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SC Court of Appeals

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM MARLBORO COUNTY

Edward B. Cottingham, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

THOMAS RANDALL EDGE,

APPELLANT

APPELLATE CASE NO. 2013-002579

RECORD ON APPEAL

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INDEX

INDEX	i
TRIAL TRANSCRIPT (DECEMBER 2 – 3, 2014).....	1
COLLOQUY	17
COLLOQUY	23
OPENING STATEMENT BY MS. JOHNSON LEE.....	30
OPENING STATEMENT BY MR. STEEN.....	31
TESTIMONY	
IRA DEASE.....	33
TIM HOOD	45
BLAKE SUTTON.....	52
LARRY TURNER	63
WILLIAM HALL	72
CHARGE ON THE LAW.....	84
CLOSING ARGUMENT BY MS. JOHNSON LEE	95
CLOSING ARGUMENT BY MR. STEEN	101
COLLOQUY	104
QUESTION FROM THE JURY	104
VERDICT	105
SENTENCING	109
INDICTMENT	114
CERTIFICATE OF COUNSEL.....	116

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSION
COUNTY OF MARLBORO) 2013-GS-34-00696

STATE OF SOUTH CAROLINA)
) PLAINTIFF
) vs.) TRANSCRIPT OF RECORD
) THOMAS RANDALL EDGE
) DEFENDANT
)

December 2-3, 2013
 Bennettsville, South Carolina
 VOLUME 01 OF 02

B E F O R E:

THE HONORABLE EDWARD B. COTTINGHAM, JUDGE; and a jury.

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

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BRANDON STEEN, PUBLIC DEFENDER
 Attorney for the Defendant

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IRA DEASE, Bennettsville Police Department

TIM HOOD, Bennettsville Police Department

BLAKE SUTTON,

LARRY TURNER, Bennettsville Police Department

WILLIAM HALL,

HATTIE O. GORDON
Circuit Court Reporter

MASTER INDEX

VOLUME 01 - December 2, 2013

Voir Dire of the Jury	7
Selection of the Jury	11
Colloquy	17
Certificate of Reporter	21

VOLUME 02 - December 3, 2013

Colloquy	23
Opening Statement by Ms. Johnson Lee	30
Opening Statement by Mr. Steen	31

IRA DEASE

Direct By Ms. Johnson Lee	33
Cross By Mr. Steen	42
Redirect By Ms. Johnson Lee	44

TIM HOOD

Direct By Ms. Johnson Lee	45
Cross By Mr. Steen	51

BLAKE SUTTON

Direct By Ms. David	52
Cross By Mr. Steen	59
Redirect By Ms. David	61

LARRY TURNER

Direct By Ms. David	63
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1	Cross By Mr. Steen	71
2	WILLIAM HALL	
3	Direct By Ms. Johnson Lee	72
4	Cross By Mr. Steen	76
5	Colloquy	76
6	Charge of the Court	84
7	Closing Statement by Ms. Johnson Lee	95
8	Closing Statement by Mr. Steen	101
9	Colloquy	104
10	Question from the Jury	104
11	Verdict of the Jury	105
12	Sentence of the Court	109
13	Certificate of Reporter	113

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STATE'S EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	D.V.D.	27	27
2	Pills (sealed)	27	27
3	Drug Analysis Report	38	76

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COURT'S EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	Jury Question No. 01	105	105
2	Jury Question No. 02	105	105

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VOIR DIRE OF THE JURY

THE COURT: All right. I find then that all of you who have not been excused or transferred are qualified to serve in this a General Session term of Court in the Fourth Circuit of Marlboro County.

Again, I appreciate your services here, and thank you so much. All right, Solicitor, what's your first order of business?

MS. JOHNSON LEE: Your Honor, the first order of business would be the State v. Thomas Randall Edge. A copy of the indictment with the court reporter to be handed up to Your Honor.

THE COURT: All right. Solicitor, are you ready to proceed?

MS. DAVID: We are ready to proceed, Your Honor.

THE COURT: Counsel for the Defense, are you ready to proceed?

MR. STEEN: Yes, Your Honor.

THE COURT: Call your case, please.

MS. JOHNSON LEE: Your Honor, Docket 2012-GS-34-0696, The State v. Thomas R. Edge. Indictment for distribution of scheduled two drugs.

THE COURT: All right, sir. Scheduled -- the specific drug in question here is Oxycontin as I understand it?

1 MS. JOHNSON LEE: Oxycodone, Your Honor, that is
2 correct.

3 THE COURT: Ladies and gentlemen of the jury, the
4 Defendant, Thomas Edge, replying to this indictment,
5 specifically pleads not guilty thereby placing the burden
6 of proof on the State of South Carolina of proving him
7 guilty if they can to your satisfaction beyond a
8 reasonable doubt.

9 Now, this indictment and the allegations are not
10 evidence. They're simply the charging indictment. The
11 evidence comes from this witness stand and from such other
12 matters as may be introduced in the trial of this case.
13 Where does Thomas Edge live, counsel?

14 MR. STEEN: Bennettsville, Your Honor.

15 THE COURT: Sir?

16 MR. STEEN: Bennettsville.

17 THE COURT: What area of Bennettsville? I need to
18 make a -- what's the street address?

19 MR. STEEN: [REDACTED] Road.

20 THE COURT: Sir.

21 MR. STEEN: [REDACTED] Road.

22 THE COURT: Have Mr. Edge stand for me, please. Are
23 any of you related by blood or connected by marriage with
24 this Defendant, Thomas Edge? Do any of you have any close
25 connection with him such as coworker, church worker,

1 neighbor, close friend of his family? Do any of you know
2 this Defendant, Thomas Edge, in any way whatsoever? If
3 you know him please stand. Come forward. Good morning.
4 May I have your name?

5 JUROR: David Gowdy.

6 THE COURT: Jury Number?

7 JUROR: Seventy-two.

8 THE COURT: What is your response when I asked did
9 you know Mr. Edge?

10 JUROR: He was in a relationship with my ---

11 THE COURT: Sir?

12 JUROR: He was in a relationship with my aunt.

13 THE COURT: How long ago was that?

14 JUROR: I don't know. Four or five years ago.

15 THE COURT: Would that impact on your ability to give
16 him a fair trial?

17 JUROR: I don't know.

18 THE COURT: Sir?

19 JUROR: I'm not sure.

20 THE COURT: You think that might influence you as a
21 juror?

22 JUROR: Yes, sir.

23 THE COURT: I'm going to excuse you from this case
24 only. You understand that?

25 JUROR: Yes, sir.

1 THE COURT: All right. Thank you, and I thank you
2 for coming forward. Solicitor, is any specific voir dire
3 questions that you have?

4 MS. JOHNSON LEE: None beyond the standard, Your
5 Honor.

6 THE COURT: Counsel for the Defense, Brandon, any
7 specific voir dire?

8 MR. STEEN: None beyond the normal, Your Honor.

9 THE COURT: Well, in this case the Defendant is
10 charged with distribution of a schedule two drug,
11 Oxycontin. And as I said he specifically pleads not
12 guilty. Do any of you have any reason to believe that you
13 could not be a fair juror if selected in this case for the
14 State of South Carolina and the Defendant?

15 Both side want a jury with no friends to reward, no
16 enemies to punish. Twelve people who can say, "Judge,
17 under my oath if I'm one of the 12 jurors I will base my
18 verdict on the law and evidence in this case and heard in
19 this courtroom and from no other place."

20 This does involve allegations to the sale of a drug,
21 schedule two, Oxycontin. Do any of you have any reason to
22 suggest that you could not be a fair juror to the State
23 and the Defendant if selected? Give me your jury --
24 witness list, please. Mr. Steen, any other questions?

25 MR. STEEN: No, Your Honor.

Selection of the Jury

11

1 THE COURT: All right. My inquiry as I call these
2 names, are any of you have any close, personal
3 relationship with these folks. The fact that you know
4 them is not important, but if you have a close
5 relationship with them I need to know that.

6 LAW CLERK: Ira Dease.

7 THE COURT: Ira Dease. Thank you, Mr. Dease.

8 LAW CLERK: Larry Turner, Tim Hood, Kale Hall, Blake
9 Sutton, Meredith C. Coleman. That's it.

10 SELECTION OF THE JURY

11 THE COURT: Okay. All right. For the State, are we
12 now ready to select a jury?

13 MS. JOHNSON LEE: State is ready, Your Honor.

14 THE COURT: Mr. Steen?

15 MR. STEEN: Defense is ready, Your Honor.

16 THE COURT: All right. Proceed. Ladies and
17 gentlemen -- bill, you can tell them as they come forward.

18 LAW CLERK: Can we get an extra jury list?

19 THE COURT: Bill, you got an extra jury list for me
20 up here, please.

21 CLERK OF COURT: How much do you need pulled? Do
22 about 15. How many do we need to pull?

23 THE COURT: I want 12 jurors and one alternate. The
24 strikes will be five and five. So that's, 10, 12 people.
25 What, 23. You hadn't already pulled them, have you?

1 CLERK OF COURT: No, sir. No, sir, we haven't pulled
2 them yet.

3 THE COURT: Are you going to pull them all or just
4 pull them on at a time?

5 CLERK OF COURT: We'll just go ahead pull them all.
6 We are probably going to need more than 23, won't we?

7 THE COURT: I'd pull.

8 CLERK OF COURT: Thirty, 35?

9 THE COURT: Thirty will be plenty.

10 CLERK OF COURT: Thirty.

11 THE COURT: Let's see. Wait a minute. Ten and 12,
12 22 23. Thirty will be plenty.

13 CLERK OF COURT: Five and five?

14 THE COURT: Five and five, and I want 13 on the jury.

15 CLERK OF COURT: Okay.

16 THE COURT: That's 23.

17 CLERK OF COURT: Okay. As I call your name I want
18 you to come to the front. Watch your step on the sides.
19 Come up here where sitting. Turn around and face the
20 door, and I'll take care of the rest.

