight years prior to my
4 job at SLED.

5 Q And can you venture a guess as to how many
6 samples you tested over the years?

7 A At the GBI, I analyzed over 8000. At SLED,
8 I'm over 6700.

9 Q Have you ever had an opportunity to testify
10 as an expert in court before?

11 A Yes, I have.

12 Q In what fields were you qualified?

13 A In the field of drug analysis.

14 Q How many times have you been qualified?

15 A In the State of Georgia, it was 100 times.
16 In the State of South Carolina, it is 26.

17 MR. UNDERWOOD: Your Honor, at this time,
18 the State offers Ms. Black as an expert in drug
19 analysis.

20 THE COURT: All right. Any objections or
21 questions?

22 MR. WARDER: No, Your Honor.

23 THE COURT: All right. I will grant your
24 motion. Again, as I told you before, a person
25 can not normally give their opinion about stuff

1 unless they are designated as an expert. They
2 can testify about opinions in their particular
3 field based on their experience and education.
4 This witness has been qualified as an expert in
5 drug analysis. You can consider that according
6 to the way that you feel appropriate.

7 **MR. UNDERWOOD:** Thank you, Your Honor.

8 **BY MR. UNDERWOOD:**

9 **Q** Ms. Black, did you have an opportunity to
10 examine drug -- suspected drug evidence that was
11 contained in BEST kit B-248612?

12 **A** Yes, sir.

13 **Q** Is that the same as SLED lab number L15-
14 03247?

15 **A** Yes, it was.

16 **Q** I'm going to hand you State's Exhibit
17 Number 87. Do you recognize that document?

18 **A** (Reviewing.)

19 I do.

20 **Q** What is that document?

21 **A** This is a copy of the chain of custody that
22 was prepared for this case.

23 **Q** Are those maintained in the ordinary course
24 of business at SLED?

25 **A** Yes, they are.

1 **MR. UNDERWOOD:** Your Honor, at this time,
2 the State would seek to admit Exhibit Number 87
3 into evidence.

4 **THE COURT:** All right. Any objection?

5 **MR. WARDER:** No objection.

6 **THE COURT:** All right. In without
7 objection.

8 **(WHEREUPON, State's Exhibit 87 is admitted into**
9 **the record.)**

10 **BY MR. UNDERWOOD:**

11 **Q** Ms. Black, if you would, please summarize
12 the chain of custody from the time it arrived at SLED
13 until you were able to do your analysis.

14 **A** This case was submitted by Brian Gibson of
15 the Pickens County Sheriff's Office on March the 13th
16 of 2015 and received by Doris Yarborough, a forensic
17 technician at SLED. On that date, she then placed it
18 into the drug and evidence intake storage on that
19 same date, 3/13/15. She then retrieved it on April
20 the 15th of 2015 and submitted it to me, again, on
21 April 15th of 2015.

22 **Q** Is that the date you conducted your
23 analysis?

24 **A** That would be correct.

25 **Q** After completing your analysis, did you

1 prepare a report showing the results of your tests
2 and conclusions?

3 **A** Yes, I did.

4 **Q** Now handing you State's Exhibit Number 86.
5 Do you recognize that?

6 **A** Yes, I do.

7 **Q** Is that the report that you produced?

8 **A** Yes, this is a copy of the report that I
9 generated in this particular case.

10 **Q** And do you do that in the ordinary course
11 of business?

12 **A** Yes, I do.

13 **MR. UNDERWOOD:** Your Honor, at this time,
14 the State seeks to admit Exhibit 86 into
15 evidence.

16 **THE COURT:** All right. Any objection?

17 **MR. WARDER:** No, Your Honor.

18 **THE COURT:** All right. 86 is in without
19 objection.

20 **(WHEREUPON, State's Exhibit 86 is admitted into**
21 **the record.)**

22 **BY MR. UNDERWOOD:**

23 **Q** Ms. Black, if you would, please tell the
24 jury the results of your analysis and your
25 conclusions.

1 **A** In this particular case, I received a
2 Ziploc bag containing a Ziploc bag containing crystal
3 substance. Based on my analysis, methamphetamine, a
4 Schedule II drug was found in the sample tested. It
5 had a net weight of 7.06 grams.

6 **Q** Now handing you State's Exhibit Number 75.
7 Do you recognize that?

8 **A** I do.

9 **Q** What is that?

10 **A** This is, as was previously described, a
11 KPAK. It was inside of it the BEST kit. That is, in
12 this particular case, B-248612. And this is for SLED
13 lab number L15-03472. The BEST kit inside has that
14 same SLED lab number on it with my initials. And the
15 seal was intact when I received this evidence. Also,
16 this KPAK has my initials and the date at the bottom.

17 **Q** Does that show that your seal has remained
18 intact since you did your analysis?

19 **A** Yes.

20 **MR. UNDERWOOD:** Your Honor, at this time,
21 the State would seek to admit Exhibit Number 57
22 into evidence.

23 **THE COURT:** All right. Any objection?

24 **MR. WARDER:** No, Your Honor.

25 **THE COURT:** All right. 57 in without

1 objection.

2 (WHEREUPON, State's Exhibit 57 is admitted into
3 the record.)

4 BY MR. UNDERWOOD:

5 Q Ms. Black, did you also have an opportunity
6 to test suspected drug evidence from BEST kit Bravo-
7 228591, SLED lab number L15-03439?

8 A Yes, I did.

9 Q I'm handing you State's Exhibit Number 89.
10 Do you recognize that document?

11 A Yes, I do.

12 Q What is it?

13 A This is a copy of the chain of custody in
14 this particular case.

15 Q Again, is that kept in the ordinary course
16 of business at SLED?

17 A Yes, it is.

18 MR. UNDERWOOD: Your Honor, at this time,
19 the State would seek to admit Exhibit Number 89
20 into evidence.

21 THE COURT: All right. Any objection?

22 MR. WARDER: No, Your Honor.

23 THE COURT: All right. 89 is in without
24 objection.

25 (WHEREUPON, State's Exhibit 89 is admitted into

1 the record.)

2 **BY MR. UNDERWOOD:**

3 **Q** Ms. Black, if you would, please summarize
4 the chain of custody from the time it arrived at SLED
5 until you were able to do your analysis.

6 **A** Again, this evidence is received -- excuse
7 me -- brought in to the SLED laboratory by Brian
8 Gibson on March the 13th of 2015. It was received by
9 Forensic Technician Jennifer Aycock on that same date
10 and she placed it in the drug evidence intake storage
11 on that same date. Then, on May the 7th of 2015,
12 Forensic Technician Jackie Davis gave that evidence
13 to me.

14 **Q** On that date, were you able to conduct an
15 analysis?

16 **A** Yes, sir.

17 **Q** Did you produce a report showing the
18 results and conclusions of that analysis?

19 **A** I did.

20 **Q** Handing you State's Exhibit Number 88. Do
21 you recognize that?

22 **A** (Reviewing.)

23 I do.

24 **Q** What is that?

25 **A** This is a copy of the court -- excuse me --

1 of the report that I generated in this case.

2 Q Again, do you produce those in the ordinary
3 course of your business?

4 A I do.

5 MR. UNDERWOOD: Your Honor, at this time,
6 the State would seek to admit Exhibit 88 into
7 evidence.

8 THE COURT: All right. Any objection?

9 MR. WARDER: No, Your Honor.

10 THE COURT: All right. In without ev --
11 State's Exhibit 88 is in without objection.

12 (WHEREUPON, State's Exhibit 88 is admitted into
13 the record.)

14 BY MR. UNDERWOOD:

15 Q Ms. Black, if you would, please explain to
16 the jury the results and conclusions for your
17 analysis.

18 A In this particular case, there was more
19 than one item. I believe there were four. I'll just
20 kind of read off what each one was. Item 1.1, the
21 Ziploc bag that was labeled 1A and it contained
22 crystal substance. On this one, methamphetamine, a
23 Schedule II drug, was found in the sample tested. The
24 net weight was 3.42 grams.

25 Item 1.2 was a plastic bag labeled 1B that

1 contained crystal substance. Again, methamphetamine,
2 Schedule II drug, was found in the sample tested. The
3 net weight was 1.50 grams.

4 Item 1.3 was a Ziploc bag labeled 1C
5 containing crystal substance. Again, methamphetamine,
6 a Schedule II drug, was found in the sample. The net
7 weight was 76.77 grams.

8 Item 1.4 was a Ziploc bag labeled 1D
9 containing a crystal substance. Methamphetamine, a
10 Schedule II drug, was found in the sample. The net
11 weight was 3.44 grams.

12 Q I'm now handing you State's Exhibit Number
13 58. Do you recognize that?

14 A (Reviewing.)

15 I do.

16 Q What is that?

17 A This is the KPAK. The outer bag is the
18 KPAK. Inside is the BEST kit bag. On this one, the
19 control number was B-228591. This is for case L15-
20 03439 which the bar code has that case number on it.
21 The case number is written on the inner bag, the BEST
22 kit bag with my initials, and the seal was intact
23 when I received it. Also, the KPAK has my initials
24 and the date at the bottom.

25 Q Does that indicate that your seals are

1 still intact?

2 **A** That's correct.

3 **Q** So is that the substance that you, indeed,
4 tested?

5 **A** It is.

6 **MR. UNDERWOOD:** Your Honor, at this time,
7 the State would seek to admit Exhibit 58 into
8 evidence.

9 **THE COURT:** All right. Any objection?

10 **MR. WARDER:** No, Your Honor.

11 **THE COURT:** All right. 58 -- State's
12 Exhibit 58 is in without objection.

13 **(WHEREUPON, State's Exhibit 58 is admitted into the**
14 **record.)**

15 **MR. UNDERWOOD:** Thank you. No further
16 questions, Your Honor.

17 **THE COURT:** Any objection -- I mean, any
18 cross-examination?

19 **MR. WARDER:** No, Your Honor.

20 **THE COURT:** All right. Thank you. You may
21 step down.

22 **THE WITNESS:** Thank you.

23 **MR. UNDERWOOD:** The State rests, Your
24 Honor.

25 **THE COURT:** All right. Ladies and

1 Gentlemen, we've made it through the State's
2 case so, at this time, we're going to break for
3 lunch. Again, you're going to be on your own for
4 lunch. We've got some -- since the State has
5 rested, there's some things we need to go over.
6 So we're going to give you, again, a lunch until
7 2:45. So you'll have an hour and a half. We
8 don't have an hour and a half, but y'all do,
9 because like I said, we have some things we need
10 to go over.

11 So again, my four rules: do not discuss the
12 case among yourself or with anyone else. It's
13 not appropriate. Do not do any independent
14 research and Google or do anything like that.
15 Again, the only evidence you are to hear is what
16 you hear in this courtroom. Three, you should
17 not be contacted by anyone. If you do, get as
18 much information as you can and provide that
19 information to the bailiff. Fourth, if there's
20 any media coverage, whether it's television,
21 newspaper, social media or the like, please do
22 not pay any attention to that. Disregard it. Do
23 not look at it or anything like that. Other than
24 that, please have a nice lunch. We'll see you
25 back here at 2:45. Thank you.

1 (WHEREUPON, the jury exits at approximately
2 1:17 p.m.)

3 THE COURT: All right. Do anybody need to
4 take a short break before we do -- or do you
5 want to...

6 MR. UNDERWOOD: That's fine, Your Honor.

7 THE COURT: All right. Let's take five
8 minutes. Then we'll come back in and we'll hear
9 any motions or would you rather hear them after
10 lunch, Mr. Warder?

11 MR. WARDER: Let's just hear them when we
12 get back.

13 THE COURT: All right. So if y'all will be
14 back -- it is now 1:20. If you will, be back in
15 here by 2:15. What I want -- need to talk about
16 then is any motions and also any jury charge.
17 Any charge from the defendant?

18 MR. WARDER: No, Your Honor.

19 THE COURT: All right.

20 MR. WARDER: Just your standard charge, of
21 course.

22 THE COURT: Right. Have you provided the
23 charge to him of your charge?

24 MR. UNDERWOOD: Yes, Your Honor.

25 THE COURT: And we'll also discuss the

1 verdict so we'll be ready to go. I also want to
2 discuss -- again, I don't want to hold you to
3 it, but do you anticipate presenting anything,
4 Mr. Warder?

5 **MR. WARDER:** We'll decide over lunch.

6 **THE COURT:** All right. We'll also go over
7 that as well if your client decides not to
8 testify. All right. I guess you've provided any
9 information he needs as far as that goes?
10 Criminal record?

11 **MR. UNDERWOOD:** Yes, Your Honor.

12 **THE COURT:** All right. Okay. Well, I guess
13 we've got a lot to do so be back in here at
14 2:15.

15 **(WHEREUPON, the Court goes off the record at**
16 **approximately 1:18 p.m.)**

17 **(WHEREUPON, the Court goes on the record at**
18 **approximately 2:32 p.m.)**

19 **THE COURT:** All right. The State has
20 rested. I'll be glad to hear from the defendant.

21 **MR. WARDER:** Your Honor, on behalf of my
22 client, I'd move for a directed verdict on the
23 charge of conspiracy to traffic 400 grams. The
24 State's failed to prove my client was involved
25 in the conspiracy, if it existed. I don't think

1 there's any sufficient evidence of that to go to
2 the jury. I also think that the State has put up
3 a little less than 200 grams of actual analysis
4 of methamphetamine with no evidence that
5 anything else was meth. There is insufficient
6 evidence to charge him with trafficking 400
7 grams.

