

STATE OF SOUTH CAROLINA

 ORIGINAL

In The Court of Appeals

APPEAL FROM CHEROKEE COUNTY

J. Mark Hayes, II, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RICKY TATE,

APPELLANT

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF CHEROKEE) IN THE COURT OF GENERAL SESSIONS
3
4 The State,)
5 -vs-) TRANSCRIPT OF RECORD
6 Ricky Tate,) 2011-GS-11-00232
7 Defendant.) July 19 and 20, 2011
8 Gaffney, South Carolina
9

10 B E F O R E:

11 HONORABLE J. MARK HAYES, II, JUDGE; and a jury
12
13

14 A P P E A R A N C E S:

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16 Attorney for the State

17 WILLIAM S. BEAN, IV, ESQ.
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22 Margaret A. Woods
23 Circuit Court Reporter
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25 ORIGINAL

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JURY QUALIFICATION

1 (Proceedings July 19, 2011)

2 (State's Exhibit No. 1, photo lineup, State's Exhibit
3 No. 2, disk of wire and phone call, and States Exhibit No. 3,
4 drugs, marked for identification.)

5 THE COURT: Alright, ladies and gentlemen, we are now
6 going to proceed with the jury selection in the, in the case
7 of the State of South Carolina vs. Ricky Tate. Before we
8 begin with the jury selection I need for the clerk of court to
9 once again swear you in so I need for you to please stand and
10 raise your right hand.

11 (Whereupon, the jury panel was sworn.)

12 THE COURT: Alright, ladies and gentlemen, again, we are
13 now going to begin with the jury selection of the case of the
14 State vs. Ricky Tate. Mr. Tate is charged with trafficking in
15 crack cocaine 10 to 28 grams having occur -- and the
16 allegation is that this this trafficking crack cocaine 10 to
17 28 grams occurred on or about December 14th 2010 here in
18 Cherokee County. Now Mr. Tate has pled not guilty to this
19 indictment and I would at this, time ladies and gentlemen, I'm
20 going to ask for Mr. Tate to please stand and face the ladies
21 and gentlemen of the jury.

22 (Whereupon, the defendant complied.)

23 THE COURT: Ladies and gentlemen, this is Mr. Ricky Tate.
24 Are any member -- is there any member of the jury panel who is
25 related by blood or marriage to Mr. Tate or do you have a

JURY QUALIFICATION

1 close, personal or social relationship to Mr. Tate, if so I I
2 need for you to please stand at this time?

3 (No response.)

4 THE COURT: Thank you, sir, you may be seated. Ladies
5 and gentlemen, I'm now going to read a list of potential
6 witnesses who may be called as as part of this case. I need
7 for you to please listen to these names because after all the
8 names are read I'm gonna ask that you please stand if you are
9 related by blood or marriage to any of these people or if you
10 have a close, personal or social relationship with any of
11 these people so I need you to please listen to their names. I
12 would also ask that if any of these people are in the
13 courtroom I would ask that they please stand and face the
14 ladies and gentlemen of the jury. We have Todd Parker, we
15 have Jeron Stevenson, Chris Wyatt and Jill Cook. Ladies and
16 gentlemen, if any of you are related by blood or marriage to
17 any of these individuals or if you have a close, personal or
18 social relationship with any of these individuals, I need for
19 you to please stand at this time.

20 (No response.)

21 THE COURT: Ladies and gentlemen, I'm now going to ask
22 the lawyers that will be participating in this case to please
23 stand and introduce themselves to you.

24 MR. BEAN: My name is Bill Bean and I'm the attorney for
25 the defendant Ricky Tate.

7
JURY QUALIFICATION

1 MR. KENDALL: My name is Matt Kendall and I represent the
2 State of South Carolina.

3 THE COURT: Thank you, gentlemen. Ladies and gentlemen,
4 is there any member of the jury panel who who is related by
5 blood or marriage to either of the attorneys or do you have a
6 close personal or social relationship with either of the
7 attorneys, if so please stand at this time?

8 (No response.)

9 THE COURT: Has there -- is there any member of the jury
10 panel that has ever been represented by Mr. Bean, if so please
11 stand at this time?

12 (No response.)

13 THE COURT: Is there any member of the jury panel who has
14 been, you know, has a friend who has friends or relatives that
15 have ever been prosecuted by the Seventh Circuit Solicitor's
16 Office, if so please stand at this time? Your juror number,
17 ma'am?

18 JUROR NUMBER 98: Uh, 98.

19 THE COURT: 98?

20 JUROR NUMBER 98: Yes, sir.

21 THE COURT: And, Ms. Sanlin, ---

22 JUROR NUMBER 98: Yes, sir.

23 THE COURT: --- the fact that that has occurred would
24 that in any way prevent you from giving both the State and the
25 defense a fair and impartial trial in the event you're

JURY QUALIFICATION

1 selected as a member of the jury?

2 JUROR NUMBER 98: I don't believe so. The person, um,
3 I'm related to that's -- still has charges pending at this
4 point in the court system as well.

5 THE COURT: Alright. Thank you, ma'am.

6 JUROR NUMBER 98: I don't believe so.

7 THE COURT: Thank you very much. Yes, ma'am, your juror
8 number?

9 JUROR NUMBER 22: Twenty-two.

10 THE COURT: And you're Ms. Carter?

11 JUROR NUMBER 22: Yes, sir.

12 THE COURT: And the fact that that has occurred would
13 that in any way affect your ability to give both the State and
14 the defense a fair and impartial trial in the event you're
15 selected as a member of the jury?

16 JUROR NUMBER 22: No, sir.

17 THE COURT: Thank you, ma'am, you may be seated. Has any
18 member of the jury panel or any member of your immediate
19 family ever been arrested for, charged with or convicted of
20 any crime involving or related to drugs, if so please stand at
21 this time? Yes, sir, your juror number?

22 JUROR NUMBER 78: Seventy-eight.

23 THE COURT: And you're Mr. Moss?

24 JUROR NUMBER 78: Yes, sir.

25 THE COURT: The fact that that has occurred would that in

JURY QUALIFICATION

1 any way affect your ability to give both the State and the
2 defense a fair and impartial trial?

3 JUROR NUMBER 78: No, sir.

4 THE COURT: Thank you, sir, you may be seated. Yes, sir,
5 your juror number?

6 JUROR NUMBER 51: Fifty-one.

7 THE COURT: You're Mr. Hardin?

8 JUROR NUMBER 51: Yes, sir.

9 THE COURT: The fact that that has occurred would that in
10 any way affect your ability to give both the State and the
11 defense a fair and impartial trial?

12 JUROR NUMBER 51: No, sir.

13 THE COURT: Thank you, sir, you may be seated. Yes,
14 ma'am, your juror number?

15 JUROR NUMBER 117: 117.

16 THE COURT: You're Ms. ---

17 JUROR NUMBER 117: Teresa Thornley.

18 THE COURT: Thornley, yes, ma'am. The fact that that has
19 occurred would that in any way affect your ability to give
20 both the State and the defense a fair and impartial trial?

21 JUROR NUMBER 117: No.

22 THE COURT: Thank you, ma'am, you may be seated. Yes,
23 ma'am, your juror number?

24 JUROR NUMBER 61: Sixty-one. Sixty-one.

25 THE COURT: Sixty-one. And you're Ms. Johnson?

JURY QUALIFICATION

1 JUROR NUMBER 61: Correct.

2 THE COURT: The fact that that has occurred would that in
3 any way affect your ability to give both the State and the
4 defense a fair and impartial trial?

5 JUROR NUMBER 61: No, sir.

6 THE COURT: Thank you, ma'am, you may be seated. Yes,
7 ma'am, your juror number?

8 JUROR NUMBER 43: Forty-three.

9 THE COURT: You're Ms. Gardner?

10 JUROR NUMBER 43: Yes.

11 THE COURT: The fact that that has occurred would that in
12 any way affect your ability to give both the State and defense
13 a fair and impartial trial?

14 JUROR NUMBER 43: No, it wouldn't.

15 THE COURT: Thank you, ma'am, you may be seated. Has any
16 member of the jury panel been or are presently a member of any
17 organization such as NORML that seeks to legalize narcotics
18 which includes cocaine, crack, marijuana or other currently
19 illegal or controlled substances? If you are a member of that
20 organization or has been any organization of that nature
21 please stand at this time.

22 (No response.)

23 THE COURT: Has any member of the jury panel formed or
24 expressed an opinion about any issue or matter involved in
25 this case, if so please stand at this time?

JURY QUALIFICATION

1 (No response.)

2 THE COURT: Is there any member of the jury panel aware
3 of any bias or prejudice towards either the State or the
4 defendant in this case, if so please stand at this time?

5 (No response.)

6 THE COURT: Is there any member of the jury panel that
7 was a member of the grand jury that issued the indictment in
8 this case, if so please stand at this time?

9 (No response.)

10 THE COURT: Is there any member of the jury panel who is
11 a member of or contributor to any group which has as its
12 primary concern the promotion of law enforcement or victim's
13 rights? Now these groups would include but certainly be not
14 limited such groups as MADD, SADD or CAVE, Citizens Against
15 Violent Crime, if so please stand at this time?

16 (No response.)

17 THE COURT: Does any member of the jury panel know of any
18 reason whatsoever why he or she should not serve as a juror in
19 this case with particular emphasis being placed on your
20 ability to be fair and impartial to both the State and the
21 defendant, if so please stand at this time?

22 (No response.)

23 THE COURT: Does the State have any additional questions?

24 MR. KENDALL: Nothing further from the ---

25 THE COURT: Does ---

JURY QUALIFICATION

1 MR. KENDALL: --- State, Your Honor.

2 THE COURT: --- does the defense?

3 MR. BEAN: No, Your Honor.

4 THE COURT: Thank you. Lawyers wanna approach a moment.
5 Mr. Bean.

6 (Whereupon, a bench conference was held off the record.)

7 THE COURT: Alright, ladies and, ladies and gentlemen,
8 what we're doing now is we have a computer program that
9 randomly select out some some names, it goes a lot faster. We
10 used to actually have an an actual barrel and we would bring
11 in, frequently bring in a person that was visually challenged
12 and have that person actually reach in and pull out the name
13 so the process went extremely -- a lot slower than it does now
14 but what the clerk has been able to do is to have the computer
15 randomly select names. In just a moment we're going to begin
16 calling the names of jurors that have been randomly selected
17 by the computer. When your name is called, I need for you to
18 bring any personal item that you may have with you:
19 pocketbooks, books you brought in, any -- anything with you I
20 need you to come up and stand right in front of the clerk of
21 court, the the bailiff will assist you and then you'll just
22 bring those items up here and we will go through what's called
23 the "striking process" to determine the -- who's gonna compose
24 our first jury but at this time we will begin with the
25 striking.

JURY QUALIFICATION

1 THE CLERK: Juror 98, Stephanie Sanlin.

2 THE COURT: Ma'am, just come come up. And it's -- we're
3 in agreement it's five and five, gentlemen?

4 (Whereupon, a discussion was held off the record.)

5 THE COURT: Five and five, is that correct?

6 MR. KENDALL: Yes, sir, Your Honor.

7 (Stephanie Sanlin, a white female, came forward.)

8 THE CLERK: If you'll stand here (indicating).

9 THE COURT: Alright.

10 THE CLERK: Stand right here (indicating) and just turn
11 around. What says the State?

12 MR. KENDALL: Please excuse the juror.

13 THE CLERK: You've been excused, just take a seat back
14 out in the jury pool.

15 THE CLERK: Juror 51, Jerry Hardin.

16 (Jerry Hardin, a white male, came forward.)

17 THE CLERK: What says the State?

18 MR. KENDALL: Please seat the juror.

19 MR. BEAN: Please excuse the juror.

20 THE CLERK: You've been excused. Juror 68 Felice
21 Littlejohn.

22 (Felice Littlejohn, a black female, came forward.)

23 THE CLERK: What says the State?

24 MR. KENDALL: Please seat the juror.

25 THE CLERK: What says the defense?

JURY QUALIFICATION

1 MR. BEAN: Please seat the juror.

2 THE CLERK: Please take a seat in the jury box. Juror
3 87, Christopher Price.

4 (Christopher Price, a white male, came forward.)

5 THE CLERK: What says the State?

6 MR. KENDALL: Please seat the juror.

7 THE CLERK: What says the defense?

8 MR. BEAN: Please seat the juror.

9 THE CLERK: Please take a seat in the jury box. Juror
10 83, Paula Pennington.

11 (Paula Pennington, a white female, came forward.)

12 THE CLERK: What says the State?

13 MR. KENDALL: Please seat the juror.

14 THE CLERK: What says the defense?

15 MR. BEAN: Please excuse the juror.

16 THE CLERK: You've been excused. Juror 76, Jean Moore.

17 (Jean Moore, a white female, came forward.)

18 THE CLERK: What says the State?

19 MR. KENDALL: Please seat the juror.

20 THE CLERK: What says the defense?

21 MR. BEAN: Please seat the juror.

22 THE CLERK: Please take a seat in the jury box. Juror
23 123, Melissa Wilson.

24 (Melissa Wilson, a white female, came forward.)

25 THE CLERK: What says the State?

JURY QUALIFICATION

1 MR. KENDALL: Please seat the juror.

2 THE CLERK: Says the defense?

3 MR. BEAN: Please seat the juror.

4 THE CLERK: Please take a seat in the jury box. Juror
5 55, Tracy Honeycutt.

6 (Tracy Honeycutt, a white female, came forward.)

7 THE CLERK: What says the State?

8 MR. KENDALL: Please excuse the juror.

9 THE CLERK: You've been excused. Juror 82, Michael
10 Pearson.

11 (Michael Pearson, a white male, came forward.)

12 THE CLERK: What says the State?

13 MR. KENDALL: Go ahead and seat the juror.

14 THE CLERK: Says the defense?

15 MR. BEAN: Please excuse the juror.

16 THE CLERK: You've been excused. Juror 44, Miles Gettys.

17 (Miles Gettys, a white male, came forward.)

18 THE CLERK: What says the State?

19 MR. KENDALL: Please seat the juror.

20 THE CLERK: Says defense?

21 MR. BEAN: Please excuse the juror.

22 THE CLERK: You've been excused. Juror 119, Billy Vess.

23 (Billy Vess, a white male, came forward.)

24 THE CLERK: What says the State?

25 MR. KENDALL: Please seat the juror.

JURY QUALIFICATION

1 THE CLERK: Says the defense?

2 MR. BEAN: Please excuse the juror.

3 THE CLERK: You've been excused. Juror 35, Earl Diones.

4 (Earl Diones, a white male, came forward.)

5 THE CLERK: What says the State?

6 MR. KENDALL: Please seat the juror.

7 THE CLERK: What says the defense?

8 MR. BEAN: Please seat the juror.

9 THE CLERK: Please have a seat in the jury box. Juror
10 118, Holly Varnadore.

11 (Holly Varnadore, a white female, came forward.)

12 THE CLERK: What says the State?

13 MR. KENDALL: Please seat the juror.

14 THE CLERK: Says the defense?

15 MR. BEAN: Please seat the juror.

16 THE CLERK: Please take a seat in the jury box. Juror
17 67, Ashley Littlejohn.

18 (Ashley Littlejohn, a white female, came forward.)

19 THE CLERK: What says the State?

20 MR. KENDALL: Please seat the juror.

21 THE CLERK: Says the defense?

22 MR. BEAN: Please seat the juror.

23 THE CLERK: Please take a seat in the jury box. Juror
24 22, Amanda Carter.

25 (Amanda Carter, a white female, came forward.)

JURY QUALIFICATION

1 THE CLERK: What says the State?

2 MR. KENDALL: Please excuse the juror.

3 THE CLERK: You've been excused. Juror 80, Julie
4 Owensby.

5 (Julie Owensby, a white female, came forward.)

6 THE CLERK: What says the State?

7 MR. KENDALL: Please seat the juror.

8 THE CLERK: Says the defense?

9 MR. BEAN: Please excuse the juror.

10 THE COURT: May I see the lawyers for a moment?

11 (Whereupon, a bench conference was held off the record.)

12 THE CLERK: What says the State?

13 MR. KENDALL: Please seat the juror.

14 THE CLERK: What say the defense?

15 MR. BEAN: Please seat the juror.

16 THE CLERK: Please take a seat in the jury box. Juror
17 113, Alexandria Thompson.

18 (Alexandria Thompson, a white female, came forward.)

19 THE CLERK: What says the State?

20 MR. KENDALL: Please seat the juror.

21 THE CLERK: What says the defense?

22 MR. BEAN: Please seat the juror.

23 THE CLERK: Please take a seat in the jury box. Juror
24 77, Catherine Moss.

25 (Catherine Moss, a white female, came forward.)

JURY QUALIFICATION

1 THE CLERK: What says the State?

2 MR. KENDALL: Please seat the juror.

3 THE CLERK: Says the defense?

4 MR. BEAN: Please seat the juror.

5 THE CLERK: Please take a seat in the jury box. Juror
6 124, Dustin Wright.

7 (Dustin Wright, a white male, came forward.)

8 THE CLERK: What says the State?

9 MR. KENDALL: Please strike the juror or excuse the
10 juror.

11 THE CLERK: You've been excused. Juror 36, Stephanie
12 Doty.

13 (Stephanie Doty, a white female, came forward.)

14 THE CLERK: What says the State?

15 MR. KENDALL: Please seat the juror.

16 THE CLERK: Says the defense?

17 MR. BEAN: Please seat the juror.

18 THE CLERK: Please take a seat in the jury box. Juror
19 43, Theresa Gardner.

20 (Theresa Gardner, a white female, came forward.)

21 MR. KENDALL: Please seat the juror.

22 THE COURT: Lawyers wanna approach a moment.

23 (Whereupon, a bench conference was held off the record.)

24 THE CLERK: What says the State?

25 MR. KENDALL: Go ahead and excuse the juror.

JURY QUALIFICATION

1 THE CLERK: You've been excused. Juror 78, George Moss.
2 Seventy-eight.

3 (George Moss, a white male, came forward.)

4 THE CLERK: What says the State?

5 MR. KENDALL: Please seat the juror.

6 THE CLERK: Says defense?

7 MR. BEAN: Please seat the juror.

8 THE CLERK: Please take a seat in the jury box. Next
9 will be for the alternate. Juror 117, Teresa Thornley.

10 (Teresa Thornley, a white female, came forward.)

11 THE CLERK: What says the State?

12 MR. KENDALL: Please seat the juror.

13 THE CLERK: Says the defense?

14 MR. BEAN: Please seat the juror.

15 THE CLERK: Please take a seat in the jury box.

16 THE COURT: Anything concerning the manner or method of
17 selection of the jury from the State or the defense?

18 MR. KENDALL: Nothing from the State, Your Honor.

19 MR. BEAN: No, Your Honor.

20 THE COURT: Alright. Ladies and gentlemen,
21 congratulations, you've been selected as our first jury. Give
22 me just a moment, I need to address those people out in the
23 audience.

24 (Whereupon, the remaining jury pool was released.)

25 THE COURT: Again, ladies and gentlemen, congratulations

JURY QUALIFICATION

1 on being selected in our first jury for the week. Is it, I
2 apologize if I say your name incorrectly, it's Mr. Diones?

3 JUROR NUMBER 35: Diones.

4 THE COURT: Diones. Mr. Diones, I'm gonna ask that you
5 serve as the foreperson of this jury. I will give you further
6 instructions later as to what those duties are but I'm gonna
7 ask that you serve as the foreperson for this jury. Now,
8 ladies and gentlemen, we are actually going to start the trial
9 of this case in the morning. I've talked with the lawyers and
10 we've got some, ya know, scheduling of getting people here, we
11 felt like that it would be best and more efficient use of your
12 time and of the witnesses times if we actually begin with the
13 presentation of the testimony tomorrow so you're going to be
14 free to go just shortly but I want you to understand that you
15 have now become part of this case and what you're gonna be
16 called upon to do in this case is to serve as the fact finders
17 and once the case is over, all the evidence has been presented
18 to you you will engage in deliberations and you will come to
19 and and decide what the true facts are of the case, apply
20 those facts of the law that I will give you at the end of this
21 case then you will render a verdict. I need to instruct you
22 that until you begin your deliberations which is at the end of
23 this trial, you cannot have any discussions with anyone about
24 anything involving the case, that includes, you know, you go
25 home and they -- you tell your family, your friends, I've been

JURY QUALIFICATION

1 selected on a jury, What kinda case is it about, ya know, tell
2 them you're sorry you cannot answer or talk talk to them about
3 the case until after it's over, once it's over you can talk as
4 much as you want to about it but until then you cannot have
5 any discussions with anyone about anything involving the case
6 but that also includes among yourselves, you cannot have any
7 discussions among yourselves about anything involving the case
8 until you begin your deliberations which again is at the end
9 of the trial. Also, I'm going to ask you and instruct you
10 that you cannot do any type of independent research or
11 homework. In the event that you've heard a name of a witness
12 or a lawyer or or you wanna go do a Goggle search or you wanna
13 go check out an encyclopedia or you wanna do some type of of
14 homework to find out about this case, you cannot do that as
15 well; the reason being is that the decisions that you make in
16 this case have to be made solely on the information you
17 receive as part of this trial, witnesses will be called
18 exhibits might be presented, that will be the information
19 you'll use to make your decision so you cannot do any type of
20 independent research or investigation into the case as well.
21 I tell you that and again I wanna let you know you can't have
22 any contact with any of the lawyers or the parties or
23 witnesses and again I'll -- in advance if you see them around
24 the building as you're coming and going and they don't not
25 even speak to you, it's not that they're being rude, it's just

JURY QUALIFICATION

1 'that they're following my instructions that they cannot have
2 any discussions and communications with you as well but again
3 I wanna thank you for your time while we went through this
4 process. I will ask if you would to be back in the jury
5 deliberation room by 9:30 in the morning, we should be able to
6 begin promptly right after 9:30. The bailiff will take you
7 back to the jury deliberation room and show you where
8 that's -- where that is located, he'll also show you the way
9 to come in and out to get to the jury room so you don't have
10 to go back through that process of the courthouse but again
11 thank you for coming in and if you will you can go with the
12 bailiff at this time and he will show you where the jury
13 deliberation room is.

14 (Whereupon, a discussion was held off the record.)

15 (The following takes place outside the presence of the
16 jury.)

17 THE COURT: Alright, one of the jurors on the way out
18 indicated and she asked me if they could take notes, I do not
19 unless the lawyers have some particular reason to convince me
20 otherwise, I generally do not allow jurors to take notes
21 during the course of the trial. Anybody wanna convince me
22 otherwise?

23 MR. BEAN: No, Your Honor.

24 MR. KENDALL: No, sir.

25 THE COURT: Alright. Okay. Anything before we step down

MOTIONS AND MATTERS

1 for lunch?