21 Number 62, Melvin R Easterling. Come on up. Come
22 right up here to the railing and turn around. What says
23 the State.

24 MS. JOHNSON LEE: Please present the juror.

25 CLERK OF COURT: What says the Defendant.

Selection of the Jury

13

1 MR. STEEN: Please excuse the juror.

2 CLERK OF COURT: Return to your seat, please, sir.

3 Number 93, Molly D. Hicks. What says the State.

4 MS. JOHNSON LEE: Please present the juror.

5 CLERK OF COURT: What says the Defendant.

6 MR. STEEN: Please seat the juror.

7 CLERK OF COURT: Have a seat in the jury box, please,

8 ma'am. Come around this way. Go over there to the

9 bailiff. 126, Walter J. Locklear. What says the State.

10 MS. JOHNSON LEE: Please present the juror.

11 CLERK OF COURT: What says the Defendant.

12 MR. STEEN: Please seat the juror.

13 CLERK OF COURT: Have a seat in the jury box, please

14 sir. 104, Mozella B. Jenkins. What says the State.

15 MS. JOHNSON LEE: Please present the juror.

16 CLERK OF COURT: What says the Defendant.

17 MR. STEEN: Please seat the juror.

18 CLERK OF COURT: Have a seat in the jury box, please,

19 ma'am. 31, William Campbell. What says the State.

20 SPEAKER 2: Please present the juror.

21 CLERK OF COURT: What says the Defendant.

22 MR. STEEN: Please seat the juror.

23 CLERK OF COURT: Have a seat in the jury box, please,

24 sir. 188, Crystal T. Springs. What says the State.

25 MS. JOHNSON LEE: Please present the juror.

1 CLERK OF COURT: What says the Defendant.

2 MR. STEEN: Please excuse the juror.

3 CLERK OF COURT: Return to your seat, please, ma'am.

4 122, Candace B. Locklear. What says the State.

5 MS. JOHNSON LEE: Please excuse the juror for this
6 case only.

7 CLERK OF COURT: Return to your seat, ma'am. 32,
8 Catherine R. Cantwell. What says the State.

9 MS. JOHNSON LEE: Please present the juror.

10 CLERK OF COURT: What says the Defendant.

11 MR. STEEN: Please seat the juror.

12 CLERK OF COURT: Have a seat in the jury box, please,
13 ma'am. 54, Jerry L. Dean. What says the State.

14 MS. JOHNSON LEE: Please present the juror.

15 CLERK OF COURT: What says the Defendant.

16 MR. STEEN: Seat the juror.

17 CLERK OF COURT: Have a seat in the jury box, please,
18 sir. 168, Debra A. Quick. What says the State.

19 MS. JOHNSON LEE: Please present the juror.

20 CLERK OF COURT: What says the Defendant.

21 MR. STEEN: Please seat the juror.

22 CLERK OF COURT: Have a seat in the jury box, please,
23 ma'am. 218, Russell E. Williams. What says the State.

24 MS. JOHNSON LEE: Please present the juror.

25 CLERK OF COURT: What says the Defendant.

Selection of the Jury

15

1 MR. STEEN: Please seat the juror.

2 CLERK OF COURT: Have a seat in the jury box, please.

3 96, James F. Hood. What says the State.

4 MS. JOHNSON LEE: Please present the juror.

5 CLERK OF COURT: What says the Defendant.

6 MR. STEEN: Please excuse the juror.

7 CLERK OF COURT: Return to your seat, please. 135,

8 Terry McCune. What says the State.

9 MS. JOHNSON LEE: Please present the juror.

10 CLERK OF COURT: What says the Defendant.

11 MR. STEEN: Please seat the juror.

12 CLERK OF COURT: Have a seat in the jury box, please.

13 75, Jill Green. What says the State.

14 MS. JOHNSON LEE: Please present the juror.

15 CLERK OF COURT: What says the Defendant.

16 MR. STEEN: Please excuse the juror.

17 CLERK OF COURT: Return to your seat, please, ma'am.

18 44, Darryl. B. Cottingham. What says the State.

19 MS. JOHNSON LEE: Please present the juror.

20 CLERK OF COURT: What says the Defendant.

21 MR. STEEN: Please seat the juror.

22 CLERK OF COURT: Have a seat in the jury box, please,
23 sir.

24 THE COURT: What number is that.

25 CLERK OF COURT: That was Number 44. 63, Carol A.

1 Edwards. What says the State.

2 MS. JOHNSON LEE: Please present the juror.

3 CLERK OF COURT: What says the Defendant.

4 MR. STEEN: Please excuse the juror.

5 CLERK OF COURT: Return to your seat, please, ma'am.

6 162, Laverne H. Pauling. What says the State.

7 MS. JOHNSON LEE: Please present the juror.

8 CLERK OF COURT: Any cause or challenge from the
9 Defendant.

10 MR. STEEN: None.

11 THE COURT: Have a seat in the jury box, please
12 ma'am. 102, Shaqueena S. Iverson. What says the State.

13 MS. JOHNSON LEE: Please present the juror.

14 CLERK OF COURT: Any cause or challenge from the
15 Defendant.

16 MR. STEEN: None.

17 CLERK OF COURT: Have a seat in the jury box, please,
18 ma'am. That's 12, Your Honor.

19 THE COURT: All right, sir. I want one alternate.
20 Strikes will be one and two, please. Proceed.

21 CLERK OF COURT: 170, Herbert G. Quick. What says
22 the State.

23 MS. JOHNSON LEE: Please present the juror.

24 CLERK OF COURT: What says the Defendant.

25 MR. STEEN: Please seat the juror.

1 CLERK OF COURT: Have a seat in the jury box, please
2 sir. Go around the other side there. That completes it,
3 Your Honor.

4 COLLOQUY

5 THE COURT: All right. Ladies and gentlemen, in our
6 process for the appointment of a foreperson, male or
7 female, sometimes the Court supports the foreperson and
8 sometimes we let you select from among your number. The
9 foreperson will handle the deliberations in the jury room
10 and will be the spokesperson for the jury in the
11 courtroom.

12 I'm going to ask that you retire to the jury room and
13 from your number select a person who is willing and ready
14 to perform that duty of presiding in your deliberations
15 and to be the spokesman in the courtroom. So proceed and
16 let me know who you have selected. Thank you

17 (WHEREUPON, the jury panel was excused from the
18 courtroom at 11:59 a.m.)

19 THE COURT: All right. For the State, any motions
20 regarding the selection process?

21 MS. JOHNSON LEE: None, Your Honor.

22 THE COURT: For the Defendant?

23 MR. STEEN: None, Your Honor.

24 THE COURT: All right, then the jury will stand as
25 selected. As I understand it, Mary Thomas, we will be

1 using the rest of the morning and the afternoon for other
2 matters before the Court, guilty pleas and so forth; is
3 that correct?

4 MS. JOHNSON LEE: That's correct, Your Honor.

5 THE COURT: And so we can tell the rest of the panel
6 that they're excused for the day?

7 MS. JOHNSON LEE: Yes, Judge, and to call in.

8 THE COURT: You want them to call in after
9 six o'clock tonight?

10 MS. JOHNSON LEE: Yes, Your Honor.

11 THE COURT: Ladies and gentlemen, sometimes things
12 happen. It looks like we got a jury to start this case at
13 9:30 in the morning. The chances are I will not need you
14 tomorrow. But sometimes when you start a case it has to
15 be continued. Witnesses unavailable, things happen.
16 Please call in tonight after six o'clock for further
17 instructions. Very important that you do that.

18 It could be that I'll need you in the morning. Hope
19 not. If anybody does not understand the call in procedure
20 come forward so Mr. Funderburk can explain it to you.
21 Again, I thank you for your presence here. You are
22 excused for the rest of the day to call in after
23 six o'clock tonight. Thank you.

24 (WHEREUPON, the jury pool was excused from the
25 courtroom at 12:01 p.m.)

1 (WHEREUPON, the jury panel enters the courtroom at
2 12:08 p.m.)

3 THE COURT: Ladies and gentlemen, Laverne Pauling has
4 been selected as the foreperson of this jury; is that
5 correct?

6 JURY FOREPERSON: Yes, sir.

7 THE COURT: Congratulations. Ladies and gentlemen,
8 we propose to start this case promptly at 9:30 in the
9 morning. So when you return please come to your jury room
10 and be here so we can start promptly at 9:30.

11 A few admonitions. Do not discuss this case with
12 anyone. Let no one discuss it with it. Make no
13 independent inquiry. Whatever your verdict is it must be
14 based on the law and evidence heard in this courtroom and
15 from no other source. In the day of the internet and I
16 Phone jurors sometimes, not realizing the mistake, make
17 inquiries about a question on the I Phone or your
18 computer. That is totally wrong. You must not do it. It
19 would be a violation of your oath as jurors.

20 The reason is that your verdict, as I say, got to be
21 based on the law and evidence heard in this courtroom.
22 You will not even discuss this case in the jury room among
23 yourselves until I have given you that for your
24 deliberation. And, Madam Foreman, I will keep you fully
25 advised of your duties, and at the appropriate time I will

1 prepare for you a verdict form. I want to thank you again
2 for your services. You are excused now to be in the jury
3 room at 9:30 in the morning. Thank you. You may leave.

4 (WHEREUPON, the jury panel was excused from the
5 courtroom at 12:11 p.m.)

6 END OF TRANSCRIPT OF RECORD

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STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSION
<u>COUNTY OF MARLBORO</u>	)	2013-GS-34-00696

STATE OF SOUTH CAROLINA	)	
PLAINTIFF	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
THOMAS RANDALL EDGE	)	
<u>DEFENDANT</u>	)	

December 2-3, 2013
 Bennettsville, South Carolina
 VOLUME 02 OF 02

B E F O R E:

THE HONORABLE EDWARD B. COTTINGHAM, JUDGE; and a jury.