8 **THE COURT:** I, believe that there's been
9 sufficient evidence. I think there was even
10 evidence by certain individuals that there was
11 at least a pound and a half on several
12 occasions, that it was meth, in addition to the
13 chemical analysis. So I think at this stage,
14 that's a question for the jury, so I'm going to
15 deny your motion. All right. Anything else?

16 **MR. WARDER:** No, sir.

17 **THE COURT:** All right. In chambers, there
18 was an indication that we need to discuss if the
19 defendant wanted to testify or not. Is that
20 correct?

21 **MR. WARDER:** Yes, sir.

22 **THE COURT:** All right.

23 **MR. WARDER:** I've talked to my client and
24 my client has indicated to me he wishes to take
25 the stand and testify.

1 **THE COURT:** All right.

2 **MR. WARDER:** I've told him a little bit
3 about his right not to do that. I think he's
4 choosing to go ahead and testify.

5 **THE COURT:** All right. Mr. Duncan, if you
6 will, stand and raise your right hand.

7 **(WHEREUPON, Mr. Duncan is first duly sworn.)**

8 **THE COURT:** All right. This isn't about --
9 this isn't your testimony. This is just -- I'm
10 going to explain to you your rights and make
11 sure you understand them so that if you do
12 decide to take the stand, you've fully been
13 advised of your rights. As you are well aware,
14 the State has rested their case. Okay? And now,
15 it's up to you and your attorney to decide
16 whether y'all want to present any evidence or
17 not. You know, you have an absolute right --
18 first of all, this is totally your decision. You
19 know, you can get advice from your attorney,
20 but, ultimately, it is your final decision.

21 Now, you have the right to remain silent
22 and nobody can make you testify. That's your
23 Fifth Amendment right where it actually says no
24 person shall be compelled in any criminal case
25 to be a witness against himself. Okay? Which

1 means you don't have to testify. The State still
2 has the burden of proof whether you testify or
3 not. Okay?

4 Now, if you decided not to testify, the
5 jury would be instructed that they can not, even
6 consider that in any way in their deliberations.
7 They are not to hold it against you. It's still
8 up to the State to meet that burden. Okay?

9 Now, if you testify, you are subject to the
10 same rules as any other witness as far as cross-
11 examination and stuff like that. Also, you would
12 have -- you could be subject to -- any criminal
13 record that you have could be brought during
14 cross-examination. That is subject to my ruling.

15 But before we get on that, what is his
16 criminal record that could poss -- that you
17 would be using?

18 **MR. UNDERWOOD:** Your Honor, from -- there
19 are a number of older convictions that the State
20 is not seeking to admit, Your Honor. However,
21 convictions starting from 2004 for Reckless
22 Homicide, Driving Under the Influence third,
23 Criminal Domestic Violence High and Aggravated,
24 Use of a Vehicle without Permission. There's an
25 Assault and Battery third degree charge that

1 could only come in under character evidence if
2 it's brought up, Your Honor. There's a
3 Possession of Methamphetamine first offense
4 charge from 2013, Shoplifting offenses from 2013
5 and then his current pending charges, Your
6 Honor.

7 **THE COURT:** All right.

8 **MR. WARDER:** My client says that out of
9 that, two of those are not his convictions. He's
10 never been arrested for shoplifting. My client
11 wants me to check his criminal --

12 **THE COURT:** All right. Well, y'all --

13 **MR. DUNCAN:** Sir, I never have had a
14 shoplifting.

15 **THE COURT:** All right. Discuss that with
16 your attorney there.

17 (WHEREUPON, there is a pause.)

18 **MR. WARDER:** Your Honor, we sorted
19 through! We had tons of stuff. I think his
20 criminal record is one thing I didn't bring with
21 me.

22 **MR. UNDERWOOD:** You can look at mine.

23 (WHEREUPON, there is a pause.)

24 **MR. WARDER:** Your Honor?

25 **THE COURT:** Yes.

1 **MR. WARDER:** From looking at the State's
2 record, it appears that there was a Joseph
3 Emmanuel Duncan that got charged for
4 shoplifting. For some reason, it's on Jimmy's
5 record.

6 **MR. UNDERWOOD:** That's fine, Your Honor.
7 The State won't seek to use the Shoplifting.

8 **THE COURT:** All right.

9 **MR. UNDERWOOD:** We believe the rest of
10 the --

11 **THE COURT:** The rest of it, though,
12 there's not an issue with the rest of it as far
13 as whether it's --

14 **MR. WARDER:** No, Your Honor. He had never
15 been convicted of Assault and Battery third. It
16 was a greater charge that apparently was
17 reduced. He says that he now remembers that he
18 did plead guilty to get out of jail.

19 **THE COURT:** Okay.

20 **MR. WARDER:** On the Assault and Battery.

21 **THE COURT:** But no issue with the other
22 charges though?

23 **MR. WARDER:** No.

24 **THE COURT:** And you're not going to go
25 with the shoplifting?

1 **MR. UNDERWOOD:** Correct, Your Honor.

2 **THE COURT:** Okay. All right. Y'all want to
3 chat a minute?

4 **MR. WARDER:** Yeah, I want to chat just a
5 minute with him.

6 **THE COURT:** Okay.

7 **(WHEREUPON, there is a pause.)**

8 **MR. WARDER:** Your Honor, now my client
9 tells me he will not take the stand.

10 **THE COURT:** Okay. I'm going to still go
11 ahead and finish my questions to make sure that
12 it --

13 **MR. WARDER:** Yeah.

14 **THE COURT:** All right. As I said, if you
15 do take the stand -- I'm going to kind of go
16 through this and then I'm going to ask you at
17 the very end of this what your decision is. It's
18 totally up to you. As indicated, if you take the
19 stand, you will be cross-examined. You heard the
20 criminal record that could be used -- that you
21 could be asked about. Again, it's your decision.
22 It's got to be freely and voluntarily made and
23 intelligently made. You understand your rights
24 to testify and not to testify; is that correct?

25 And I told you about the failure to

1 testify. What I will instruct the jury is they
2 can't consider that against you in any way.
3 Also, as I think probably your attorney has told
4 you, there's strategic reasons -- which are
5 totally up to y'all -- but there are strategic
6 reasons of why not to testify under the rules
7 that you and your attorney may -- that you need
8 to decide if the strategic reasons outweigh your
9 ability to -- your right to testify. All that
10 kind of goes into your decision. I guess now, do
11 you understand everything I explained to you
12 about your right to testify?

13 **MR. DUNCAN:** Yes.

14 **THE COURT:** Do you have any questions --
15 all right. Do you have any questions whatsoever
16 of the Court of your right to testify at this
17 point?

18 **MR. DUNCAN:** No, sir.

19 **THE COURT:** Okay. Do you need any
20 additional time to discuss with your attorney?

21 **MR. DUNCAN:** No, sir.

22 **THE COURT:** Okay. And at this time, after
23 knowing your right to -- what do you wish? Do
24 you wish to testify or not?

25 **MR. DUNCAN:** No.

1 **THE COURT:** You do not wish to testify.

2 And that is your decision?

3 **MR. DUNCAN:** Yes, sir.

4 **THE COURT:** Is that a decision you are
5 making freely and voluntarily and on your own
6 regards?

7 **MR. DUNCAN:** (No audible response.)

8 **THE COURT:** Okay. Is that correct?

9 **MR. DUNCAN:** Yes, sir.

10 **THE COURT:** All right. And that's what you
11 want to do?

12 **MR. DUNCAN:** Yes, sir.

13 **THE COURT:** All right. Well, with that
14 being said, just to kind of let you know, then
15 at this point, we will go forward with the
16 closing arguments by the attorneys. Then we will
17 give them the charge on the law and let the case
18 go to the jury at that point. Now, with that
19 being said, do we need a few more minutes then
20 for everybody to just kind of readjust for a few
21 minutes?

22 **MR. UNDERWOOD:** Yes, Your Honor. Just a
23 couple of minutes.

24 **THE COURT:** All right. All right. We will
25 -- I will give y'all 10 minutes.

1 **MR. UNDERWOOD:** Yes, Your Honor.

2 **THE COURT:** All right. 10 minutes. And
3 then we will --

4 **MR. WARDER:** Your Honor --

5 **THE COURT:** Y'all want to look at the
6 verdict form?

7 **MR. WARDER:** I guess I need the record to
8 reflect that I renewed my motions before the --

9 **THE COURT:** Okay. All right. And I think
10 based on the previous analysis, I will deny your
11 motions at this point.

12 **MR. WARDER:** Yes, sir. I just didn't want
13 somebody to say --

14 **THE COURT:** No, I understand. Y'all want
15 to look at the verdict form, too? All right.
16 We'll take a break for 10 minutes.

17 (WHEREUPON, a recess is taken from approximately
18 2:45 p.m. to 2:58 p.m.)

19 **THE COURT:** Bring the jury in.

20 **MR. UNDERWOOD:** Your Honor, I intend to use
21 some demonstrative boards during my closing. I
22 wanted the Court and Mr. Warder to see them in
23 case there are any objections to them.

24 **THE COURT:** All right. And y'all looked at
25 the verdict form?

1 **MR. UNDERWOOD:** No objections to that, Your
2 Honor.

3 **THE COURT:** Any objections from the
4 defendant?

5 **MR. WARDER:** No, sir.

6 **THE COURT:** All right.

7 **MR. UNDERWOOD:** Your Honor, these -- I'm
8 showing to Mr. Warder, first, a board with the
9 elements of trafficking.

10 **THE COURT:** Do you have any objection to
11 them?

12 **MR. WARDER:** No, the only thing I ask is
13 that they don't try to leave them set up while I
14 do my closing argument.

15 **THE COURT:** I'm sure you can yank them
16 down with disgust.

17 **MR. WARDER:** Your Honor, really, probably
18 due to the assignment of responsibility over
19 there --

20 **THE COURT:** Well, I think that's -- I
21 mean, I think he can argue that. All right.
22 Anything further before we bring the jury out?

23 **MR. UNDERWOOD:** Nothing further, Your
24 Honor.

25 **THE COURT:** All right. Bring them in.

1 And y'all's decision is still the same,
2 correct, about testifying?

3 **MR. WARDER:** Yes, sir.

4 **THE COURT:** Okay.

5 **(WHEREUPON, the jury enters at approximately**
6 **3:00 p.m.)**

7 **THE COURT:** All right. Ladies and
8 Gentlemen, thank you for your patience. I know
9 we didn't bring you out quite when we were ready
10 to, but as I said, we had a few matters to go
11 over before we -- during the break. The State
12 has rested, and the defendant has elected to
13 proceed with closing arguments and jury charge.
14 So all of the evidence is in at this point.

15 Now, we're going to hear closing arguments.
16 Closing arguments is not evidence. The evidence
17 is what you've heard here already. At this time,
18 you'll hear closing arguments from the
19 attorneys. After that, I will charge you on what
20 the law is that applies to this case. So if you
21 will, devote your attention to the attorneys at
22 this point.

23 **MR. UNDERWOOD:** Please the Court, Your
24 Honor.

25 **THE COURT:** Yes, you can proceed.

1 **MR. UNDERWOOD:** At the beginning of this
2 case, Mr. Fernandez told you that this case is
3 straight forward. He told you that we would be
4 presenting volumes of evidence in this case. And
5 we've done that. We've presented a lot of
6 evidence, a lot of evidence. That is something
7 that I can not apologize for. This has taken a
8 long time. We tried to move as quickly as we
9 could, but I can not apologize for all of the
10 evidence that we've presented to you.

11 We have a burden. We have a burden that we
12 must prove Jimmy Duncan guilty beyond a
13 reasonable doubt of trafficking more than 400
14 grams of methamphetamine by way of a conspiracy.
15 That's not a burden that can be taken lightly by
16 us. It's not a burden that can be taken lightly
17 by anyone. I apologize for the time that you
18 have graciously given us and I apologize for all
19 of the evidence that we have presented to you.

20 Before I go into all of that evidence, I
21 want to tell you just a little bit about what a
22 conspiracy is. Now, after our arguments, the
23 judge is going to give you the full definition
24 of the law. I'm not going to give you all that.
25 I'm going to give you a small version just so I

1 can explain why we've really been here all week.

2 The defendant is charged with trafficking.
3 That's a word that people hear on TV all the
4 time. People watch "Miami Vice". We all hear
5 trafficking. A lot of people don't know what
6 that really means other than what we see on TV.
7 This is what trafficking is, when someone is
8 charged with trafficking, the State has to prove
9 that they either sold, manufactured, cultivated,
10 delivered, purchased, brought into South
11 Carolina or they somehow provided financial
12 assistance, assisted someone else or, most
13 importantly for this trial, conspired to set up,
14 manufacture, cultivate, deliver, purchase or
15 bring into this state methamphetamine.

16 In this case, we're talking about 400 grams
17 or more of methamphetamine and we're talking
18 about a conspiracy. You've heard a lot of
19 evidence about it. You've heard that word thrown
20 a lot. What's a conspiracy? It's not
21 necessarily about the people who killed John F.
22 Kennedy. It's not about Hollywood movies.
23 Conspiracy is actually pretty simple. To prove
24 the existence of a conspiracy, we had to prove
25 to you that there was an agreement between two

1 or more people for the purpose of a criminal or
2 unlawful objective or a lawful objective by
3 criminal means. What does that mean? That means
4 either two people agreed to do something
5 criminal or they agreed to do something but they
6 had to do something criminal to do it.