2 MR. BEAN: May we approach a moment, Your Honor?

3 THE COURT: Um-hum.

4 (Whereupon, a bench conference was held off the record.)

5 THE COURT: Alright, Mr. Tate, ---

6 THE DEFENDANT: Yes, sir.

7 THE COURT: --- I need to remind you that your bond will
8 stay in place so you are obligated to show up in the morning.
9 You understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: But I will allow you to to come and go,
12 okay?

13 THE DEFENDANT: Yes, sir. Thank you.

14 THE COURT: Thank you. Alright, we'll step down.

15 (Proceedings July 20, 2011)

16 THE COURT: Can I see the lawyers?

17 (Whereupon, a bench conference was held off the record.)

18 THE COURT: Alright, we'll go on the record. I believe
19 that the State has a motion, is that correct?

20 MR. KENDALL: It is, Your Honor. This is the State's
21 motion to amend the indictment I I guess in two respects, Your
22 Honor. The first is that on the indictment it indicates that
23 the -- that that this offense occurred on or about December
24 14th 2010. December 14, 2010 was the day the warrant was
25 signed, it was the actually end of the culmination I guess of

MOTIONS AND MATTERS

1 the criminal investigation. The actual offense itself took
2 place on December 13th 2010 so we would ask the Court to allow
3 us to amend the indictment. I feel that the indictment as a
4 notice document has given the defendant a fair I guess warning
5 so to speak of what he's being charged with. Additionally,
6 Your Honor, the results from the drug court came back
7 after -- from SLED came back after the indictment was signed
8 and because of that we now know that it was not over 28 grams
9 but in fact 23.5 grams so we will be pursuing on a charge the
10 the lesser included offense of trafficking cat -- cocaine 10
11 grams to 28 grams, Your Honor.

12 THE COURT: Alright, and, Mr. Bean, do you have any
13 objection to the two amendments?

14 MR. BEAN: I do object to the first one, Your Honor,
15 however not the second one, that's our position.

16 THE COURT: Alright. Okay, I will grant the request for
17 the amendment to the indictments. Is everybody ready for the
18 opening statements?

19 MR. KENDALL: Yes, sir, Your Honor.

20 MR. BEAN: Yes, Your Honor.

21 THE COURT: Okay. Alright, let's bring the jury.

22 (The following takes place in the presence of the jury.)

23 THE COURT: Morning, ladies and gentlemen. At this time
24 I need for you to please stand and raise your right hand and
25 let the clerk of court swear you in

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1 (Whereupon, the jury was sworn.)

2 THE COURT: Ladies and gentlemen, we are now going to
3 begin the trial in the case of the State vs. Ricky Tate. Now
4 before we begin the trial I want to tell you that this trial
5 probably will be different than from what you might expect.
6 Many people do not have the chance to attend an actual court
7 session as you are doing now and may think from watching
8 televisions or movies or readings from books that trials are
9 always full of high drama, riveting circumstance and intense
10 action, now while all of these things may be true at times
11 this trial is not for entertainment, it is a fundamental part
12 of our democracy, a search for the truth in an effort to make
13 sure that justice is done between the parties that's presently
14 before the Court. Searching for the truth regrettably is is
15 is often slow, deliberate and repetitive, just the opposite of
16 what maybe you've seen on television or in movies or read
17 about in books. This courtroom it is a place of honor
18 dedicated to the protection and preservation of citizen's
19 rights through what many have called the greatest justice
20 system ever created. The attorneys when appearing before you
21 they are advocates for the parties that they represent but
22 first and foremost they are officers of the court sworn to
23 uphold the integrity and fairness of our judicial system and
24 to help you in a search for truth; you should expect them to
25 be professional, competent and ethical in the representations

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1 of their client's interest but remember that you have just
2 taken an oath to try this case and reach a fair and just
3 verdict and you are also expected to be professional,
4 reasonable and ethical and I do wanna thank you for accepting
5 the important responsibility of jury service and for your
6 contribution today to our justice system and to our democracy.

7 What I will now say is intended to serve as introduction
8 to the trial of this case. Now my remarks are not a charge on
9 the law in the case, I will instruct you on the law applicable
10 to this case at the end of the trial before you retire to
11 consider your verdict, this is merely and and this is merely
12 an explanation of the procedures that we will follow in the
13 trial of this case so that maybe you will better understand
14 what is happening. The defendant in this particular case is
15 charged with, make sure I get it right, is charged with
16 trafficking in cocaine te -- crack cocaine 10 to 28 grams, the
17 elements of that charge I will explain to you at the end of
18 the trial, and he has, he has been indicted on that charge but
19 simply because he has been indicted it does not, and is
20 brought into Court, the indictment is not in any sense
21 evidence of any of the allegations contained in the
22 indictment. The defendant he has pled not guilty to the
23 indictment, the State therefore has the burden of proving each
24 of the elements of -- in the indictment beyond a reasonable
25 doubt and I'll -- and it will be your duty, ladies and

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1 gentlemen, to decide whether the State has met that burden.
2 Your purpose as jurors is to find and determine the facts of
3 this case. You are the sole judge of the facts; if at any
4 time during this trial I make any, I make any comment
5 concerning the facts, you must disregard my comments. You are
6 to determine the facts from the testimony you hear and the
7 other evidence introduced during this cour -- during this
8 trial. It is up to you to determine the inferences which you
9 feel may be properly drawn from the evidence that is
10 presented, it is especially important that you perform your
11 duty of determining the facts diligently and conscientiously
12 because ordinarily there is no way to correct an erroneous
13 determination of facts that is made by a jury. Now on the
14 other hand and with equal emphasis, the same law that makes
15 you the judge of the facts of this case makes me the judge of
16 the law of this case. The law as given by the Court is the
17 only law that you may consider. You must accept and follow it
18 even though, even though you may disagree with it. I cannot
19 tell you what the facts are and you cannot disagree with me
20 about what the law is or what the law should be. Your job is
21 to take the law as I give it to you and apply it to the facts
22 as you find them from the testimony of the witnesses and any
23 other evidence that is introduced, after doing that you will
24 render a verdict, a true and just verdict under the solemn
25 oath that you've just took as jurors. Until I advise you to

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1 begin your deliberations, you must not discuss the case with
2 anyone including your fellow jurors, friends, family members
3 and anyone that might be involved in this case. This also
4 includes any type of discussion that might take place over
5 telephones, e-mails, computers, blogs or any other type of
6 electronic communication devices, you simply cannot have any
7 type of discussions concerning this case with anyone and as
8 I've just informed you yesterday you also cannot do any type
9 of research into this case whether that be at break or in the
10 afternoon because you must base the decisions that you will
11 make in this case based solely on the evidence that is
12 presented during this trial. I do not anticipate there being
13 any type of media coverage of this case but in the event there
14 is you cannot listen to, watch or read any type of that type
15 of outside publicity. After the case is submitted to you, you
16 must discuss it only in the jury room with your fellow jurors.
17 The attorneys and the parties in the case have been advised
18 that they are not to talk to you at all so if you see anyone
19 involved in the case and they do not even say hello to you,
20 they're not being unfriendly, they're just following my
21 instructions.

22 Now it is important that you keep an open mind and not
23 decide any issue in the case until all the evidence has been
24 presented, the parties have made their closing arguments to
25 you and I have had the opportunity to instruct you on the law

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1 applicable to this case. It is your solemn responsibility to
2 determine the guilt or innocence of the defendant and your
3 verdict must be based solely on the evidence as it is
4 presented in this trial and upon the law as I instruct you
5 during and at the close of the trial.

6 Now in just a minute the solicitor he will make what is
7 called an "opening statement" in which the solicitor will
8 explain to you the issues in the case or at least what the
9 solicitor thinks the issues are in the case. Now the attorney
10 for the defendant may also make an opening statement although
11 he is not required to do so. What the attorneys tell you
12 during their opening statements is not evidence in this case,
13 it is only their contention as to what they believe the issues
14 are in the case. The evidence in this case will be presented
15 to you by testimony of sworn witnesses from this (indicating)
16 witness stand and any exhibits that might be presented during
17 the course of this trial and I need to let you know from time
18 to time you may hear one of the lawyers say something like,
19 Your Honor, I I believe we have a question of law or a a
20 matter of law to discuss with you or, Your Honor, they may
21 say, May we approach the bench, or sometimes I myself might
22 find it necessary to excuse you from the courtroom for a short
23 while so that the attorneys and I can discuss what is called a
24 "matter of law"; the reason for this is because you are the
25 judges of the facts in the case and and sometimes when I am

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1 discussing matters of law with the attorneys it becomes
2 necessary for me to make some type of comments concerning the
3 facts in connection with ruling of whether or not a particular
4 law applies or not. So that you will not be influenced by
5 anything that I say in ru -- making rulings of law when I
6 comment about the facts, I will excuse you from the courtroom
7 briefly while we have these discussions.

8 Now in determining what the true facts are in this case,
9 you must decide whether or not the testimony of a witness is
10 believable. Now it is my responsibility to rule as a matter
11 of law as to whether certain testimony is admissible or not
12 but once the testimony is admitted whether or not you believe
13 it is solely up to you. In deciding whether to believe a
14 witness, you have the right to consider the interest of any
15 witness, the bias of any witness, the prejudice of any
16 witness, the opportunity for the witness to have seen the
17 matters and things about which the witness may testify and the
18 way that the witness acts on the witness stand. You have a
19 right to consider anything that is in the record that will
20 help you evaluate the testimony of the witnesses, that means
21 that it is your duty to pay close attention to them, to
22 observe the witnesses, to listen to the witnesses and pay
23 close attention to the attorneys and to the Court; do not let
24 your thoughts wander but give strict attention to the
25 testimony in the case so that at so at the end of all of the

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1 testimony, after the arguments of counsel and the charge of
2 the law by me you will then be in a position to determine what
3 the true facts are and apply the law to those facts and thus
4 render a true and just verdict.

5 Mr. Foreman, it is your added duty to preside in the jury
6 room to be the jury spokesperson here in the courtroom if that
7 becomes necessary, it will also be your duty to write the
8 jury's verdict and I will give you further instructions at
9 that -- at the end of this trial. Now in order to preserve
10 everyone's rights I will give the parties an opportunity to
11 object to anything that I have just now stated to the jury.
12 Does the State have any objections?

13 MR. KENDALL: Nothing from the State, Your Honor.

14 THE COURT: Does the defense have any objections?

15 MR. BEAN: No objections, Your Honor.

16 THE COURT: Thank you, gentlemen. At this time we will
17 receive the opening statements from the attorneys.

18 MR. KENDALL: May it please the Court, counsel. Good
19 morning, ladies and gentlemen of the jury, my name's Matt
20 Kendall and I represent the State of South Carolina. We're
21 all here this morning because on December 13th 2010 the
22 defendant, Mr. Ricky Tate, sold around a thousand dollars
23 worth of crack cocaine to a confidential informant right here
24 in Cherokee County. So how did we catch Mr. Tate selling this
25 thousand dollars worth of crack cocaine? Well in this case

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1 the police found a confidential reliable informant and they
2 rigged him with audio equipment, a wire as we see sometimes in
3 movie, and they placed a phone call on a recorded phone to
4 Mr. Tate to deliver a quantity of crack cocaine, a "zone", a
5 little under an ounce and had it delivered to our confident
6 reliable informant's house. Well at that point the police and
7 the informant kind of split up, the police went kind of a back
8 way to the home, the informant walked a little ways down the
9 road to be outta sight, make sure nobody saw him and caught a
10 cab back to his house. As he pulled up to the house, the
11 defendant, Mr. Tate, pulled up. At that time the police who'd
12 been there a little before were watching from across the road
13 and they watched the defendant and the confidential informant
14 walk to the side of the house and make a transaction, from
15 there, ladies and gentlemen, the police followed the defendant
16 as he went away and the confidential reliable informant well
17 he got back in the cab and went back to the rendezvous point
18 where he turned over the crack cocaine to the police. Over
19 the course of this trial, ladies and gentlemen, we're gonna
20 show this to you with four witnesses, first is gonna be
21 Mr. Jeron Stevenson, the confidential reliable informant in
22 this case. Now, ladies and gentlemen, I'm gonna be honest
23 with you, Mr. Stevenson's had some problems with the law, he's
24 had some problems with drugs, he is not an angel and quite
25 frankly his language on this tape you're gonna hear is

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1 atrocious, I apologize in advance for that, but what we are
2 seeking to do here today as law enforcement and as the State
3 is convict a man who can get a thousand dollars worth of crack
4 cocaine and have it delivered within a half an hour, a
5 thousand dollars worth of crack in under a half an hour, puts
6 Domino's to shame. This isn't the kind of person we can get
7 with just anybody, not anybody has access to this kind of
8 person, has this kind of narcotics, this kind of drugs. We're
9 not here pickin' off guys with \$10 crack deals on the corner
10 of Warren Beluse, tattoos tattooed across their knuckles,
11 that's not what's happened here, we're out where a specific
12 target, individual can get a thousand dollars of crack cocaine
13 in under a half an hour and, ladies and gentlemen, to get
14 somebody like that sometimes you gotta use somebody that
15 stinks a little bit and I wanna be open and honest from the
16 get-go Mr. Stevenson certainly does but we took precautions to
17 ensure that this was done in a controlled environment.

18 The next witness you're gonna hear from is Mr. Todd
19 Parker. Mr. Parker's a law enforcement official who watched
20 the transaction take place, searched the confidential
21 informant Mr. Stevenson before he went out and sat across the
22 road while this whole thing took place. You'll hear from
23 Mr. Wyatt who's does evidence control here down at the
24 sheriff's office, he'll show you the narcotics that are
25 produced here today were the same ones that were turned over

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1 to law enforcement on December 13th. And finally, you're
2 gonna hear from Jill Clark from SLED who's an expert in
3 testing and ensuring that what we have is in fact crack
4 cocaine. In addition, Your Honor, you're gonna hear -- or
5 excuse me, ladies and gentlemen of the jury, you're gonna hear
6 two tapes: the first a phone call that was made from the
7 confil [sic] informant, Mr. Stevenson, to the defendant,
8 Mr. Tate, ordering this zone of crack cocaine, it's short,
9 lasts about a minute or so, very clear; the second one will be
10 the wiring Mr. Stevenson wore the entire time. Now, ladies
11 and gentlemen, this one is not gonna be the most fun part of
12 this trial, it's about 50 minutes long, it's a lot of him
13 walking around, things like that, you'll hear a lot of
14 swishing of pants and things like that. We're gonna have you
15 hear the whole thing and that's not because we, ya know,
16 mostly think that all of it's important, it's because we want
17 to, as the State, make sure you all see everything that
18 happened in this case, you hear the entire tape, you don't
19 think we're pickin' and choosin' parts of this trial that we
20 want you to see and ignoring others because at the end of the
21 day the evidence that will be presented before you is going to
22 show you beyond a reasonable doubt that the defendant,
23 Mr. Ricky Tate, sold a thousand dollars, 23.5 grams of crack
24 cocaine to our confidential informant.

25 Now, ladies and gentlemen, at the end of this case, I'm

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1 gonna ask you to return a verdict of guilty but for right now
2 I'm only gonna ask you to do three things: first and most
3 importantly I need you to listen to all the directions the
4 judge gives you, our legal system prides itself on being fair
5 and the way we ensure that fairness happens is by following
6 the directions of the judge, if all the directions of the
7 judge are followed one way or the other, I can assure you
8 justice will be done and that's the most important thing;
9 second, you listen to all the witnesses that are presented
10 before you, I know on this tape there's gonna be some lulls,
11 it's not gonna be the most fun thing but please, please try to
12 focus and listen to all the evidence that's presented before
13 you today and; finally, use a little bitta common sense on
14 this one, I think you'll find that it -- it'll take you a long
15 way. Thank you very much.

16 MR. BEAN: Please the Court.

17 THE COURT: Yes, sir.

18 MR. BEAN: Folks, I'm Bill Bean, I represent Ricky Tate
19 who is seated with me at counsel table over here (indicating).
20 I've been doing this for -- since the mid-seventies, I'd have
21 to add it up, but anyway I've been doin' this a long time. A
22 lot of things have changed in the time that I've been
23 practicing law and I was thinkin' on the way over here this
24 morning about one of the things that's really different, even
25 though we don't have any cameras in here today, and that's the

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1 coverage of trials that take place around the country. I've
2 been watching some of those from time to time, I'm not talkin'
3 about made for TV shows or Judge Judy or anything that but but
4 real trials that take place in other states usually, other
5 areas of the country and and watching those trials sometimes
6 when I see the end result I think, Well that's interesting,
7 and invariably if there's a big case from somewhere else one
8 of my friends at some point when we're talkin' about that sort
9 of thing will say, Well gee whiz, I can't understand how the
10 jury didn't find so and so guilty of whatever it was they were
11 accused of doing and I'm not just talking about sensational
12 trials but anything you might see on TV and they'll say every
13 time, Well, gosh, I thought that that person did it and my
14 answer to them is always the same: It it isn't what we think
15 that the person did or didn't do. What His Honor will
16 probably tell you at the end of the trial is that it's what
17 the evidence shows and did the State prove the guilt of the
18 person charged beyond a reasonable doubt. Now if so then
19 obviously the finding of the jury is that that person is
20 guilty but if you think that perhaps they're guilty but the
21 State hasn't proved it or if something happens along the way
22 that causes you to think "yeah but," that "yeah but" is
23 reasonable doubt and if you've got a "yeah but" in your mind
24 after you hear the evidence and the testimony and you go back
25 to the jury room to deliberate, if you've got that in there

1 and again, you will hear from the Court that reasonable doubt
2 requires that you find the defendant not guilty regardless of
3 what you might think about, Aah, he probly did it, maybe
4 doesn't look like a good guy or whatever so I'm not gonna get
5 into the facts we'll let those come out from the witness stand
6 but in this case particularly remember "yeah but", "yeah but".
7 Thank you.

8 THE COURT: State ready to call their first witness?

9 MR. KENDALL: Yes, sir, Your Honor. The State calls
10 Mr. Stevenson. Ms. Leskanic's gonna grab him.

11 THE COURT: Come right up here (indicating), sir.

12 JERON KENNARD STEVENSON, having
13 been first duly sworn, testified as follows:

14 DIRECT EXAMINATION BY MR. KENDALL:

15 Q. Good morning, sir. Could you please state your name for
16 the record.

17 A. Jeron Kennard Stevenson.

18 Q. Mr. Stevenson, on or around December 13, 2010 were you
19 working with law enforcement?

20 A. Yes, sir.

21 Q. And what were you doing with law enforcement?

22 A. Purchasing a ounce a crack.

23 Q. Okay. And then you made contact or who'd you contact to
24 purchase that ounce of crack?

25 A. Ricky Tate.

1 Q. Okay, and how'd you get in touch with Mr. Tate?

2 A. Through a cell phone.

3 Q. Alright. When you made that call, who else was there?

4 Was law enforcement with you?

5 A. Agent Todd Parker.

6 Q. Okay, and did he put any recording device on your phone

7 or around your phone?

8 A. Yes, sir.

9 Q. And did he then make a recording of that conversation?

10 A. Yes, sir.

11 Q. Have you had the opportunity to to listen to that that

12 conversation?

13 A. Yes, sir.

14 (Whereupon, State's Exhibit No. 2, disk, was shown to
15 defense counsel.)

16 (Whereupon, a discussion was held off the record.)

17 Q. And was that recording, was that disk a fair and accurate
18 representation of of what went on ---

19 A. Yes, sir.

20 Q. --- both ways what was said? I'm gonna approach with
21 State's Exhibit 2, Your Honor. Does this (indicating) appear
22 to be the disk that you saw?

23 A. Yes, sir.

24 Q. Now, Mr. Stevenson, while we're gettin' down and ready to
25 go, I'd like to ask you a couple questions about yourself.

JERON KENNARD STEVENSON - DIRECT EXAMINATION BY MR. KENDALL

1 You've been in trouble with drugs in the past, haven't ya?

2 A. Yes, sir.

3 Q. In fact, you in trouble right now, is that, is ---

4 A. Yes.

5 Q. --- that a fair ---

6 A. Yes, sir.

7 Q. --- statement? And that's why your agreed to cooperate
8 with law enforcement, is that a fair assessment?

9 A. Yes, sir.

10 Q. That being said, anybody promised you anything? Has
11 anybody said you're gonna not do it -- has anybody promised
12 you anything at all with respect to this?

13 A. No, sir.

14 Q. So you're doin' this in hopes that somethin' happens?

15 A. Yes, sir.

16 Q. There've been no promises made of any type?

17 A. No, sir.

18 Q. Okay. Now, Mr. Stevenson, I'm gonna go ahead and play
19 this this thing and then I'm gonna go back and have you
20 explain what's happened so if you could, just please listen
21 carefully, alright?

22 (Whereupon, a portion of State's Exhibit No. 2 was
23 played.)

24 Now having heard that tape is that a fair and just a a
25 representation what was said?

1. A. Yes, sir.

2. Q. Alright. And what was happening on that tape? What were
3. you doing at that time?

4. A. Sittin' in the back seat of Officer Parker' car on ---

5. Q. And ---

6. A. --- the cell phone.

7. Q. --- and what were you trying to get? Were you trying to
8. get a -- what what were you ordering in effect?

9. A. An ounce of crack.

10. Q. Okay, and who were you talking to?

11. A. Ricky Tate.

12. Q. And how do you know it was Mr. Tate?

13. A. Because I know his voice.

14. Q. Okay, did you dial the phone number for him?

15. A. Yes, sir.

16. Q. Was that a number you knew to be his number?

17. A. Yes, sir.

18. Q. And how long have you known Mr. Tate?

19. A. For over ten years.

20. Q. Okay, and do you recognize him in the courtroom today?

21. A. Yes, sir.

22. Q. Would you mind please pointing him out for the jury,
23. please.

24. (Whereupon, the defendant complied.)

25. Alright, now could you please explain to me some of the

JERON KENNARD STEVENSON - DIRECT EXAMINATION BY MR. KENDALL

1 things on on the tape, I'm not as familiar with the lingo as
2 as I could be but what is this ---

3 MR. BEAN: Your Honor, ---

4 THE COURT: Excuse me.

5 MR. BEAN: --- I I object to whatever he says is on the
6 tape. I think the tape speaks for itself. I I don't think he
7 can explain what was said in words on that tape if it's a
8 recorded call that he's testified it is.

9 THE COURT: Alright, you wanna ---

10 MR. KENDALL: I'll I'll reword, Your Honor.

11 THE COURT: Thank you.

12 BY MR. KENDALL:

13 Q. You testified a moment ago that you were involved in in
14 narcotics, is that correct?

15 A. Yes, sir.

16 Q. Based on your experience as somebody who is involved in
17 narcotics and your experience with the defendant, could you
18 please explain what a "zone" is.