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

MIA DAVID, ASSISTANT SOLICITOR
 Attorney for the State

MARY THOMAS JOHNSON LEE, ASSISTANT SOLICITOR
 Attorney for the State

BRANDON STEEN, PUBLIC DEFENDER
 Attorney for the Defendant

NICHOLAS LEWIS, PUBLIC DEFENDER
 Attorney for the Defendant

COLLOQUY

1
2 THE COURT: I've been advised that a juror was
3 extremely sick, and asked to be excused from the jury.
4 His sickness was personally verified by the Clerk of Court
5 who stands with me at this time. I am excusing him and
6 the alternate will be a juror in that place. Did you get
7 that?

8 CLERK OF COURT: Herbert Quick is the alternate.

9 THE COURT: Herbert Quick. Give me a bailiff. Tell
10 the jury that I have excused the sick juror. What was his
11 name?

12 CLERK OF COURT: Williams.

13 THE COURT: Williams.

14 CLERK OF COURT: Russell Williams.

15 THE COURT: And Mr. Quick will now be the 12th juror.
16 You got that? Okay, now, I've got something else to do,
17 but I'm going to call them out in just a few minutes.

18 CLERK OF COURT: You want me to go back there and
19 tell them, Judge?

20 THE COURT: Yeah, go back there and tell them. All
21 right. Bring him out. Are you ready for trial in the
22 case that we picked the jury on yesterday?

23 MS. JOHNSON LEE: We are, Your Honor.

24 THE COURT: Okay. Mr. Steen, understand that the
25 defendant has something that he wants to say on the

1 record?

2 MR. STEEN: Yes, Your Honor.

3 THE COURT: Have him come forward. Let the record
4 reflect that the defendant has requested to speak with me
5 in open court, which is grant. This is without the
6 presence of the jury. What is the defendant's name?

7 MR. STEEN: Thomas Edge.

8 THE COURT: Sir?

9 MR. STEEN: Thomas Edge, Your Honor.

10 THE COURT: Okay. Mr. Edge, good morning.

11 MR. EDGE: Good morning, Your Honor.

12 THE COURT: You were with your attorney, and I asked
13 everybody are you ready for trial and you and your
14 attorney said, 'yes'. Now, what is your problem here this
15 morning?

16 MR. EDGE: Like I was telling my attorney ---

17 THE COURT: Yeah.

18 MR. EDGE: --- I've got a plate that's on, and it's
19 been in there for probably.

20 THE COURT: What's that got to do with this trial?

21 MR. EDGE: I'm in severe pain with it, and I wanted
22 to, you know, some kind of ---

23 THE COURT: No, sir. Have you asked anybody to give
24 you any medication?

25 MR. EDGE: Well, I mean that -- the doctor has --

1 that comes out there to the center has done said the plate
2 need to be took out.

3 THE COURT: Well, that may be, but I'm not going to
4 use that as a basis for continuing this case. I'll be
5 glad to get you some pain medication. You know anything
6 about his pain?

7 MR. STEEN: Your Honor, he was -- we were discussing
8 it this morning.

9 THE COURT: Is this the first time that he's
10 mentioned it?

11 MR. STEEN: That's the first time that I've known
12 about his arm.

13 THE COURT: Well, I didn't hear about it yesterday
14 when everybody knew this case was going to start at 9:30
15 this morning.

16 MR. STEEN: Yes, Your Honor.

17 THE COURT: No, sir. We're going to trial, Mr. Edge.
18 Thank you.

19 MR. EDGE: Yes, sir.

20 THE COURT: If you need some aspirin or -- we'll get
21 you that. All right. Bring the jury in, please. Bill,
22 swear the jury.

23 CLERK OF COURT: Okay.

24 THE COURT: What is it on the record?

25 MS. JOHNSON LEE: The Defense has stipulated to the

1 S.L.E.D. report coming in without the need to bring the
2 agent from Columbia. So we would stipulate to the report,
3 and then I just want to question about the drugs. Whether
4 stipulate to the drugs or do we need to put the evidence
5 custodian ---

6 THE COURT: Wait a minute. Tell me about the
7 stipulation about drugs.

8 MS. JOHNSON LEE: The stipulation is that the
9 S.L.E.D. report comes in, and then the question is do the
10 drugs come in on stipulation or if not we put them in
11 through the witnesses.

12 THE COURT: No. You've got the witness here?

13 MS. JOHNSON LEE: On the drugs the officers from the
14 Bennettsville Police Department for the chain of custody
15 are here. We can get the drugs in through them. I was
16 just asking if there would be a stipulation on the drugs.

17 THE COURT: Well, I think you better do it that way
18 rather than stipulation of the drugs.

19 MS. JOHNSON LEE: Okay, we'll do that.

20 THE COURT: Let's do it that way. What do you say
21 about that, Mr. Steen, Brandon?

22 MR. STEEN: Yes, Your Honor. But I do stipulate to
23 the report that was discussed earlier between me and the
24 Solicitor.

25 THE COURT: You stipulate what?

1 MR. STEEN: To the S.L.E.D. analysis report.

2 THE COURT: Well, that's fine. But I would want the
3 testimony on the record about the drugs if any.

4 MS. JOHNSON LEE: Yes, sir. Thank you.

5 THE COURT: Bring the jury in.

6 (WHEREUPON, State's Exhibit Nos. 1 AND 2 were marked
7 for identification and received into evidence.)

8 (WHEREUPON, the jury panel enters the courtroom at
9 10:43 a.m.)

10 THE COURT: One of your jurors was sick this morning
11 and I had to excuse him. And the alternate will be the
12 juror. I want to make sure that nobody else gets sick
13 cause I've got to have 12 of you. But good morning to
14 you. Swear the jury, please.

15 (WHEREUPON, the jury panel was sworn in at
16 10:43 a.m.)

17 THE COURT: Madam Foreman, ladies and gentlemen,
18 recognizing that for some of you this may have been the
19 first opportunity that you've had to serve as a juror in a
20 criminal court. Let me kind of tell you how we will
21 proceed as a guideline to help you.

22 This Defendant and all defendants in South Carolina
23 come before the Court with a document known as an
24 indictment. And this indictment contains allegations that
25 the State must prove beyond a reasonable doubt.

1 Now, the allegation in this complaint is that this
2 Defendant sold a quantity of drugs. And to this
3 indictment and to this charge this Defendant specifically
4 pleads not guilty thereby placing the burden of proof upon
5 the State of South Carolina, represented by the Solicitor,
6 of proving him guilty if they can by evidence satisfactory
7 to you beyond a reasonable doubt. That is the burden of
8 the State of South Carolina.

9 This defendant and all defendants come into Court
10 under a presumption of innocence, and that presumption
11 remains with him at all times throughout the trial until a
12 jury of 12 has convicted him unanimously beyond a
13 reasonable doubt.

14 Now, there are several things that you need to know
15 as jurors. First, you are the finders of the facts in
16 this case. You may say, "Well, Judge, we just got
17 selected here. How in the world are we to know what the
18 facts are." Well, in that connection there will be
19 various witnesses under oath testifying on your behalf.
20 Other documents may be introduced in the trial of the
21 case.

22 You as finders of the facts are also the judges of
23 the credibility of all the witnesses who have testified.
24 So you determine what the facts are based on the evidence
25 and documents presented in this courtroom. Your findings

1 may be not guilty. Your findings may be guilty. That's
2 for you to decide. In that connection I charge you that I
3 am not entitled to a factual opinion, and I absolutely
4 have none.

5 There is anybody in this wide world that can tell
6 anybody what the facts are except you 12 people. Remember
7 you judge the credibility of the witnesses. You are the
8 finders of the facts. Now, we'll precede in the following
9 manner: State of South Carolina, represented by the
10 Solicitor's Office of the Fourth Circuit, will give you an
11 opening statement as to what the State's position is.
12 Defendant, represented by Mr. Steen as Public Defender,
13 will give you a statement as to his position. This will
14 help you as a guideline follow the introduction of the
15 testimony.

16 Following these openings statements by counsel for
17 both sides they will be calling -- the State will call its
18 witnesses, and the Defendant if it chooses to may call
19 some witnesses. And there may be other documents
20 introduced for your consideration. After all the
21 testimony there will be final arguments of counsel, and I
22 will at that time give you the law of the case remembering
23 that you take the facts as you find them to be and apply
24 it to the law as applicable and thereafter reach a
25 unanimous verdict of either not guilty or guilty.

1 And, Madam Foreman, I will keep you and your jury
2 fully advised as we proceed. And at the conclusion of the
3 testimony I will provide for you an appropriate never.
4 And at the conclusion of the testimony I will provide for
5 you an appropriate verdict form. I ask that you remember
6 my admonitions from yesterday when we break for lunch.

7 This case may be concluded today. If not it will
8 certainly be in the morning. Do not discuss the case with
9 anyone. Let no one discuss it with you. Make no
10 independent inquiry, and do not even discuss the case
11 among yourselves, Madam Foreman, until I have given you
12 the case for your deliberations. We look forward to
13 working with you. Thank you.

14 All right, Mary Thomas, you may have the State's
15 opening position.

16 MS. JOHNSON LEE: Thank you, Your Honor.

17 OPENING STATEMENT BY MS. JOHNSON LEE

18 MS. JOHNSON LEE: Please the Court, Mr. Steen. We're
19 here today because on October 5th 2012 Thomas Randall Edge
20 who he is the defendant in the case sold some pills
21 containing Oxycontin to Blake Sutton who is an paid
22 informant for the Bennettsville Police Department. There
23 were about 19 pills and he sold them for approximately
24 \$120. This took place inside of a vehicle in the parking
25 lot at BiLo up her on Cheraw Street heading out of town.