7 Now, a lot of people think of a conspiracy
8 as something from the movie "National Treasure
9 2" where there are people in hidden little
10 corners whispering amongst themselves. It's not
11 necessarily got to be like that. There doesn't
12 have be a formal meeting where people get
13 together and discuss a detailed plan. For a
14 conspiracy to exist, it doesn't even have to be
15 spoken in words. People can conspire together
16 with a mutual understanding for common goals. If
17 that mutual understanding is to engage in
18 criminal activity and they've agreed to do,
19 implicitly or expressly by words amongst them,
20 they've entered a conspiracy. The conspiracy is
21 already finished.

22 The person doesn't have to actually do
23 anything. The whole point of a conspiracy is
24 this word right here, "agreement." The moment
25 someone agrees to enter into this criminal

1 enterprise, they are guilty of a conspiracy. The
2 drug trafficking case, that means as soon as
3 someone agrees to enter into that enterprise,
4 they are guilty without having touched a single
5 gram of drugs, without exchanging a single
6 document. They are already guilty.

7 In fact, in a criminal conspiracy, a person
8 doesn't even need to know who all the other
9 conspirators are. All they have to know is
10 they've conspired with at least one other person
11 for that common unlawful goal. They don't need
12 to know who everyone else is or whatever
13 everyone else is doing. Once a person has joined
14 into a conspiracy, they are guilty of a whole
15 conspiracy, no matter how small their part is.
16 In for a penny, in for a pound, in for a gram,
17 in for a kilo. That's the law.

18 Now, as part of proving our case for
19 conspiracy, we have to establish to you a
20 certain amount. Our magic number is 400 grams.
21 Did this conspiracy involve 400 grams or more of
22 methamphetamine? I want you to realize that 400
23 grams is less than a pound. 400 grams is 400 and
24 -- well, excuse me. A pound is 454 grams. So 400
25 is less than a pound. If someone has entered

1 into a pound of drugs, a pound of
2 methamphetamine, they are already over that
3 threshold amount for trafficking. That's what
4 makes trafficking trafficking. It's not what a
5 person does. It's how much drugs. That's what
6 makes it trafficking. It's the amount. So for
7 all those "Miami Vice" episodes, now it's clear.
8 How much drugs is what makes it trafficking. In
9 the State of South Carolina, trafficking 400
10 grams or more is the offense that we're here for
11 today.

12 Now, that's the law. I want to talk a
13 little bit about this case and explain to you
14 why we have done more than our burden requires
15 to prove guilt beyond any reasonable doubt. We
16 spent the last few days talking about a drug
17 trafficking organization. You've heard
18 testimony. You've heard recordings. We've
19 entered recordings that haven't been played for
20 you but you are more than happy to listen to
21 them. They are in evidence. You can listen to
22 any and all recordings as much as you want to.
23 In the interest of time, we've only played a
24 few.

25 We've played recordings. We've had

1 testimony. We've had all this physical evidence.
2 What does that show? It shows that Jorge David
3 Martinez, better known as Cheese through the
4 people you've heard from, was bringing in a lot
5 of methamphetamine. He was bringing it in by
6 the kilo from Atlanta. What was he doing? He was
7 bringing it to Greenville. What did he do with
8 it when he got to Greenville? He didn't sit on
9 it. He didn't store it. He sold it that fast.

10 He was funneling methamphetamine into this
11 state. Why was he doing that? It's pretty clear.
12 To make money. He didn't use drugs. That's a lot
13 of methamphetamine for one person, anyway. He
14 was making money. How was he going to make
15 money? By selling those drugs and having people
16 sell for him, like Nicole Hogue, Larry Coleman,
17 who you've heard called Bubba, and Papi, and
18 Tracy Rumsey that he sold to who would then
19 resell those drugs, people who worked for Nicole
20 Hogue, Matthew Carter, Timothy Ross, people even
21 further down the chain, Jeffrey Mauldin. You've
22 heard talk about Karen Collins who was selling
23 drugs. Teresa Davis was selling drugs. Kimberly
24 Turner was selling drugs. Brandy O'Bryant was
25 selling drugs. Stacey Lynn Kelley was selling

1 drugs. All of them were selling methamphetamine.
2 They weren't selling user amounts. They were
3 selling a lot of methamphetamine.

4 Where is Jimmy Duncan in all this? Right in
5 the middle. He wasn't, as was suggested to you
6 in opening statements, on the fringe of some
7 drug world. He was right in the center of it. He
8 was getting meth from Nicole Hogue, ounces at a
9 time. Then when she got arrested, you heard the
10 calls. You heard Jimmy Duncan talking to Nicole
11 Hogue about trying to get connected to her
12 source, Cheese.

13 You heard the call between Nicole Hogue
14 talking to Cheese. Hey, that old guy, that's who
15 you need to talk to. That's the guy who's going
16 to be operating using my name. Don't talk to any
17 of those other guys, like Jeff Mauldin, and you
18 heard the name Jamie Marchbanks. She said don't
19 mess with them anymore. The only one that I'm
20 vouching for, the only one that's with me was
21 Jimmy. And in case there was any doubt, remember
22 that last phone call. She was talking to Cheese.
23 Nicole Hogue said the one you need to talk to is
24 Jimmy, Jimmy Duncan. She used his whole name.
25 First and last. There's no doubt who she was

1 talking about.

2 And you heard the calls to Jimmy talking
3 about trying to get up with Cheese. You heard
4 plenty of evidence that he did, in fact, connect
5 with Jorge David Martinez, better known as
6 Cheese, that he would buy drugs from. It started
7 off in ounces and quickly moved up to a pound at
8 a time, a pound at a time. Remember what we said
9 about a pound? That's more than 400 grams right
10 there.

11 Second, you heard testimony from David
12 Martinez. What did he say? He said we agreed to
13 sell pounds at \$11,000. That statement alone is
14 enough to convict Jimmy Duncan. There was an
15 agreement to sell methamphetamine, more than 400
16 grams worth. That's guilt right there. But it
17 didn't end at just one pound. It was multiple
18 pounds on a regular basis for a significant
19 period of time.

20 Now, it was suggested to you that Jimmy
21 Duncan was just a user of methamphetamine and
22 was a generous man who would give meth to his
23 friends. He was kind and polite. Who else is
24 kind and polite in our society? Salesmen. Who
25 told you that he was kind and polite? His

1 customers. The people who said he was kind and
2 polite were Stacey Kelley, Kimberly Turner. Why
3 would he be kind and polite to them? So that
4 they would come back and buy his drugs, which
5 they did frequently. Half ounces, whole ounces
6 at a time, multiple times a week for the better
7 part of a year. Ladies and Gentlemen, there was
8 so much talk about how much meth people were
9 buying in this group, I lost count. I lost
10 count. That's way past 400. Way past 400.

11 Now, in case there were any doubt that you
12 would think these are all drug dealers who are
13 up here testifying, why should we believe them?
14 Maybe Jimmy Duncan really was just a little user
15 and these people are all trying to frame him.
16 It's not just people's word, it's cold hard
17 evidence.

18 These items that were found in the search
19 warrant show you what the world of drug
20 trafficking looks like. Drug traffickers who are
21 worried about getting robbed and being busted by
22 the police, they are the ones who have
23 surveillance cameras pointed all the way down
24 the street. They keep guns all over their house
25 so that someone doesn't try to rob them. Why

1 would people want to rob them? Because drug
2 dealers have lots of cash.

3 You looked in his house. You saw drugs just
4 sitting around. Drugs just sitting around on the
5 counter ready for people to use. If you make the
6 place hospitable for drug users, you're going to
7 have drug customers. See all this drug
8 paraphernalia here? You've got syringes if you
9 want them.

10 You've got little baggies to sell drugs.
11 How much do you want? You want a quarter ounce?
12 A quarter spoon? That's what they called it.
13 Well, guess what? I've got a spoon with meth all
14 over it. I've got a digital scale. I've got
15 other digital scales. Just in case you want a
16 lot, I've got a big digital scale. That's not
17 what a user keeps around, Ladies and Gentlemen.
18 That's what a trafficker has in their home.

19 Where was it kept? It was kept in this
20 safe. It wasn't just a little bit on a CD case.
21 It was a lot more than that, a whole lot more
22 than that. The safe had to be broken open.
23 What'd they find when the police went in there?
24 They found methamphetamine and they found rolls
25 of cash. Rolls of cash don't stick around drug

1 users who's just using and getting high all the
2 time. They are scraping to get by to get their
3 drugs. The people who have lots of cash are the
4 dealers. Not just the little street dealers, the
5 big dealers.

6 You saw the pictures on his phone. You've
7 got three different phone numbers for Cheese
8 under three different names. If he just bought
9 from Cheese one pound one time, because he
10 wanted to stock up with his settlement money to
11 be able to smoke meth forever, why do you have
12 three different phone numbers for him? Because
13 he was a regular customer and he had to keep up
14 with all the drug dealers' numbers.

15 He had Nicole Hogue's phone number in his
16 phone. He had her mother's phone number in his
17 phone. So clearly, they did know each other. And
18 we've got all these text messages from Stacey,
19 who testified, asking to buy half an ounce. "Got
20 cash. Can I get a half an ounce?" Text messages
21 from people who weren't even here trying to get
22 drugs. So clearly, he wasn't just giving money
23 -- excuse me -- giving meth to his friends. This
24 was a business.

25 You want to know how you can tell it's a

1 business? Look at this ledger and judge for
2 yourself. You determine for yourself what does
3 it mean. Brandy paid 800 and got a ball. You've
4 heard that word "ball" before, didn't you?
5 That's an eightball. That's three and a half
6 grams of methamphetamine. She paid \$800. You've
7 heard a lot of talk about all these items that
8 were taken that weren't drugs. That's what
9 people were using to get their drugs.

10 You've heard the recordings. You've heard
11 his voice. You saw a video. You saw that
12 methamphetamine come out of the safe three days
13 before the search warrant. Now, you judge for
14 yourself if that bag looks more full here than
15 it does here when there were a couple of other
16 bags added to it. Ask yourself what happened to
17 that meth.

18 It was suggested that Mr. Duncan would
19 generously give meth to his friends. It was a
20 party house. He gave it away. Does that look
21 like he was giving it away? Counting his money?
22 Yeah, he'll give his friends meth for \$1000 an
23 ounce. That's not a friend. That's a drug
24 dealer.

25 This nice guy stuff, that he was nice to

1 his customers. You heard his true colors come
2 out in those jail calls to Nicole Hogue. He was
3 talking about Jeff Mauldin messing up his money.
4 He messed up his business. He was going to do
5 what? He was going to bust a cap in him with his
6 nine. How do we know that wasn't an idle threat?
7 Because he had one. He had a 9 millimeter pistol
8 in his bedroom right there by his drugs. Does
9 that sound like somebody who was just giving
10 meth to their friends or does that sound like a
11 businessman?

12 It was suggested Jimmy Duncan was just
13 selling a little bit here and there so that he
14 would get high. You heard Jeffrey Mauldin make
15 the comparison that he was a lot like him. He
16 was a second father to him, in fact. What did
17 Jeffrey Mauldin tell you about his real father?
18 His real father was a methamphetamine
19 conspirator. What do you think his second father
20 is going to be like? We'll talk more about
21 Jeffrey Mauldin in a minute.

22 When we're talking about the amounts of
23 methamphetamine that we're dealing with here,
24 you remember when Timothy Ross was on the stand.
25 Timothy Ross worked for Nicole Hogue. He didn't

1 even work directly for Jimmy. He worked over
2 here for Nicole. When we asked him about how
3 much meth would someone use and we talked about
4 the amounts that Jimmy Duncan was distributing
5 out, quarter ounces and half ounces, you saw the
6 look of shock on his face. They almost laughed
7 at me when I suggested that would be a user
8 amount.

9 Agent Woodring told you that a typical user
10 would use less than this, less than this. A
11 quarter of this, in fact, is what he said. A
12 quarter of a pack of sweetener. When you look at
13 how much is actually in there, it's only about
14 that much, the whole thing. A quarter of that.
15 Jimmy Duncan didn't distribute that
16 (Indicating). He distributed that (Indicating)
17 and that (Indicating) and that (Indicating) and
18 hang on to this (Indicating). Ask yourself how
19 many sugar packets are in there (Indicating).

20 Jeffrey Mauldin said that Jimmy Duncan was
21 just like him, his best customer, because Jimmy
22 Duncan would use methamphetamine. But what else
23 did Jimmy Duncan say? I'm sorry. What else did
24 Jeffrey Mauldin say? Jeffrey Mauldin said he was
25 guilty of being in a conspiracy. He said that

1 Jimmy Duncan was just like him but he said that
2 he, himself, was guilty of this conspiracy.
3 Jeffrey Mauldin is down here. Jimmy Duncan is in
4 the middle.

5 Ladies and Gentlemen, I'm not going to take
6 up any more of your time. We have a burden to
7 prove to you that Jimmy Duncan was guilty of
8 conspiring to traffic more than 400 grams of
9 methamphetamine beyond a reasonable doubt, but
10 we've done more than that. Ladies and Gentlemen,
11 you've seen all this evidence. There is no
12 doubt, no doubt that Jimmy Duncan is guilty of
13 trafficking methamphetamine. He didn't only
14 conspire to do it, he did it.