19 A. A ounce of crack or just a ounce.

20 Q. In this case you talked about the "reg", what is the
21 "reg"? Do you want me to play it again?

22 A. Yeah, yeah.

23 Q. Alright.

24 (Whereupon, a portion of State's Exhibit No. 2 was
25 played.)

1 Q. So in that conversation when he said, What's it gonna be
2 the same, what is that -- what was your understanding of what
3 that meant?

4 A. The same price.

5 Q. Okay, what was that price?

6 A. One thousand.

7 Q. And why didn't you just say on this phone call that you
8 wanna call and say, Hello, I'd like to order an ounce of crack
9 cocaine? Why why don't people do that?

10 A. I mean, people use slang I guess.

11 Q. Okay. Okay. And after this phone call was placed what
12 did you do then?

13 A. After it was placed?

14 Q. Yes, sir, after the, after the phone call was
15 completed?

16 A. Well I caught a taxi back to my house.

17 Q. Okay, and how long after you got to the house did
18 Mr. Tate show up?

19 A. He was arrivin' when I was pullin' up.

20 Q. Alright. And what do you do when he showed up at the
21 house?

22 A. I walked in the house and got my car keys and come back
23 out.

24 Q. Alright, and what happened next?

25 A. Then we went to the side and went to the backyard and I

JERON KENNARD STEVENSON - DIRECT EXAMINATION BY MR. KENDALL

1 turned my car on, I gave him the money, he gave me the
2 crack.

3 Q. Okay, and where did this ta -- where did the actual crack
4 transaction take place?

5 A. In the backyard.

6 Q. Okay. And what did you, what did you buy?

7 A. An ounce a crack.

8 Q. Okay. How much did you give him?

9 A. One thousand.

10 Q. Alright, and about how long did you stay at your home
11 after after he left?

12 A. About two or three minutes.

13 Q. Okay. And where did you go at that point? After after
14 he, after he left what did you do?

15 A. Went back to Draytonville Church to meet Mr. Parker.

16 Q. Okay. And what did you do with the drugs?

17 A. Gave it to Mr. Parker.

18 Q. Okay. And the drugs you gave Mr. Parker were those the
19 same drugs that the defendant had sold you?

20 A. Yes, sir.

21 Q. And and what county did this transaction take place in?

22 A. Cherokee.

23 Q. Okay. During this entire transaction, were you wearing
24 an audiotape or wearing a audio recording device?

25 A. Yes, sir.

JERON KENNARD STEVENSON - DIRECT EXAMINATION BY MR. KENDALL

1 Q. And have you had the opportunity to listen to this audio
2 recording device?

3 A. Yes, sir.

4 Q. Alright, we're gonna listen to the audio and I'm gonna
5 stop midway through and after you -- ask you to kind of
6 explain some stuff and what's happening. I'm gonna go ahead
7 and play the other one, Bill, the other track on there.

8 MR. BEAN: I'm sorry. I didn't hear you.

9 MR. KENDALL: I'm gonna go ahead and play the other, the
10 other track that's on there.

11 MR. BEAN: Oh, sure.

12 MR. KENDALL: Give me one minute, Your Honor, this takes
13 a while to boot up.

14 (Pause.)

15 BY MR. KENDALL

16 Q. That's gonna take just a second, it's a big giant file, I
17 just wanna ask you one thing however in the meantime. In your
18 experience, somebody's who's been involved in the drug world,
19 how easy is it to get an ounce of crack cocaine this quickly?
20 I mean, is it somethin' that anybody -- if if I called up and
21 say I'd like to buy an ounce of crack cocaine, would somebody
22 sell it to me that fast without any kinda ---

23 A. I mean, it all depends but yeah, but no.

24 Q. If I didn't know the person, was calling full off the
25 street, would they sell it to me?

JERON KENNARD STEVENSON - DIRECT EXAMINATION BY MR. KENDALL

1 A. No, sir.

2 (Whereupon, a portion of State's Exhibit No. 2 was
3 played.)

4 Q. Alright, now up until right now who have you been with?

5 A. Todd Parker.

6 Q. Okay. I just wanted to give the jury, it's a little bit
7 hard to hear, I just wanna make sure they're able to kind of
8 feel what's goin' on, alright. Now from here what are you
9 gonna end up doing? After Mr. Parker, Officer Parker gets you
10 outta the car, what do ya do then?

11 A. Go on up to Kraft Avenue to get in a taxi.

12 Q. Okay, and listen to that.

13 (Whereupon, a portion of State's Exhibit No. 2 was
14 played.)

15 Now right there when you heard that radio at that point
16 what did you do?

17 A. Get in a taxi.

18 (Whereupon, a portion of State's Exhibit No. 2 was
19 played.)

20 Q. Alright, now what has happened right there with that
21 creaking noise?

22 A. I'm goin' through the front door to get my car keys.

23 (Whereupon, a portion of State's Exhibit No. 2 was
24 played.)

25 Q. When you said that but I'm gonna get my keys, something's

1 wrong with my motor, who are you talking to at that point?

2 A. Ricky Tate.

3 Q. At this time I just wanna make sure we just kind of get
4 some things clear just it'll be a good break in the, in the
5 point of the tape, how did you know Ricky Tate again?

6 A. Just off the streets.

7 Q. Okay. And do you recognize him in this courtroom? You
8 just mind tellin' the the Court and the jury what he's
9 wearin'.

10 A. A white and blue Polo, ---

11 Q. Okay, and ---

12 A. --- sleeveless.

13 Q. --- and would you mind pointing out to him where he's,
14 where he's sitting.

15 (Whereupon, the witness complied.)

16 I plea that the record reflect that he's pointing to the
17 defendant, Your Honor.

18 THE COURT: Yes, sir.

19 BY MR. KENDALL:

20 Q. And how did you get Mr. Tate's cell phone initially, cell
21 phone number initially?

22 A. From dealin' with him in the past.

23 Q. Okay. Alright. Let's go back here and hit refresh where
24 we are in the tape. You had just gotten home, is that
25 correct?

JERON KENNARD STEVENSON - DIRECT EXAMINATION BY MR. KENDALL

1 A. Yes, sir.

2 Q. You went inside to get your car keys, is that correct?

3 A. Yes, sir.

4 Q. Alright.

5 (Whereupon, a portion of State's Exhibit No. 2 was
6 played.)

7 Q. At that point right there, what did you just say, it's a
8 little hear -- a little hard to hear?

9 A. Alright, I said, "It's so so cold."

10 Q. Okay. At that point who are you talking to?

11 A. Ricky Tate.

12 Q. And had you made the drug transaction yet at that
13 point?

14 A. No, sir.

15 Q. Okay.

16 (Whereupon, a portion of State's Exhibit No. 2 was
17 played.)

18 Q. Now what is goin' on at this point?

19 A. The drug transaction.

20 Q. Okay. It sounds like you said and correct me if I'm
21 wrong, "Give a man a job, yeah," is that correct, but maybe
22 not?

23 A. No, sir.

24 (Whereupon, a portion of State's Exhibit No. 2 was
25 played.)

1 Q. Now at this point in the tape would you mind telling the
2 jury what's happening.

3 A. I'm handing him the money; he handed me the drugs.

4 Q. Okay. I'm gonna show you what is marked State's
5 Exhibit 3. Do you recognize what's in this (indicating)
6 packaging?

7 A. Yes, sir.

8 Q. And what does that appear to be?

9 A. The ounce of cocaine I purchased from Ricky Tate.

10 Q. Okay. And what did you do with this this -- the cocaine
11 you purchased from Mr. Tate?

12 A. Took it back and gave it to Todd Parker.

13 Q. Okay.

14 (Whereupon, a portion of State's Exhibit No. 2 was
15 played.)

16 At this point you're -- who is George?

17 A. He was a cab driver.

18 Q. Okay, was he physically there?

19 A. No, sir. I had called a cab after the transaction was
20 over with.

21 Q. Okay.

22 (Whereupon, a portion of State's Exhibit No. 2 was
23 played.)

24 Now at this point in time you've called for the cab, is
25 defense [sic] still there?

JERON KENNARD STEVENSON - DIRECT EXAMINATION BY MR. KENDALL

1 A. No, sir.

2 Q. How long after the transaction was conducted he stick
3 around?

4 A. Not even a minute.

5 Q. Okay.

6 (Whereupon, a portion of State's Exhibit No. 2, the disk,
7 was played.)

8 And what's happenin' right there?

9 A. Finally get me a taxi and go back to Agent Todd Parker.

10 Q. Alright, and and just explain briefly what you did from
11 here on out, you might just ---

12 A. Road in the taxi to meet Todd Parker.

13 Q. Alright.

14 (Whereupon, a portion of State's Exhibit No. 2, the disk,
15 was played.)

16 Q. Mr. Stevenson, after hearing that entire tape, was that a
17 fair and accurate presentation of what happened there that
18 day?

19 A. No, sir.

20 Q. No, sir?

21 A. I couldn't understand what you asked.

22 Q. I'm sorry. Was that, was that -- did what happen on the
23 tape is that a fair an accurate representation? In other
24 words, did it happen like that? Did we add things or put
25 things onto that tape?

1 A. Yes, sir, it happened like that.

2 Q. Okay. Alright.

3 MR. KENDALL: Your Honor, we would offer it's State's
4 Exhibit, I believe it's marked as State's Exhibit, State's
5 Exhibit 2 into evidence, a disk containing both the wire worn
6 by Mr. Stevenson as well as the phone call.

7 MR. BEAN: No objection.

8 THE COURT: Without objection.

9 (State's Exhibit No. 2, disk of wire and phone call,
10 admitted into evidence.)

11 MR. KENDALL: Your Honor, we need to set up for a
12 different format of a audio visual. Any way we could give a
13 short break for ---

14 THE COURT: Alright. Ladies and gentlemen, we will take
15 a short break: I need to let you know that -- remind you that
16 you cannot have any discussions among yourselves about
17 anything involving the case. I'll let you go with bailiff.
18 If you would, if you would, take opportunity and let this be
19 your restroom break as well but we'll get you back in just a
20 few minutes. You may go with the bailiff.

21 (The following takes place outside the presence of the
22 jury.)

23 THE COURT: Mr. Tate [sic], I need to instruct you that
24 you are in the process of giving testimony so you can't have
25 any discussions with anybody about the substance of your

JERON KENNARD STEVENSON - DIRECT EXAMINATION BY MR. KENDALL

1 testimony but you may step down.

2 (Whereupon, the witness left the stand.)

3 (Whereupon, a recess was taken.)

4 THE COURT: Where's Mr. Stevenson? C'mon back in, sir,
5 come right up.

6 (Whereupon, the witness retook the stand.)

7 THE COURT: Sir, I need to to remind you that you remain
8 under oath. Do you understand that?

9 MR. STEVENSON: Yes, sir.

10 THE COURT: Okay. Anything before we bring the jury back
11 in?

12 MR. KENDALL: I just need to get these exhibits marked,
13 Your Honor.

14 MR. BEAN: Nothing from the defense, Your Honor.

15 (Photographs marked State's Exhibit Nos. 4, 5 and 6 and
16 fund expenditure voucher marked State's Exhibit No. 7 for
17 identification.)

18 THE COURT: Alright, let's bring the jury back.

19 (The following takes place in the presence of the jury.)

20 THE COURT: Yes, sir.

21 MR. KENDALL: Thank you very much, Your Honor.

22 BY MR. KENDALL:

23 Q. Mr. Stevenson, one of the things we haven't gotten into
24 yet is your criminal record. I believe you testified you had
25 a criminal record earlier, is that correct?

1 A. Yes, sir.

2 Q. And in your past in 2001 were you convicted of any drug
3 crimes?

4 A. Yes, sir.

5 Q. And in 2004 were you convicted of any drug crimes?

6 A. Yes, sir.

7 Q. And what crime was that?

8 A. Trafficking.

9 Q. In what substance?

10 A. Crack.

11 Q. Have you been convicted of any other drug crimes,

12 Mr. Stevenson?

13 A. No, sir.

14 Q. Okay. Is everything you told us over the course of of
15 this examination been truthful however?

16 A. Yes, sir.

17 Q. Alright. I'd like to get back to Mr. Tate if I could.

18 How did Mr. Tate arrive at your house?

19 A. White Cadillac.

20 Q. Alright, had you seen him driving this vehicle before?

21 A. Yes, sir.

22 Q. About how many times?

23 A. Just like numerous times.

24 Q. Okay. And how did he leave your residence?

25 A. White Cadillac.

JERON KENNARD STEVENSON - DIRECT EXAMINATION BY MR. KENDALL

1 Q. Okay. Was anyone else with him?

2 A. No, sir.

3 Q. I'm gonna show you some exhibits, start with State's
4 Exhibit 4. Do you recognize what's in this, what's in this
5 photo?

6 A. Yes, sir.

7 Q. And what is in that photo?

8 A. A white Cadillac.

9 Q. Okay. Does it appear to be the same one that's driven by
10 Mr. Tate on the day he came by your home?

11 A. Yes, sir.

12 Q. Next I'm gonna show you State's Exhibit 6. Can you
13 identify what's in that that photo?

14 A. A white Cadillac.

15 Q. And could you tell the jury whether or not that was
16 similar to the one that was driven by Mr. Tate ---

17 A. Yes, sir.

18 Q. --- on that day. And finally this once's a little bit
19 harder to make out, could you identify what's in this picture
20 or where that's taken?

21 A. Can't really tell where it's taken but look like the same
22 white Cadillac.

23 Q. Okay. And would that be consistent with the one that was
24 driven by Mr. Tate?

25 A. Yes, sir.

1 MR. KENDALL: Your Honor, we'd offer these three photos
2 into evidence.

3 MR. BEAN: No objection.

4 THE COURT: Without objections and those will be State's
5 what numbers?

6 MR. KENDALL: Four, five and six, Your Honor, and with
7 the Court's permission I'd like to publish those to the jury
8 at this time.

9 THE COURT: Alright.

10 (State's Exhibit Nos. 4, 5 and 6, photographs, admitted
11 into evidence.)

12 MR. KENDALL: This (indicating) is State's Exhibit 5,
13 this (indicating) is State's Exhibit 4, this (indicating) is
14 State's Exhibit 6.

15 (Whereupon, the exhibits were published to the jury.)

16 BY MR. KENDALL:

17 Q. Now when Mr. Tate came by your house and sold you these
18 narcotics, was anyone with him at that time?

19 A. No, sir.

20 Q. So he was by himself?

21 A. Yes, sir.

22 Q. And to be clear, where is your home located? What county
23 is your home located in?

24 A. In Cherokee.

25 MR. KENDAL: I've got no further questions, Your Honor.

JERON KENNARD STEVENSON - CROSS-EXAMINATION BY MR. BEAN

1 CROSS-EXAMINATION BY MR. BEAN:

2 Q. Mr. Stevenson, ---

3 A. Right. Yes, sir.

4 Q. --- I wanna ask you a couple questions about your your
5 criminal record that the solicitor just mentioned. Now 2002
6 you were convicted of of trafficking crack, is that right?

7 A. No, sir.

8 Q. No, s -- okay, what what were you convicted of?

9 A. Distribution a crack.

10 Q. Distribution of crack, that's and that -- that's a
11 felony, isn't it?

12 A. Yes, sir.

13 Q. Okay. And later on you had I believe in 2004 trafficking
14 crack, is that right?

15 A. Yes, sir.

16 Q. And that's also a felony, correct?

17 A. Yes, sir.

18 Q. How long you been in the drug business?

19 A. Since about '98.

20 Q. So thirteen years?

21 A. Yes, sir.

22 Q. How old are ya?

23 A. Twenty-seven.

24 Q. Started when you were 14?

25 A. Yes, sir.

1 Q. So you know about drugs then pretty well, don't ya?

2 A. Yes, sir.

3 Q. Okay. Tell me, I don't know much about crack, what does
4 it look like?

5 A. I mean, it all depends. It could be hard, could be soft
6 lookin'.

7 Q. Okay, there is State's Exhibit 3 which you identified as
8 crack is that one way that you identify crack it looks like
9 this (indicating)?

10 A. Yes, sir.

11 Q. Okay. And and that to me look likes modeling clay.
12 Would would that be a fair description?

13 A. I mean, just like I said, it could be hard, it could be
14 soft or ---

15 Q. What does it look like if it's hard?

16 A. It just look hard, solid like.

17 Q. Okay. Does it, does it look like a rock?

18 A. I mean, not really but yeah. No but yeah.

19 Q. Okay.

20 A. It come in all different forms.

21 Q. Have you, have you used all the different forms at one
22 time or another in the last thirteen years?

23 A. No, sir.

24 Q. You haven't? Which which ones have you used?

25 A. Basically the hard and soft.

1 Q. So two different kinds?

2 A. Yes, sir.

3 Q. How many times would you say that you've sold crack?

4 A. I can't count.

5 Q. Are there too many to count or you just don't know?

6 A. There's just too many to count.

7 Q. Now I wanna ask you about the arrangement that you had
8 with the police. You don't normally work with the police, do
9 you?

10 A. No, sir.

11 Q. Okay. Have you worked with the police before ---

12 A. No, sir.

13 Q. --- as an informant?

14 A. No, sir.

15 Q. How did you come to be working with the police on this
16 occasion?

17 A. Well I got out on bond I asked for his help.

18 Q. When you got out on bond? What were you gettin' out on
19 bond for?

20 A. For trespassin'.

21 Q. Trespass. So it didn't have anything to do with drugs?

22 A. Yes, sir.

23 Q. Well how were drugs involved?

24 A. I caught possession in the summer a 2002.

25 Q. So you asked the police if you could work with them to

1 help them find people doin' drugs, is that right?

2 A. No, sir, help me on my situation.

3 Q. I see. And what was the arrangement that you had with
4 them?

5 A. A phone call and he asked me could a buy drugs from
6 somebody.

7 Q. What did they tell ya would happen if you cooperated
8 with, what would happen to you?

9 A. I mean, he ain't told me really nothin' yet.

10 Q. He didn't tell ya he'd help ya, "he" being ---

11 A. Yeah, he ---

12 Q. --- the police?

13 A. --- said he'd help me but he didn't say if my charges
14 gonna be handled or dismissed or not, he just said he would
15 help me if I would help him.

16 Q. And what would be helpin' him in in your understanding of
17 that word?

18 A. Purchasin' drugs from a dealer.

19 Q. So in order to get this help that you think you're gonna
20 get from the police you'd have to produce drugs, wouldn't
21 ya?

22 A. Yes, sir.

23 Q. And if somethin' happened and you thought it was gonna be
24 a drug deal and it wasn't a drug deal, that wouldn't help you,
25 would it?

1 A. No, sir.

2 Q. Okay. Now I'm a little curious about the time line in
3 all of this that you talk about and that we heard on that
4 rather awful scratchy disk. When you went to meet Ricky Tate,
5 where did you meet him?

6 A. At my home.

7 Q. And how did you get to your home?

8 A. A taxi cab.

9 Q. The taxi let you out at the house?

10 A. Yes, sir.

11 Q. Did it wait there for you?

12 A. No, sir.

13 Q. So it left?

14 A. Yes, sir.

15 Q. And how far was the cab ride from where you got in the
16 cab to your house?

17 A. Probly about eight minutes arrived.

18 Q. How far would that be, your best estimate? Couple
19 miles?

20 A. Yes, sir.

21 Q. And where did the cab pick ya up?

22 A. At Draytonville Church.

23 Q. So you live a couple miles from Draytonville Church.

24 A. Yes, sir.

25 Q. Now when you got there Ricky Tate wasn't there, was he?

JERON KENNARD STEVENSON - CROSS-EXAMINATION BY MR. BEAN

- 1 A. He was arrivin' when I was arrivin'.
- 2 Q. Oh, so ya'll rolled up at the same time.
- 3 A. Yes, sir.
- 4 Q. Alright. And you said, I believe, you went inside to get
- 5 your car keys.
- 6 A. Yes, sir.
- 7 Q. Then what?
- 8 A. Then I came back out.
- 9 Q. Alright. And where where'd you come back out? the front
- 10 door?
- 11 A. Yes, sir.
- 12 Q. Where was your car?
- 13 A. In the backyard.
- 14 Q. Behind the house?
- 15 A. Yes, sir.
- 16 Q. You and Ricky walk around there together?
- 17 A. Yes, sir.
- 18 Q. Okay. What were you doin' with the car keys?
- 19 A. Crankin' up my car.
- 20 Q. Was somethin' wrong with your car?
- 21 A. Yes, sir.
- 22 Q. What was wrong with it?
- 23 A. The motor was on the verge of goin', I just want him to
- 24 hear it.
- 25 Q. Now after this supposed drug deal took place you said

JERON KENNARD STEVENSON - CROSS-EXAMINATION BY MR. BEAN

1 Ricky got in his car and left.

2 A. Yes, sir.

3 Q. Did he tell ya anything about what was wrong with your
4 car?

5 A. No, sir.

6 Q. Did ya ask him?

7 A. Yes, sir.

8 Q. What he say?

9 A. I mean, I can't remember what he said but I asked him,
10 you know.

11 Q. Whadya do after he left?

12 A. I called another cab to come and get me.

13 Q. How long it take him to get there?

14 A. About five minutes.

15 Q. Was it the same cab?

16 A. No, sir.

17 Q. Alright. When you got in that cab, where'd you go?

18 A. Went back to Draytonville Church.

19 Q. To the same place?

20 A. Yes, sir.

21 Q. And did you meet the police there?

22 A. Yes, sir.

23 Q. How long it take you to get there?

24 A. Probly about eight minutes.

25 Q. Now how long did it take for the cab to get there after

1 you called?

2 A. About five minutes.

3 Q. Now you and, you and Ricky were friends, weren't ya?

4 A. Yes, sir.

5 Q. Okay. And and in fact you helped him, you helped him get
6 out on bond, didn't you?

7 A. Yes, sir.

8 Q. And just to be totally clear, Mr. Stevenson, your
9 understanding of the deal is that if you don't produce some
10 crack, the police won't help you, is that right?

11 A. No, sir.

12 Q. Oh, so if you, if you don't produce crack, you think they
13 gonna help ya anyway?

14 A. I mean, there probly could be sumtin' else to produce.

15 Q. I see, but you gotta produce somethin', is that right?

16 A. Yes, sir.

17 Q. Did you have any kind of a written agreement with the
18 police about what you were doin'?

19 A. Yes, sir.

20 Q. What does that agreement say?

21 A. That he may help me if I was to help him.

22 Q. Do you have that agreement with you today?

23 A. No, sir.

24 Q. Now when when you supposedly got this this bag of drugs
25 from Ricky Tate which is marked here as State's Exhibit, was

JERON KENNARD STEVENSON - CROSS-EXAMINATION BY MR. BEAN

1 it in this little ziploc bag here (indicating)?