1 We have a video that you will be seeing. It's not
2 the best video in the world, but I think after you see it
3 and hear the discussion between the two of them it will be
4 clear that Mr. Edge did sell the pills to the informant.
5 And you will also hear from law enforcement officers
6 involved and those who searched him before the buy to
7 those he turned the pills over to after the buy.

8 And we will actually, during the trial, show you the
9 pills, play the video as well as the address the S.L.E.D.
10 report which shows you that those pills contain Oxycodone.
11 Oxycodone, not Tylenol. It's not illegal to sell Tylenol,
12 but it is illegal to sell Oxycodone without a
13 prescription. And it certainly is illegal to sell it to
14 anyone if you're not a pharmacist. I'm going to ask you
15 and the end of the case to find Mr. Edge guilty as
16 indicted.

17 We hope to finish with this case as soon as we can.
18 We appreciate your being here and taking time out of your
19 day. That's what makes the system work, and we thank you.
20 My name is Mary Johnson Lee. I represent the Solicitor's
21 Office. And also assisting me in the trial is Ms. Mia
22 David who is an Assistant Solicitor. And we will both be
23 representing this case. Thank you.

24 OPENING STATEMENT BY MR. STEEN

25 MR. STEEN: Good morning. My name is Brandon Steen.

1 I'm representing Thomas Edge here today. The Madam
2 Solicitor just told you she's here to try to convince you
3 that Thomas Edge sold some pills to a confidential
4 informant. I'm here to make sure that an innocent man
5 doesn't go to jail for a crime that he doesn't -- he did
6 not commit.

7 The Solicitor stated that there is going to be a
8 video, a S.L.E.D. report and the actual drugs here today
9 presented to y'all. I want y'all to look at that stuff
10 very closely. I've seen the videos. I want y'all to
11 watch it very closely to see if you find that he actually
12 committed the crime alleged by the State.

13 Three things I would like y'all to remember while we
14 sit here today. You've got to remember that Thomas Edge,
15 just like everybody in here, is an innocent man when he
16 walked in this door. Just like any one of y'all would be.
17 Just like any one of us would be when he walked in this
18 door. It's the State's burden to prove that he committed
19 this crime. No one elses.

20 They must prove that beyond a reasonable doubt. I
21 think after y'all see the evidence here today y'all will
22 see that the State has not met that burden. So we would
23 hope that you find Mr. Edge not guilty of the charges.
24 Thank you.

25 THE COURT: Call your first witness, please.

1 MS. JOHNSON LEE: The State calls Ira Dease.

2 IRA DEASE, after being duly sworn, testified as follows:

3 CLERK OF COURT: If you will please be seated, and
4 state your full name for the record, please.

5 THE WITNESS: Ira Dease the Third.

6 DIRECT EXAMINATION

7 BY MS. JOHNSON LEE:

8 Q. Where are you employed?

9 A. Bennettsville Police Department.

10 Q. Okay. And what is your job at the Bennettsville
11 Police Department?

12 A. Narcotics investigator.

13 Q. Okay. And were you a narcotics investigator on or
14 about October 5th of 2012?

15 A. I was.

16 Q. Okay. And did you have an occasion to make a case
17 regarding Mr. Thomas Randall Edge that day?

18 A. I did.

19 Q. Okay. Will you please tell the jury what you did on
20 that particular day?

21 A. On October 5th 2012 we met with confidential
22 informant at the Bennettsville Police Department. We had
23 a brief conversation. Then we provided him with audio and
24 video equipment to make the -- record the transaction as
25 it takes place. And the informant was provided with \$120

1 cash money to go purchase the pills from Mr. Edge.

2 Q. Okay. When you say there was an informant can you
3 please give the identify of the informant to the jury.

4 A. Randolph Blake Sutton.

5 Q. And who is the we who were meeting with the
6 Bennettsville Police Department?

7 A. Tim Hood and myself.

8 Q. Okay. And Tim Hood is an investigator also?

9 A. Yes, he is.

10 Q. Okay. And who actually handed over the \$120 buy
11 money to Mr. Sutton?

12 A. I did.

13 Q. And were there any markings or anything on that
14 money?

15 A. It was photographed. The money was photographed.

16 Q. Okay. Was the money also marked in any way so you
17 would know which money ---

18 MR. STEEN: Objection. Leading.

19 BY MS. JOHNSON LEE:

20 Q. Was there anything identifying that particular money
21 other than the fact that it was photographed?

22 A. It would be the letters on the. The serial numbers.

23 Q. Thank you. Now, who actually provide the video
24 equipment to the informant?

25 A. Tim Hood did.

1 Q. Okay. Was that done in your presence?

2 A. It was.

3 Q. About what time of day did this take place?

4 A. It was between 12:30 and 12:45.

5 Q. Now, was that between 12:30 and 12:45 in the day?

6 A. P.m.

7 Q. During the day?

8 A. P.m.

9 Q. The sun is shining outside?

10 A. Yes.

11 Q. Now, where did you go when you left the police
12 department?

13 A. I went down Cheraw Street to be able to see the
14 transaction. Pull surveillance.

15 Q. Okay. What did you see?

16 A. I noticed -- I observed Mr. Edge along with his
17 partner sitting in a car at BiLo's parking lot.

18 Q. Okay. Did you ever see Mr. Sutton?

19 A. He was sitting in the back seat.

20 Q. Okay. And was he already in the back seat of the
21 vehicle when you arrived to surveil?

22 A. He was.

23 Q. How long did you witness him in the car?

24 A. I witnessed him until he got out of the car and
25 walked across the street.

1 Q. Did you see anybody else get out of the car at any
2 point in time during the surveillance?

3 A. I saw Ms. Ruby Quick. I didn't know her name at the
4 time, but I saw her exit the vehicle and go inside of
5 BiLo's.

6 Q. Okay. You see Mr. Sutton in the back seat. Can you
7 tell us who was in the front seat of the vehicle?

8 A. Ms. Ruby Quick and Thomas Edge.

9 Q. You recall who was sitting where?

10 A. Ms. Ruby Quick was the driver, and Mr. Edge was the
11 passenger, front seat passenger.

12 Q. Now, what was your involvement in the case after you
13 saw in informant get out of the vehicle?

14 A. We -- during that time Mr. Edge and Mr. Ruby Quick
15 left. We pulled -- conducted a traffic stop and that's
16 where they got arrested.

17 Q. And where was this traffic stop actually conducted
18 at?

19 A. It was on Cottingham Boulevard in front of Fred's.

20 Q. And that was after he they left the -- pulled out of
21 the parking lot?

22 A. Correct.

23 Q. Okay. And just to be clear. Which parking lot did
24 you witness that car sitting in?

25 A. It was in BiLo's parking lot.

1 Q. Okay. Now, at some point in time did you receive the
2 actual pills in question?

3 A. At the end.

4 Q. Okay. Who provided those to you?

5 A. Tim Hood did.

6 Q. And did Investigator Hood give those to you in a
7 bottle or just?

8 A. They were in a pill bottle.

9 Q. And what did you do with that pill bottle?

10 A. I put them in my desk drawer.

11 Q. Okay. And is that a secured desk drawer?

12 A. It is.

13 Q. Okay. And it's locked?

14 A. It is.

15 Q. Does anybody have access to the keys to that drawer
16 besides you?

17 A. No one.

18 Q. And were the pills put in that drawer on October 5th
19 2012?

20 A. They were.

21 Q. And how long did they remain there?

22 A. Until I took them to S.L.E.D.

23 Q. And you yourself took those to the State Law
24 Enforcement Division?

25 A. I did.

1 Q. Now, prior to taking the pills to State Law
2 Enforcement Division did you put them in the any sort of
3 secured packaging?

4 A. I did.

5 Q. Okay. And describe what that packaging is?

6 A. It's an evidence bag that we have at the Police
7 Department, and we have to tape it, pull the ...

8 Q. Are those bags actually provided to the Department by
9 the State Law Enforcement Division?

10 A. Yes, they are.

11 Q. Is it -- what is a Best Kit?

12 A. It's a bag we put our narcotics in, and it's secured.

13 Q. Okay. I'm what going to show you what's marked for
14 identification purposes.

15 MS. JOHNSON LEE: Just one moment to have the drugs
16 marked for identification.

17 (WHEREUPON, State's Exhibit No. 3 was marked for
18 identification only.)

19 BY MS. JOHNSON LEE:

20 Q. I'm going to show you what's been marked for
21 identification purposes as State's Exhibit Three, okay.

22 Do you recognize anything contained in that packet?

23 A. Yes.

24 Q. Okay. What do you recognize in that packet?

25 A. It has my name on it, and it has the pills inside of

1 it with the bottle.

2 Q. Okay. And your name is on the outer packet or the
3 inside packet?

4 A. It's on the inside packet. The Best Packet inside.

5 Q. Okay. So the outer packet, you didn't do that?

6 A. I didn't do this.

7 Q. Okay. The inside packet you put your name on that
8 packet?

9 A. I did.

10 Q. Okay. And does it show what date you put your name
11 on there?

12 A. It does.

13 Q. What date?

14 A. This year, March the 22nd 2013.

15 Q. Okay. And that would be prior to you taking it to
16 S.L.E.D.

17 A. Yes.

18 Q. Okay. And do you recognize anything else inside of
19 this individual packet?

20 A. It has a S.L.E.D. lab number on it.

21 Q. Okay. The pills in the bottle in there, do you
22 recognize those?

23 A. Yeah, I do.

24 Q. Okay. Is that or do they appear to be the pills in
25 the bottle that you placed in that Best Packet?

1 A. They are.

2 Q. Okay. Now, when you place any drug inside a Best
3 Packet is it sealed shut?

4 A. We have to pull -- we have to seal it shut.

5 Q. Okay. Now, once the seal is shut is that something
6 that is considered tamper evident? Is that considered
7 tamper evident meaning that if somebody opened it S.L.E.D.
8 would not check those pills?