15 Now, the burden is yours to determine the
16 truth and reach a verdict. When you look at this
17 evidence, the answer is clear. The verdict is
18 guilty. Thank you.

19 **THE COURT:** Mr. Warder?

20 **MR. WARDER:** Thank you, Your Honor.

21 Ladies and Gentlemen, the prosecution told
22 you their theory on this crime in this case.
23 They started off by telling you it will be the
24 most scary thing you've ever heard, that you
25 don't have to really even do anything to be

1 guilty of conspiracy. You don't have to do
2 anything to be guilty of conspiracy. Exactly
3 what they told you a few minutes ago. They said
4 all you need is to agree, and that it doesn't
5 have to be in words.

6 Under the theory that this case is
7 prosecuted, everybody that's smoked any
8 marijuana is guilty of trafficking because
9 there's the bigger guy who sells it and there's
10 a bigger guy who brings it in, and you're some
11 little part of that, so you're guilty.

12 **THE COURT:** Mr. Warder, can you speak up?

13 **MR. WARDER:** I'm sorry. My hearing aid
14 sometimes --

15 **THE COURT:** Okay.

16 **MR. WARDER:** I adjust my volume by how
17 loud I hear my own voice, and I apologize.
18 (Pause.)

19 That should help y'all. I'll have to talk
20 louder to hear myself. The idea that you don't
21 have to be all in in a conspiracy doesn't sound
22 right, doesn't sound fair. His Honor will tell
23 you the law and you take the law as it comes
24 from His Honor. While it's your job to decide
25 the facts, His Honor will tell you what the law

1 is in this case. I will tell you that this case,
2 like most cases that involve a lot of people,
3 there is a fall guy, somebody who gets most of
4 the blame. I submit to you that's Jimmy Duncan.

5 Now, the Solicitor has used all kinds of
6 things and all kinds of generalizations that are
7 just not true. Everybody that has cameras is not
8 involved in criminal activity. The testimony was
9 that there were cameras down the street.
10 Somebody said that they thought the camera
11 looked down the street and that's why they
12 didn't park the police car in that direction.
13 Their interpretation of cameras is that they are
14 criminal tools that criminal people get, that no
15 one uses them lawfully.

16 This is a case that the State does have to
17 prove beyond a reasonable doubt. I submit to you
18 that that's not what's been done here.
19 Reasonable doubt, there's two kinds. There's a
20 reasonable doubt that arises from the evidence.
21 A reasonable doubt that comes from the evidence
22 would be a reasonable doubt that, after you
23 heard it, it didn't go together. It didn't make
24 sense. It didn't sound like the truth. In other
25 words, it's from the testimony you heard. After

1 you've heard it and analyze it, it doesn't make
2 sense. It doesn't sound like the whole story has
3 come out.

4 The other kind of reasonable doubt comes
5 from the lack of evidence. That's when there's
6 something you need to fairly decide a case, and
7 it's not here.

8 Now, in this case, we're charged with a
9 very specific crime, trafficking in excess of
10 400 grams. In real physical drugs, when you
11 added up the weight, it's in the neighborhood of
12 150 grams. That's all they recovered out of all
13 of this.

14 It isn't that it's just short there.
15 Everybody says there was more and he was
16 involved in another way. Everybody who said that
17 had something to gain. They had been -- had big
18 reductions in their charges. They were all
19 facing this 30 years. As one girl said, she's
20 only facing 23 -- 7 now, 23 years less, because
21 of her testimony because she was here to furnish
22 that testimony and she was given something for
23 it.

24 You know, what people say is a funny thing.
25 You can -- you can't buy everything. When it

1 comes to buying things, I submit to you when
2 people are really facing it, freedom is more
3 important than money. These people were offered
4 something that money can't buy, their freedom or
5 a lesser sentence, shortened periods of
6 incarceration, regaining freedom quickly. They
7 were gaining something very valuable. These are
8 people that were not just telling you as it is,
9 they were trying to get a benefit.

10 Now, when you think about what money can
11 do, it can give you things or apparent things.
12 Money can't give you love. I don't think it's
13 real if somebody only loved you because they
14 have money or you get money. You've not gotten
15 true love.

16 Money can't give you friendship. If someone
17 is only your friend because of money, it's not
18 true friendship. Money can't give you loyalty.
19 Because if loyalty comes only from money, the
20 loyalty will go to the next person that offers
21 more money.

22 You can't get truth. You can't get truth by
23 trading something valuable. If you're only
24 getting the truth that's told, it's not the real
25 truth. Bought truth is not truth. It may appear

1 like it. That's what's in this case.

2 This case is that people are testifying for
3 something that money can't buy, their freedom.
4 Its value to them is greater than money. This
5 case turns on the testimony of people that are
6 testifying for benefit, for pay, to cast Jimmy
7 Duncan in the worst possible light.

8 I submit to you Jimmy Duncan is not a drug
9 trafficker. When they talked about Jimmy Duncan,
10 remember Jimmy was his best customer. Jimmy used
11 drugs and sometimes sold drugs to his friends,
12 but not 400 grams. He was not part of a
13 conspiracy or an agreement to do anything. He
14 wasn't in a criminal enterprise, just like
15 everybody that smoked marijuana is not part of
16 some conspiracy.

17 Everybody that touches drugs is not part of
18 a conspiracy. It doesn't prove all are involved
19 in drugs. It takes an agreement, an agreement to
20 be part of a conspiracy. You have to join the
21 conspiracy. It can't join you. Now, in this
22 particular case, don't let -- don't be fooled by
23 the bought testimony that makes Jimmy the fall
24 guy.

25 In the English system of law, where we get

1 our common law from, the jury doesn't return a
2 verdict of guilty or not guilty, they return a
3 verdict of proven or unproven. That's a good way
4 to think of what your job is, because what a
5 jury really does, what your job is a job to
6 weigh evidence. You are to decide if the greater
7 weight of the evidence is so powerful that it
8 proves beyond all reasonable doubt that the
9 defendant is guilty. You weigh it to see if
10 there's that much. This is a criminal case.

11 Criminal cases are different than all other
12 cases in court. In a civil case, where somebody
13 is out to take your money, to punish you by
14 damages, the State -- the plaintiff in those
15 cases has to prove its evidence by the
16 preponderance of the evidence or the greater
17 weight of the evidence. In a -- an arrest, of
18 course our police has to have probable cause. To
19 add punitive damages, where the law punishes you
20 for conduct, it has to prove by clear and
21 convincing evidence. In a criminal case, it has
22 to be beyond all reasonable doubt. I submit to
23 you that that burden is a powerful burden that
24 requires evidence such that it can not leave you
25 wavering.

1 Reasonable doubt has been defined in South
2 Carolina as a kind of evidence that would make
3 someone hesitate to act. I submit to you that
4 evidence and testimony in trials hinge largely
5 upon people that are testifying to save huge
6 amounts of time in prison, is evidence that
7 should make you hesitate to act upon it because
8 the people giving it have so much to gain.

9 In this case, I submit to you that there's
10 reasonable doubt that Jimmy Duncan is part of
11 that conspiracy. He might have been a customer
12 of it, but he wasn't a member. Listen to His
13 Honor tell you about conspiracy, and then apply
14 that law to these facts. And I'll submit to you,
15 in that case, you'll come back with a fair and
16 just, and the right verdict, the verdict of not
17 guilty. Thank you very much.

18 **THE COURT:** All right. Ladies and
19 Gentlemen, all the evidence has been presented,
20 the attorneys have given their closing argument
21 and now it's up to me to tell you what the law
22 that you must apply. At that point, you'll be
23 able to go back to your jury room and you can
24 finally discuss the case. That's called
25 deliberations. Your decision -- your question

1 that's going to be asked is, is the defendant
2 guilty or not guilty of the charges that are
3 before you.

4 First, you've heard reference to -- that
5 Mr. Duncan was indicted and he was charged and
6 he was arrested. That's not to be considered by
7 you in any way at all in your deliberations.
8 Those are merely the formal documents, the
9 formal charging process to bring this matter
10 before the court. It's the written instrument
11 that brings the charges against the defendant.
12 But it's up to you to determine if the evidence
13 presented in this courtroom has proven beyond a
14 reasonable doubt that he's guilty of these
15 charges; and if not, then you must find him not
16 guilty.

17 The defendant has pled not guilty to this
18 indictment, and that puts the burden of proof on
19 the State. A person charged with committing a
20 criminal offense is never required to prove
21 himself innocent.

22 They have a presumption of innocence and
23 that's the law in our country, and it's not just
24 a vague legal phrase or some matter just -- a
25 legal -- it's a really strong part of our

1 criminal system and our constitution. A person
2 is presumed innocent and unless that guilt is
3 proven by the evidence satisfying you beyond a
4 reasonable doubt that he is guilty. This
5 presumption does not end or begin with the
6 evidence. It ends once you have reached your
7 verdict.

8 The presumption of innocence is commonly
9 referred to kind of like a robe of righteousness
10 that's placed about the shoulders of a
11 defendant. And that is -- it stays there until
12 you, the jury, have decided that the State has
13 met their burden.

14 The presumption of innocence is not merely
15 a legal theory. It is not a legal phrase. It's
16 a substantial right to which every defendant is
17 entitled unless you, the jury, are satisfied
18 from the evidence beyond a reasonable doubt.

19 Okay. We kept using this phrase reasonable
20 doubt. What does reasonable doubt mean? A
21 reasonable doubt is the kind of doubt that would
22 cause a reasonable person to hesitate to act.

23 Proof beyond a reasonable doubt is proof
24 that leaves you firmly convinced of the
25 defendant's guilt. There are very few things in

1 this world that we know with absolute certainty,
2 and in criminal cases, the law does not require
3 proof that overcomes every possible doubt. If,
4 based on your consideration of the evidence, you
5 are firmly convinced that the defendant is
6 guilty of the crime charged, then you must find
7 the defendant guilty. If, on the other hand,
8 you find that there is a real possibility that
9 the defendant is not guilty, then you must give
10 the defendant the benefit of the doubt and find
11 him not guilty. In other words, the State did
12 not meet their burden.

13 There are two different duties that the
14 jury -- you, the jury, and me, as the judge,
15 play in this trial. As the trial judge, it is my
16 responsibility to preside over the trial of the
17 case, and I also have the duty to rule on the
18 admissibility of the evidence offered during the
19 trial..

20 You are to consider only the competent
21 evidence which was placed before you. If any
22 testimony was ordered stricken from the record
23 in the trial, then you must disregard that
24 testimony. You are to consider only the
25 testimony and evidence which has been presented

1 from the witness stand or the exhibits which are
2 before you.

3 I have the duty also to charge you on the
4 law. Now, the law is not what you think it is
5 from TV or what you've heard it is or what you
6 think it should be. When you took the oath to
7 administer the law that I gave you, that's what
8 you did is you are to apply the law that I'm
9 giving you here right now regardless of if you
10 had some different thoughts about that.

11 You are the sole and exclusive judge of the
12 facts. That's totally up to you. I can not
13 comment on the facts. I can not -- I do not --
14 I'm not entitled to have an opinion on the
15 facts. If anything I did or said made you think
16 that I had an opinion on the facts or referred
17 to something about the facts, please disregard
18 that. You are to determine the facts. That's
19 your sole role as the jury. Nobody can take that
20 from you. So that's up to you.

21 There are two types of evidence that you
22 deal with in a trial: it's direct evidence and
23 circumstantial evidence. Direct evidence is the
24 testimony of a person who claims to have actual
25 knowledge of a fact, such as an eyewitness. It

1 is evidence which immediately establishes the
2 main fact to be proved.

3 Circumstantial evidence is a chain of facts
4 or chain of events indicating the existence of a
5 fact. It is evidence which immediately
6 established collateral facts from which the main
7 fact may be inferred. Circumstantial evidence
8 is based on inference and not necessarily on
9 the personal knowledge or observation of a
10 witness.

11 The law makes no distinction between the
12 weight or value which you are to give to direct
13 or circumstantial evidence, nor is a greater
14 degree of certainty required of circumstantial
15 evidence than of direct evidence. You are to
16 weigh all of the evidence and you give them the
17 weight that you feel like is appropriate. If you
18 are not convinced of the guilt of the defendant
19 beyond a reasonable doubt from the direct or
20 circumstantial evidence, then you must find the
21 defendant not guilty.

22 One of the things that you must determine
23 in determining the facts is the credibility of
24 witnesses presented. Credibility is really
25 another name for believability. It's your duty

1 to analyze and evaluate the evidence and
2 determine which evidence convinces you of the
3 truth. That's what you're seeking here. Verdict
4 means truth.

5 In determining the believability of a
6 witness who has testified, you may believe one
7 witness over several witnesses or several
8 witnesses over one witness. You may believe a
9 part of the testimony of a witness and reject
10 the remaining part of that testimony. You may
11 believe the testimony of a witness in its
12 entirety or reject the testimony of a witness in
13 its entirety. You may consider whether any
14 witness has a particular interest, any bias, any
15 prejudice, or other motive in the case. You
16 might -- may also consider the appearance and
17 the manner of a witness while they're on the
18 witness stand. Again, that's up to you to
19 determine what weight, appropriate weight to
20 give each witness.