2 A. No, sir.

3 Q. How how was it packaged?

4 A. Just a regular plastic bag.

5 Q. Well is is this (indicating) the plastic bag that it came
6 in?

7 A. Yes, sir.

8 Q. Now when you got that how'd ya get it? Somebody put it
9 in your hand?

10 A. Yes, sir.

11 Q. Whadya do with it?

12 A. I put it in my pocket.

13 Q. Just kinda like that (demonstrating)?

14 A. Yes, sir.

15 Q. And did you do anything with it other than leave it in
16 your pocket until you got to the police and gave it to them?

17 A. Yes, sir.

18 Q. Stayed in your pocket the whole time?

19 A. Yes, sir.

20 MR. BEAN: Just a moment, Your Honor. Your Honor, before
21 I stop asking questions of this witness, I do have a matter to
22 take up with the Court.

23 THE COURT: Alright, he has a -- gets to redirect
24 first.

25 MR. BEAN: Yes, ---

JERON KENNARD STEVENSON - REDIRECT EXAMINATION BY MR. KENDALL

1 THE COURT: Alright.

2 MR. BEAN: --- that's fine.

3 THE COURT: Limited to what he went into.

4 MR. KENDALL: Yes, sir, Your Honor. I'll be very brief.

5 REDIRECT EXAMINATION BY MR. KENDALL:

6 Q. Just to clarity a couple of things that I think are
7 important here, the times that it took you to get to your
8 place were those exact numbers or were you just approximating
9 on that?

10 A. Just approximate.

11 Q. Okay, so it could -- I mean, it coulda taken you fifteen
12 minutes to get there and back, it coulda taken you five
13 minutes to get there and back, is that, is that a fair thing
14 to say? You you weren't timing it or anything like that ---

15 A. No, sir.

16 Q. Okay. And to clarify, you've not been offered anything
17 at all as a result of this testimony other than, other than
18 good will, that nothing specific was offered to you, is that
19 right?

20 A. No, sir.

21 Q. Okay. And over the course of this testimony have have
22 you told the truth today?

23 A. Yes, sir.

24 Q. Have you left anything out that would be important to the
25 jury?

CHRIS WYATT - DIRECT EXAMINATION BY MR. KENDALL

1 A. No, sir.

2 MR. KENDALL: I've got no further questions, Your Honor.

3 THE COURT: Alright. Thank you, sir, you may step down.

4 (Whereupon, the witness left the stand.)

5 THE COURT: Lawyers wanna approach.

6 (Whereupon, a bench conference was held off the record.)

7 MR. KENDALL: Your Honor, can we approach?

8 (Whereupon, a bench conference was held off the record.)

9 THE COURT: Alright, State ready to call their next
10 witness?

11 MR. KENDALL: Give me one moment, Your Honor. The State
12 calls Chris Wyatt.

13 THE COURT: Come around, sir.

14 CHRIS WYATT, having been first
15 duly sworn, testified as follows:

16 DIRECT EXAMINATION BY MR. KENDALL:

17 Q. Could you please state your name for the record, sir.

18 A. Chris Wyatt.

19 Q. And what do you do for a livin', Mr. Wyatt?

20 A. Deputy sheriff.

21 Q. Alright. And how long you been with the sheriff's
22 office?

23 A. Just shy of ten years.

24 Q. Alright. And in December of 2010 what were your
25 responsibilities at the sheriff's office?

CHRIS WYATT - DIRECT EXAMINATION BY MR. KENDALL

1 A. Evidence clerk.

2 Q. Could you please describe the intake procedures for
3 narcotics at the, at the sheriff's office.

4 A. The officer gathers the evidence, they'll they'll create
5 a chain a custody form, they'll drop it in the drop box. When
6 I come in I go in, I pull the items from the drop box and I'll
7 log those item into our ---

8 Q. Alright, ---

9 A. --- system.

10 Q. --- what is the evidence drop box?

11 A. It's a, it's a sl -- small slot inside a wall. Officers
12 come buy they can lift the flap up and drop evidence in but
13 it's so deep that no one can get the evidence back out from
14 the outside the wall.

15 Q. Who has access to the evidence drop box?

16 A. Myself, Sheriff Guber (phonetic) and one of the crime
17 scene investigators.

18 Q. Okay. And what -- did you make any notes or anything
19 like that when when you take things out of the evidence drop
20 box? Alright, what happens when you, when you get the
21 evidence from the drop box?

22 A. I'll I'll pull the evidence, I look at the chain a
23 custody make sure all the case numbers match, I gather
24 information: suspect's name, if there's any victim's name,
25 again, then they're added to computer system.

CHRIS WYATT - DIRECT EXAMINATION BY MR. KENDALL

1 Q. Do you make any notations?

2 A. It's according to what the evidence is.

3 Q. Okay. What do you check for in the evidence when you get
4 it outta the drop box?

5 A. If it's drug evidence, main thing is to make sure it's
6 sealed up.

7 Q. And you do that as part of your, parta your common
8 practice?

9 A. Yes.

10 Q. So every single one that goes into that evidence drop box
11 you check to make sure it's in fact sealed up?

12 A. Yes.

13 Q. Okay. I'm gonna -- and did you do that in this case?

14 A. Yes, sir, I did.

15 Q. And on what form do you, do you indicate that you have in
16 fact done that, you in fact taken custody of that?

17 A. On the "best bag" where where the actual seal is, I'll
18 initial my initials ---

19 Q. But well let's ----

20 A. --- and I seal it across the top of it.

21 Q. --- let's go ahead and go ahead and show. I'm gonna
22 approach the witness with State's Exhibit 3. Do you recognize
23 what this is (indicating)?

24 A. Yes, sir, it's a "best bag."

25 Q. Would you mind please explain to the jury what a "best

1 bag" is.

2 A. A "best bag" is a sealed envelope holds any kind of drug
3 evidence other than marijuana, that's the only times that we
4 do not put it in a "best bag." Anything that's submitted into
5 a "best bag" is gonna be carried to SLED for the testing.

6 Q. Now when you say "sealed", I mean we talking like an
7 envelope seal where I can like kinda put it underneath and
8 I'll open it back up again?

9 A. No, it's tamper proof seal.

10 Q. Could you please just describe to the jury what a tamper
11 proof seal actually is.

12 A. Once once the tamp proof seal is sealed if it's attempted
13 to be reopened, it will be very obvious, it can't be reopened
14 after that seal.

15 Q. Okay, and do you make any any markings or annotations on
16 the, on the thing to indicate that it was sealed, you checked
17 that it was sealed?

18 A. Yeah.

19 Q. Could you please show the jury where on here you
20 indicated it was sealed.

21 A. Across this (indicating) green line that's the actual
22 seal. I'll initial my initials and write "sealed" on there,
23 that's also one of the requirements I have to do before I
24 submit it to SLED.

25 Q. Okay, and could you please just to clarify and explain

CHRIS WYATT - DIRECT EXAMINATION BY MR. KENDALL

1 for the court reporter I guess that the lawyer could reflect
2 he pointed to the word "sealed" written across the the front
3 of the envelope as well as to the wor -- letter "CW". Am I to
4 assume that CW's your initials?

5 A. Yes.

6 Q. Okay. Now once you take the evidence out of the evidence
7 drop box where does it go?

8 A. I'll log it in and assign it to a shelf location.

9 Q. And where is that shelf location?

10 A. It's within the evidence vault that the narcotics are are
11 stored in behind a chain-link fence, it's inside there also.

12 Q. So to clarify, they're in a vault behind behind a
13 separate chain-link fence as well?

14 A. Um-hum.

15 Q. Who has access to this?

16 A. To the chain-link fence, myself and the sheriff.

17 Q. Okay, and when was the next time you handled this
18 evidence?

19 A. The next time handling this evidence was the day that I
20 logged it out to carry it down to SLED to be tested.

21 Q. Okay. At that time would you then again have check to
22 see if it was sealed?

23 A. Yes.

24 Q. And do you have any indication that it was not sealed at
25 that time?

CHRIS WYATT - DIRECT EXAMINATION BY MR. KENDALL

1 A. No, I do not.

2 Q. Okay. Did anybody appear to have tampered with the "best
3 bag" in any way?

4 A. No, sir.

5 Q. And what did you do with the "best bag" at that point?

6 A. I I logged it out of the computer system and I carried it
7 with numerous other items to SLED.

8 Q. Okay. What did you do when you got to SLED?

9 A. I I signed in, submitted all my evidence and I went
10 through the process down there.

11 Q. Okay. But you never had indication in this case who
12 dropped in the evidence box.

13 A. I would have to refer to the paperwork that was along
14 with it.

15 Q. Okay.

16 A. According to the "best bag", it was sealed by Todd
17 Parker.

18 Q. Okay. Okay. So you -- I guess you're saying is you need
19 to look at the paperwork to ---

20 A. Yes, ---

21 Q. --- refresh your memory?

22 A. --- I do.

23 (Whereupon, documents were handed to the witness.)

24 Q. Based on lookin' at that paperwork can you tell or just
25 describe the, describe to the jury what that paperwork

CHRIS WYATT - DIRECT EXAMINATION BY MR. KENDALL

1 actually is.

2 A. This is it's just a cu -- chain of custody form who who
3 the officer was, the actual ---

4 Q. And and I guess ---

5 A. --- submitted evidence. ---

6 Q. --- what is the fir -- before you get into that what is
7 the chain a custody?

8 A. Chain a custody is a a paper trail showing who has
9 handled each part that ---

10 Q. Okay.

11 A. --- it shows that evidence was collected by Todd Parker
12 from Jeron Stevenson and then from Todd Parker he submitted it
13 into the evidence vault and then from there I took custody of
14 it.

15 Q. And what's the point of keepin' this record?

16 A. It -- it's very important to show who all has handled the
17 evidence, ---

18 Q. Okay.

19 A. --- to show that, you know, ---

20 Q. Okay.

21 A. --- we'll know it's tampered with.

22 Q. Alright.

23 MR. KENDALL: I got no further questions, Your Honor.

24 MR. BEAN: I have no questions of this witness, Your
25 Honor.

JILL CLARK - DIRECT EXAMINATION BY MR. KENDALL

1 THE COURT: Thank you, sir, you may step down.

2 (Whereupon, the witness left the stand.)

3 MR. KENDALL: The State would call Jill Clark, Your
4 Honor.

5 THE COURT: C'mon around, ma'am.

6 JILL CLARK, having been first
7 duly sworn, testified as follows:

8 DIRECT EXAMINATION BY MR. KENDALL:

9 Q. Ms. Clark, do you mind stating your name for the record,
10 please.

11 A. Jill Clark.

12 Q. And, Ms. Clark, what is your occupation?

13 A. I'm employed by the South Carolina Law Enforcement
14 Division known as SLED as a drug chemist in the drug analysis
15 department.

16 Q. And how long have you been with SLED?

17 A. Since December of '99.

18 Q. And how long have you been a chemical analyst?

19 A. I was started doing cases in August of 2000.

20 Q. Have you testified in court before?

21 A. Yes, I have.

22 Q. About how many times have you testified in court?

23 A. I've testified forty times now.

24 Q. Have you ever been qualified as an expert during any of
25 these trials?

JILL CLARK - DIRECT EXAMINATION BY MR. KENDALL

1 A. Yes, I have.

2 Q. And do you know what counties you've been qualified as an
3 expert in?

4 A. Yes.

5 Q. What type of education does this type of job require?

6 A. It requires a bachelor's degree, they prefer it to be
7 in chemistry which is what I have, also go through training at
8 SLED's drug analysis department, we also receive training at
9 the South Carolina Criminal Justice Academy and the DEA.

10 Q. Okay. Could you please just basically describe and
11 you've kinda already done it briefly there but what what
12 education you has, your full curriculum vitae if you would.

13 A. I have a bachelor's degree in chemistry, I've got one
14 year of graduate school at the University of South Carolina in
15 chemistry, I completed the training in the drug analysis
16 department at SLED, I've gone through the DEA which is Drug
17 Enforcement Agency for training and I also completed the South
18 Carolina Criminal Justice Academy.

19 Q. Okay, and over the course of your training of -- and
20 experience have you testified or excuse me, have you tested
21 for crack cocaine?

22 A. Yes, I have.

23 Q. About how many times have you testified -- done this analysis?

24 A. Thousands of times.

25 MR. KENDALL: Your Honor, the State of South Carolina

JILL CLARK - DIRECT EXAMINATION BY MR. KENDALL

1 moves that Ms. Clark be declared as an expert witness in the
2 field of chemistry and the analysis of narcotics.

3 MR. BEAN: We will stipulate to her qualifications, Your
4 Honor.

5 THE COURT: Alright, ladies and gentlemen, normally a
6 person cannot give opinion testimony. Normally when a person
7 testifies they must testify as to either what they saw, what
8 they heard or they sensed by smell or something of that
9 nature, however, there is an exception when someone is
10 qualified because of education or experience, they are
11 permitted to give their opinion in certain areas if the Court
12 qualifies them that way. This witness will be qualified in
13 the area of chemistry and analysis of narcotics to give
14 opinion testimony in that area, that does not mean that you
15 must accept the opinion but it is evidence for you to use in
16 any way that you see fit and give it the weight and
17 credibility that you believe is appropriate. Yes, sir.

18 MR. KENDALL: Your Honor, I'd like to show Ms. Clark what
19 was marked State's Exhibit 3.

20 BY MR. KENDALL:

21 Q. Will you please examine that.

22 (Whereupon, the witness complied.)

23 A. Yes, this is a "best kit" containing drugs that I tested.

24 Q. Okay. Based on your experience and training were you
25 able to form an opinion as to what was inside of that?

JILL CLARK - DIRECT EXAMINATION BY MR. KENDALL

1 A. Yes, I did.

2 Q. And what did you determine?

3 A. This contained cocaine base which is known as crack, it's
4 a Schedule II drug that was found, it was 23.5 grams which
5 converts to 362.6 grains.

6 Q. Okay, now let's take a few moments to talk about the
7 chain a custody as we previously discussed and just go over
8 some things in line with the "best bag". Let's start with the
9 outer outer container we have here. Is this (indicating)
10 outer container, this entire thing the "best bag"?

11 A. No.

12 Q. What what is that? Do you mind please te ---

13 A. The outer container is what we call the "heat seal pouch"
14 'cuz the "best kit's" inside it. Once we cut it open and take
15 the drugs out and we're to secure it, we put it all in the
16 heat sealed pouch and then seal it and then I put the date and
17 my initials that I've sealed it.

18 Q. Now did you ever at any unpoint -- it any point do you
19 ever unseal the "best bag", in other words, you cut the the
20 seal portion?

21 A. Yeah, well I cut it at the very bottom ---

22 Q. So ---

23 A. --- is where we cut it.

24 Q. --- so the tape at the top does that remain sealed?

25 A. Yes.

JILL CLARK - DIRECT EXAMINATION BY MR. KENDALL

1 Q. And when it comes into your possession do you check ---

2 A. Um, ---

3 Q. --- as part of your common practice to see if that is in
4 fact sealed?

5 A. Yes. When it comes in I look at it to make sure it
6 hasn't been tampered with and then you can see where I put,
7 Okay, April 14th 2011, JLC for my initials, that shows me that
8 I looked at it, it was sealed, didn't have any alterings,
9 everything's in tact.

10 Q. And April 14th is that when this came into your
11 possession or when you examined it?

12 A. April 14th is the day that I did the testing on it. I
13 actually received it on April 13th.

14 Q. Okay. And where did you receive this exhibit?

15 A. I received it in our evidence department directly from
16 the evidence technician.

17 Q. And could you tell if this exhibit had been tampered with
18 at all?

19 A. Yes. It did not appear to be tampered with, everything
20 was in tact and the drugs that were stated on the request form
21 to be tested were inside it.

22 Q. Okay, and I just wanna do a quick caveat here 'cuz this
23 is kinda confusin', it definitely got me the first time.
24 Inside of this this larger bag we have what appears to be a a
25 rock-like substance but there's also this small piece of

JILL CLARK - DIRECT EXAMINATION BY MR. KENDALL

1 cellophane in there. Would you mind telling the jury what
2 that is.

3 A. What it is is this rock substance it almost fee --
4 appears what we would say kind of have some moisture in it,
5 almost like wet sand which is why on the outside, this ziploc
6 bag is something I added to the case, the plastic bag was what
7 it was originally in which I marked on my worksheet 'cuz it
8 was a plastic bag containing rock substance so I take it outta
9 that to test and then I reseal it in a plastic bag and down
10 here (indicating) I write, "bag add" and you can see my
11 initials a little bit but the lab number looks like it's
12 starting to evaporate from the moisture that took a sample.

13 Q. Okay. So so to clarify, you save the bag that it
14 actually comes in but you repackaged it in in the, in the
15 cellophane bag that's in here?

16 A. Right, I put the ziploc bag's what I added to kinda
17 secure the plastic bag with the rock that was in it.

18 Q. Okay, and in your opinion how does moisture affect crack
19 cocaine?

20 A. It doesn't affect it chemically, it just may, it may make
21 it weigh a little more, that's all.

22 Q. Would it make it -- you were in the courtroom a few
23 moments ago Mr. Bean was asking about the rock versus the clay
24 cocaine, how would moisture kind of fall into that analysis?

25 A. Well it would affect the way it looks, the physical

JILL CLARK - DIRECT EXAMINATION BY MR. KENDALL

1 appearance. A lotta times typically a lotta people think
2 crack is a rock form, hear it called a rock form, but if it's
3 wet then a course it can take a different form, like this
4 (indicating) almost looks like the rock has gotten wet, it's
5 almost like compact hard sand so that it would just change its
6 physical appearance.

7 Q. Does it any way change its chemical appearance?

8 A. No.

9 Q. And what you're running test items when you're -- what
10 are you testing?

11 A. I take a small portion of the rock and I do a chemical
12 test and that gives me an idea of what it is and then from
13 there I take another piece of the rock and I dissolve it in a
14 solution and then I put it on our instrumentation that does a
15 confirmatory test and identifies it.

16 Q. And did you do that in this case?

17 A. I'm sorry?

18 Q. And did you do that test in this case?

19 A. Yes, I did those tests.

20 Q. And and what did you find the substance to be?

21 A. Found it to be cocaine base crack.

22 Q. Okay, did you weigh the substance?

23 A. Yes, I did.

24 Q. And how much did the substance weigh as tested?

25 A. It weighed 23.5 grams.

JILL CLARK - CROSS-EXAMINATION BY MR. BEAN

1 MR. KENDALL: Your Honor, I've got no further questions.

2 CROSS-EXAMINATION BY MR. BEAN:

3 Q. Ms. Clark, if I may, I just have a couple of questions,
4 I'm a little confused about all these bags too. If you don't
5 mind me comin' up here and lookin' at it with ya I'd like to
6 do that.

7 A. Sure.

8 Q. So ---

9 A. This outer bag is a ziploc bag that I added to the case
10 and you ---

11 Q. Is this -- would that be the bag with the little red mark
12 across the top ---

13 A. Yes, this is folded over the top, ---

14 Q. I ---.

15 A. --- it's just a ziploc bag and you see where I wrote "bag
16 add", that means I added, that's just kind of our little
17 shorthand.

18 Q. Okay.

19 A. And then up here (indicating) if you do it in the light
20 it's hard to see, it's wet, it's kinda making the marker
21 evaporate, it's like, got the light number an 110433-1.1's the
22 item and and then JLC's, ya know, they are my initials but
23 inside the ziploc, which is what I added to the case, did not
24 come with the case, is the plastic bag that the rock was
25 originally in.

JILL CLARK - CROSS-EXAMINATION BY MR. BEAN

1 Q. Okay. Alright, I understand, I -- and thank ya, I just,
2 I just wanted to be clear about that. Now you're a chemist
3 and this is what you do, this is your job with SLED, you've
4 done it lotsa times all -- is all that correct?

5 A. Yes.

6 Q. Okay. Now what typa test do you do other than chemical
7 analysis?

8 A. Well I do a chemical test on it and also I do
9 instrumentation which is ga -- gas chromatograph-mass
10 spectroscopy and then for crack we do a hexane extraction
11 which is considered a physical test.

12 Q. Okay. Well, my son was a chemistry major but trust me, I
13 don't know anything about it so I I just wanna be sure that I
14 understand. Basically what you're doin' i -- to to me as a
15 layman is is chemical testin', right?

16 A. Yes.

17 Q. Okay, so so you don't do anything like fingerprints, ---

18 A. No, no fingerprints.

19 Q. --- DNA?

20 A. No DNA.

21 Q. Okay, anything else that you do other than what you've
22 just explained?

23 A. No.

24 Q. Okay. Do you know was this tested by anyone else?

25 A. Not that I'm aware of.

JILL CLARK - REDIRECT EXAMINATION BY MR. KENDALL

1 Q. Okay. So no one at SLED then handled this except you?

2 A. Right, other than the evidence control who, ya know,
3 just ---

4 Q. Right.

5 A. --- basically received it and put it in the vault.

6 Q. But but nobody, nobody did any testing or anything with
7 it other than you?

8 A. No, I was the only one that tested it.

9 Q. Okay, thank you.

10 MR. BEAN: No further questions, Your Honor.

11 THE COURT: Any redirect limited to what he went into?

12 MR. KENDALL: Just very, very quickly.

13 REDIRECT EXAMINATION BY MR. KENDALL:

14 Q. Just just to be clear, when you got it, it had not -- did
15 not appear to be tampered with or anything like that in any
16 way?

17 A. No, it was properly sealed.

18 Q. Okay.

19 MR. KENDALL: No further questions, Your Honor.

20 THE COURT: Thank you, ma'am, you may step down.

21 (Whereupon, the witness left the stand.)

22 MR. KENDALL: Can we approach, Your Honor?

23 THE COURT: (No audible response.)

24 (Whereupon, a bench conference was held off the record.)

25 THE COURT: State ready to call their next witness?

TODD PARKER - DIRECT EXAMINATION BY MR. KENDALL

1 MR. KENDALL: We are, Your Honor. State calls Mr. Todd
2 Parker.

3 THE COURT: C'mon around, sir.

4 TODD PARKER, having been first
5 duly sworn, testified as follows:

6 DIRECT EXAMINATION BY MR. KENDALL:

7 Q. Mr. Parker, could you please state your name and
8 occupation for the jury.

9 A. Todd Parker. I'm employed here by the sheriff
10 department.

11 Q. Alright, and what is your rank?

12 A. I'm a supervisor over narcotics division.

13 Q. And how long have you been with the sheriff's office?

14 A. Fifteen years.

15 Q. Were you working for the narcotics part of -- portion of
16 the sheriff's office December of 2010?

17 A. Yes, sir, I was.

18 Q. And during that time did you conduct an investigation
19 into Mr. Ricky Tate?

20 A. Yes, sir, I did.

21 Q. Could you please describe the nature of that
22 investigation.

23 A. We had several drug transactions that had taken place and
24 we got information that Ricky Tate was one of the ones that
25 was supplyin' drugs. Once we got that information, we started

TODD PARKER - DIRECT EXAMINATION BY MR. KENDALL

1 with a surveillance on him, actually followed him to that
2 areas and also on occasion just conduct his whereabouts of
3 where he went to and had progressed which houses he stopped
4 at. Once we did surveillance on him for several weeks, that's
5 when I asked Mr. Stevenson about did he know Mr. Tate, he
6 said, Yeah, that I'd I'd be interested in tryin' to buy some
7 crack cocaine off of him.