9 A. They would not check it.

10 Q. Okay. So they would not have been tested but for
11 that packet being sealed upon their receipt?

12 A. That is correct.

13 Q. Okay. Now, did you add anything to that pill bottle
14 before you put it in that Best Packet?

15 A. I did not.

16 Q. Okay. When you took those pills to S.L.E.D. did you
17 open that packet up at any point in time?

18 A. No, I did not.

19 Q. Okay. When you turned that packet over to S.L.E.D.
20 was it still in the same condition that it was when you
21 put the pills in it and sealed it up?

22 A. It was.

23 Q. Okay. Now, did you also receive a report from State
24 Law Enforcement Division about the results of their tests
25 on those pills?

1 A. We did.

2 Q. Okay. I'm going to show what's already been
3 stipulated to as in evidence as State's Exhibit Number
4 Two. Do you recognize that report?

5 A. I do.

6 Q. Okay. And please tell the jury what that report is?

7 A. It's a drug analysis report. States what kind of
8 narcotics these pills are.

9 Q. Okay. and is that report from the State Law
10 Enforcement Division?

11 A. It is.

12 Q. And what is the analysis of those particular drugs?

13 A. The result is Oxycodone and acetaminophen.

14 Q. Okay.

15 A. Tylenol.

16 Q. Would that be Tylenol?

17 A. That's correct.

18 Q. Okay. And did you have any other involvement in this
19 case after you took those drugs to S.L.E.D.

20 A. Making the arrest.

21 Q. Okay. And you participated in the arrest of Mr.
22 Edge?

23 A. I did.

24 Q. Okay. And who else was involved in that arrest?

25 A. Lieutenant Turner, Tim.

1 Q. Lieutenant Turner, is that Lieutenant Larry Turner?

2 A. Larry Turner, right.

3 Q. Okay. and he is also with the Bennettsville Police
4 Department?

5 A. He is.

6 Q. Okay. All right. And at the time of that arrest
7 during the traffic stop was Mr. Edge searched?

8 A. He was.

9 Q. Okay. Were any of the marked money found on his
10 person?

11 A. I can't recall, but I did retrieve \$111 from Mr. Edge
12 at the jail.

13 Q. Okay. All right. At this time answer any questions
14 Defense has, please. Thank you.

15 THE COURT: Mr. Steen.

16 CROSS-EXAMINATION

17 BY MR. STEEN:

18 Q. Detective, did you see the transaction take place?

19 A. I can see the video sitting in the parking lot.

20 Q. And who handed the pills to the confidential
21 informant?

22 A. Who handed it? Mr. Edge did.

23 Q. And did Mr. Edge have the pills in his possession the
24 entire time?

25 A. No. Mr. Edge received the pills from Ms. Ruby Quick.

1 Q. And do you know where Ms. Ruby Quick received the
2 pills from?

3 A. She got it from the pharmacist.

4 Q. CVS located near the BiLo?

5 A. I don't know if it was CVs or the MedCare Pharmacy.

6 Q. And the pill bottle that is in evidence, is that the
7 pill bottle that the confidential informant turned over to
8 Tim Hood?

9 A. That's the one I received from Tim Hood.

10 Q. How many pills were turned over?

11 A. I counted them. It was 19.

12 Q. And you stated that there was \$120 given to the
13 confidential informant, but only \$111 was recovered. Do
14 you know what happened to the other \$9?

15 A. The \$111 was what is was -- what I had taken off of
16 him, but the \$120, he split the money with Ms. Ruby Quick.
17 And Miss Ruby Quick went in BiLo's and spent \$12 and some
18 change. And I retrieved \$48 from her.

19 Q. You stated that you turned the pills over to S.L.E.D.
20 on March 22nd 2013?

21 A. Yes.

22 Q. That was five months after the incidents. Is that
23 normally how long it takes?

24 A. There is no certain timeframe when we take pills.

25 MR. STEEN: One moment, Your Honor.

1 BY MR. STEEN:

2 Q. Who had the marked bills?

3 A. Who had the marked pills?

4 Q. Who recovered the marked bills?

5 A. Say that again.

6 Q. Which -- did Mr. Edge have the marked bills on him?

7 A. He probably would have had \$60 of those marked bills.

8 Q. Were the bills that he had on him marked?

9 A. At the office.

10 Q. The ones that were taken from him at the Police
11 Department were they marked?

12 A. Yeah.

13 Q. All \$111?

14 A. No, no, no. Only \$60 of it.

15 Q. Okay?

16 MR. STEEN: No more questions.

17 THE COURT: Any further redirect, Solicitor?

18 MS. JOHNSON LEE: Beg the Court's indulgence.

19 REDIRECT EXAMINATION

20 BY MS. JOHNSON LEE:

21 Q. Was the \$111 that you recovered later at the jail
22 part of the marked money?

23 A. Probably \$60 of it.

24 Q. Okay. Thank you.

25 MS. JOHNSON LEE: No further questions.

1 THE COURT: All right. You may come down. Thank
2 you. Next witness.

3 MS. JOHNSON LEE: Tim Hood.

4 TIM HOOD, after being duly sworn, testified as follows:

5 THE WITNESS: Detective Tim Hood.

6 DIRECT EXAMINATION

7 BY MS. JOHNSON LEE:

8 Q. Please state your name for the record. Excuse me.
9 Please state your job for the record?

10 A. I'm an investigator criminal/drug investigator with
11 the Bennettsville Police Department.

12 Q. And how long have you been doing that for the Police
13 Department?

14 A. I've been with the Police Department for going on 13
15 years. I've been in the back going on two years.

16 Q. And have you worked in narcotics that entire two
17 years?

18 A. Since assisting Detective Dease, and along with my 13
19 years and also dealt with drugs.

20 Q. Okay. And on October 5th 2012 were you involved in
21 the information of the buy that we're here for today?

22 A. Yes, I was. Yes, I was.

23 Q. Okay. Now, please tell the Court or tell the jury
24 what you did that particular day?

25 A. Usually when another detective is handling buy I'm

1 doing the equipment stuff. So what I did was when we met
2 with this informant -- any time we meet with an
3 information we do a check of them because they're not
4 supposed to have anything on them being money, drug or
5 anything.

6 And that's the -- not get it confused with what we
7 send them out with. At that time the informant was
8 searched. Then he was cleared. He was given, by
9 Detective Dease, the buy money. And I presented him with
10 the video surveillance equipment.

11 Q. Okay. And about what time of day was that?

12 A. That was around 11:30. Around close to 12 o'clock.

13 Q. And did you search the informant yourself?

14 A. Yes, I did.

15 Q. And you provided the video equipment to him yourself?

16 A. Yes, I did.

17 Q. Okay. Did you witness Ira Dease give him \$120 buy
18 money?

19 A. Yes, I did.

20 Q. Did he have any of the money on his person when you
21 searched him?

22 A. No, ma'am.

23 Q. Now, did you then take the informant anywhere?

24 A. Yes, ma'am. I -- once we got that, so the buy to be
25 prepared and ready to go, at that time myself and the

1 informant, I dropped him off behind Tri-County so he
2 could walk to meet with the suspect in question.

3 Q. And what did you do at that point?

4 A. At that time I left so my vehicle was not seen by the
5 suspect. I parked in the parking lot of the hospital.

6 Q. And were you able to witness anything yourself?

7 A. No, ma'am.

8 Q. Now, at some point in time did you meet back up with
9 the informant?

10 A. Yes, ma'am. I met back up with the informant when --
11 on by phone. I called to see exactly where he was at. I
12 had him meet me back in the spot that I dropped him off at
13 so he couldn't be seen.

14 Q. Now, when you met him back did you receive anything
15 from him?

16 A. Yes, ma'am. I got the pill bottle back from him, and
17 he was searched again.

18 Q. Okay. Now, did you open that pill bottle?

19 A. No, ma'am.

20 Q. What did you do with it?

21 A. At the time that I got the pill bottle went back up
22 to the P.D. and made contact with Detective Dease, with it
23 being his case, and it was straightly turned over to him.

24 Q. Was that still on October 5th?

25 A. Yes, ma'am.

1 Q. Okay. If you will take a look at the Best Packet
2 that's contained in the outer seal. Do you recognize that
3 pill bottle?

4 A. Yes, ma'am.

5 Q. Okay. Does that appear to be the same one? Does
6 that appear to be the same one you turned over to
7 Detective Dease?

8 A. Yes, ma'am.

9 Q. Okay. Now, who is the informant? Who is the
10 informant?

11 A. Blake Sutton.

12 Q. And was Mr. Sutton paid for doing this buy?

13 A. Yes, ma'am.

14 Q. Now, when you retrieved the video equipment from the
15 informant did you at some point download the video to a
16 disk?

17 A. Yes, ma'am. As handle mostly all the video stuff.
18 So at that time, from our video equipment, I take it, hook
19 it to the computer, download it and then it is then
20 transferred over to a disk to the detective that is
21 handling the case.

22 Q. I'm going to show you what's marked for
23 identification purposes as State's Exhibit Number One. Do
24 you recognize that disk?

25 A. Yes, ma'am.

1 Q. And did you have occasion to watch that disk either
2 today or yesterday afternoon?

3 A. Yes, ma'am.

4 Q. And does that appear to be the same video that you
5 downloaded from the surveillance equipment worn by Blake
6 Sutton?

7 A. Yes, ma'am. Because it has my handwriting on it.

8 Q. And when you watched it was it the same video?

9 A. Yes, ma'am.

10 Q. Did there appear to be any changes or alterations to
11 the video when you watched it this morning?

12 A. No, ma'am.

13 Q. All right.

14 MS. JOHNSON LEE: At this time, Your Honor, I would
15 move to have the video placed into evidence for the State?

16 MR. STEEN: Without objection.

17 THE COURT: It is admitted. Did you admit the drugs,
18 too?

19 MS. JOHNSON LEE: We were going to move those in
20 after the last witness, Your Honor.

21 THE COURT: All right. That's fine.

22 (WHEREUPON, State's Exhibit No. 2 was admitted into
23 evidence.)