21 We also had a couple of witnesses who were
22 designated as expert witnesses. I kind of want
23 to, at this point, kind of repeat a little bit
24 of what I told you at the time that they were
25 designated as experts. As I said, normally, a

1 person can not testify about their opinions or
2 conclusions. An exception to this rule is when
3 somebody has been designated as an expert
4 witness. This is person who, by their education
5 and experience, has become an expert in a
6 particular field or science or profession. At
7 that point, they are allowed, under our rules of
8 evidence to provide an opinion or provide a
9 conclusion and state the reasons for giving that
10 opinion.

11 You should consider expert opinion received
12 and evidence in this case like any other
13 evidence. You are to give it the weight that you
14 think is appropriate. If you decide that the
15 opinion of an expert is not based on sufficient
16 education or experience or if you conclude that
17 the reasons given in support of that opinion are
18 not sound or that the opinion is outweighed by
19 other evidence, then you can disregard that
20 opinion entirely. An expert witness' testimony
21 is to be given no greater weight than any other
22 witness simply because he was designated as an
23 expert. You are not required to accept an
24 expert's opinion on its own but give it the
25 weight that you feel is appropriate.

1 Now, a very important part here, as I said,
2 the burden of proof, presumption of innocence,
3 is the defendant's right to testify or not to
4 testify. This is very important. I want y'all to
5 make sure y'all understand this. I instruct and
6 I emphasize that the defendant does not have to
7 testify and that is not a factor to be
8 considered by you in any way in your
9 deliberations and in your consideration of
10 whether the defendant is guilty or not guilty in
11 this matter. It is -- under our law, it can not
12 be considered by you.

13 A defendant has the absolute -- the
14 constitutional right to remain silent and can
15 not be made to testify. And the fact that he has
16 asserted this right is not something that is to
17 be considered by you. As you took your oath to
18 administer the law of this case, that is the law
19 of the case and you must apply that and no
20 conclusion whatsoever can be made from the fact
21 that he didn't testify. The fact that he did
22 not testify can not be -- should not be
23 discussed by you in the jury room. The burden
24 of proof, as I have stated, is clearly on the
25 State to prove beyond a reasonable doubt of his

1 guilt.

2 There have been references to statements
3 made by the defendant during the evidence
4 presented. A statement alleged to have been made
5 by the defendant has been admitted into the
6 evidence. While the court has determined that
7 the statement is admissible, I instruct that you
8 must make the ultimate decision of whether or
9 not the defendant made the statement. If the
10 defendant did make the statement, you must
11 determine whether the statement was made by the
12 defendant voluntarily and of his own free will.
13 This means that the statement has not -- was not
14 caused by pressure, force, fear, threats,
15 coercion, or intimidation, or by hope or promise
16 of leniency or a reward of any kind.

17 In determining whether the statement was
18 voluntary, you should consider both the
19 characteristics of the defendant and the details
20 of the questions. Some of the factors that you
21 must consider are: the age of the defendant; the
22 defendant's education or lack of education; his
23 mental ability or capacity; his I.Q. or
24 intelligence; his background and environment;
25 the place and length of detention; and the

1 nature of the questioning; and the advice, or
2 lack thereof, of his constitutional rights
3 including, but not limited to, the right to
4 remain silent; that any statement could be used
5 against him in a court of law; and the right to
6 have a lawyer present; that if he should --
7 could afford -- not afford a lawyer, a lawyer
8 would be appointed to represent him without any
9 cost. You must carefully consider all of the
10 surrounding circumstances before you give any
11 weight to an alleged statement.

12 The State has the burden of proving beyond
13 a reasonable doubt that the alleged statement
14 was voluntary. If you determine it was, you may
15 give the statement any further considerations
16 you deem proper. You must decide what weight,
17 if any, should be given to the statement. If
18 you determine the alleged statement was not the
19 free and voluntary statement of the defendant,
20 you should not consider the statement at all.

21 All right. As indicated, the actual charge
22 of the defendant is Trafficking Methamphetamine
23 by Conspiracy. Particularly, the defendant is
24 charged with Trafficking 400 grams or more of
25 Methamphetamine by Conspiracy. The State must

1 prove beyond a reasonable doubt that the
2 defendant knowingly conspired to sell,
3 manufacture, cultivate, deliver, purchase or
4 bring into the state methamphetamine. The State
5 must also prove beyond a reasonable doubt that
6 the amount of methamphetamine was 400 grams or
7 more.

8 To prove Conspiracy, the State must prove
9 beyond a reasonable doubt that the defendant
10 combined with one or more persons for the
11 purposes of committing an unlawful act or
12 committing a lawful act by unlawful means. There
13 must be a mutual understanding, agreement or
14 common intention in plan.

15 Mere passive knowledge of or consent to the
16 criminal conduct of another is not enough to
17 make a person a conspirator. There must be
18 guilty knowledge and participation. Similarly,
19 the mere fact that the defendant may have
20 associated with another person or met with
21 another person to discuss the common aims and
22 interest does not necessarily establish proof of
23 the existence of a conspiracy or that the
24 defendant was involved in a conspiracy.

25 On the other hand, it's not necessary that

1 the agreement be a formal one, that it be in
2 writing, that the person -- persons holding
3 meeting expressly state the terms of a common
4 plan or that the agreement be stated in words
5 between them. The agreement of criminal
6 conspiracy may come into being through an
7 implied and mutual understanding. The willful,
8 intentional and knowing adoption by two or more
9 persons of a common plan is sufficient. No overt
10 acts need to be shown to establish a conspiracy.
11 The gist of the crime is the unlawful
12 combination or agreement. Once an agreement has
13 been reached, the crime of conspiracy has been
14 committed. No further action needs to be taken
15 place. The conspiracy may be shown by
16 circumstantial evidence and the conduct of the
17 parties.

18 In order to convict the defendant of
19 conspiracy, the State must prove beyond a
20 reasonable doubt not only that the defendant
21 knew the unlawful conduct, but that the
22 defendant agreed to combine with other persons
23 for the purposes of accomplishing the unlawful
24 conduct. It is not necessary that the defendant
25 know the identity and role of other

1 conspirators. It is sufficient to prove that the
2 defendant knew or had reason to know the scope
3 of the conspiracy and that he had reason to
4 believe that his own interest depended upon the
5 success of the venture. Once the existence of a
6 conspiracy has been proven, evidence
7 establishing beyond a reasonable doubt the
8 connection of a defendant to the conspiracy,
9 even if the connection is slight, is sufficient
10 to convict him of knowing participation in the
11 conspiracy.

12 All right. Under South Carolina Code
13 Section 44-53-375(c), a person who knowingly
14 sells, manufactures, delivers, purchases or
15 brings into this state or who provides financial
16 assistance or otherwise aids, abets, attempts or
17 conspires to sell, manufacture, deliver,
18 purchase or bring into this state or who in
19 knowingly or actual or constructive possession
20 or who knowingly attempts to become in actual,
21 construction -- constructive possession of 400
22 grams or more is guilty of trafficking of
23 methamphetamine. As I said -- you must also
24 apply the law regarding conspiracy.

25 Now, when you go back to your jury room,

1 you will have the evidence which has been
2 presented here. I want to comment briefly on the
3 fact that some of these bags contains drugs and
4 they are safe to handle the packages, but do not
5 open the packages. I mean, there have been cases
6 in the past where jurors have actually opened to
7 get a closer look. It is safe to handle them
8 like they are, but you need to keep them in the
9 original package. Do not tamper with the
10 packages themselves. Do not open them. You can
11 handle them, but by all means, do not open them
12 or mess with them in any way. That could create
13 some problems. Make sure you do not do that.

14 All right. Mr. Foreman, I'm going to give
15 you the verdict form for you to look at. I'm
16 going to go through this with you. All right. I
17 was going to kind of go through you with this
18 form. Once y'all have discussed it and made a
19 decision, this is the form that you will fill
20 out. You, as the foreperson, that's your job.

21 First of all, your verdict must be
22 unanimous. It's 12 people. All 12 of you must
23 agree on your decision. It says as an indictment
24 -- under indictment number 2015-GS-47-07, Count
25 1 for Trafficking 400 grams or more of

1 methamphetamine by conspiracy, we, the jury,
2 find the defendant, Jimmy Edward Duncan -- and
3 you are to check one of them. You don't need --
4 please don't pay any attention to the order.
5 They had to put them in some order. The first
6 was not guilty. If you find that the State has
7 not met its burden, then you will check not
8 guilty. If you feel like the State has met its
9 burden beyond a reasonable doubt, then you will
10 select guilty. Then you will sign there and date
11 today.

12 All right. And once you have reached a
13 verdict, you will indicate -- the bailiff will
14 show you where the light is to indicate that you
15 reached a verdict. Now, there's a couple more
16 little rules here. One is, unfortunately, the
17 alternates, y'all have played an extremely
18 important role. If anything happened to any of
19 the jurors and they are not able to show up or
20 there was some kind of conflict, then y'all
21 would have had to step in. But you're not
22 allowed to participate in the actual
23 deliberations. So I'm sorry, but again, your
24 role is very important.

25 Now, you can't begin deliberations quite

1 yet. What I'm going to do is I'm going to send
2 you back to your jury room and then I'll need to
3 make sure that there's any issues that I need to
4 go over, if I missed something or I stated the
5 law incorrectly, then I'll have to bring you
6 back out and give you some additional charge.
7 But the signal for you to -- if we needed to
8 bring you back out, we'll bring you back out.
9 But if it is determined that you have the proper
10 law at this point, then the bailiff will bring
11 back the jury form, the verdict form and all the
12 evidence and he will trade them for the
13 alternates. At that point, the alternates will
14 step out of the room, and, at that point, you
15 can begin your deliberations of this case.

16 So, at this point, again, I will ask you
17 don't begin discussing the case until you get
18 that signal. If I need to bring you back out, I
19 will. Everybody goes back, including the
20 alternates now, but once you begin
21 deliberations, that's when y'all will step out.

22 (WHEREUPON, the jury exits at approximately
23 3:57 p.m.)

24 **THE COURT:** All right. Any exceptions? Any
25 exception by the State?

1 **MR. UNDERWOOD:** None, Your Honor.

2 **THE COURT:** Any exception by the
3 defendant?

4 **MR. WARDER:** No, Your Honor.

5 **THE COURT:** All right. I realized your
6 request for charge asked about the actual
7 charge. That's why I was like let's get the
8 charge. All right. Make sure we have all 90, I
9 believe was the final tab, 90 exhibits are
10 properly -- proper order.

11 **(WHEREUPON,** the Court goes off the record at
12 approximately 3:58 p.m.)

13 **(WHEREUPON,** Court's Exhibit 1 is marked for
14 identification purposes.)

15 **(WHEREUPON,** deliberation of the jury begins at
16 approximately 4:00.)

17 **(WHEREUPON,** the Court goes on the record at
18 approximately 4:10 p.m.)

19 **(WHEREUPON,** Court's Exhibit 2 is marked for
20 identification purposes.)

21 **THE COURT:** All right. We've got -- it's
22 not -- it's just a clarification. All right.
23 I've marked it as Court's Exhibit 2. Is the
24 question -- is the question whether or not it is
25 400 grams or more cumulatively or in a period of

1 time? It comes out about the same.

2 MR. UNDERWOOD: Isn't that the same?

3 THE COURT: I think so, too.

4 MR. UNDERWOOD: Did -- you think at one
5 time or...

6 THE COURT: I'm not sure.

7 MR. UNDERWOOD: It would be aggregate, Your
8 Honor.

9 THE COURT: Yeah.

10 MR. UNDERWOOD: It would be in that range
11 of time.

12 (WHEREUPON, there is a pause.)

13 THE COURT: I think the answer would be
14 the total amount over the period of time
15 discussed in the case or presented.

16 MR. UNDERWOOD: I agree, Your Honor.

17 MR. WARDER: It depends, I guess. It has
18 to be possession during a period of time that
19 the defendant was in the conspiracy. In other
20 words, if the conspiracy had drugs before he
21 joined it or if it was after he got out, he
22 wouldn't be guilty. It would only be during the
23 time he was a member of the conspiracy.

24 THE COURT: I think that's -- I think
25 that's a proper response. What do you think?

1 **MR. UNDERWOOD:** The aggregate over the
2 period of time that the defendant was involved
3 in the conspiracy.

4 **MR. WARDER:** A member of the conspiracy.

5 **THE COURT:** All right. How about if I put
6 the total amount during the period while the
7 defendant was involved in the conspiracy?

8 **MR. WARDER:** I don't like it going back
9 there saying while he was involved. They have to
10 decide if he was involved first, and then
11 decide.

12 **THE COURT:** Allegedly?

13 **MR. WARDER:** Yeah.

14 **THE COURT:** All right. The total amount
15 during the period while the defendant was
16 allegedly involved in the conspiracy or the
17 alleged conspiracy, involved in the alleged
18 conspiracy.

19 **MR. UNDERWOOD:** That sounds right, Your
20 Honor.

21 **THE COURT:** All right. So I'm going to put
22 -- I'm going to put in response the total amount
23 during the period while the defendant was
24 involved in the alleged conspiracy. Any
25 objection to that from the State?

1 **MR. UNDERWOOD:** None, Your Honor.

2 **THE COURT:** From the defendant? I know you
3 want to, but I kind of used your words. All
4 right. I'll let y'all look at it before I send
5 it back.