8 Q. As a result of this surveillance, were you able to to
9 identify what Mr. Tate looks like?

10 A. Yes, I was.

11 Q. And do you recognize him in the courtroom here today?

12 A. Yes, sir, I do.

13 Q. And could you please describe what he's wearing.

14 A. A white shirt with blue stripe.

15 Q. Could you please point him out to the jury.

16 A. Right there (indicating).

17 Q. Okay. And also during this investigation were you able
18 to tell what type of automobile he drove?

19 A. Yes, sir, I actually got the tag. Actually, that's how I
20 actually got his address of where he lived at and ---

21 Q. Okay. And what type of car was he driving during this
22 time?

23 A. I think it's a 2, early model 2000 4-door Cadillac.

24 Q. And what color was it?

25 A. Kinda off white.

TODD PARKER - DIRECT EXAMINATION BY MR. KENDALL

1 Q. I'm gonna show you some some photographs that have been
2 admitted into evidence, they've been marked as State's
3 Exhibits 4, 5 and 6, and see if you recognize these
4 photographs.

5 A. Yes, sir, I do.

6 Q. Alright. Wait a minute, put 'em up on the big screen.
7 If you wouldn't mind just stepping down here for a second.

8 (Whereupon, the witness left the stand.)

9 THE COURT: Now Mis -- Officer Parker you're stepping
10 away from the microphone so be sure that you speak up loud
11 enough so that both the court reporter and the jury can hear
12 you.

13 OFFICER PARKER: Yes..

14 BY MR. KENDALL:

15 Q. First off, when were these photographs taken? Who took
16 these photographs?

17 A. I took these pictures.

18 Q. And when did you take these photographs?

19 A. They was taken the day after the transaction was made.

20 Q. Okay. And can you identify this (indicating), please.

21 A. That's the cadillac that Mr. Tate was drivin'.

22 Q. Okay. Can you identify this, please.

23 THE COURT: You wanna tell us what the exhibit numbers
24 they are.

25 MR. KENDALL: I'm sorry, Your Honor.

TODD PARKER - DIRECT EXAMINATION BY MR. KENDALL

1 BY MR. KENDALL:

2 Q. That last one was State's Exhibit 4, this is State's
3 Exhibit 6.

4 A. This -- those are the exact same cadillac, it was just
5 further down the road. We actually followed him to location
6 where he went to once the drug was purchased.

7 Q. And this is State's Exhibit 5. Could you identify this
8 photo, please; it -- it's a little, a little hazy. Can you
9 identify where that is?

10 A. Yes, sir. I was actually parked across the street from
11 the house where the transaction was made, that's actually him
12 leaving the residence once the drugs was sold.

13 Q. Well so so to be clear and this is very, very hard to see
14 could you please point out just on the screen where that is or
15 what -- what's -- who's -- what is in the background there?

16 A. Right there's (indicating) the the white cadillac that
17 you see that Mr. Tate was drivin', the fuzzy stuff in the
18 background is actually residence of the informant that we used
19 on that that day we made the transaction.

20 Q. So this photograph is actually taken the same day the
21 transaction took place ---

22 A. Yes, sir.

23 Q. --- at the same time the transaction took place, is
24 that ---

25 A. That's correct.

TODD PARKER - DIRECT EXAMINATION BY MR. KENDALL

1 Q. --- fair and accurate characterization?

2 A. Right.

3 Q. And during this time this transaction took place, where
4 were you sitting?

5 A. There's actually a doctor's office park just probly a
6 half a block from 25 over to the next street which is directly
7 to the house, where we sat I was actually parked beside the
8 doctor's office in a old beat up truck.

9 Q. Okay. And based on your investigation and your
10 experience was this the truck that would be -- you took the
11 same day as the crack transaction, the same vehicle you had
12 seen Mr. Ricky Tate driving around in?

13 A. Yes, sir, it is.

14 Q. Okay. Now let's take a second and talk about why you
15 were using Mr. Stevenson. In your experience as a law
16 enforcement officer, is there a hierarchy to the drug world?

17 A. They are.

18 Q. And could you just basically describe that for us.

19 A. Basically, you you typical drug traffickers are you got
20 the low end, the higher end, what we call "soupy sales" would
21 be that standin' on the street corner and sellin' just rocks
22 and that and as as they go up the more drugs they sell, the
23 higher up in the what we call "rank" that they go, most like
24 if you had a police department you got a captain, you got
25 lieutenants, sarge and down below the little old plan and the

TODD PARKER - DIRECT EXAMINATION BY MR. KENDALL

1 drug world basically does the same thing, once they get higher
2 up the ladder you can't just go to them to purchase, ya know,
3 a \$20 piece a crack or \$50 piece a crack, you actually have to
4 purchase a large quantity.

5 Q. And with -- how -- where would somebody who could come up
6 with 23.5 grams of crack cocaine fit into this hierarchy?

7 A. They would fit toward the higher end of the bracket.

8 Q. Alright. And with this kind of drug deal would they just
9 deal with anyone?

10 A. No, sir.

11 Q. So who -- what would you have to do to be able to deal
12 with someone like this?

13 A. You'd actually have to use somebody that's that's they
14 deal with a class no particular available. If they don't know
15 you, they're not gonna sell ya that amount of in in the world
16 whose there.

17 Q. So so there has to be a relationship there, is that a
18 fair way of of characterizing?

19 A. Yes, there are.

20 Q. And not anybody can have that relationship, is that a
21 fair way to describe it?

22 A. That's correct.

23 Q. So as a narcotics officer who's trying to make these kind
24 of arrests, what is the pool of like people who can do this?
25 Are a whole lotta people that are able to do this there's only

TODD PARKER - DIRECT EXAMINATION BY MR. KENDALL

1 a very small percentage of people you deal with that are able
2 to make this kinda buy?

3 A. There's only a small percentage that can make this type
4 of buy from this particular person that the quantity of dope
5 that you're buyin'.

6 Q. Alright. Now how did you get to know Mr. Stevenson?

7 A. I actually know him, we actually did a search warrant on
8 his house a couple years back and we actually found just a a
9 small probly a \$20 piece a crack at his house, that's when I
10 first got to know him. He had got some trouble I think for
11 trespassin' in the what we call Marietta down in the valley.
12 He actually once he got outta jail he actually contacted me
13 and and wanted to talk, said what do you do about the drug
14 charge that he had pendin' firsthand, also the the trespass
15 that he had been charged with.

16 Q. Alright, was he promised anything?

17 A. No, sir, he wasn't.

18 Q. Alright, and what was he, what was he told to do?

19 A. He was basically told to to gather any information that
20 he could provide the ---

21 Q. Okay. Now let's talk about the day this all took place
22 on December 13th of 2010. Did you have Mr. Stevenson place a
23 phone call?

24 A. Yes, sir, I did.

25 Q. And did you place a recording device on that phone

TODD PARKER - DIRECT EXAMINATION BY MR. KENDALL

1 call?

2 A. Yes, sir, I did.

3 Q. Did you have Mr. Stevenson wired with any sort of
4 recording device as well?

5 A. Yes, I had -- we have a wire that we put on the recorded
6 audio.

7 Q. Alright. And you were in the courtroom earlier, is that
8 correct?

9 A. Yes.

10 Q. Alright, and I don't wanna play it again, was that a fair
11 and accurate -- was that video or that recording that was
12 produced was that a a fair and accurate recording of what was
13 given back to you by him when he returned?

14 A. Yes, it was.

15 Q. Okay. So following making this phone call what did you
16 do?

17 A. One -- once he made the phone call and Mr. Tate said that
18 he would, he would come to his house to deliver the drugs, I
19 slipped a wire on him, I got outside the car actually searched
20 him, searched his body, searched his socks, searched his
21 shoes, searched every part of him make sure didn't have
22 anything illegal on him before he left our crew.

23 Q. Who who came up with the money for the buy?

24 A. The sheriff's department did.

25 Q. Okay, and how much was that?

TODD PARKER - DIRECT EXAMINATION BY MR. KENDALL

1 A. One thousand dollars.

2 Q. And in your experience as a law enforcement officer is
3 that a a standard amount for an ounce of of crack cocaine?

4 A. Yes, that's that's about the goin' rate.

5 Q. Or approximately 23.5 grams, I'm sorry. I'm gonna show
6 you what's marked State's Exhibit 7. Could you please
7 identify what is in that -- what what that document is.

8 A. That's actually the money voucher that we actually went
9 actually gave Mr. Stevenson the thousand dollars and he
10 actually signed for it saying that he received a thousand
11 dollars from the sheriff's department.

12 Q. Okay, and is that your signature at the bottom?

13 A. Yes, sir, it is.

14 Q. And did you watch him sign that as well?

15 A. Yes, sir, I did.

16 MR. KENDALL: Okay. We'd offer that to evidence State's
17 Exhibit 7.

18 MR. BEAN: No objection.

19 THE COURT: Without objection be State's 7.

20 (State's Exhibit No. 7, fund expenditure voucher,
21 admitted into evidence.)

22 BY MR. KENDALL:

23 Q. Okay, gettin' back into our our story. So he's made the
24 phone call and he's been given the thousand dollars and been
25 searched, what happened next?

TODD PARKER - DIRECT EXAMINATION BY MR. KENDALL

1 A. Actually, I I left the part out where actually before
2 before I met Mr. Stevenson we'd told that the rate was gonna
3 be a thousand dollars so I actually photocopied the the
4 thousand dollars that we actually gave Mr. Stevenson then once
5 he made the phone call and he said he'd be there probly 15 to
6 20 minutes to Mr. Stevenson's house, once we put the wire on
7 him, searched him we actually took him and dropped him off
8 where he got a cab and went to the -- back to his residence.

9 Q. Okay. And what did you do once you dropped him off?

10 A. Once we dropped him off, I actually followed him to his
11 residence where I parked across the street at the doctor's
12 office, I actually watched him pull up in the cab and actually
13 get outta the cab at his residence.

14 Q. About how long after he got there did the white Cadillac
15 pull up?

16 A. It probly wasn't a minute after he -- the Cadillac.

17 Q. And could you tell who was in the white cadillac?

18 A. It was Mr. -- the defendant in the case.

19 Q. Okay, did he have anybody with him in that white
20 Cadillac?

21 A. No, sir, he didn't.

22 Q. Okay. And how were you able to recognize it was the
23 defendant in the white Cadillac?

24 A. I knew him from the surveillance we did the from the
25 photos that we took earlier, earlier in the month. I actually

TODD PARKER - DIRECT EXAMINATION BY MR. KENDALL

1 knew that Mr. Tate had had the same tag that came back to that
2 Cadillac.

3 Q. Okay, and could you please describe basically went on --
4 what when on at that home that you saw from from across the
5 street.

6 A. Once once Mr. Stevenson got outta the the cab, he walked
7 to the corner of the house, the white Cadillac pulled up he
8 turned back left and went inside the residence for probly a
9 minute, two minutes, he came directly back out, they went
10 around to the side of the residence where what appeared to
11 look like they made some kinda transaction couldn't -- I was
12 too far to see but they were both pretty much face-to-face and
13 that's that's about the best best I could see.

14 Q. And what did you do following this, after this took
15 place?

16 A. I actually took the pictures that that ya'll showed
17 earlier. I actually took the pictures of him pullin' up in
18 the cab, I actually took pictures of the white Cadillac
19 pullin' up to the house. Once the Cadillac left, I took
20 pictures, I actually took some pictures but it's just I was so
21 far away you couldn't actually -- you could just see blurred
22 image of them standing there. Once the Cadillac left took the
23 picture of the Cadillac leaving, we actually followed him all
24 the way to a residence on McCluney Drive where I took pictures
25 and on, it didn't come out clear but you got to see the tag

TODD PARKER - DIRECT EXAMINATION BY MR. KENDALL

1 number on the car that we followed to the residence. Once,
2 once he made it to the residence that we had did surveillance
3 earlier at at one of the locations that he had been known to
4 go through, ---

5 Q. Okay.

6 A. --- we left there and proceeded back to the church where
7 we met ---

8 Q. Okay.

9 A. --- Mr. Stevenson.

10 Q. Did you -- once you got back to the church did you search
11 him?

12 A. Yes, sir, I did.

13 Q. Did he give you anything at that point in time?

14 A. Yes, sir, he gave me a clear bag of white rock-like
15 substance.

16 Q. I'm gonna show you what is marked State's Exhibit 2 -- 3,
17 I'm sorry. Can you identify the contents of of what this is
18 or excuse me, does that appear to be what was given to you by
19 Mr. Stevenson, uh, ---

20 A. Yes, sir, it is.

21 Q. --- upon you driving him off? Would you identify what
22 you believe that to be.

23 A. That appeared to be crack cocaine.

24 Q. And what did you do with that crack cocaine?

25 A. Once I received it back from Mr. Stevenson I actually

TODD PARKER - DIRECT EXAMINATION BY MR. KENDALL.

1 searched him make sure he didn't have any more drugs or
2 anything, contraband on him, he didn't. Once, once he left I
3 left and went -- proceeded back to the sheriff's department
4 where this evidence was put in this "best bag" and dropped
5 into our evidence box.

6 Q. When you say put in the "best bag", could please just
7 basically des --

8 A. The best, the "best bags" is what we known as, we call
9 the "best bag" is the, is the baggies provided by SLED for any
10 controlled substance 'cuz that's a seal proof bag, once once
11 you seal it you can't undo it in the future. Any other -- any
12 particular reason it's undone you can tell that it's been,
13 it's got watermarks, you can tell it's been tampered with.

14 Q. Okay, and who'd you give that to to be clear once you got
15 back?

16 A. I'm sorry?

17 Q. And what did you do with it once you got back to the
18 sheriff's office?

19 A. Once I got back to sheriff's office, I actually put the
20 the crack cocaine inside the "best bag" and once it was sealed
21 and the proper paperwork was filled out and my expense report
22 done it was dropped in our evidence box.

23 Q. Okay. One more really quick question about this 'cuz
24 it's it's confusing, I just wanna make sure everybody
25 understands it. When you received it, was in a bag like this

TODD PARKER - CROSS-EXAMINATION BY MR. BEAN

1 (indicating) or was it in a smaller cellophane bag?

2 A. No, sir, it was in a small cellophane bag like a, like
3 you put sandwiches in, it don't seal or anything, it just
4 wraps up.

5 Q. Does this, does this small bag of pink writing or excuse
6 me, yellow writing appear to be what is actually originally
7 brought to ya?

8 A. Yes, it was.

9 MR. KENDALL: Your Honor, we would offer State Exhibit 3
10 into evidence.

11 MR. BEAN: Sorry, I thought already into evidence and I
12 have no objection to that.

13 THE COURT: Alright, be State's 3.

14 (State's Exhibit No. 3, drugs, admitted into evidence.)

15 MR. KENDALL: State's got no further questions, Your
16 Honor.

17 CROSS-EXAMINATION BY MR. BEAN:

18 Q. Officer Parker, you've been a sheriff 15 years?

19 A. Yes, that's correct.

20 Q. How long have you been doing narcotics-type work?

21 A. Roughly five years.

22 Q. In the five years how many drug dealers have agreed to
23 work with you without any consideration for you helping
24 them?

25 A. Probly 20 to 30.

TODD PARKER - CROSS-EXAMINATION BY MR. BEAN

1 Q. Really? So drug dealers help the sheriff with no promise
2 or or even an indication in return that you're gonna help them
3 with their case?

4 A. Yes.

5 Q. I understood you to say a few minutes ago that
6 Mr. Stevenson was lookin' for some help on some charges,
7 right?

8 A. That's correct.

9 Q. Yeah. You weren't gonna help him?

10 A. That all was goin' by accordin' what he does.

11 Q. So if he brought some drugs you'd help him, is that
12 correct?

13 A. We would actually refer to the solicitor's office that
14 what he had provided the sheriff's office, give that to the
15 solicitor, let them choose what they want -- what lenience
16 they want to give him.

17 Q. Well I understand that and and I'm not tryin' to trick ya
18 or anything here, I just wanna be sure we're clear that that
19 you're gonna help this guy, this felonious drug dealer if he
20 brings you some drugs from a supposed drug g -- buy with my
21 client, is is that a fair statement?

22 A. That's correct.

23 Q. Okay. Now you you took some pictures and you were
24 sittin' across the street and before you got there and took
25 those pictures you gave Mr. Stevenson, our drug dealer, a a

TODD PARKER - CROSS-EXAMINATION BY MR. BEAN

1 thousand dollars ---

2 A. Correct.

3 Q. --- and was that money marked or did you say you
4 photo ---

5 A. Photocopied the money.

6 Q. Why did you do that?

7 A. Well once once once we made that transaction, we usually
8 try to track back where the money goes to, in this case we
9 went, we went to a residence on McCluney Drive.

10 Q. I see. And so you could identify those funds?

11 A. If buy drugs, yes.

12 Q. Okay. Now when you searched Mr. Stevenson before you put
13 him in this taxi cab to go back to his house, did he have any
14 drugs on him?

15 A. No, sir, he didn't.

16 Q. Okay. Before all this happened did you search his car?

17 A. He wasn't in a car.

18 Q. Well his car was at his house, he testified to that. You
19 heard that, didn't you?

20 A. Yes, sir, I did.

21 Q. Okay. Did you search his car?

22 A. No, sir, I didn't.

23 Q. Did you search his house?

24 A. No, sir, I didn't.

25 Q. And you testified I believe, please correct me if I'm

TODD PARKER - CROSS-EXAMINATION BY MR. BEAN

1 wrong, he went in his house.

2 A. He did.

3 Q. Okay. And he testified, you heard it I believe, again
4 correct me please if I'm wrong, that he got his car keys and
5 went out and got in his car.

6 A. That's correct.

7 Q. So he could have gotten those drugs from his house,
8 couldn't he?

9 A. It's possible, yes.

10 Q. Or they coulda been in his car.

11 A. Correct.

12 Q. So we don't know if they came from Ricky Tate or not
13 because you didn't see that, did ya?

14 A. I seen them appear to exchange somethin'.

15 Q. Do you know what that was?

16 A. No, sir.

17 Q. Okay. And I believe Mr. Stevenson testified that that
18 they went behind the house where the car was. Could you see
19 that?

20 A. I seen the back end of the car.

21 Q. Could ya see them?

22 A. Yes.

23 Q. Oh, you could see them.

24 A. Yes.

25 Q. I'm sorry, I thought they were behind the house.

TODD PARKER - CROSS-EXAMINATION BY MR. BEAN

1 A. No, sir, they -- it's actually at a angle from where I
2 was actually next to the ---

3 Q. So you could see the -- you could see them back there.
4 Now you followed Ricky Tate when he left this this house,
5 correct?

6 A. I did.

7 Q. Okay. And did you arrest him?

8 A. No, sir, not at that time.

9 Q. Why not?

10 A. Well at that time I I have to get a a warrant to arrest
11 him on.

12 Q. Okay. And tell me when you, when you arrested Mr. Tate
13 how much of this this photocopied money did you find on him?

14 A. There was no money on him when I arrested him.

15 Q. None?

16 A. No, sir, it was like two days later at his house in ---

17 Q. Isn't it true, sir, that the only reason you think the
18 drugs came from Ricky Tate is because Mr. Stevenson told ya
19 they did?

20 A. No, sir, because the surveillance that I produced that
21 day and every action that took place led me to believe that's
22 what happened.

23 Q. I see, so you believed that was the case.

24 A. Yes.

25 Q. Thank you. No further questions.

TODD PARKER - REDIRECT EXAMINATION BY MR. KENDALL

1 THE COURT: Any redirect limited to what he went into?

2 MR. KENDALL: Yes, sir, Your Honor.

3 REDIRECT EXAMINATION BY MR. KENDALL:

4 Q. Officer Parker, let's talk about the money and why it
5 wasn't recovered. You testified a minute ago that after the
6 deal went down you followed Mr. Tate and then before
7 rendezvousin' back up with Mr. Stevenson, is that correct?

8 A. That's correct.

9 Q. And where did Mr. Tate go?

10 A. He went to -- I don't have the actual number, it's
11 McCluney Drive here in Gaffney.

12 Q. Were you at all familiar with that house on McCluney
13 Drive?

14 A. Yes, I was.

15 Q. And how are you familiar with that house?

16 A. Well actually ---

17 MR. BEAN: Your Honor, I object to his answer to that
18 question and to the question itself if he intends to offer
19 some further evidence against Mr. Tate without some foundation
20 for it.

21 THE COURT: Ya'll wanna approach a moment.

22 (Whereupon, a bench conference was held off the record.)

23 THE COURT: I'm gonna have to make a a ruling on a matter
24 of law so I have to have some -- I have to have ya'll excuse
25 yourselves from the jury room. Again, I'll need to remind you

MOTIONS AND MATTERS

1 that you cannot have any discussions among yourselves about
2 anything involving the case. We'll get you back just shortly,
3 just go with the bailiff.

4 (The following takes place outside the presence of the
5 jury.)

6 THE COURT: Alright, be more than happy to hear from
7 you.

8 MR. KENDALL: Yes, sir, Your Honor, well it may be
9 easiest to do this is we'll just need to proffer the
10 testimony, um, ---

11 THE COURT: Well let me tell you what what my concern is
12 based upon the bench conference is that we're getting into an
13 area that that is collateral to what the charge is and if it's
14 that the testimony is gonna be that which you related at the
15 bench then we're gonna be getting into a lot of post-facts
16 that relate to the arrest and what we're here for that
17 subsequent facts then you want to use to have the jury apply
18 the the defendant's guilty of based upon post-facts that came
19 later.

20 MR. KENDALL: Yes, sir, I think what, I think what our
21 concern was was that the -- was really just to have him
22 provide an explanation for -- I think the door's been opened
23 to what happened to this money, it's it's a ---

24 THE COURT: What do you intend to do with that issue of
25 the money?

MOTIONS AND MATTERS

1 MR. BEAN: What am I intending to do?

2 THE COURT: Right.

3 MR. BEAN: I'm not sure yet, Your Honor, but I I think
4 that where they're going is exactly what you just said that
5 they're gonna wind up tarring Mr. Tate with something that
6 came later with with his association if they try to put that
7 in there about about where he went and those people are known
8 to to be drug dealers or whatever it might be and and I don't
9 think that that's relevant to what he's charged with doing.
10 They could have arrested him then, they chose not to.