24 THE COURT: The video is in evidence. Madam Foreman,
25 ladies and gentlemen, during the course of a trial various

1 things may be introduced into evidence. They may publish
2 them at this time or later. But be assured that
3 everything that is in evidence will be with you in the
4 jury room during your deliberations. They are showing now
5 an alleged video.

6 If in your deliberations you or any member of your
7 jury wants to see it again it will be available for you.
8 Proceed.

9 MS. JOHNSON LEE: Thank you, Your Honor. At this
10 time I would like to ask Investigator Hood to step down
11 and help set up with equipment so we can publish the video
12 to the jury.

13 THE COURT: All right. Do I need to go around where
14 I can see it?

15 MS. JOHNSON LEE: Yes, Your Honor.

16 THE COURT: Okay. That's fine. Set it up.

17 (WHEREUPON, State's Exhibit Number One was played for
18 the jury in open court.)

19 BY MS. JOHNSON LEE:

20 Q. At the end of the video whose car was that that
21 Mr. Sutton was getting into?

22 A. That would be mine.

23 Q. Okay. At this time answer any questions that Mr.
24 Steen has for you.

25 CROSS-EXAMINATION

1 BY MR. STEEN:

2 Q. Investigator, where did you drop off the confidential
3 informant at again?

4 A. We first started put behind the hospital, but getting
5 a little bit closer we went behind Tri-County.

6 Q. And how far would you say it is from Tri-County to
7 the Dollar General, CVS, BiLo area?

8 A. How far I'd say? Just an estimate. Probably a good
9 100 yards or better.

10 Q. And how long do you -- how long did it take for him
11 to walk from Tri-County to the CVS area?

12 A. From my estimate, probably 10 or 15 minutes.

13 Q. And was he under full surveillance while he walked?

14 A. By other detectives. Correct.

15 Q. How many other detectives were there?

16 A. Lieutenant Turner and Detective Dease.

17 Q. And there were also -- he was also under surveillance
18 from the walk back from CVS to Tri-County?

19 A. Yes, sir.

20 Q. How long has Mr. Sutton been a confidential informant
21 for the Bennettsville Police Department?

22 A. From -- I've been back in the back for two years, so
23 he's been there for two years and by talki8ng with my
24 fellow detectives over at least ten years or better.

25 Q. And how did he first become involved as a paid

1 confidential informant for the Bennettsville Police
2 Department?

3 A. They I could not answer for you.

4 MR. STEEN: One moment, Your Honor.

5 BY MR. STEEN:

6 Q. Have you ever dealt with Mr. Sutton as anything but a
7 confidential informant?

8 A. No, sir.

9 MR. STEEN: No further questions. Thank you.

10 THE COURT: Any further redirect?

11 MS. JOHNSON LEE: No, Your Honor.

12 THE COURT: You may come down.

13 THE WITNESS: Thank you.

14 THE COURT: You may come down.

15 MS. JOHNSON LEE: Mr. Blake Sutton.

16 BLAKE SUTTON, after being duly sworn, testified as
17 follows:

18 CLERK OF COURT: Please have a seat in this box right
19 here and state your full name for the record.

20 THE WITNESS: Randolph Blake Sutton.

21 DIRECT EXAMINATION

22 BY MS. DAVID:

23 Q. Good morning, Mr. Sutton. How are you?

24 A. Good. How are you?

25 Q. Good. How old are you?

1 A. Fifty.

2 Q. And are you employed anywhere?

3 A. No, ma'am.

4 Q. Are you married?

5 A. No, ma'am.

6 Q. Do you have any children?

7 A. Yes, ma'am.

8 Q. How many?

9 A. Three?

10 Q. Three. And where do you live?

11 A. Marlboro County.

12 Q. Here in Marlboro County?

13 A. Yes, ma'am.

14 Q. Do you ever do any ---

15 THE COURT: Talk a little louder so these jurors on
16 the back row can hear you, please. Thank you.

17 THE WITNESS: Okay.

18 THE COURT: Thank you.

19 THE WITNESS: Yes, sir.

20 THE COURT: Talk into the microphone.

21 THE WITNESS: Ma'am?

22 BY MS. DAVID:

23 Q. Do you ever do any work with the Bennettsville Police
24 Department.

25 A. Yes, ma'am.

- 1 Q. And what do you do?
- 2 A. An informant.
- 3 Q. An informant. Can you explain what that is?
- 4 A. Make buys. Undercover buys.
- 5 Q. Buy what?
- 6 A. Drugs.
- 7 Q. Okay. So you buy drugs for the Bennettsville Police
- 8 Department?
- 9 A. Yes, ma'am.
- 10 Q. And how long have you been doing this?
- 11 A. Couple of years.
- 12 Q. What types of drugs do you typically buy?
- 13 A. Marijuana, crack, pills.
- 14 Q. Anything you can get?
- 15 A. Yes, ma'am.
- 16 Q. Okay. Do you recall the date of October 5th 2012?
- 17 A. Yes, ma'am.
- 18 Q. And why is this date important?
- 19 A. I had called Randall Edge up and made a buy from him.
- 20 Q. Okay. And what did you buy from him?
- 21 A. Percocets.
- 22 Q. Okay. So let's back up for a moment and start with
- 23 the beginning of that day. How did you get involved with
- 24 making this particular buy?
- 25 A. I had known him for a while, and me and him had

1 talked. And I called him up and asked him and he said,
2 yeah, he had ---

3 MR. STEEN: Objection. Hearsay.

4 THE WITNESS: And make buys. That's what happened.

5 MS. DAVID: Your Honor, do you want me to stop or
6 continue?

7 THE COURT: What is the basis for stopping.

8 MS. DAVID: Defense counsel made an objection.

9 THE COURT: I didn't hear him.

10 MR. STEEN: Objection. Hearsay, Your Honor.

11 THE COURT: Let me hear your question again.

12 MS. DAVID: I simply asked the informant to walk us
13 through what happened on this particular day.

14 MR. STEEN: I withdraw the objection, Your Honor.

15 THE COURT: Sir?

16 MR. STEEN: I withdraw the objection.

17 THE COURT: I wondered. No objection there. He's
18 recalled it any way. When you make objections talk a
19 little louder so I can hear you and I want the jurors to
20 be able to hear you. Proceed. He has withdrawn his
21 objection. Go ahead.

22 MS. DAVID: Thank you, Your Honor.

23 BY MS. DAVID:

24 Q. So if we pick back up you said you called Mr. Edge.
25 We can pick up there and go from there.

1 A. Yes, ma'am.

2 Q. You called and then proceed to tell me what happened
3 next.

4 A. Okay. I made an agreement where to meet him at to
5 buy the drugs, the Percocet. And when he got there with
6 another lady I got in the car and bought the pills from
7 him and then took them back.

8 Q. Okay. How much did you buy from him?

9 A. It was supposed to be \$20 -- \$120.

10 Q. Let's explain that a little further. It was supposed
11 to have been what?

12 A. Percocets.

13 Q. Twenty Percocet pills?

14 A. Yes, ma'am.

15 Q. And you gave him how much money?

16 A. \$120.

17 Q. Okay. Now, was it 20 pills?

18 A. Yes, ma'am.

19 Q. Okay. Where did you get this money from?

20 A. Tim Hood.

21 Q. Tim Hood?

22 A. Yes, ma'am.

23 Q. Where did you meet with Tim Hood for him to give you
24 \$120?

25 A. At the Bennettsville Police Department.

1 Q. Okay. Was anybody else present when he gave you the
2 money?

3 A. Yes, ma'am. I think Ira was if I'm not mistaken. I
4 can't quite recall who was there, but there was some more
5 there.

6 Q. Okay so if I understand correctly you met with Tim
7 Hood and Ira Dease at the Bennettsville Police Department?
8 They give you \$120. You take that and you go buy 20
9 Percocet pills from?

10 A. Yes, ma'am.

11 Q. After you've done this what do you do next?

12 A. Take them back to Tim and everything like that there.
13 Give them back to him. Money.

14 Q. You take it back. How are you taking it back?

15 A. Walk back.

16 Q. You walk back?

17 A. Yes, ma'am.

18 Q. Okay. How did you get to the defendant to begin
19 with?

20 A. I had got a ride with Tim to buy the hospital, I
21 think it was, and got out from there and walked cross the
22 road and went into where the Dollar General was and met
23 Randall over there.

24 Q. Okay. And then you walked back?

25 A. Yes, ma'am.

1 Q. Okay.

2 MS. DAVID: Beg the Court's indulgence just one
3 moment.

4 BY MS. DAVID:

5 Q. How were these pills given to you?

6 A. In a bottle.

7 Q. Okay. And at any point did you ever open that
8 bottle?

9 A. No, ma'am.

10 Q. Now, just for clarification purposes did you
11 previously know Mr. Thomas Edge?

12 A. Yes, ma'am.

13 Q. Do you see him in this courtroom today?

14 A. Yes, ma'am.

15 Q. What is he wearing?

16 A. Black and white jacket.

17 Q. Do you mind pointing at him?

18 A. Right over there.

19 MS. DAVID: Your Honor, at this time let the record
20 reflect that this confidential informant, Mr. Sutton, has
21 identified Mr. Edge as the individual that sold him 20
22 Percocet pills on October 5th of 2012.