6 **(WHEREUPON, there is a pause.)**

7 **THE COURT:** All right. Y'all look at this.

8 **(WHEREUPON, both counsel approach the bench.)**

9 **MR. WARDER:** I really don't like that but
10 I think that might be the law.

11 **MR. UNDERWOOD:** No objection, Your Honor.

12 **THE COURT:** We don't have to like the law,
13 we just have to live by it. All right. So no
14 objection then to Court's Exhibit 2 in response.

15 **MR. WARDER:** Nope.

16 **THE COURT:** Okay. All right. We'll be at
17 ease until the next question.

18 **(WHEREUPON, the Court goes off the record at**
19 approximately 4:15 p.m.)

20 **(WHEREUPON, the Court goes on the record at**
21 approximately 4:41 p.m.)

22 **THE COURT:** All right. Anything before --
23 anything before we bring the jury, in from the
24 State?

25 **MR. UNDERWOOD:** (No audible response.)

1 **THE COURT:** Anything from the State?

2 **MR. UNDERWOOD:** Nothing, Your Honor.

3 **THE COURT:** Anything from the defendant
4 before we bring the jury in?

5 **MR. WARDER:** (No audible response.)

6 **THE COURT:** Anything from the defendant?

7 **MR. WARDER:** (Shakes head.)

8 **THE COURT:** All right. Bring the jury in.

9 (WHEREUPON, the jury enters at approximately
10 4:42 p.m.)

11 **THE COURT:** All right. Mr. Foreman, I
12 understand you've reached a verdict?

13 **THE JUROR:** , Yes, we have.

14 **THE COURT:** If you would, hand it to the
15 bailiff.

16 (WHEREUPON, the verdict form is passed to the
17 Court.)

18 **THE COURT:** It looks like it's in proper
19 form.

20 **THE CLERK:** May I publish, Your Honor?

21 **THE COURT:** Yes, please publish.

22 **THE CLERK:** The State of South Carolina
23 versus Jimmy Edward Duncan. As to indictment
24 number 2015-GS-47-07, Count 1, for Trafficking
25 400 grams or more of Methamphetamine by

1 Conspiracy, we, the jury, find the defendant,
2 Jimmy Edward Duncan, guilty: Signed by the
3 foreperson. Today's date, October 6th, 2016.

4 Mr. Foreman, is this your verdict and the
5 verdict of the entire jury?

6 **THE JUROR:** Yes, sir.

7 **THE COURT:** All right. Anything further
8 from the jury from the State before we release
9 them?

10 **MR. UNDERWOOD:** Nothing further, Your
11 Honor.

12 **THE COURT:** Anything else from the
13 defendant?

14 **MR. WARDER:** No, Your Honor.

15 **THE COURT:** All right. Ladies and
16 Gentlemen, that concludes your duties on not
17 only this case, but for the week. I do
18 appreciate your service in this matter. At this
19 time, I'll ask that you go back in your jury
20 room and I will step back there if anybody has
21 any questions. Again, thank you very much.

22 (WHEREUPON, the jury exits at approximately
23 4:44 p.m.)

24 **THE COURT:** All right. Let me just step
25 back there. Finalize -- you have your verdict, I

1 mean, sentencing sheet? I'm going to speak with
2 them for just a second.

3 (WHEREUPON, the Court goes off the record at
4 approximately 4:45 p.m.)

5 (WHEREUPON, the Court goes on the record at
6 approximately 4:48 p.m.)

7 THE COURT: All right. We are back on the
8 record for Jimmy Edward Duncan in the case --
9 indictment number 2015-GS-47-07. There has been
10 a verdict of guilty brought back by the jury.
11 I'll be glad to hear it -- if you want to add
12 anything else at this point and then I'll be
13 glad to hear from both of y'all.

14 MR. UNDERWOOD: Yes, Your Honor. Your Honor
15 heard the testimony of numerous witnesses who
16 testified how they were supplied large amounts
17 of methamphetamine by this defendant, Jimmy
18 Duncan. You've heard how they talked about he
19 introduced some of them into selling, how it
20 ruined their lives and the lives of their
21 family. Your Honor, I believe that needs to be
22 taken into consideration by the Court. Your
23 Honor, the sentence range of this charge is a
24 mandatory minimum of 25 years up to 30 years.

25 Mr. Duncan is not a low-level person in

1 this conspiracy. He was a significant player in
2 it. The methamphetamine that he sold to others,
3 which was resold again affected and ruined a lot
4 of lives in Pickens County and, to some extent,
5 the Greenville County communities. The Court
6 sentence should reflect that.

7 Also, Your Honor, he does have a lengthy
8 criminal history dating back to 1987, Possession
9 of Beer by an Underage Person; 1990, Assault and
10 Battery of a High and Aggravated Nature; 1992,
11 Resisting Arrest; 1997, Criminal Domestic
12 Violence second offense. I'm not sure where the
13 first offense was, Your Honor. 1996, Driving
14 Under the Influence; 2004, Interference/
15 Hindering with Officers and Unlawful Use of
16 Telephone; also in 2004, Criminal Domestic
17 Violence High and Aggravated Nature, Driving
18 Under the Influence third offense, Use of a
19 Vehicle without Permission and Reckless
20 Homicide; in 2010, Assault and Battery third
21 degree; 2013, Possession of One Gram of
22 Methamphetamine or less. He also has other State
23 Grand Jury charges currently pending in Pickens
24 County as Your Honor is aware.

25 **THE COURT:** All right. Mr. Warder, I'll be

1 glad to hear from you.

2 **MR. WARDER:** Your Honor, my client was a
3 logger, a hard worker, has a seventh grade
4 education, worked for his family. I think there
5 was another logging operation over there he did.
6 He was -- got involved with methamphetamine and
7 ended up -- he was just like the testimony. He
8 was a kind individual. He was concerned about
9 other people. He was concerned about other
10 people that he was associated with.

11 Everybody was using meth, Your Honor. It
12 was a group that he was involved in, but he
13 wasn't a predator upon them or anything. One
14 witness testified if she hadn't got it from him,
15 she would have got it from somebody else. Any
16 sentence you can give, as far as I can see, is
17 on the border of unreason. This legislature has
18 been unreasonable with this statute.

19 **THE COURT:** Well, as you know, my only
20 decision is to whether it's 25 or somewhere
21 between -- in a range of 25 to 30 by the way the
22 statute reads.

23 **MR. WARDER:** That's right.

24 **THE COURT:** Mr. Duncan, I'll be glad to
25 hear anything you want to tell me.

1 **MR. DUNCAN:** I just -- I don't know.

2 (Indiscernible.) I was offered a plea for 12
3 years, I was. But as far as me walking up here
4 and laying my hand on that Bible and doing like
5 the rest of them did, I couldn't do that. I just
6 couldn't do it.

7 That first, that red-headed woman, I ain't
8 never met her before in my life until Greenville
9 County Detention Center. That's the only time I
10 met that woman.

11 Jeff Mauldin said the Mexican gave him a
12 job. That job was go over and put a shotgun in
13 somebody's face and take everything they had. He
14 was charged with kidnapping and everything.
15 Kidnapping and grand theft auto and bribery by
16 Greenville County. He got seven years. No wonder
17 he laid his hand up there, I guess. He's gained.
18 I don't know. The boy came to me and he ain't
19 had no place to live. I tell him he could live
20 at my house, sir, and he could be home. Treated
21 him as my own son and this what he done to me.

22 **THE COURT:** All right. Anything else?

23 **MR. WARDER:** No, sir.

24 **THE COURT:** I guess with the short window
25 here, the maximum was for the absolute worse and

1 the minimum is for the best of the lot. So I
2 think --

3 **MR. DUNCAN:** Could you see the minimum,
4 sir?

5 **THE COURT:** Do what?

6 **MR. DUNCAN:** Could you see the minimum, 25
7 years?

8 **THE COURT:** Well, the sentence of the
9 Court is 28 years at the State Department of
10 Corrections. Good luck to you.

11
12 **(WHEREUPON, the proceedings conclude at**
13 **approximately 4:55 p.m.)**

14

15

16

17

STATE GRAND JURY OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA)

CASE NO.: 2015-GS-47-07)

VS.)

SUPERSEDING INDICTMENT FOR
UNLAWFUL DRUGS

JORGE DAVID MARTINEZ,)

(A.K.A. "CHEESE"),)

(A.K.A. "JUAN"),)

(A.K.A. "JONATHAN"))

GLADIS TRUJILLO)

(A.K.A. "GLADIS MARTINEZ"))

(A.K.A. "GLADIS BAEZ"),)

ADRIAN HERNANDEZ-MARTINEZ,)

ERIKA YOSALETTH GUERRERO-)

SERRANO,)

MARCELA ALEJANDRA GUERRERO,)

ANTONIO ORTIZ LOPEZ,)

CARMICHAEL HILL,)

(A.K.A. "BROTHER"),)

TRACY ELAINE RUMSEY,)

LARRY EUGENE COLEMAN,)

(A.K.A. "BUBBA"),)

(A.K.A. "POPPY"),)

JIMMY EDWARD DUNCAN,)

MATTHEW RYAN CARTER,)

JOSE MANUEL CARILLO,)

(A.K.A. "MEXICAN JOEY"),)

TAVARUS DEMONTAE DOWNS,)

(A.K.A. "T"),)

KIMBERLY NICOLE TURNER,)

NICOLE RENEE HOGUE,)

STACEY LYNN KELLEY,)

JEFFERY SHANE MAULDIN,)

MARTHA MICHELLE COLLIER,)

(A.K.A. "BABY GIRL"),)

JENNIFER DIANNA TYNER,)

LACEY DEANNA SEYMORE,)

ADAM LEM GRISWOLD,)

EVELYN JANE HOLIDAY,)

(A.K.A. "HOLLY"),)

CHRISTOPHER GENE SORGEE,)

BRANDON TERRILL DODD,)

(A.K.A. "KOOL AID"),)

ELIJAH SHAWN IRBY,)

(A.K.A. "PERROS"))

Trafficking Methamphetamine,

400 grams or more

(Conspiracy)

S.C. Code Ann. § 44-53-375(C)(5)

(1 Count)

Trafficking Cocaine,

400 grams or more

(Conspiracy)

S.C. Code Ann. § 44-53-370(e)(2)(e)

(1 Count)

Trafficking Methamphetamine,

200 - 400 grams

S.C. Code Ann. § 44-53-375(C)(4)

(1 Count)

Trafficking Cocaine Base,

10 - 28 grams

S.C. Code Ann. § 44-53-375(C)(1)

(1 Count)

Possession of a Firearm During the
Commission or Attempt to Commit a
Violent Crime

S.C. Code Ann. §16-23-490

(3 Counts)

Possession With Intent to Distribute
Cocaine

S.C. Code Ann. § 44-53-370(b)(1)

(1 Count)

Trafficking Methamphetamine,

100 - 200 grams

S.C. Code Ann. § 44-53-375(C)(3)

(1 Count)

FILED**APRIL 13 2016****James R. Parks****CLERK, STATE GRAND JURY**

COUNT TWO
TRAFFICKING COCAINE, 400 GRAMS OR MORE
(CONSPIRACY)
S.C. Code Ann. § 44-53-370 (e)(2)(e)

That JORGE DAVID MARTINEZ (A.K.A. "CHEESE") (A.K.A. "JUAN") (A.K.A. "JONATHAN"), ADRIAN HERNANDEZ-MARTINEZ, MARCELA ALEJANDRA GUERRERO, CARMICHAEL HILL (A.K.A. "BROTHER"), ERIKA YOSALETTH GUERRERO-SERRANO, ANTONIO ORTIZ LOPEZ, ELIJAH SHAWN IRBY (A.K.A. "PERROS"), CALVIN D. HILL (A.K.A. "MONEY MAKER") (A.K.A. "MM"), DONTAE WILLIAMS (A.K.A. "DONTAE PEARSON"), LARRY EUGENE COLEMAN (A.K.A. "BUBBA") (A.K.A. "POPPY"), BRANDON TERRILL DODD (A.K.A. "KOOL AID"), and other persons whose names are both known and unknown to the State Grand Jury, did in Greenville County and Spartanburg County of South Carolina, during the period of time extending from on or about January 1, 2011 until the present, knowingly sell, manufacture, cultivate, deliver, purchase, or provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or possess (actually or constructively), or bring into this State four hundred (400) grams or more of cocaine, a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county in this State.

CALVIN D. HILL,
 (A.K.A. "MONEY MAKER")
 (A.K.A. "MM"),
 DONTAE LAMERRO WILLIAMS,
 (A.K.A. "DONTAE LAMERRO
 PEARSON"),

DEFENDANTS.