11 THE COURT: Well but what do you intend to argue about
12 the money?

13 MR. BEAN: You talking about the conclusion?

14 THE COURT: Yes.

15 MR. BEAN: I'm not sure. I haven't thought that far
16 ahead yet.

17 MR. KENDALL: My my concern, Your Honor, is that one of
18 the questions was asked by Mr. Bean was weather or not he had
19 money in his pocket, uh, any of this money in the pocket at
20 this time of arrest.

21 THE COURT: Whether who had money?

22 MR. KENDALL: Mr. Tate had any of this money, these
23 marked dollar bills in his pocket at his time of arrest and I
24 think that that based on that and that this was done as a some
25 intentional thing to follow the money, it was just by bad luck

MOTIONS AND MATTERS

1 we aren't able to execute the search warrant on this by the
2 time the money was out. I think that we are are allowed to
3 give a, I think it's fair to give a and the door's been opened
4 enough for us to give an explanation of why he wasn't carrying
5 the money. I I can limit that if you'd like, Your Honor, so
6 that he went back to a a house of narcotics are are sometimes
7 sold on credit, he went back to a known drug house, we're not
8 able to execute arrest warrants till a couple days later. I
9 think that that would be a -- I I can limit it to that. I
10 think that provides a reasonable explanation of of what
11 happened. Our only concern is that since it's been opened
12 what happened to the money, I think we have the right to
13 explain why we didn't just instantly get him with the money
14 right then and there.

15 MR. BEAN: Your Honor, I think that may have been covered
16 with this -- the statement that it took two days to get a
17 warrant. I don't think they have to go into this business
18 about a known drug house or anything else. If my client went
19 there then then lacking some evidence that he committed the
20 crime there I think that's extremely prejudicial to this case,
21 to him in this case.

22 THE COURT: And I -- I'm concerned with the allegations
23 that there's subsequent drug dealing and you wanna link that
24 to this defendant in order to get the jury to make the
25 inference that well because this man is an alleged subsequent

MOTIONS AND MATTERS

1 drug dealer or subsequently engaged in conduct associated with
2 other people that deal drugs that then somehow he should be
3 guilty of this crime, ---

4 MR. KENDALL: Could we ---

5 THE COURT: --- that is, that that would be an improper
6 inference and would be in my humble opinion lead to a reversal
7 if you got a conviction.

8 MR. KENDALL: --- could we limit it to the fact that
9 drugs or narcotics are frequently sold by credit and that
10 following a drug transaction that money would then have to be
11 repaid to the extent ---

12 THE COURT: That that -- I mean, the reference of any
13 dr -- other drug deal that's not dealing with the drug deal
14 that he's on charge of -- that he's on trial with I think goes
15 into that area where an impermissible inference would be
16 created for the jury.

17 MR. KENDALL: Alright. Alright. Your Honor, I think
18 we'd be trying to do is is show that he did this drug deal
19 basically on credit and that he was returning the money as
20 soon thereafter, that this drug deal itself is credit based,
21 that's that's too far I certainly understand.

22 THE COURT: I haven't heard enough facts to even say that
23 I would let that in ---

24 MR. KENDALL: Okay.

25 THE COURT: --- because you're not -- 'cuz then we -- who

MOTIONS AND MATTERS

1 is it that he sold it to, are we just gonna say somebody in
2 this known drug house, who is it that he, you know, we
3 get -- when when we go down that path then that we're we're
4 going to convict him based upon allegations that he engaged in
5 other criminal activity, not the criminal activity that he's
6 on trial for.

7 MR. KENDALL: Okay.

8 THE COURT: It's, I mean, I I just think it's fraught
9 with danger ---

10 MR. KENDALL: Yes, sir. Yes.

11 THE COURT: --- but you brought it up so that's why I
12 wanted us to go on the record and and have the discussion
13 because you brought the issue up of the money and I'm just not
14 sure what Mr. Bean's gonna do with that issue of the money.

15 MR. BEAN: Well and and I'm not sure, Your Honor, that
16 Mr. Bean needs to say at this point in time either, I mean,
17 with -- without giving away some some strategic idea or
18 somethin' but ---

19 THE COURT: Well, I mean, I I would -- other than the
20 fact that the money was not recovered, ya know, I I wouldn't
21 want the defense to go off on some wild tangent either that
22 the State had not had the opportunity to explore it because
23 I'm tryin' to -- if there is a conviction, I just don't, I I
24 don't want the conviction to be based upon improper reason but
25 I also don't want the State to be hampered in their pursuit of

MOTIONS AND MATTERS

1 a proper conviction based upon some off-the-wall factually
2 unsupported accusation by the defense. Does that make any
3 sense?

4 MR. BEAN: It does.

5 THE COURT: Alright. Okay. Anything else?

6 MR. KENDALL: Nothin' further, Your Honor.

7 THE COURT: Alright. Let's bring, bring the jury back.
8 You -- do you have more questions?

9 MR. KENDALL: Like two or three, Your Honor, and then
10 we'll -- then the State would rest.

11 THE COURT: Okay.

12 (The following takes place in the presence of the jury.)

13 THE COURT: Is the State ready to proceed?

14 MR. KENDALL: Yes, Your Honor.

15 BY MR. KENDALL:

16 Q. And just very quickly, Officer Parker, and to clarify
17 some things, prior to sending him out you conducted a search
18 of Mr. Stevenson, is that correct?

19 A. Yes, sir, I did.

20 Q. You conducted a search when he came back?

21 A. Yes, sir, I did.

22 Q. Over the course of your dealings with Mr. Stevenson
23 including what you've heard in court here today, tapes that
24 have been played that you've listened to as well as the
25 collection of evidence and those searches, has Mr. Stevenson

MOTIONS AND MATTERS

1 said or done anything as regard -- as related to this matter
2 that was in any way deceptive or dishonest to you?

3 A. No, sir. Well ---

4 Q. And also to be clear, on December 13th 2010 you watched
5 the defendant Mr. Ricky Tate pull into or actually, yeah, pull
6 into the driveway of Mr. Stevenson shortly after he had called
7 to make a drug purchase, is that correct?

8 A. Yes, sir, that's correct.

9 MR. KENDALL: I have no further questions, Your Honor.

10 THE COURT: Alright. Thank you, sir, you may step down.

11 (Whereupon, the witness left the stand.)

12 MR. KENDALL: Alright, the State has no further witnesses
13 and rests at this time, Your Honor.

14 THE COURT: Alright, lawyers wanna approach a moment.

15 (Whereupon, a bench conference was held off the record.)

16 THE COURT: Ladies and gentlemen, I need to -- we're now
17 gonna take a lunch break, I need to once again reinforce to
18 you the fact that you cannot have any discussions among
19 yourselves about anything involving the case. You're gonna be
20 going away from the courthouse might run into friend or family
21 that be curious as to what you're doing today but again,
22 remind them that you cannot have any discussion with them
23 about anything involving the case, you can after the case is
24 over but until then you cannot. You've heard testimony, you
25 might know the location or again stim -- stimulated your

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1 curiosity, you cannot do any type of independent research or
2 investigation while you're on the break. I'm gonna ask if you
3 would to please be back in the jury deliberation room by 2:30
4 and we will resume the case but you may go with the bailiff at
5 this time.

6 (The following takes place outside the presence of the
7 jury.)

8 THE COURT: You wish to do do your motion?

9 MR. BEAN: Your Honor, would it be alright if we just did
10 those right when we come back as opposed to right now, I -- if
11 that suits the Court ---

12 THE COURT: Alright.

13 MR. BEAN: --- I appreciate that.

14 THE COURT: Okay, and speak with the defendant, determine
15 whether or not he intends to testify or not. If in fact he
16 does not intend to testify then we would move into closing
17 arguments so ya'll be ready on those. I've got the jury
18 charges prepared. I have not heard anything out of the
19 ordinary so, ya know, it's gonna be the basic charges. I also
20 had a verdict form proposed, take a look at that over the
21 lunch break, let me know of any changes you might want me to
22 make. Let's let's get back together maybe at twenty minutes
23 after two according to that (indicating) clock, how 'bout
24 that, we'll step -- okay, we'll step ---

25 MR. BEAN: Your Honor, a bit of housekeeping. I think --

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1 I I believe I have kept Mr. Stevenson on as a witness, I don't
2 have any further questions for Mr. Stevenson.

3 THE COURT: Alright, and if the State does not have any
4 objection, ya'll can excuse Mr. Stevenson.

5 MR. KENDALL: Yes, sir, Your Honor.

6 THE COURT: Alright. And, sir, I need to remind you
7 that you remain on bond so you need to come back.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Alright, we'll step down.

10 (Whereupon, a recess was taken.)

11 THE COURT: Has the -- is the defense ready for their
12 motion?

13 MR. BEAN: We are, Your Honor. Please the Court, Judge.
14 Your Honor, at this time the defense moves to a -- for
15 dismissal of the charges on the grounds that the State has
16 failed to meet its burden of presenting a case from which the
17 jury could could conclude beyond a reasonable doubt that the
18 defendant is guilty as charged, we'd ask the charges be
19 dismissed.

20 MR. KENDALL: Your Honor, the the State would argue that
21 viewed in the light most favorable to us that we have met the
22 burden in this case. We've established using a confidential
23 reliable now Mr. Stevenson that crack cocaine was purchased,
24 as part of his testimony he testified this occurred in
25 Cherokee County, we've also gotten the narcotics placed into

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1 evidence at this time, that Mr. Stevenson's story was
2 corroborated by an officer watching nearby and the narcotics
3 which are in evidence had been tested positive for crack
4 cocaine in the amount of 23.5 grams which is the trafficking
5 amount as alleged in the amended indictment, Your Honor.

6 THE COURT: Alright. I find the standard that I have to
7 apply in ruling on these types of motions I would have to deny
8 the motion. Is the -- defense intend to present any witnesses
9 or call the defendant?

10 MR. BEAN: Your Honor, the defense rests.

11 THE COURT: So your client does not wish to testify.

12 MR. BEAN: That's correct, Your Honor.

13 THE COURT: Okay. Mr. Tate, if you would, please stand
14 and raise your right hand, allow the clerk of court to swear
15 you in.

16 RICKY TATE, having been first duly
17 sworn, testified as follows:

18 EXAMINATION BY THE COURT:

19 Q. Thank you, Mr. Tate. At this time I'm going to explain
20 to you certain of your rights and if you do not understand
21 anything that I say please let me know and if you wish for me
22 to explain anything in more detail, please let me know that as
23 well. Do you understand that?

24 A. Yes, sir.

25 Q. Alright. Sir, we've now reached the stage of the trial

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1 where you may present your defense. You have the right to
2 claim the protections given to you by the Fifth Amendment to
3 the Constitution of the United States. This amendment states
4 in part that no person shall be compelled in any criminal case
5 to be a witness against himself. This means that you cannot
6 be required to testify in this case. You have the right to
7 testify on your own behalf; however, no one can make you
8 testify, this is a personal right and no one can waive this
9 right except you. If you decide to testify, you will be
10 subject to the same rules that govern other witnesses and you
11 may be examined and cross-examined on any relevant issue in
12 this case. In addition, if you have any convictions involving
13 dishonesty or false statement or for crimes punishable by
14 imprisonment for more than one year and this court determines
15 that the probative value of admitting this evidence outweighs
16 ways its prejudicial effect to you, the solicitor will be able
17 to introduce your record to attack your credibility. If you
18 decide to testify, this decision on your part must be freely,
19 voluntarily and intellectually made with knowledge of the
20 protections given to you by Fifth Amendment and the
21 cons -- and the consequences of your decision to testify. You
22 decide not to testify I will instruct the jurors that they
23 cannot give the fact that you did not testify any
24 consideration whatsoever and that there is to be absolutely no
25 prejudice to you because you did not testify. It is left

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1 entirely up to you whether or not you testify. You may talk
2 with your attorney, your family, any friends or anyone else,
3 the final decision will be left entirely to you. Now, sir, do
4 you understand what I have just explained to you?

5 A. Yes, sir.

6 Q. Do you have any questions about what I have explained
7 to you?

8 A. No, sir.

9 Q. Have you discussed with your lawyer whether you should or
10 should not testify?

11 A. Yes, sir.

12 Q. And do you wish to speak to your lawyer again about the
13 decision whether to testify or not?

14 A. No, sir.

15 Q. And, sir, do you wish to testify in this trial?

16 A. No, sir.

17 Q. Alright. Okay. Are you sa -- presently satisfied with
18 the work of your lawyer?

19 A. Yes, sir.

20 Q. Alright. Anybody threaten or promise you anything in
21 order to get you to make the decision not to testify?

22 A. No, sir.

23 Q. I'm I'm correct in concluding that this is a free and
24 voluntary decision by you?

25 A. Yes, sir.

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1 Q. Alright. Thank you, sir, you may be seated.

2 THE COURT: Alright. Alright, did ya'll take a look at
3 the verdict form?

4 MR. BEAN: Oh.

5 (Whereupon, the attorneys examined the verdict form.)

6 MR. KENDALL: That's good, Your Honor.

7 THE COURT: Alright so since the defense did not present
8 any evidence the defense will go last in their arguments.
9 Alright.

10 MR. KENDALL: Yes, sir.

11 THE COURT: Alright, how long you think estimated time?

12 MR. KENDALL: On a closing argument, Your Honor, probly
13 ten minutes at the most.

14 THE COURT: Approximately.

15 MR. BEAN: Five to ten, Your Honor, not too long.

16 THE COURT: Alright.

17 MR. KENDALL: I am gonna need to replay that entire tape,
18 Your Honor.

19 MR. BEAN: You're not really.

20 MR. KENDALL: No, no, no, just a, just a brief joke.

21 THE COURT: I'm glad he can have humor.

22 (Laughter.)

23 MR. BEAN: Don't say that ---

24 THE COURT: Alright.

25 MR. BEAN: --- please.

CLOSING ARGUMENTS

1 (Laughter.)

2 THE COURT: Okay, let's bring the jury back. I believe
3 we're ready.

4 (The following takes place in the presence of the jury.)

5 THE COURT: Alright, Mr. Foreman, ladies and gentlemen,
6 we have -- all of the evidence that is gonna be presented in
7 this case has now been presented so at this time we are going
8 to move to receiving the closing arguments from both the
9 attorneys. As with what I told you about the opening
10 statements, the closing arguments is not evidence in the case,
11 it does allow the attorneys an opportunity to address you to
12 to persuade you as to what they believe the facts have shown
13 and what they believe the issues that that have been
14 established in this case. As the fact finder, being the jury,
15 if you hear any arguments concerning the facts that you feel
16 are not supported by the evidence in the case then you may
17 disregard those types of assertions but at this time we will
18 receive the closing arguments from the attorneys and after
19 that I will instruct you on the law applicable to the case.

20 MR. KENDALL: Thank you, Your Honor. Ladies and
21 gentlemen of the jury, thank ya'll very much for coming in
22 here today. Closing arguments are without a doubt my favorite
23 part of the trial, my favorite part, it's it's the -- one of
24 the only two times I have to actually talk directly to you.
25 As you've seen over the course of this thing, we have to kind

CLOSING ARGUMENTS

1 of talk through witnesses and talk through exhibits and
2 confidential informants and police officers, I don't actually
3 get the opportunity to sit there and look ya in the eye, put
4 it all together, that's what closing arguments are kind of
5 about for us here. Before I became a lawyer I kind, I kind of
6 always imagined it was like on TV about the one guy can
7 testify to everything, it all fits neatly together in an
8 organized and concise way an the truth of the matter is the
9 real world doesn't necessarily work like that. We gotta show
10 you guys who were just handlin' mari -- you know, narcotics
11 for a couple hours then shipped 'em off to someplace else, it
12 kinda breaks up the cycle so what I'd like to do here for the
13 next couple minutes is to just go over what happened in this
14 case just like if you were describing to somebody else what
15 happened here today. Now as the guy who's going first in this
16 whole thing, I'm not gonna have the opportunity ever again to
17 talk to you so I don't ha -- I'm not gonna be able to respond
18 to anything the other side says, they don't have to say
19 anything, I'll be very clear about that but I'm not gonna get
20 the opportunity to respond to that so let's go over some of
21 the things here today that I think are gonna be important in
22 this trial, things that are important in looking at 'em
23 through beyond a reasonable doubt what the defendant did and
24 that is in this case he sold over 10 and less than 28 grams of
25 crack cocaine, this case it's 23.5. So how do we know that?

CLOSING ARGUMENTS

1 Well, ladies and gentlemen, I'd like to start from the very
2 beginning. You've heard testimony today from Officer Todd
3 Parker and Todd Parker's the head of our narcotics division
4 here in Cherokee County. He testified that he had over a
5 period of time began to investigate Mr. Tate and over the
6 course of that investigation he had followed him, watched him,
7 he became familiar with what he looked like, what kind of
8 automobile he drove, what his habits were and you heard him
9 testify he had an opportunity, he had an opportunity using a
10 confidential informant named Jeron Stevens [sic] to make a buy
11 from Mr. Tate. Now, ladies and gentlemen, you heard the
12 testimony, Mr. Stephens is not the most fine upstanding
13 citizen, he's been sellin' dope since he was 14 years-old,
14 that happens, that -- that's absolutely one hundred percent
15 true there could be -- as told you that opening arguments and
16 told you that when he was on the stand, it's been confirmed,
17 it's not something we were planning to hide from you. He sold
18 narcotics in the past there it is. One thing that never came
19 out by my Stephenson I think it's a very important to point
20 out nothin' in his whole history that he's done ever shows
21 dishonesty. Just because a guy sells narcotics doesn't mean
22 he's lying about this. Something that happened in the past
23 doesn't mean this isn't true but we also took precautions in
24 this case, I'll get back to those in a minute.

25 Ladies and gentlemen, this particular kind of case

CLOSING ARGUMENTS

1 involved the sale a thousand dollars of crack cocaine, a
2 thousand dollars which was delivered by a Cadillac in under a
3 half an hour. Now you heard testimony from Officer Parker and
4 from Mr. Stevenson himself this is not something that is
5 readily available to people, this is somebody you have to get
6 somebody who is on the inside to get and by the very nature of
7 that, on the very nature of needing somebody who's kind of
8 involved in drugs to buy this kind of drugs, this level of
9 drugs they're gonna have some stand off, in this case he did,
10 he's he's been in trouble in the past. The truth is you get
11 somebody who's able to do this, deliver a thousand dollars of
12 crack cocaine in under half an hour, ya need to have somebody
13 who's been sellin' drugs since they were 14-years-old but
14 that's not to say the police just kind of let it be. They
15 took precautions and measures to ensure what was happening
16 over the course of this drug buy was honest. Let's start with
17 what Officer Parker testified to. First he testified that a
18 gentleman came up he searched him, he went over to make sure
19 he was not carrying anything on him, he marked the bills, he
20 placed a recording device on the phone a fact I think is
21 extraordinarily important in this case. If I could I'd like
22 to take a second to rehear that 'cuz I think that more than
23 anything else shows the defendant's mind-set.

24 (Whereupon, a portion of State's Exhibit No. 2 was
25 played.)

CLOSING ARGUMENTS

1 MR. KENDALL: A zone, a unit of measurement in crack
2 cocaine sales and you heard Mr. Stevenson testify it was
3 around an ounce.

4 (Whereupon, a portion of State's Exhibit No. 2 was
5 played.)

6 MR. KENDALL: At that point Mr. Stevenson tells Mr. Tate
7 he's going to be at home. I think that's extraordinarily
8 important and then, ladies and gentlemen,...

9 (Whereupon, a portion of State's Exhibit No. 2 was
10 played.)

11 MR. KENDALL: ...he's gonna bring it to him and it's
12 gonna be the same. Now you heard Mr. Stevenson testify when
13 he was on the stand that same is the same price, in this case
14 around a thousand dollars, fairly common amounta money for
15 crack cocaine in this amount and you heard more importantly
16 that he was gonna deliver it to his home. Why is that
17 important? because the testimony today, Your Honor, both from
18 Mr. Parker who took pictures as well as Mr. Stevenson is that
19 within thirty minutes of placing this phone call, within
20 thirty minutes Mr. Tate showed up on his front doorstep.
21 Within thirty minutes of a call requesting a zone he shows up.
22 Ladies and gentlemen, that's not an accident, that's not
23 something that just happened, that's not and he thought he was
24 sellin' a magazine or bringing him a pizza and suddenly he
25 shows up on the front doorstep, ladies and gentlemen, that

CLOSING ARGUMENTS

1 shows the intent to come by and sell narcotics to
2 Mr. Stevenson. Moreover, Your H -- ladies and gentlemen, you
3 heard testimony from Officer Parker who's set up across the
4 street watching this entire thing. You saw the defendant pull
5 up, you've seen the pictures of his car in front of the house,
6 you've heard testimony of both Officer Parker as well as
7 Mr. Stevenson saying that they witnessed this drug deal and
8 Mr. Parker is I wanna be open and honest about this said he
9 could just see them discussing it, drove back and forth, he
10 couldn't actually visibly see crack cocaine exchange hands
11 but, ladies and gentlemen, every one of these things are set
12 up to ensure that we're giving you the truth and what we're
13 finding over and over again is that they overlap. What
14 Mr. Parker's testimony said is consistent with Mr. Stevenson's
15 testimony, is consistent with what exactly what happened on
16 that phone call, exactly what the phone call said was going to
17 happen; number one, gonna come by his house; two, with a zone,
18 an ounce of crack cocaine and; three, they were gonna go for
19 the same price, all of it's proven consistent all throughout,
20 everybody's testimony on this matter is exactly the same and
21 there's a reason for that: because it happened, because it's
22 true. The police knew this guy was not the most wonderful
23 person in the world so they took steps to ensure we had
24 overlapping things so we have eyes on him, we had eyes on the
25 situation.

CLOSING ARGUMENTS

1 Now, ladies and gentlemen, you've heard that prolonged
2 tape, that 50 minute thing and again I apologize for you
3 having to hear it, that's something that we have to do play
4 the whole thing to ensure there's nothing's been put on it or
5 added to it or taken off of it or anything like that but that
6 shows you where he was, what he was doing the entire time, you
7 heard him explain it. I know it wasn't the most wonderful
8 tape and the sound quality's not very good and if there's any
9 part you wish to listen to again, you as the jurors have the
10 right to do that as well as the phone call that was placed.