23 BY MS. DAVID:

24 Q. And would you please answer any questions that the
25 Defense may have for you at this time.

1 A. Yes, ma'am.

2 CROSS-EXAMINATION

3 BY MR. STEEN:

4 Q. Mr. Sutton, how much were you paid for this buy on
5 October the 5th?

6 A. \$200, I believe.

7 Q. You were paid \$200 by the Bennettsville Police
8 Department for this buy?

9 A. Yes, sir.

10 Q. And if a buy is unsuccessful do you still get paid?

11 A. No.

12 Q. So the only time you get paid is when drugs are
13 turned over back to the Bennettsville Police Department?

14 A. Right.

15 Q. And how long have you been a confidential informant
16 for the Bennettsville Police Department?

17 A. About two years.

18 Q. And how many C.I. buys would you say you have done?

19 A. Maybe ten.

20 MR. STEEN: One second, Your Honor.

21 BY MR. STEEN:

22 Q. Mr. Sutton, when did you first become a confidential
23 informant for the Bennettsville Police Department?

24 A. I couldn't quite remember. Like I said its been a
25 couple of years.

1 Q. Did you walk in off the street to get a job?

2 A. If you want to call it that.

3 Q. You approached Bennettsville Police Department? They
4 did not approach you?

5 A. No, sir. I approached them.

6 Q. Okay. And in 2006 did you have a fraudulent check
7 charge?

8 A. Yes, I did.

9 Q. And in 2007 did you have another fraudulent check
10 charge?

11 A. Yes, I did.

12 Q. And both of those occurred prior to you being a
13 confidential informant?

14 A. No, sir.

15 Q. You were a C.I. before 2006?

16 A. Yes, sir. You said 2006?

17 Q. Yes.

18 A. I can't quite recall all what's going on, what you're
19 talking about.

20 Q. You said you have been a confidential informant for
21 two years?

22 A. Yes.

23 Q. But you said you were a confidential informant prior
24 to these charges in '06 and '07?

25 A. No. Not that far back.

1 Q. Okay. These charges happened prior to you being a
2 C.I.

3 A. No. The checks don't have nothing to do with me
4 being a C.I.

5 Q. My question is did they occur prior in time that you
6 being a confidential informant?

7 A. No.

8 MR. STEEN: No more questions. Thank you.

9 THE COURT: Any further?

10 MS. DAVID: Yes, Your Honor.

11 REDIRECT EXAMINATION

12 BY MS. DAVID:

13 Q. Judge [sic], for clarification purposes how much
14 money was given to you by the Bennettsville Police
15 Department?

16 A. If I'm not mistaken at different times it's -- didn't
17 buys ---

18 Q. On this particular day for Mr. Edge, how many money
19 was given to you?

20 A. I think it was \$200 if I'm not mistaken.

21 Q. How many pills were you supposed to buy from
22 Mr. Edge?

23 A. Twenty.

24 Q. Did you ever open the bottle to see what was n there?

25 A. No, ma'am.

1 Q. Thank you.

2 THE COURT: All right. You may come down. Thank
3 you. Would the jury like to take a quick morning break?
4 If so raise your hand. The jury is okay. All right. Let
5 you go to the jury room just a minute. I'm going to be
6 calling you right back. Thank you.

7 (WHEREUPON, the jury panel was excused from the
8 courtroom at 11:48 p.m.)

9 THE COURT: All right. We'll be in recess for ten
10 minutes.

11 (WHEREUPON, Court was in recess at 11:48 a.m. and
12 reconvened at 12:10 p.m.)

13 THE COURT: All right. State ready to proceed?

14 MS. DAVID: Yes, Your Honor.

15 THE COURT: State ready to proceed?

16 MS. DAVID: Yes, sir.

17 THE COURT: Defense ready?

18 MR. STEEN: Yes, Your Honor. He's coming.

19 THE COURT: Pardon me?

20 MR. STEEN: Yes, Your Honor. The Defendant is
21 walking out right now.

22 THE COURT: Bring the jury in.

23 (WHEREUPON, the jury panel enters the courtroom at
24 12:10 p.m.)

25 THE COURT: Solicitor Mary Thomas.

1 MS. JOHNSON LEE: Yes, Your Honor.

2 THE COURT: Any stipulations ought to be made before
3 the jury.

4 MS. JOHNSON LEE: Yes, sir. I don't think we have
5 any more.

6 (WHEREUPON, the jury panel enters the courtroom at
7 12:11 p.m.)

8 THE COURT: Jury is present. You may proceed.

9 MS. DAVID: Mr. Larry Turner.

10 LARRY TURNER, after being duly sworn, testified as
11 follows:

12 CLERK OF COURT: Please be seated and state your full
13 name for the record.

14 THE COURT: Good morning, Mr. Turner.

15 THE WITNESS: Good morning, Judge. Larry Turner.

16 T-U-R-N-E-R.

17 DIRECT EXAMINATION

18 BY MS. DAVID:

19 Q. Good morning, Mr. Turner. Let's start with how old
20 are you?

21 A. Forty-one.

22 Q. Are you married?

23 A. Yes, I am.

24 Q. Do you have any children?

25 A. Three kids.

1 Q. And where are you employed?

2 A. Bennettsville Police Department.

3 Q. And how long have you been employed there?

4 A. Seventeen years.

5 Q. Okay. And what are your job duties with the

6 Bennettsville Police Department?

7 A. I'm a lieutenant over the Investigation Division
8 which consists of criminal investigations, narcotics and
9 gangs.

10 Q. Okay. Do you recall the date of October the 5th of
11 2012?

12 A. Yes, I do.

13 Q. And why is this date important to you?

14 A. That's the date that investigator Ira Dease along
15 with Assistant Investigator Tim Hood did an undercover
16 drug buy in the city limits of Bennettsville.

17 Q. Okay. And were you involved with this buy at all?

18 A. Yes, I was.

19 Q. And what was your involvement?

20 A. I was part of the take down team and the surveillance
21 team.

22 Q. Okay. Of the check down team?

23 A. Take down team.

24 Q. Take down team. Okay. How does that work? Just
25 explain to me what your role in conjunction with everybody

1 else's role?

2 A. Basically, I just oversee to make sure everything is
3 getting done the way it should, the safety of the officers
4 along with the informant. Also the safety of the
5 defendant. I just make sure that all items are in order
6 as far as the video, the money and the actual surveillance
7 and the arrest part of it.

8 Q. Okay. So on October 5th of 2012 while this buy is
9 taking place where are you located?

10 A. Originally, I was across the street at Marlboro Park
11 Hospital, but as the defendant moved I moved to the
12 adjacent parking lot which was the old Winn Dixie directly
13 across from BiLo's.

14 Q. So you're off at the side watching from a distance?

15 A. Yes, ma'am, that is correct.

16 Q. And basically what did you see happen?

17 A. I just basically watched the informant walk and meet
18 the defendant inside of the defendant's vehicle.

19 Q. Okay. Now, let's pick up from there. What further
20 involvement did you have?

21 A. The initial beginning Investigator Dease and
22 Investigator Hood told me they were going to do an
23 undercover drug buy. They advised me who the defendant
24 would be and the buy. Along with who the informant was.
25 They met the informant at the Bennettsville Police

1 Department, provided him the documented currency that I
2 photocopied on a copy machine which was \$120.

3 They provided the informant with a video camera and
4 audio recording device. And Investigator Hood basically
5 took him to the location, dropped him off so he could meet
6 with the Defendant.

7 Q. Okay. And what occurs from that point?

8 A. The confidential informant walked to the location as
9 he was dropped off by Investigator Hood. He meets with
10 the defendant in the parking lot at BiLo's, gets inside,
11 and the transaction takes place between the Defendant and
12 the confidential informant for the pills that he was
13 buying in exchange for the \$120.

14 Q. Okay. And you said for the pills that he was buying
15 in exchange for \$120. Then what occurs from that point?
16 Keep telling me the story.

17 A. He was basically doing the buy. A codefendant that
18 was in the vehicle, a Ms. Quick, she exits the vehicle and
19 walks inside BiLo's. Stays a short period of time. She
20 comes back out. The defendant and the informant have a
21 conversation that y'all saw earlier on the video going
22 that way. She's in the store. Once they leave and pull
23 out onto the highway we stopped them in front of Fred's
24 which is maybe 100, 150 yards down the road.

25 Q. Who did you see leave?

1 A. The Defendant, Mr. Edge, along with Miss Quick who
2 was the codefendant.

3 Q. Okay?

4 A. Stopped them on a traffic stop. I actually take
5 Mr. Edge out of the vehicle. I find \$60 in marked
6 currency that we had photocopied on his person, and I
7 think it was \$48 that Miss Quick had about her person
8 because she actually spent \$12 inside of BiLo's.

9 Q. Okay. Did the money match the initial \$120?

10 A. Yes, ma'am, it did. The serial numbers matched up.

11 Q. Okay. So you said the serial numbers matched up, so
12 that was the same money taken off Mr. Edge that was
13 initially given to him?

14 A. Yes, ma'am, that is correct.

15 Q. Given to the informant?

16 A. That \$60, yes, ma'am, it was.

17 Q. Okay. So then what happened next? Do you place him
18 under arrest?

19 A. He's arrested, and I'm not sure who transported him
20 out to the jail. I know Investigator Dease did meet him
21 out at the jail. And I actually called for a wrecker to
22 come tow his vehicle.

23 Q. Now, do you specifically have any further involvement
24 with the case?

25 A. I actually -- I took some evidence to S.L.E.D. and I

1 can't remember the exact date, but when I was at S.L.E.D.
2 I actually brought the evidence back, and those items,
3 those pills, were actually transported back by me from
4 S.L.E.D. to the Bennettsville Police Department where they
5 were placed in evidence.

6 Q. Okay. I show you this form that was given to us from
7 S.L.E.D. Do you recognize it?

8 A. Yes, ma'am. This is the evidence release form or
9 chain of custody showing the evidence that was brought
10 back on that day which was several items.

11 Q. Okay. And what is it? What does it say?

12 A. It has a department case number. It has a S.L.E.D.
13 lab number/case number. And it describes the Best
14 Evidence Kit and the items that were being brought back.