Trafficking Cocaine,
 28 - 100 grams
 S.C. Code Ann. § 44-53-370(e)(2)(b)
 (5 Counts)

Exposing a Child to Methamphetamine
 S.C. Code Ann. § 44-53-378
 (8 Counts)

Distribution of Methamphetamine
 S.C. Code Ann. § 44-53-375(B)
 (8 Counts)

Trafficking Methamphetamine,
 10 - 28 grams
 S.C. Code Ann. § 44-53-375(C)(1)
 (4 Counts)

Possession With Intent to Distribute
 Methamphetamine
 S.C. Code Ann. § 44-53-375(B)
 (6 Counts)

Trafficking Methamphetamine,
 28 - 100 grams
 S.C. Code Ann. § 44-53-375(C)(2)
 (2 Counts)

Trafficking Cocaine Base,
 28 - 100 grams
 S.C. Code Ann. § 44-53-375(C)(2)
 (1 Count)

Trafficking in Illegal Drugs
 Heroin, 28 grams or More
 S.C. Code Ann. § 44-53-370(e)(3)(c)
 (2 Counts)

Trafficking in Illegal Drugs
 Heroin, 4 - 14 grams
 S.C. Code Ann. § 44-53-370(e)(3)(a)
 (1 Count)

Trafficking in Illegal Drugs
 Heroin, 14 - 28 grams
 S.C. Code Ann. § 44-53-370(e)(3)(b)
 (1 Count)

)	Possession of a Stolen Handgun
)	S.C. Code Ann. §16-23-30
)	(1 Count)
)	
)	Possession of Methamphetamine
)	S.C. Code Ann. § 44-53-375(A)
)	(3 Counts)
)	
)	Possession of Schedule I-V Controlled
)	Substance
)	S.C. Code Ann. § 44-53-370(d)(2)
)	(1 Count)
)	
)	Unlawful Carrying of a Handgun
)	S.C. Code Ann. §16-23-20
)	(1 Count)
)	
)	Unlawful Possession of a Firearm by a
)	Person Convicted of Violent Offense
)	S.C. Code Ann. §16-23-500
)	(1 Count)
)	
)	Possession of Contraband in County Jail
)	S.C. Code Ann. §24-7-155
)	(1 Count)
)	
)	Possession of a Stolen Vehicle
)	S.C. Code Ann. §16-21-80
)	(1 Count)
)	
)	Possession of Heroin
)	S.C. Code Ann. §44-53-370(d)(1)
)	(1 Count)

At a session of the State Grand Jury of South Carolina, convened in Columbia, South Carolina, on April 12, 2016 the State Grand Jurors present upon their oath:

**COUNT ONE
TRAFFICKING METHAMPHETAMINE, 400 GRAMS OR MORE
(CONSPIRACY)**

S.C. Code Ann. § 44-53-375(C)(5)

That JORGE DAVID MARTINEZ (A.K.A. "CHEESE") (A.K.A. "JUAN") (A.K.A. "JONATHAN"), GLADIS TRUJILLO (A.K.A. "GLADIS MARTINEZ") (A.K.A. "GLADIS BAEZ"), ADRIAN HERNANDEZ-MARTINEZ, ERIKA YOSALETTH GUERRERO-SERRANO, MARCELA ALEJANDRA GUERRERO, ANTONIO ORTIZ LOPEZ, CARMICHAEL HILL (A.K.A. "BROTHER"), TRACY ELAINE RUMSEY, LARRY EUGENE COLEMAN (A.K.A. "BUBBA") (A.K.A. "POPPY") , JIMMY EDWARD DUNCAN, MATTHEW RYAN CARTER, JOSE MANUEL CARILLO (A.K.A. "MEXICAN JOEY"), TAVARUS DEMONTAE DOWNS (A.K.A. "T"), KIMBERLY NICOLE TURNER, NICOLE RENEE HOGUE, STACEY LYNN KELLEY, JEFFERY SHANE MAULDIN, MARTHA MICHELLE COLLIER (A.K.A. "BABY GIRL"), JENNIFER DIANNA TYNER, LACEY DEANNA SEYMORE, ADAM LEM GRISWOLD, EVELYN JANE HOLIDAY (A.K.A. "HOLLY"), CHRISTOPHER GENE SORGEE, BRANDON TERRILL DODD (A.K.A. "KOOL AID"), and other persons whose names are both known and unknown to the State Grand Jury, did in Greenville County, Pickens County, Spartanburg County, and Laurens County of South Carolina, during the period of time extending from on or about January 1, 2011 until the present, knowingly conspire to sell, manufacture, deliver, purchase, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT THREE
TRAFFICKING METHAMPHETAMINE, 200 - 400 GRAMS
S.C. Code Ann. § 44-53-375(C)(4)

That JORGE DAVID MARTINEZ (A.K.A. "CHEESE") (A.K.A. "JUAN") (A.K.A. "JONATHAN") did in Greenville County, on or about August 24, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, two hundred (200) grams or more but less than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FOUR
TRAFFICKING COCAINE BASE, 10 - 28 GRAMS
S.C. Code Ann. § 44-53-375(C)(1)(b)

That JORGE DAVID MARTINEZ (A.K.A. "CHEESE") (A.K.A. "JUAN") (A.K.A. "JONATHAN") did, in Greenville County, on or about August 24, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, ten (10) grams or more but less than twenty eight (28) grams of cocaine base, a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having

significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FIVE
POSSESSION OF A FIREARM DURING COMMISSION OF OR ATTEMPT TO
COMMIT A VIOLENT CRIME
S.C. Code Ann. § 16-23-490

That JORGE DAVID MARTINEZ (A.K.A. "CHEESE") (A.K.A. "JUAN") (A.K.A. "JONATHAN") did in Greenville County, on or about August 24, 2015, possess or visibly display a firearm during the commission of or attempt to commit a violent crime to wit: TRAFFICKING METHAMPHETAMINE and TRAFFICKING COCAINE BASE, in violation of § 16-23-490, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT SIX
POSSESSION WITH INTENT TO DISTRIBUTE COCAINE
S.C. Code Ann. § 44-53-370(b)(1)

That JORGE DAVID MARTINEZ (A.K.A. "CHEESE") (A.K.A. "JUAN") (A.K.A. "JONATHAN") did, in Greenville County, South Carolina, on or about August 24, 2015, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, distribute, dispense or deliver a quantity of Cocaine, a controlled substance under the provisions of § 44-53-110, *et seq.*, Code of Laws of South Carolina, as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county in this State.

COUNT SEVEN
TRAFFICKING METHAMPHETAMINE, 100 - 200 GRAMS
S.C. Code Ann. § 44-53-375(C)(3)

That JORGE DAVID MARTINEZ (A.K.A. "CHEESE") (A.K.A. "JUAN") (A.K.A. "JONATHAN") and GLADIS TRUJILLO (A.K.A. "GLADIS MARTINEZ") (A.K.A. "GLADIS BAEZ") did in Greenville County, on or about September 2, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, one hundred (100) grams or more but less than two hundred (200) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT EIGHT
TRAFFICKING COCAINE, 28 - 100 GRAMS
S.C. Code Ann. § 44-53-370(e)(2)(b)

That JORGE DAVID MARTINEZ (A.K.A. "CHEESE") (A.K.A. "JUAN") (A.K.A. "JONATHAN") and GLADIS TRUJILLO (A.K.A. "GLADIS MARTINEZ") (A.K.A. "GLADIS BAEZ") did, in Greenville County, on or about September 2, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, twenty eight (28) grams or more but less than one hundred (100) grams of cocaine, a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having

significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT NINE
EXPOSING A CHILD TO METHAMPHETAMINE
S.C. Code Ann. § 44-53-378

That JORGE DAVID MARTINEZ (A.K.A. "CHEESE") (A.K.A. "JUAN") (A.K.A. "JONATHAN") and GLADIS TRUJILLO (A.K.A. "GLADIS MARTINEZ") (A.K.A. "GLADIS BAEZ") did in Greenville County on or about September 2, 2015 knowingly manufacture methamphetamine in the presence of a minor child; permit a child to be in an environment where a person was selling, offering for sale, or having in such person's possession with intent to sell, deliver, distribute, prescribe, administer, dispense, manufacture, or attempt to manufacture methamphetamine; or permit a child to be in an environment where drug paraphernalia or volatile, toxic, or flammable chemicals are stored for the purpose of manufacturing or attempting to manufacture methamphetamine, to wit: Kelly Martinez, in violation of § 44-53-378, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TEN
EXPOSING A CHILD TO METHAMPHETAMINE
S.C. Code Ann. § 44-53-378

That JORGE DAVID MARTINEZ (A.K.A. "CHEESE") (A.K.A. "JUAN") (A.K.A. "JONATHAN") and GLADIS TRUJILLO (A.K.A. "GLADIS MARTINEZ") (A.K.A. "GLADIS BAEZ") did in Greenville County on or about September 2, 2015 knowingly manufacture methamphetamine in the presence of a minor child; permit a child to be in an environment where

a person was selling, offering for sale, or having in such person's possession with intent to sell, deliver, distribute, prescribe, administer, dispense, manufacture, or attempt to manufacture methamphetamine; or permit a child to be in an environment where drug paraphernalia or volatile, toxic, or flammable chemicals are stored for the purpose of manufacturing or attempting to manufacture methamphetamine, to wit: David Martinez, Jr., in violation of § 44-53-378, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

**COUNT ELEVEN
EXPOSING A CHILD TO METHAMPHETAMINE
S.C. Code Ann. § 44-53-378**

That JORGE DAVID MARTINEZ (A.K.A. "CHEESE") (A.K.A. "JUAN") (A.K.A. "JONATHAN") and GLADIS TRUJILLO (A.K.A. "GLADIS MARTINEZ") (A.K.A. "GLADIS BAEZ") did in Greenville County on or about September 2, 2015 knowingly manufacture methamphetamine in the presence of a minor child; permit a child to be in an environment where a person was selling, offering for sale, or having in such person's possession with intent to sell, deliver, distribute, prescribe, administer, dispense, manufacture, or attempt to manufacture methamphetamine; or permit a child to be in an environment where drug paraphernalia or volatile, toxic, or flammable chemicals are stored for the purpose of manufacturing or attempting to manufacture methamphetamine, to wit: Emily Martinez, in violation of § 44-53-378, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWELVE
EXPOSING A CHILD TO METHAMPHETAMINE
S.C. Code Ann. § 44-53-378

That JORGE DAVID MARTINEZ (A.K.A. "CHEESE") (A.K.A. "JUAN") (A.K.A. "JONATHAN") and GLADIS TRUJILLO (A.K.A. "GLADIS MARTINEZ") (A.K.A. "GLADIS BAEZ") did in Greenville County on or about September 2, 2015 knowingly manufacture methamphetamine in the presence of a minor child; permit a child to be in an environment where a person was selling, offering for sale, or having in such person's possession with intent to sell, deliver, distribute, prescribe, administer, dispense, manufacture, or attempt to manufacture methamphetamine; or permit a child to be in an environment where drug paraphernalia or volatile, toxic, or flammable chemicals are stored for the purpose of manufacturing or attempting to manufacture methamphetamine, to wit: Daniel Martinez, in violation of § 44-53-378, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT THIRTEEN
EXPOSING A CHILD TO METHAMPHETAMINE
S.C. Code Ann. § 44-53-378

That JORGE DAVID MARTINEZ (A.K.A. "CHEESE") (A.K.A. "JUAN") (A.K.A. "JONATHAN") and GLADIS TRUJILLO (A.K.A. "GLADIS MARTINEZ") (A.K.A. "GLADIS BAEZ") did in Greenville County on or about September 2, 2015 knowingly manufacture methamphetamine in the presence of a minor child; permit a child to be in an environment where a person was selling, offering for sale, or having in such person's possession with intent to sell, deliver, distribute, prescribe, administer, dispense, manufacture, or attempt to manufacture methamphetamine; or permit a child to be in an environment where drug paraphernalia or

volatile, toxic, or flammable chemicals are stored for the purpose of manufacturing or attempting to manufacture methamphetamine, to wit: Dillon Martinez, in violation of § 44-53-378, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FOURTEEN
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That TRACY ELAINE RUMSEY did in Greenville County, on or about December 12, 2013, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FIFTEEN
TRAFFICKING METHAMPHETAMINE, 10 - 28 GRAMS
S.C. Code Ann. § 44-53-375(C)(1)

That TRACY ELAINE RUMSEY did in Greenville County, on or about January 7, 2014, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, ten (10) grams or more but less than twenty-eight (28) grams of methamphetamine ("ice" or "crank"), a

controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT SIXTEEN
TRAFFICKING METHAMPHETAMINE, 10 - 28 GRAMS
S.C. Code Ann. § 44-53-375(C)(1)

That TRACY ELAINE RUMSEY did in Greenville County, on or about February 6, 2014, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, ten (10) grams or more but less than twenty-eight (28) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT SEVENTEEN
POSSESSION WITH INTENT TO DISTRIBUTE METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That ERIKA YOSALETTH GUERRERO-SERRANO did in Greenville County, on or about September 1, 2015, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or

having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

**COUNT EIGHTEEN
EXPOSING A CHILD TO METHAMPHETAMINE
S.C. Code Ann. § 44-53-378**

That ERIKA YOSALETTH GUERRERO-SERRANO did in Greenville County, on or about September 1, 2015, knowingly manufacture methamphetamine in the presence of a minor child; permit a child to be in an environment where a person was selling, offering for sale, or having in such person's possession with intent to sell, deliver, distribute, prescribe, administer, dispense, manufacture, or attempt to manufacture methamphetamine; or permit a child to be in an environment where drug paraphernalia or volatile, toxic, or flammable chemicals are stored for the purpose of manufacturing or attempting to manufacture methamphetamine, to wit: Briana Barcenas, in violation of § 44-53-378, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

**COUNT NINETEEN
TRAFFICKING METHAMPHETAMINE, 28 - 100 GRAMS
S.C. Code Ann. § 44-53-375(C)(2)**

That ERIKA YOSALETTH GUERRERO-SERRANO did in Greenville County, on or about September 2, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, twenty eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-