11 The other thing that I found particularly interesting in
12 this case, ladies and gentlemen, was how quickly he got there,
13 how quickly he got to there. Now, ladies and gentlemen, like
14 I said before I I can't -- I don't know what the defense is
15 gonna say about that, I don't know what the defense is gonna
16 say why he got there very fast but I tell ya one thing the guy
17 shows up at his house in less than half an hour, he's gone in
18 less than five minutes, somethin' changed hands there, that
19 wasn't an accident out there, he didn't just stop on by.
20 Within half an hour the man was there and, what, five, six
21 minutes later he's gone. He didn't actually fix the car, he
22 didn't actually bring him anything, he didn't take him
23 anywhere, he caught a cab away. Ladies and gentlemen, this
24 was clearly a dope deal. This clearly was a sale of crack
25 cocaine and as you heard from SLED agents 23 1/2 grams of

CLOSING ARGUMENTS

1 crack cocaine. Moreover, it was the sale of 23 1/2 grams of
2 crack cocaine, it was witnessed with an officer sitting right
3 there. Across the street was Todd Parker watching this take
4 place, watching what happened, watching the same white
5 Cadillac he'd been watching for weeks pull up there, watching
6 him sell a thousand dollars worth of crack cocaine. Ladies
7 and gentlemen, after hearing all this evidence I would ask you
8 to return a verdict of guilty in this case. Thank you.

9 MR. BEAN: Please the Court.

10 THE COURT: Yes, sir.

11 MR. BEAN: Don't panic, I'm not gonna preach, I just
12 can't see my notes down here so I think when you get old you
13 gotta wear these glasses it's kinda tough. Well thank ya'll
14 for listening. Obviously, as you've sat throughout this trial
15 this is, this is a very important day certainly for the State
16 and certainly for Ricky Tate who's charged with a rather
17 serious crime. Interestingly enough though the serious crime
18 that he's charged with is based entirely on the testimony of a
19 convicted felon, not just any convicted felon, a convicted
20 felon who happened to be a friend of Ricky Tate's and who is a
21 convicted felon because, guess what, he deals in crack
22 cocaine. He's been a drug dealer since he was 14-years-old as
23 he told us when he was sittin' up here on the witness stand.
24 Now he said among other things that he called Ricky and Ricky
25 got there in about a half hour. He called Ricky on his cell

CLOSING ARGUMENTS

1 phone but nobody ever testified where Ricky came from, he
2 coulda been around the corner, he coulda been at the store
3 down the street, we don't know that, somehow thirty minutes is
4 supposed to be a big deal when in fact it could be very easily
5 explained and nobody's refuted or or offered anything as far
6 as where he might come from. Ricky was clearly there, his car
7 was there, he drove up as he often did when he went over to
8 Mr. Stevenson's house. Now Mr. Stevenson who's working with
9 the police as he said because he was a good citizen. Sure,
10 drug dealers always work with the police and try to help 'em,
11 you know, c'mon. Drug dealers work with the police for one
12 reason and one reason only and that's because they're in
13 trouble and they need some help and in a case like this what
14 they're havin' to do is whatever it takes to produce some
15 drugs that they can say they got from somebody else so that
16 the police will help 'em. If Mr. Stevenson had gone through
17 all of this and gone back to the point at the church parking
18 lot where he said he met back up with the detectives with no
19 drugs, what kinda of help would he have gotten? none.

20 Now did the drugs come from Ricky Tate or not? Well
21 let's think about it just a second. The detective said that
22 when they set this up they put this microphone on
23 Mr. Stevenson and thank goodness we don't have to listen to
24 that scratchy tape anymore, I'm glad of that, but anyway they
25 put this thing on him and then they give him a buncha money

CLOSING ARGUMENTS

1 which which they marked or photographed or whatever they did
2 and they search him. Why'd they search him? make sure he
3 didn't have any drugs on him. Now you may recall the
4 detective when he was sittin' up here told us that they knew
5 that Mr. Stevenson was a drug dealer because they'd gone to
6 his house before with a search warrant and found drugs there
7 so they knew what he was into, that's probably why he was
8 arrested but anyway they searched. He doesn't have any drugs
9 on him, they put him in a cab, send him off to his house and
10 they wait. Everybody's there, he gets there, the police are
11 there across the street, way across the street apparently
12 because ya'll have seen those pictures and they're they're off
13 in the distance, they're they're terrible, I know the cameras
14 work different ways but anyway it wasn't like right here
15 (indicating) or right there (indicating), it was over yonder.
16 He goes to his house, Ricky's not there, what he do? he went
17 in the house. Fair enough. What he get while he was in the
18 house? according to him he got his car keys. He wouldn't
19 admit of course if he got anything else in the house but he
20 could have. Ricky drives up, they exchange hellos or
21 whatever, shook hands, I don't know what they did, they go
22 around the backa the house to work on the car. The detective
23 said he could see the back of the car you remember 'cuz the
24 house was turned just a little bit, okay, so they go around
25 the backa the house to talk about the car and this is where

CLOSING ARGUMENTS

1 this supposed drug thing takes place and then Ricky leaves
2 which obviously he had every right to do, don't know where he
3 went but he left. Alright. What the police do? Well let's
4 think about what the police coulda done. They could have come
5 right in there while they still had Mr. Stevenson there and
6 said, Where are the drugs? They didn't do that. They left.
7 They went down the road. Who's there with Mr. Stevenson?
8 well nobody. Nobody. So Mr. Stevenson's got a thousand
9 dollars, Mr. Stevenson's got some drugs that supposedly he got
10 from Ricky Tate and he's gotta get drugs to these officers so
11 they can help him out of a jam that he's in because after all,
12 he is a drug dealer. The police are gone, nobody's watching
13 Mr. Stevenson, he calls a taxi and it takes I think he said
14 five minutes for the taxi to get there, okay. What he do in
15 those five minutes? He go back in the house, stash some
16 money, get some cocaine that he had in the closet? we don't
17 know. Did he go in the car, get the drugs that he had in his
18 car stashed in there so he can give 'em to the police so he
19 could get the help he needed to get out of whatever he was
20 charged with? we don't know.

21 The lady from SLED, the chemist, when she looked at the
22 evidence or or analyzed the evidence, she testified that she
23 did a chemical-type analysis to determine it was crack
24 cocaine, okay, fair enough. Did she do any other tests? no,
25 didn't do any other tests. You do a DNA test, a touch test to

CLOSING ARGUMENTS

1 see who's held this bag? Well no, I didn't do that. Anybody
2 fingerprint the bag? No, didn't do that. If the police had
3 gone right in and gotten Mr. Stevenson and gotten that bag of
4 crack cocaine from Mr. Stevenson and gone and gotten those
5 tests run, they could have conclusively proven that Ricky Tate
6 had possession of that bag but they didn't do that so where
7 does that leave us? well remember we talked earlier about that
8 reasonable doubt issue or or to put it another way I think I
9 said so and so and so and so but wait, the "but wait" is what
10 did Mr. Stevenson have to gain and could this have happened
11 that way instead of the way that our convicted felon crack
12 dealer says it did and we don't have any way to know he's
13 telling the truth or not, can't rely on him gettin' up there
14 and swearin' to tell the truth not a convicted crack dealer.
15 So the police didn't do anything, they didn't take any action,
16 they didn't look to see how can we nail this down which they
17 coulda done, they didn't do it so what we have is a question
18 and that question is where did the crack cocaine come from,
19 come from a guy who's a friend, thought he was a friend
20 obviously wasn't, who's been over there before as
21 Mr. Stevenson said he came when he called him or did
22 Mr. Stephenson cook up the whole thing to get himself out of a
23 jam, that's what you've gotta decide.

24 Now I'm gonna leave ya'll with that but I would like to
25 say one thing, I think His Honor might have mentioned this but

JURY CHARGE

1 if he did I'm sorry to be repetitive, if anybody has made an
2 error here, if I made an error, if the solicitor did, if Your
3 Honor did, on an appeal that could be corrected. This is
4 Ricky's day in court and if you ladies and gentlemen don't get
5 it right an appeal won't help Ricky so please when you go back
6 there think about all this, think about what you heard, think
7 about the believability of the people who testified,
8 especially the only person who really was there and knows what
9 happened and do what you think is best. Thank you.

10 THE COURT: Mr. Foreman, ladies and gentlemen, the
11 indictment in this case charges the defendant with trafficking
12 in crack cocaine 10 grams or more but less than 28 grams. I
13 remind you that the fact that the defendant was arrested,
14 charged and indicted in this case is not evidence in this case
15 and cannot be considered by you as evidence of guilt in this
16 case nor does it create any presumption or inference of guilt,
17 this particular document is simply the formal written
18 instrument by which contains the charge made against the
19 defendant, it is the formal document by which the case is
20 brought into this courtroom. The defendant has pled not
21 guilty to the indictment and that plea puts the burden on the
22 State to prove the defendant guilty. A person charged with
23 committing a criminal offense in South Carolina is never
24 required to prove himself innocent. I charge you that it is
25 an important rule of law that the defendant in a criminal

JURY CHARGE

1 trial no matter what the seriousness of the crime may be will
2 always be presumed to be innocent of the charge for which the
3 defendant was in -- was issued unless guilt has been proven by
4 evidence satisfying you of that guilt beyond a reasonable
5 doubt. This presumption of innocence does not end when you
6 begin your deliberations but it accompanies the defendant
7 throughout the trial until you reach a verdict of guilt based
8 on the evidence satisfying you of that guilt beyond a
9 reasonable doubt. The presumption of innocence is like a robe
10 of righteousness placed about the shoulders of the defendant
11 which remains with the defendant until it has been stripped
12 from the defendant by evidence satisfying you of the
13 defendant's guilt beyond a reasonable doubt. The presumption
14 of innocence is not mere legal theory, it is not just legal
15 phrase, it is a substantial right to which every defendant is
16 entitled unless you, the jury, are satisfied from the evidence
17 of the defendant's guilt beyond a reasonable doubt.

18 What is reasonable doubt in the law? A reasonable doubt
19 is the kind of doubt that would cause a reasonable person to
20 hesitate to act. The State has the burden of proving the
21 defendant guilty beyond a reasonable doubt and some of you may
22 have served as jurors in civil cases where you were told that
23 it is only necessary to prove that a fact is more likely true
24 than not true such as by the greater weight or the
25 preponderance of the evidence. In criminal cases the State's

JURY CHARGE

1 proof must be more powerful than that, it must be beyond a
2 reasonable doubt. Proof beyond a reasonable doubt is proof
3 that leaves you firmly convinced of the defendant's guilt.
4 There are very few things in this world that we know with
5 absolute certainty and in criminal causes the law does not
6 require proof that overcomes every possible doubt. If based
7 on your consideration of the evidence you are firmly convinced
8 that the defendant is guilty of the crime charged, you must
9 find the defendant guilty. If, on the other hand, you think
10 there is a real possibility that the defendant is not guilty,
11 you must give the defendant the benefit of the doubt and find
12 him not guilty.

13 Now I remind you that during this trial you and I have
14 had certain duties to perform. As the trial judge it -- trial
15 judge, it has been my responsibility to preside over this
16 trial of this case and I also have to duty to rule on the
17 admissibility of evidence offered during a trial. You are to
18 consider only the competent evidence before you. You are to
19 consider only the testimony which has been presented from the
20 witness stand and any exhibits which have been made part of
21 the record of this case. Now I have had the additional duty
22 to charge you the law applicable to this case. As the
23 presiding judge, I am the sole judge of the law of this case
24 and it is your duty as jurors to accept and apply the law as I
25 state it to you. If you already have any ideas as to what the

JURY CHARGE

1 law is or what the law ought to be that does not agree with
2 what I tell you the law is, you must abandon this idea because
3 you were sworn to accept the law and apply the law exactly as
4 I state it to you. In every case tried in this court before a
5 jury, the jury becomes the sole and exclusive judge of the
6 facts of a case. A trial judge cannot intimate, state,
7 comment on or make any statement to a trial jury about the
8 facts of a case. Since you, the jury, are the sole judge of
9 the facts, you are not to infer from what I have said during
10 the progress of this trial in ruling on the admissibility of
11 evidence or otherwise or anything that I say now during the
12 course of this instruction that I have any opinions about the
13 facts of this case, the law does not allow me to have opinions
14 about the facts in the case. This is a matter solely for you,
15 the jury, to determine. As jurors it is your duty to
16 determine the effect, value, weight and truth of the evidence
17 presented during this trial.

18 Now normally there are just two types of evidence which
19 are presented during the course of any trial, that is direct
20 evidence and circumstantial evidence. Direct evidence is
21 testimony of a person who claims to have actual knowledge of a
22 fact such as an eyewitness, it is evidence which immediately
23 establishes the main fact to be proved. Circumstantial
24 evidence is proof of a chain of facts and circumstances
25 indicating the existence of a fact, it is evidence which

JURY CHARGE

1 immediately establishes collateral facts from which the main
2 fact may be inferred. Circumstantial evidence is based on
3 inference and not on personal knowledge or observation.

4 Now the law makes absolutely no distinction between the
5 weight or value to be given to either direct or circumstantial
6 evidence nor is a greater degree of certainty required of
7 circumstantial evidence than of direct evidence. You should
8 weigh all of the evidence in this case and after weighing all
9 of the evidence if you are not convinced of the guilt of the
10 defendant beyond a reasonable doubt, you must find the
11 defendant not guilty and necessarily you must determine the
12 credibility of witnesses who have testified during the course
13 of this trial. Credibility simply means believability. It
14 becomes your duty as jurors to analyze and evaluate the
15 evidence and determine which evidence convinces you of its
16 truth. In determining the believability of witnesses who have
17 testified in this case, you may believe one witness over
18 several witnesses or several witnesses over one witness, you
19 may believe a part of the testimony of a witness and reject
20 the remaining part of the testimony of that same witness. You
21 may believe the testimony of a witness in its entirety or
22 reject the testimony of a witness in its entirety. You may
23 consider whether any witness has exhibited to you any
24 interest, bias, prejudice or other motive in this case, you
25 may also consider the appearance and the manner of the witness

JURY CHARGE

1 while on the witness stand. The rules of evidence ordinarily
2 do not permit witnesses to testify as to opinions or
3 conclusions; an exception to this rule exists where witnesses
4 are called which we call "expert witnesses", a witness who by
5 education and experience has become expert in some art,
6 science, profession or calling may state an opinion as to
7 relevant and material matters in which the witness claims to
8 be an expert and you may -- and may also state the reasons for
9 that opinion. You should consider any expert opinion received
10 in the evidence in this case and like any other evidence give
11 it the weight that you think it deserves. If you decide that
12 the opinion of the expert witness is not based upon sufficient
13 education and experience or if you conclude that the reasons
14 given in support of the opinion are not sound or that the
15 opinion is outweighed by other evidence, you may disregard the
16 opinion in its entirety. An expert -- an experts witness's
17 testimony is not to be given -- is to be given no greater
18 weight than that of any other witnesses simply because the
19 witness is an expert. Further, you are not required to accept
20 an expert's opinion even though it goes uncontradicted.

21 Ladies and gentlemen, I instruct you and emphasize that
22 the fact that the defendant did not testify is not a factor to
23 be considered by you in any way in your deliberations and in,
24 and in your consideration on the question of the guilt or
25 innocence of the defendant, it must not be considered by you

JURY CHARGE

1 in any manner whatsoever. A defendant has a constitutional
2 right to remain silent and the assertion of that right must
3 not be considered by you in your deliberations. Ladies and
4 gentlemen, I repeat, under your oath you are to draw no
5 conclusion whatsoever from the fact that the defendant in this
6 case did not testify. The fact that the defendant did not
7 testify should not even be discussed in the jury room. The
8 burden of proof as I have stated to you is on the State. The
9 defendant is not required to prove his -- is not required to
10 prove his innocence. The burden of proof remains on the State
11 to prove guilt beyond a reasonable doubt.

12 Ladies and gentlemen, the defendant in this case is
13 charged with trafficking in crack cocaine 10 grams or more but
14 less than 28 grams. The State must prove beyond a reasonable
15 doubt that the defendant knowingly sold, manufactured,
16 cultivated, delivered, purchased, brought into the state,
17 provided financial assistance or otherwise aided, abetted,
18 attempted or conspired to sell, manufacturer, cultivate,
19 deliver, purchase or bring into the state, was knowingly in
20 actual or constructive possession, knowingly attempted to
21 become in actual or constructive possession of crack cocaine.
22 The State must also prove beyond a reasonable doubt that the
23 amount of crack cocaine was 10 grams or more but less than 28
24 grams.

25 Mr. Foreman, ladies and gentlemen, there are two possible

JURY CHARGE

1 verdicts that you will issue in this case, one is not guilty
2 and the other is guilty. I have prepared a verdict form for
3 your use in the jury room. Simply because I put one before
4 the other it bears no importance, it's simply because I had to
5 put one before the other and so you will have this form back
6 in the jury room. I need to let you know that your verdict
7 has to be unanimous, all twelve members of the jury must agree
8 on the verdict in this case. Your verdict has to be based on
9 the evidence that has been presented during the course of this
10 trial, cannot be based on any type of sympathy, passion, or
11 capriciousness or any other consideration that is not
12 supported by the record in this case. Mr. Foreman, when the
13 jury conducts their deliberations, the deliberations are to be
14 conducted when only all twelve members are present. If for
15 some reason one of the jurors has to leave for the restroom,
16 make a telephone call or for whatever reason, the
17 deliberations need to cease and they shall not begin again
18 until all twelve members have returned. Once the jury has
19 reached their unanimous verdict, Mr. Foreman, you then will
20 complete this form indicating the jury's verdict, you will
21 then sign on the line indicated for your signature and then
22 put the date down here (indicating) at the bottom and then
23 knock on the door and inform the bailiff that the jury has
24 reached its decision. I want to stress that last part. I
25 actually had a jury one time to engage in deliberations and

JURY CHARGE

1 they went for an extremely long period of time and we never
2 heard from 'em and finally I had to send the bailiff back to
3 inquire what was up and I forgot to tell them to knock on the
4 door and tell us when ya'll were finished. So at this time
5 I -- Mr. Foreman, I'm gonna ask that you return to the jury
6 deliberation, do not begin your deliberations until the
7 bailiff brings you all of the evidence and tells you to begin
8 but you may go with the bailiff.

9 (The following takes place outside the presence of the
10 jury.)

11 THE COURT: Any exception from the State or the defense
12 on the charge?

13 MR. KENDALL: None from the State, Your Honor.

14 MR. BEAN: Nothing from the defense, Your Honor. I just
15 was gonna inquire, I'm sure you thought of this, do we still
16 have an alternate seat?

17 THE COURT: I always bring them out after we start the
18 deliberations. Also, if ya'll would be sure we have all the
19 exhibits. Unless there is agreement to dismiss the alternate,
20 I mean, unless there's agreement to go with less than twelve
21 if in the event something happens to one of the twelve jurors
22 I then would have the alternate to be separated out to remain
23 in the courtroom -- remain in the courthouse in the event he's
24 needed.

25 MR. BEAN: Oh.

MOTIONS AND MATTERS

1 THE COURT: Unless ya'll are in agreement that we can go
2 ahead and dismiss it and go with less than twelve in the event
3 that, uh, ---

4 MR. BEAN: Well I ---

5 MR. KENDALL: That -- that's that's fine with me, Your
6 Honor, I -- as I understand it we're gonna be done at the end
7 of the day anyway.

8 MR. BEAN: I prefer to keep the alternate juror, ---

9 THE COURT: Okay.

10 MR. BEAN: --- just don't tell him I said so.

11 THE COURT: Okay, then we've -- can we put the alternate
12 over here?

13 THE BAILIFF: Yes, sir.

14 THE COURT: Okay. If you will, get the exhibits and
15 hand -- give them to the bailiff as well as the verdict form
16 and then you may tell 'em to begin but just put the alternate
17 in the side room.

18 MR. KENDALL: Your Honor, one issue. We don't have a
19 clean computer program ---

20 THE COURT: Well ---

21 MR. KENDALL: --- back there if they they wanna hear,
22 they wanna hear the tape.

23 THE COURT: --- why don't you let them have the CD and
24 then if they wanna hear it they can come and ask.

25 MR. KENDALL: Yes, sir.

MOTIONS AND MATTERS

1 (Whereupon, a discussion was held off the record.)

2 (Whereupon, jury deliberations began at 3:22 p.m.)

3 THE COURT: I'll step down for a few minutes.

4 (Whereupon, the Court was in recess while the jury
5 deliberated.)

6 THE COURT: Alright, the jury has sent a note they would
7 like to hear a portion of the audiotape concerning the
8 exchange of drugs outside of Stevenson's house. The solicitor
9 has found that on the tape?

10 MR. KENDALL: Sir -- yes, sir, Your Honor.

11 THE COURT: Alright. Unless I hear any objection we're
12 gonna bring the jury back in and we'll listen to just that.

13 MR. BEAN: I have no objection, Your Honor. I have
14 listened with the solicitor to get to that point and I I
15 assume that's what they want.

16 THE COURT: Okay. Alright, let's bring the jury back
17 in.

18 (The following takes place in the presence of the jury.)

19 THE COURT: Mr. Foreman, we -- I received your note
20 concerning your request to hear the audiotape that deals with
21 the exchange of drugs outside of Stevenson's house, I'll make
22 the note part of the Court's exhibit to the record. I've
23 asked the attorneys to locate that, I believe it's on the
24 machine and we're now gonna play just that portion that ---

25 UNIDENTIFIED JUROR: Sir, can I get closer so I could

MOTIONS AND MATTERS

1 hear. Can I go -- come around?

2 THE COURT: Certainly. You wanna take that first chair
3 down there (indicating)? Alright, we will -- indicate when
4 you want us to stop.

5 JURY FOREPERSON: Okay, Your Honor, thank you.

6 THE COURT: Alright, you may start the tape.

7 (Whereupon, a portion of State's Exhibit No. 2 was
8 played.)

9 JURY FOREPERSON: That's enough, Your Honor.

10 THE COURT: Alright. Thank you, Mr. Foreman.

11 MR. KENDALL: We can also try to put it on the overhead
12 if that's any any easier, Your Honor.

13 THE COURT: Alright, is the -- I'll let the jury retire
14 back to the jury deliberation room and you may continue your
15 deliberations. Anything before I step down?

16 MR. BEAN: No, Your Honor.

17 MR. KENDALL: No, Your Honor.

18 (Note from the jury marked Court's Exhibit No. 1.)

19 (Whereupon, a verdict was reached at 4:12 p.m.)

20 THE COURT: I am informed we have a verdict. Alright,
21 anything before we bring the jury back?

22 MR. KENDALL: None from the State, Your Honor.

23 MR. BEAN: No, Your Honor.

24 THE COURT: Bring the jury back.

25 (The following takes place in the presence of the jury.)

VERDICT

1 THE COURT: Mr. Foreman, I'm informed that the jury's
2 reached a verdict, is that correct?

3 JURY FOREPERSON: Yes, Your Honor.

4 THE COURT: If you will, give your verdict form to the
5 bailiff.

6 (Whereupon, the jury foreperson complied.)

7 THE COURT: Madam clerk, please publish the verdict.

8 THE CLERK: 2011-GS-11-232, State of South Carolina vs.
9 Ricky Tate, we, the jury, unanimously find the defendant
10 guilty of trafficking 10 or more but less than 28 grams of
11 crack cocaine, signed by foreperson Earl Diones. Mr. Foreman,
12 ladies and gentlemen of the jury, if this is a verdict of you
13 all please indicate by raising your right hand. Thank you.