110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY
TRAFFICKING COCAINE BASE, 28 - 100 GRAMS
S.C. Code Ann. § 44-53-375(C)(2)

That ERIKA YOSALETTH GUERRERO-SERRANO did, in Greenville County, on or about September 2, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, twenty eight (28) grams or more but less than one hundred (100) grams of cocaine base, a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY ONE
TRAFFICKING COCAINE, 28 - 100 GRAMS
S.C. Code Ann. § 44-53-370(e)(2)(b)

That MARCELA GUERRERO did, in Greenville County of South Carolina on or about August 3, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, twenty eight (28) grams or more but less than one hundred (100) grams of cocaine, a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South

Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY TWO
TRAFFICKING COCAINE, 28 - 100 GRAMS
S.C. Code Ann. § 44-53-370(e)(2)(b)

That MARCELA GUERRERO did, in Greenville County of South Carolina on or about August 5, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, twenty eight (28) grams or more but less than one hundred (100) grams of cocaine, a controlled substance under provisions of § 44-53-110, et. seq., Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY THREE
TRAFFICKING COCAINE, 28 - 100 GRAMS
S.C. Code Ann. § 44-53-370(e)(2)(b)

That MARCELA GUERRERO did, in Greenville County of South Carolina on or about August 17, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, twenty eight (28) grams or more but less than one hundred (100) grams of cocaine, a controlled substance under provisions of § 44-53-110, et. seq., Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity

occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY FOUR
POSSESSION WITH INTENT TO DISTRIBUTE METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That MARCELA GUERRERO did in Greenville County, on or about August 24, 2015, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY FIVE
EXPOSING A CHILD TO METHAMPHETAMINE
S.C. Code Ann. § 44-53-378

That MARCELA GUERRERO did in Greenville County between June 1, 2015 and August 31, 2015 knowingly manufacture methamphetamine in the presence of a minor child, permit a child to be in an environment where a person was selling, offering for sale, or having in such person's possession with intent to sell, deliver, distribute, prescribe, administer, dispense, manufacture, or attempt to manufacture methamphetamine, or permit a child to be in an environment where drug paraphernalia or volatile, toxic, or flammable chemicals are stored for the purpose of manufacturing or attempting to manufacture methamphetamine, to wit: Jorge Solis, in violation of § 44-53-378, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having

significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

**COUNT TWENTY SIX
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)**

That ANTONIO ORTIZ LOPEZ did in Greenville County, on or about June 2, 2015, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

**COUNT TWENTY SEVEN
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)**

That ANTONIO ORTIZ LOPEZ did in Greenville County, on or about June 19, 2015, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY EIGHT
POSSESSION WITH INTENT TO DISTRIBUTE METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That ANTONIO ORTIZ LOPEZ did in Greenville County, on or about July 9, 2015, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY NINE
EXPOSING A CHILD TO METHAMPHETAMINE
S.C. Code Ann. § 44-53-378

That ANTONIO ORTIZ LOPEZ did in Greenville County on or about July 9, 2015 knowingly manufacture methamphetamine in the presence of a minor child; permit a child to be in an environment where a person was selling, offering for sale, or having in such person's possession with intent to sell, deliver, distribute, prescribe, administer, dispense, manufacture, or attempt to manufacture methamphetamine; or permit a child to be in an environment where drug paraphernalia or volatile, toxic, or flammable chemicals are stored for the purpose of manufacturing or attempting to manufacture methamphetamine, to wit: Anthony Ortiz Lopez, in violation of § 44-53-378, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT THIRTY
TRAFFICKING IN ILLEGAL DRUGS (HEROIN, 28 GRAMS OR MORE)
S.C. Code Ann. § 44-53-370(e)(3)(c)

That CARMICHAEL HILL (A.K.A. "BROTHER") did in Greenville County, on or about June 23, 2015, knowingly sell, manufacture, cultivate, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this State or knowingly become in actual or constructive possession or knowingly attempt to become in actual or constructive possession of twenty eight (28) grams or more of heroin, a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT THIRTY ONE
TRAFFICKING IN ILLEGAL DRUGS (HEROIN, 28 GRAMS OR MORE)
S.C. Code Ann. § 44-53-370(e)(3)(c)

That CARMICHAEL HILL (A.K.A. "BROTHER") did in Greenville County, on or about July 2, 2015, knowingly sell, manufacture, cultivate, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this State or knowingly become in actual or constructive possession or knowingly attempt to become in actual or constructive possession of twenty eight (28) grams or more of heroin, a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT THIRTY TWO
TRAFFICKING IN ILLEGAL DRUGS (HEROIN, 4-14 GRAMS)
S.C. Code Ann. § 44-53-370(e)(3)(a)

That CARMICHAEL HILL (A.K.A. "BROTHER") did in Greenville County, on or about July 14, 2015, knowingly sell, manufacture, cultivate, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this State or knowingly become in actual or constructive possession or knowingly attempt to become in actual or constructive possession of four (4) grams or more but less than fourteen (14) grams of heroin, a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT THIRTY THREE
TRAFFICKING IN ILLEGAL DRUGS (HEROIN, 14-28 GRAMS)
S.C. Code Ann. § 44-53-370(e)(3)(b)

That CARMICHAEL HILL (A.K.A. "BROTHER") did in Greenville County, on or about July 28, 2015, knowingly sell, manufacture, cultivate, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this State or knowingly become in actual or constructive possession or knowingly attempt to become in actual or constructive possession of fourteen (14) grams or more but less than twenty eight (28) grams of heroin, a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT THIRTY FOUR
POSSESSION WITH INTENT TO DISTRIBUTE METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That LARRY EUGENE COLEMAN (A.K.A. "BUBBA") (A.K.A. "POPPY") did in Greenville County, on or about March 3, 2014, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT THIRTY FIVE
TRAFFICKING COCAINE, 28 - 100 GRAMS
S.C. Code Ann. § 44-53-370(e)(2)(b)

That LARRY EUGENE COLEMAN (A.K.A. "BUBBA") (A.K.A. "POPPY") did, in Greenville County of South Carolina on or about March 3, 2014, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, twenty eight (28) grams or more but less than one hundred (100) grams of cocaine, a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT THIRTY SIX
POSSESSION OF A FIREARM DURING COMMISSION OF OR ATTEMPT TO
COMMIT A VIOLENT CRIME
S.C. Code Ann. § 16-23-490

That LARRY EUGENE COLEMAN (A.K.A. "BUBBA") (A.K.A. "POPPY") did in Greenville County, on or about March 3, 2014, possess or visibly display a firearm during the commission of or attempt to commit a violent crime to wit: TRAFFICKING METHAMPHETAMINE, in violation of § 16-23-490, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT THIRTY SEVEN
POSSESSION OF A STOLEN HANDGUN
S.C. Code Ann. § 16-23-30(C)

That LARRY EUGENE COLEMAN (A.K.A. "BUBBA") (A.K.A. "POPPY") did in Greenville County, on or about March 3, 2014, knowingly possess, a stolen handgun, knowing that the handgun was stolen or converted under circumstances constituting a crime in violation of § 16-23-30(C), Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT THIRTY EIGHT
POSSESSION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(A)

That LARRY EUGENE COLEMAN (A.K.A. "BUBBA") (A.K.A. "POPPY") did, in Greenville County, South Carolina, on or about June 12, 2014, knowingly possess (actually or constructively) a quantity of methamphetamine (' ice" or " crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT THIRTY NINE
POSSESSION OF A SCHEDULE I-V CONTROLLED SUBSTANCE
S.C. Code Ann. § 44-53-370(d)(2)

That TAVARUS DEMONTAE DOWNS (A.K.A. "T") did, in Greenville County, South Carolina, on or about July 15, 2013, knowingly and intentionally possess (actually or constructively) a quantity of methylene, a Schedule I controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FORTY
UNLAWFUL CARRYING OF A HANDGUN
S.C. Code Ann. § 16-23-20

That TAVARUS DEMONTAE DOWNS (A.K.A. "T") did in Greenville County on or about July 15, 2013, willfully and unlawfully have in his possession, a .22 caliber pistol, in violation of §16-23-20, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FORTY ONE
UNLAWFUL POSSESSION OF A FIREARM BY PERSON CONVICTED OF VIOLENT
OFFENSE
S.C. Code Ann. § 16-23-500

That TAVARUS DEMONTAE DOWNS (A.K.A. "T") did in Greenville County on or about July 15, 2013, willfully and unlawfully possess a firearm, having previously been convicted of a violent crime that is classified as a felony, in violation of §16-23-500, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FORTY TWO
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That TAVARUS DEMONTAE DOWNS (A.K.A. "T") did in Greenville County, on or about July 30, 2013, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FORTY THREE
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That TAVARUS DEMONTAE DOWNS (A.K.A. "T") did in Greenville County, on or about August 6, 2013, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FORTY FOUR
TRAFFICKING METHAMPHETAMINE, 10 - 28 GRAMS
S.C. Code Ann. § 44-53-375(C)(1)

That TAVARUS DEMONTAE DOWNS (A.K.A. "T") and LACEY SEYMORE did in Greenville County, on or about January 19, 2014, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, ten (10) grams or more but less than twenty-eight (28) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FORTY FIVE
TRAFFICKING METHAMPHETAMINE, 28 - 100 GRAMS
S.C. Code Ann. § 44-53-375(C)(2)

That LACEY SEYMORE did in Greenville County, on or about April 23, 2013, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, twenty eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FORTY SIX
POSSESSION WITH INTENT TO DISTRIBUTE METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That LACEY SEYMORE did in Greenville County, on or about October 10, 2013, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FORTY SEVEN
POSSESSION OF CONTRABAND IN COUNTY JAIL
S.C. Code Ann. § 24-7-155

That LACEY SEYMORE did in Greenville County, on or about October 10, 2013, willfully and unlawfully possess methamphetamine, a substance declared as contraband, while confined at the Greenville County Detention Center in violation of § 24-7-155, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FORTY EIGHT
TRAFFICKING METHAMPHETAMINE, 10 - 28 GRAMS
S.C. Code Ann. § 44-53-375(C)(1)

That ADAM GRISWOLD and EVELYN JANE HOLIDAY (A.K.A. "HOLLY") did in Greenville County, on or about January 20, 2014, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, ten (10) grams or more but less than twenty-eight (28) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FORTY NINE
POSSESSION OF A FIREARM DURING COMMISSION OF OR ATTEMPT TO
COMMIT A VIOLENT CRIME
S.C. Code Ann. § 16-23-490

That ADAM GRISWOLD and EVELYN JANE HOLIDAY (A.K.A. "HOLLY") did in Greenville County, on or about January 20, 2014, possess or visibly display a firearm during the commission of or attempt to commit a violent crime to wit: TRAFFICKING METHAMPHETAMINE, in violation of § 16-23-490, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FIFTY
POSSESSION OF A STOLEN VEHICLE
S.C. Code Ann. § 16-21-80

That ADAM LEM GRISWOLD and EVELYN JANE HOLIDAY (A.K.A. "HOLLY") did in Greenville County, on or about January 20, 2014, receive, possess, sell, conceal, or dispose of a stolen vehicle valued at more than Ten Thousand Dollars (\$10,000), they not being entitled to the possession of a 2010 Mazda 6, knowing it to be stolen or converted under circumstances constituting a crime in violation of § 16-21-80, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FIFTY ONE
POSSESSION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(A)

That JENNIFER DIANNA TYNER and CHRISTOPHER GENE SORGEE did, in Greenville County, on or about December 2, 2013, knowingly possess (actually or constructively) a quantity of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FIFTY TWO
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That JOSE MANUEL CARILLO (A.K.A. "MEXICAN JOEY") did in Greenville County, on or about May 21, 2014, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FIFTY THREE
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That JOSE MANUEL CARILLO (A.K.A. "MEXICAN JOEY") did in Greenville County, on or about June 11, 2014, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

**COUNT FIFTY FOUR
POSSESSION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(A)**

That JOSE MANUEL CARILLO (A.K.A. "MEXICAN JOEY") did, in Greenville County, South Carolina, on or about June 20, 2014, knowingly possess (actually or constructively) a quantity of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

**COUNT FIFTY FIVE
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)**

That TAVARUS DEMONTAE DOWNS (A.K.A. "T") did in Greenville County, on or about March 11, 2016, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FIFTY SIX
POSSESSION WITH INTENT TO DISTRIBUTE METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That TAVARUS DEMONTAE DOWNS (A.K.A. "T") did in Greenville County, on or about March 11, 2016, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FIFTY SEVEN
POSSESSION OF HEROIN
S.C. Code Ann. § 44-53-370(d)(1)

That TAVARUS DEMONTAE DOWNS (A.K.A. "T") did, in Greenville County, on or about March 11, 2016, knowingly possess (actually or constructively) a quantity of heroin, a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

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

A True Bill

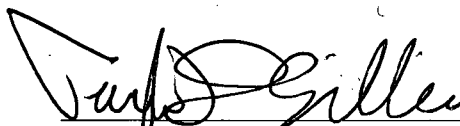
FOREMAN

Alan Wilson
ALAN WILSON (jr)
ATTORNEY GENERAL

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,



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ATTORNEY FOR APPELLANT

This 29th day of September, 2017.

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