14 THE COURT: The record will reflect that that everyone
15 raised their hand. Is there anything from the defense or the
16 State before I dismiss the jury?

17 MR. KENDALL: Nothing from the State, Your Honor.

18 MR. BEAN: No there's not, Your Honor. Thank you.

19 THE COURT: Mr. Foreman, ladies and gentlemen, I want to
20 thank you for your service and your work in this case. Now
21 when we started this trial I informed you that this trial was
22 a integral part of our democracy, it's part of -- and and I
23 want to echo that and thank you for your service. We -- I've
24 had the good fortune in my career to have been at times to
25 actually be an associate justice on the Supreme Court of South

MOTIONS AND MATTERS

1 Carolina and one of the times that I was an associate justice
2 was that we had visiting judges from one of the eastern
3 European countries that used to be under communist domi --
4 domination, used to be part of the Soviet Union, they were
5 studying our judicial system here in America and they were
6 amazed the fact that we have citizens like you in every
7 community in this country that sit as jurors and sit in
8 judgment of their government the way you have done as part of
9 this trial, they were amazed by it and it is -- and when I
10 said that this was the greatest justice system ever created,
11 it is. It might have its flaws, it might not seem that it
12 works exactly right all the time but it is the greatest
13 justice system ever created and and we thank you for your
14 service. Unfortunately, we don't have a lot of money that
15 we're gonna pay you for what you've done for the last several
16 days but the clerk of court does have some vouchers for you to
17 represent a small token of our appreciation. I'm gonna let
18 you retire back to the jury deliberation room. Mr. Foreman,
19 there will be a indictment that you will need to sign but
20 you're more than happy to go with the foreman and you may take
21 the alternate in there as well.

22 (The following takes place outside the presence of the
23 jury.)

24 THE COURT: Any reason why we should not proceed with the
25 sentencing?

MOTIONS AND MATTERS

1 MR. KENDALL: Can I get just a moment, Your Honor, I
2 didn't prepare my sentencing sheet, that be totally outta
3 superstition. I'll just take me a second to run and print one
4 off. Be right back.

5 MR. BEAN: Your Honor, I presume my client need to sign.

6 THE COURT: No, I don't, I don't think the client has to
7 sign it if he's not giving up any constitutional rights.

8 MR. BEAN: Okay.

9 MR. KENDALL: Your Honor, one note on the sentencing
10 sheet. We have left the CDR code out and the number of
11 offense blank and that's because as I understand it we're
12 gonna have to have a brief argument as to whether or not this
13 constitutes a second offense or a third offense in this
14 matter, Your Honor.

15 (Pause.)

16 MR. KENDALL: Yes, sir, Your Honor. The State would
17 argue that this constitutes a a third or subsequent conviction
18 for trafficking of crack cocaine. Mr. Tate's criminal history
19 begins in 1998, Your Honor, with a manufacture, distribution
20 of crack cocaine first offense, he had I believe three counts
21 of that. We've gone and pulled from the archives the original
22 sentencing sheets and indictments on those and they occurred
23 over -- they were -- he was sentenced on two -- on the same
24 day, however the incidents themselves occurred on separate
25 days. Your Honor, I can, I can pass those up if you'd like.

MOTIONS AND MATTERS

1 Additionally, Your Honor, we recognize that it was outside of
2 the, of the 10-year window, however I believe it's calculated
3 from end date. Mr. Tate was given a YOA sentence not to
4 exceed 6 years, however he was revoked on this YOA sentence in
5 2003 which I believe would be within the 10-year range.
6 Moreover, on August 13th 2006 he was convicted of marijuana as
7 well as on December 28th 2006 he was, he was convicted for
8 simple possession of marijuana, Your Honor.

9 (Whereupon, the documents were shown to defense counsel.)

10 THE COURT: Will the lawyers approach a moment.

11 MR. KENDALL: Yes, sir.

12 (Whereupon, a bench conference was held off the record.)

13 THE COURT: I did -- go back on the record, we've had
14 bench conferences about these issues but would like for the
15 State to proceed if I cut the State off in the middle of their
16 arguments as to any of their positions.

17 MR. KENDALL: Yes, sir, Your Honor, with respect to the
18 indictment, Your Honor, we would argue that under *State vs.*
19 *Paris* and *State vs. Kelly*, *State vs. Schmidt* that if a prior
20 conviction of a serious offense is not an element of a crime
21 but relates only to punishment i.g. -- e.g. a repeat drug
22 offense but the indictment need not allege what specific
23 offense it is unless of course it's a case of marijuana or
24 something like that it would be required to get jurisdiction
25 for this court. In addition to citing those aforementioned,

MOTIONS AND MATTERS

1 additionally, Your Honor, with respect to this being a third
2 or subsequent effect -- offense, we would argue under 16-25-50
3 which states that in determining the number of offenses for
4 the purpose of imposition of a sentence the Court shall treat
5 as one offense any number of offenses which have been
6 committed at times so closely connected in point of time that
7 they may be considered as one offense and this is the part the
8 State would allege as the important part, Notwithstanding
9 under the law they constitute separate and distinct offenses.
10 Because we believe that his offenses in that previous
11 conviction were separated by I believe it was five days if I'm
12 not mistaken, we would -- we'd argue those constitute separate
13 offenses, thus making this a a third or subsequent offense,
14 Your Honor.

15 THE COURT: The prior charge or prior convictions
16 occurred at separate times, is that correct?

17 MR. KENDALL: Your Honor, that he actually I believe pled
18 to those at the same time. The actual events leading to those
19 convictions had first occurred on December 11, 1997 for I
20 believe it was, I believe it was distribution of crack
21 cocaine. He also had another one on December 11, 1997 for
22 distribution of crack cocaine. The second offense then would
23 have taken place as distribution of crack cocaine on December
24 16th 1997 because of those and we'd like to make these a part
25 of the record as well, Your Honor, these sentencing sheets.

MOTIONS AND MATTERS

1 THE COURT: You can mark them as one, there's one.

2 (Indictments on previous convictions marked Court's
3 Exhibit No. 2. for identification.)

4 THE COURT: Yes, sir. Mr. Bean.

5 MR. BEAN: Thank Your Honor. Your Honor, the defense
6 position is that as to the indictment itself and the
7 information contained therein we take the position that it is
8 required that the level of the offense be included in the
9 indictment and not shown to the jury when the indictment goes
10 to the jury and failure to do so in our opinion, Your Honor,
11 would require that the defendant be sentenced as to a first
12 offense rather than to a subsequent offense.

13 As to the issue of prior convictions, Your Honor, the
14 position of defense is that the prior convictions having been
15 pled to at one time would constitute one conviction for
16 purposes of sentencing making this a second offense rather
17 than a third or subsequent, it is also our position that the
18 State has the burden of showing that the incidents pled to do
19 not constitute a similar crime or or one set of facts for
20 purposes of invoking that statute to enhance the level of of
21 charge in sentencing as a result and I think, Your Honor, that
22 that what the State has handed up to the Court relating to the
23 offenses would not be sufficient in our opinion to get them
24 beyond the question of whether or not those pleas to those
25 particular offenses were not somehow related perhaps perhaps

MOTIONS AND MATTERS

1 as a common scheme or something else along those lines which
2 under the statute would bring them together as one offense and
3 I wasn't involved in those cases, I I I don't presume neither
4 of my colleagues here were either and so we're goin' on some
5 bare bones information which they've ended up which I think
6 does not meet the burden that they have to to get this to an
7 enhancement in terms of sentencing for third and subsequent.

8 MR. KENDALL: Your Honor, how the statute is worded with
9 respect to the closely considering time I believe it's it's so
10 closely connected to the point in time that they're considered
11 one offense. These took place over five days. This is a
12 5-day separation between those two previous offenses because I
13 don't think they would, they would constitute a a single, a
14 single action, Your Honor.

15 THE COURT: They were separate drug deals.

16 MR. KENDALL: Yes, sir. Yes, sir.

17 THE COURT: Alright.

18 EXAMINATION BY THE COURT:

19 Q. Mr. Tate, I need to ask you some questions. How old are
20 you?

21 A. Thirty-two, sir.

22 Q. How far did you go in school?

23 A. I dropped out in the 9th, went back got my GED, went to
24 college.

25 Q. How much college you do?

MOTIONS AND MATTERS

- 1 A. Roughly a year and a half.
- 2 Q. Where -- where'd you that?
- 3 A. In Kentucky.
- 4 Q. And was it a a like a u -- state university or ---
- 5 A. --- university, ---
- 6 Q. --- college?
- 7 A. --- yes, sir.
- 8 Q. You married? single? divorced? widowed?
- 9 A. Engaged, sir.
- 10 Q. Do you have children?
- 11 A. Yes, sir.
- 12 Q. How many?
- 13 A. Five.
- 14 Q. How old are they?
- 15 A. Seven, six, three, eleven and fourteen.
- 16 Q. And do ya have a job outside the home?
- 17 A. Yes, sir.
- 18 Q. What do you do?
- 19 A. Dawkin's Construction, I'm a concrete finisher.
- 20 Q. Ever serve in the military?
- 21 A. No, sir.
- 22 Q. And when you got arrested on this charge how long a time
- 23 did you spend in jail before you made bond?
- 24 A. Seven month.
- 25 THE COURT: Anything else from the State?

MOTIONS AND MATTERS

1 MR. KENDALL: Nothing further from the State, Your Honor.

2 THE COURT: Yes, sir, Mr. Bean.

3 MR. BEAN: Your Honor, we would just ask again renew our
4 motion in sentencing that he be sentenced as either a first or
5 a second totally depending on what you wanna do.

6 THE COURT: Alright. Mr. Tate, is there anything that
7 you would like to say or would like for me to know or
8 consider?

9 THE DEFENDANT: Well I know I made some bad decisions
10 comin' up when I was younger, you know, but I I changed my
11 life from all that. I just chose the wrong friends to call my
12 friends and they got me in a situation that I know I gotta,
13 you know, I gotta pay the State for, whatever mistake they say
14 I made.

15 MR. BEAN: Your Honor, I do have one other matter, I may
16 have overlooked it but the other issue I think was mentioned
17 by the State the convictions for those initial charges that we
18 were talking about did occur in 1998 which would take them
19 well first of all a youthful offender sentence he was
20 either -- he was a juvenile I think at the time but also take
21 them well beyond 10 years and I think that the Court would
22 need to consider that as well in sentencing.

23 MR. KENDALL: Your Honor, I believe that based on the rap
24 sheet I'm looking at he had a -- is that the end date of that,
25 of that conviction would be that the relevant time in that as

MOTIONS AND MATTERS

1 as in 12/23/2003 he had his parole revoked which I think would
2 establish a a date within the 10-year period which he'd still
3 be serving his sentence, Your Honor.

4 THE COURT: Beyond the prior record that you announced
5 previously is there any other record?

6 MR. KENDALL: Yes, sir, Your Honor, 2006 he had
7 possession of marijuana, he also had an open container, public
8 drunk, also in 2006 he had possession of marijuana, Your
9 Honor, there's nothing further.

10 MS. LESKANIC: Your Honor, may we have one more moment?

11 (No audible response.)

12 (Whereupon, a discussion was held off the record.)

13 MS. LESKANIC: Your Honor, if we may have a moment, what
14 we're gonna do is check with probation. We have the date of
15 the parole revocation but I believe we need to look at either
16 the date of the conviction or the date they're released from
17 confinement and so I don't wanna confuse that with a parole
18 revocation, we'll make sure we get this correct.

19 (Pause.)

20 MR. KENDALL: Probation's left, Your Honor, for the day,
21 I wasn't able to get in touch with them, um, ---

22 THE COURT: Alright, I'm going to consider being within
23 10-year. If the defense or the State find out information
24 otherwise, file a motion with me to revisit the sentence.

25 MR. KENDALL: Yes, sir.

SENTENCE

1 MS. LESKANIC: Yes, Your Honor.

2 THE COURT: I I believe that based on information that's
3 been provided from the State that that it would still fall
4 within that, fall within that window of time.

5 MS. LESKANIC: And I believe, Your Honor, if I'm reading
6 the new statute correctly the only one conviction that is past
7 10 years is forgiven so even if you took away one of those we
8 would still be at a third offense if one of those fell outside
9 the 10-year range because I believe only one offense is
10 forgiven.

11 THE COURT: Alright, this is what we're going to do: I
12 believe that there is sufficient information presented to the
13 Court that I can treat this as a third or a second offense.
14 The sentence I believe it is appropriate that if the State
15 requests that or here it was treated as a third offense my
16 sentence is going to be a 25-year sentence, that falls within
17 parameters of being both a second and a third offense so it
18 might be more of an after meeting discussion than anything
19 else with the sentence but he will receive credit for the
20 7 months that he has served. I do believe that based on the
21 information that the State has has given me that I can
22 consider these prior offenses as part of the sentence and I do
23 believe that the State is correct in that with with it just
24 with it being for sentencing purposes only and that it does
25 not fall with being one of the necessary elements of the crime

SENTENCE

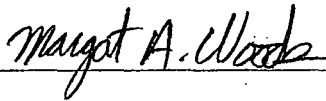
1 they need to be actually alleged in the indictment for what
2 they say is proper in that regard as well. I have executed
3 the sentencing sheet, I will give the sentencing sheet as well
4 as the verdict form to the clerk of court. Good luck to you,
5 sir.

CERTIFICATE OF REPORTER

I, Margaret A. Woods, Court Reporter in and for the State of South Carolina at Large, hereby certify that I reported the preceding case on July 19 and 20, 2011 at the time and place heretofore set forth; and that the foregoing pages numbered from 5 through 149, inclusive, constitute a true and accurate transcription of my stenographic notes of the said proceeding.

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties connected to the action, nor am I financially interested in the action.

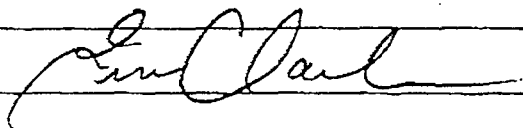
November 19, 2011

A handwritten signature in cursive script, reading "Margaret A. Woods", is written over a horizontal line.

Margaret A. Woods, Court Reporter
in and for the State of South Carolina at Large.

WITNESSES

Cherokee County Sheriff's Office



ARREST WARRANT NUMBER

M132911

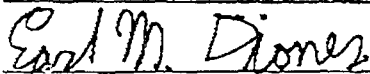
ACTION OF GRAND JURY



Foreperson of Grand Jury

Date: 3-31-11

VERDICT



Foreperson of Petit Jury

Date: 7/20/2011

DOCKET NO.

11-43-11-0252

The State of South Carolina

County of Cherokee

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAR 31 2011

TERM

THE STATE

vs.

Ricky Tate

Indictment for

TRAFFICKING IN CRACK COCAINE

SC Code: 44-53-375

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHEROKEE)

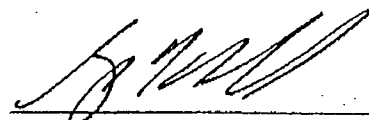
INDICTMENT

At a Court of General Sessions, convened on MAR 31 2011, the
 Grand Jurors of Cherokee County present upon their oath:

TRAFFICKING IN CRACK COCAINE

That Ricky Tate, dtd in Cherokee County on or about December ¹³~~14~~, 2010,
 knowingly sell, manufacture, deliver, purchase or bring into this State, or did
 provide financial assistance or did otherwise aid, abet, attempt, or conspire to
 sell, manufacture, deliver, purchase, or bring into this State, or did knowingly
 actually or constructively possess, or did knowingly attempt to actually or
 constructively possess ^{(10) ten}~~(28) twenty-eight~~ grams or more, but less than ^{(28) twenty-eight}~~(100) one~~
~~hundred~~ grams of Crack Cocaine, a schedule II controlled substance, in
 violation of §44-53-375, THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as
 amended.

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


 ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS 153

COUNTY OF Cherokee
STATE VS.
Ricky Tate

AKA:

Race: Sex: M Age: 32

DOB: 05-19-1979 SS#: 249-41-6612

Address:

City, State, Zip:

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Trafficking Crack Cocaine

INDICTMENT/CASE#: 2011GS1100232

A/W#: M132911

Date of Offense: 12/14/2010

S.C. Code §: 44-53-0375

CDR Code #: 0452

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 44-53-0375 of the S.C. Code of Laws, bearing CDR Code # 0452
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

KENDALL, MATT

SC Bar# 77213

Defendant

Attorney for Defendant

SC Bar# 602

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 7 months☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114 (BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCJA Surcharge)	\$5
3% to County (if paid in installments)	\$ 8.40
TOTAL	\$ 388.40

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

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

Clerk of Court/ Deputy Clerk

Court Reporter:

Presiding Judge

Judge Code:

Sentence Date:

2132
7.20.2011

STATE OF SOUTH CAROLINA)
)
 COUNTY OF Cherokee)

INDICTMENT FOR UNLAWFUL DRUGS

At a Court of General Sessions, convened on MAY 21 1998,
 the Grand Jurors of Cherokee County present upon their oath:

COUNT ONE — POSSESSION

That _____ did in _____ County
 on or about _____, knowingly and intentionally possess a quantity
 of _____, a controlled substance under
 provisions of §§ 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such posses-
 sion not having been authorized by law.

COUNT TWO — POSSESSION WITH INTENT TO DISTRIBUTE

That _____ did in _____ County on
 or about _____, possess with intent to distribute a quantity of
 _____, a controlled substance
 under provisions of §§ 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended,
 such possession not having been authorized by law.

COUNT THREE — DISTRIBUTION

That Ricky Tate did in Cherokee County
 on or about December 16, 1997, distribute to one undercover operative
 a quantity of crack cocaine, a controlled substance
 under provisions §§ 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such
 distribution not having been authorized by law.

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

A TRUE COPY
Brandy H. McBee
 CLERK OF COURT
 CHEROKEE COUNTY, S.C.

Court Exhibit

2

Donnie L. Williams
 SOLICITOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF Cherokee)

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 sion not having been authorized by law.

COUNT TWO — POSSESSION WITH INTENT TO DISTRIBUTE

That _____ did in _____ County on
 or about _____, possess with intent to distribute a quantity of
 _____, a controlled substance
 under provisions of §§ 44-53-110, *et. seq.*, *Code of Laws of South Carolina* (1976), as amended,
 such possession not having been authorized by law.

COUNT THREE — DISTRIBUTION

That Ricky Tate did in Cherokee County
 on or about December 11, 1997, distribute to one undercover operative
 a quantity of crack cocaine, a controlled substance
 under provisions §§ 44-53-110, *et. seq.*, *Code of Laws of South Carolina* (1976), as amended, such
 distribution not having been authorized by law.

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

A TRUE COPY

Brandy H. McBee
 CLERK OF COURT
 CHEROKEE COUNTY, S.C.

Donnie L. [Signature]
 SOLICITOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF Cherokee)

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 such possession not having been authorized by law.

COUNT THREE — DISTRIBUTION

That Ricky Tate did in Cherokee County
 on or about December 11, 1997, distribute to one undercover operative
 a quantity of crack cocaine, a controlled substance
 under provisions §§ 44-53-110, *et. seq.*, *Code of Laws of South Carolina* (1976), as amended, such
 distribution not having been authorized by law.

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

A TRUE COPY

Brandy H. McBee
 CLERK OF COURT
 CHEROKEE COUNTY, S.C.

Donnie L. Williams
 SOLICITOR

State of South Carolina)

County of Cherokee)

-vs-)

Bickey Tate)

Defendant)

Court General SessionsJune 19 19 98Offense (s) Dist CrackCocaine (3 cants)Indictment No. 98-607; 98-60
98-606

INDETERMINATE SENTENCE COMMITMENT

Youthful Offender Act, Section 5 (c)

The Court finds that the above named Defendant was, at the time of the conviction:

- ✓ At least seventeen (17) years of age, but less than twenty-one (21) years of age.

At least twenty-one (21) years of age, but less than twenty-five (25) years of age, and has consented in writing to be treated and sentenced as a Youthful Offender under the Youthful Offender Act.

The Court further finds that the Defendant is suitable for commitment under the Youthful Offender Act. Therefore, it is the sentence of the Court that pursuant to Section 5 (c) of the Youthful Offender Act, the Defendant be committed to the custody of the Department of Corrections, Youthful Offender Division, for an indeterminate period of time not to exceed six (6) years.

Consent

Sentence runs from _____ 19 _____.

6-19-98

Date Signed

[Signature]
Presiding Judge

A TRUE COPY

Brandy H. McBeeCLERK OF COURT
CHEROKEE COUNTY, S.C.

State of South Carolina)

County of Cherokee)

-vs-)

Rickey Tate)

Defendant)

Court General SessionsJune 19 19 98Offense (s) Dist CrackCocaine (3 counts)Indictment No. 98-607; 98-6
98-606

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Consent

Sentence runs from _____ 19 ____.

6-19-98

Date Signed

[Signature]

Presiding Judge

A TRUE COPY
Rickey Tate
CLERK OF COURT
CHEROKEE COUNTY, S.C.

A TRUE COPY
Brandy H. McBee
CLERK OF COURT
CHEROKEE COUNTY, S.C.

State of South Carolina)

County of Cherokee)

-vs-)

Rickey Tate)

Defendant)

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Concurrent

Sentence runs from _____ 19 _____.

6-19-98

Date Signed

[Signature]
Presiding Judge

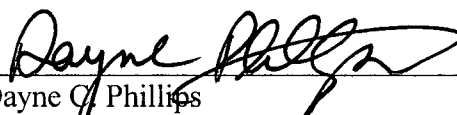
A TRUE COPY
[Signature]
CLERK OF COURT
CHEROKEE COUNTY, S.C.

A TRUE COPY
[Signature]
CLERK OF COURT
CHEROKEE COUNTY, S.C.

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 August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

This 12th day September, 2012


Dayne C. Phillips
Appellate Defender

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

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Cherokee County

J. Mark Hayes, II, Circuit Court Judge

~~ORIGINAL~~
~~ORIGINAL~~

THE STATE,

RESPONDENT,

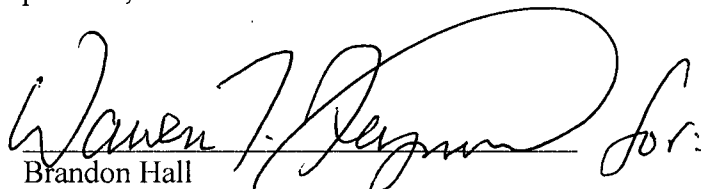
V.

RICKY TATE,

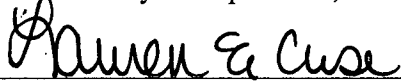
APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 12th day of September, 2012.


Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 12th day of September, 2012.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: August 23, 2014.

RECEIVED

SEP 12 2012

SC Court of Appeals