15 Q. Okay. What date did you bring that back?

16 A. It would have been on 6/4/2013.

17 Q. And what did you do with it once you got it back
18 here?

19 A. It was placed into the evidence locker at the
20 Bennettsville Police Department.

21 Q. Okay. Now, is this what you picked up from S.L.E.D.
22 on that particular day?

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

24 Q. Now, has it been altered or tampered with in any
25 particular way?

1 A. No, ma'am. You can see the bag. It's heat sealed.
2 The bag has not been opened.

3 Q. Okay. Did you know what it was when you picked it
4 up?

5 A. Yes, ma'am, I went by the chain of custody sheet. It
6 describes what you're actually bringing back. It's marked
7 by the S.L.E.D. lab number and our case number for
8 Bennettsville Police Department.

9 Q. Did you know what the item had been identified as
10 when you picked it up?

11 A. No, ma'am. I never saw the actual drug analysis
12 sheet that came back that would have went to Investigator
13 Ira Dease.

14 Q. From that point did forward did you have any further
15 involvement with the case?

16 A. Other than the defendant calling me numerous times.
17 He called on numerous times wanting to do work to get
18 himself out of trouble because of the pills that he had
19 sold on that day.

20 MR. STEEN: Objection. Prejudicial.

21 THE COURT: Let's hear that question and answer
22 again.

23 MS. DAVID: I simply asked him did he have any
24 further involvement with the case from the point of
25 picking up the S.L.E.D. evidence.

1 THE COURT: I don't want any hearsay testimony in
2 evidence.

3 MS. DAVID: Yes, sir, Your Honor.

4 THE COURT: Okay.

5 BY MS. DAVID:

6 Q. Continue. Just don't tell us about the defendant.
7 Anything he said to you.

8 THE COURT: Your understand if -- you understand the
9 hearsay rule. If you want to testify as to what somebody
10 else said our rules require him to get on the stand under
11 oath and testify. So do not state what somebody else told
12 you.

13 THE WITNESS: Yes, Your Honor.

14 THE COURT: All right.

15 THE WITNESS: Other than that I had no involvement
16 until today.

17 BY MS. DAVID:

18 Q. Okay. As far as the C.I. goes had you previously
19 dealt with him at all?

20 A. I have. I've been in law enforcement for, as I said
21 earlier, for 17 years. The majority of that time I worked
22 narcotics. I've known Mr. Sutton probably 10, 12 years.
23 He was -- I was introduced to him through another
24 investigator, Shawn Feldner, who used to work for the
25 Bennettsville Police Department. He was a confidential

1 informant for him.

2 Mr. Sutton probably did maybe 100 buys over my 10, 12
3 year career as an investigators with the Bennettsville
4 Police Department, and about two years ago I introduced
5 him to Investigator Hood who came to command investigator
6 at the Police Department and lieutenant on the road. And
7 he had been working for Investigator Hood probably about
8 two years. And he also Investigator Dease during that ten
9 year -- 10, 12 year period working with him also.

10 Q. Okay.

11 MS. DAVID: Beg the Court's indulgence just one
12 moment.

13 BY MS. DAVID:

14 Q. Thank you. Please answer any questions the Defense
15 attorney might have for you.

16 A. Yes, ma'am.

17 THE COURT: Mr. Steen.

18 MR. STEEN: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. STEEN:

21 Q. Lieutenant, were you surveilling -- were you doing
22 surveillance on the Defendant or were your doing
23 surveillance on the C.I. or stopping Mr. Edge?

24 A. I actually did the surveillance on the C.I. has he
25 walked to the location where the defendant was. Once the

1 actual transaction was over with I was part of the take
2 down team on the defendant.

3 Q. Was there surveillance on the C.I. after the
4 incident?

5 A. Yes, sir. That would have been Investigator Hood.
6 He actually went back and met with the C.I. while myself
7 along we Investigator Dease and some of the patrol units
8 were part of the take down team.

9 MR. STEEN: One moment. No further questions.

10 THE COURT: All right. You may come down. Thank
11 you.

12 THE WITNESS: Thank you, Your Honor.

13 MS. JOHNSON LEE: State calls Kel Hall.

14 WILLIAM HALL, after being duly sworn, testified as
15 follows:

16 CLERK OF COURT: Please be seated and state your full
17 name for the record.

18 THE WITNESS: William Hall.

19 DIRECT EXAMINATION

20 BY MS. JOHNSON LEE:

21 Q. And you're also known as Kel?

22 A. Yes, ma'am.

23 Q. And you're employed by whom?

24 A. Bennettsville Police Department.

25 Q. And what is your job there?

1 A. My job is a patrol officer and also evidence
2 custodian.

3 Q. And how long have you been the evidence custodian?

4 A. Since 2008.

5 Q. And what is the job of the evidence custodian?

6 A. I keep all evidence that is taken from officers and
7 detectives. Keep it inhouse and until it's needed for
8 court purposes or S.L.E.D. purposes.

9 Q. And is that a secured evidence room?

10 A. It is.

11 Q. Does any besides yourself have access to the evidence
12 room?

13 A. No, ma'am, I'm the only one.

14 Q. Now, I going to show you what's mark for
15 identification as State's Exhibit Number Three. Do you
16 recognize that packet?

17 A. I do.

18 Q. And at some point in time did that packet come into
19 your custody and control as evidence custodian?

20 A. Yes, ma'am.

21 Q. And when was that?

22 A. I believe it was the -- June 5th. I'm not exactly
23 sure. I've got it written down.

24 Q. If I should you your 2013 Evidence Log Sheet would
25 this refresh your memory?

1 A. Yes, ma'am. I received it on June 5th of this year.

2 Q. And tell us how you received it?

3 A. I actually -- it was in my evidence locker.

4 Q. How does the evidence locker work?

5 A. The evidence locker works -- you have a two way
6 system. Outside of the evidence room is the locker where
7 the officers or able to put the evidence into a locker.

8 From the inside of the evidence room I have another
9 door where I can open it and take the evidence out of the
10 locker so it can -- and open it back up where officers are
11 able to put more evidence back in there.

12 Q. And were you able to tell from the evidence locker
13 when that item was actually placed in it?

14 A. Yes, ma'am, I was.

15 Q. And when was it actually placed in the initial
16 evidence locker?

17 A. The day before. On the 4th.

18 Q. Okay. And do you know by whom?

19 A. Larry Turner.

20 Q. And would anybody else have been able to get anything
21 out of that evidence locker once he placed it in there?

22 A. No, ma'am. He actually locks it behind him once he
23 places the evidence in the locker.

24 Q. Now, once that lock is turned can anyone including
25 Lieutenant Turner able to reopen it in order to get

1 something out?

2 A. No, ma'am. The only way it's able to be reopened is
3 from the inside of the evidence room.

4 Q. And that's by you?

5 A. That's by me.

6 Q. Now, when you place those in the evidence locker or
7 retrieve them from the evidence locker on June 5th, did
8 they remain secure in the evidence room?

9 A. Yes, ma'am, they did.

10 Q. When they were they removed?

11 A. This morning.

12 Q. And that was by you?

13 A. That was by me.

14 Q. And that was to bring to Court?

15 A. Yes, ma'am.

16 Q. Looking at Item Three, does that appear to be in the
17 same condition as it was when you retrieved it from the
18 evidence locker on June 5th?

19 A. It does.

20 Q. Does it appear to be tampered with in any way?

21 A. No, ma'am.

22 MS. JOHNSON LEE: At this point in time I'd like to
23 move Number Three into evidence for the State.

24 THE COURT: It is presented into evidence.

25 MS. JOHNSON LEE: Thank you, Your Honor.

1 (WHEREUPON, State's Exhibit No. 3 was admitted into
2 evidence.)

3 MS. JOHNSON LEE: That's all the questions I have for
4 Officer Hall.

5 BY MS. JOHNSON LEE:

6 Q. If you would answer any questions that the Defense
7 might have.

8 THE COURT: Mr. Steen.

9 CROSS-EXAMINATION

10 BY MR. STEEN:

11 Q. Did you ever open the bottle?

12 A. No, sir.

13 Q. It was in the ---

14 A. It was sealed when I got it just as it is now.

15 Q. And were you involved in the C.I. buy?

16 A. Oh, no, sir.

17 Q. Thank you.

18 MR. STEEN: No further questions, Your Honor.

19 THE COURT: You may come down. Thank you. Next
20 witness. Please.

21 COLLOQUY

22 MS. JOHNSON LEE: State rests at this time, Your
23 Honor.

24 THE COURT: All right. Before resting is there any
25 stipulations that we need to tell the jury?

1 MS. JOHNSON LEE: None from the State, Your Honor.

2 THE COURT: All right. It's about -- so that
3 concludes the testimony of the State; is that correct?

4 MS. JOHNSON LEE: That is correct, Your Honor.

5 THE COURT: Well, it's 2:30. We're going to take an
6 hour and a half for lunch. Ask the jury to be back at two
7 o'clock. Is that satisfactory, everybody?

8 MS. JOHNSON LEE: Yes, Your Honor.

9 THE COURT: All right. Remember my admonitions.
10 Please be back in the jury room ready to go at
11 two o'clock. Thank you so much.

12 (WHEREUPON, the jury panel was excused from the
13 courtroom at 12:26 p.m.)

14 THE COURT: All right. The State has now rested.
15 Any motions on behalf ---

16 CLERK OF COURT: We've got one juror walking out the
17 back.

18 THE COURT: Whose running that show back there?
19 Well, we hadn't started so that's proper. Don't ever,
20 when we're in Court, don't ever let jurors come through
21 the courtroom. When we're till in session. It's
22 fortunate that we had not started, but never let a juror
23 come in this courtroom when the Judge is on the bench
24 whether it's me or somebody else. You understand.

25 BAILIFF: Yes, sir.

1 THE COURT: In this instance nothing happened, but it
2 could. All right. The State has now rested. Is there
3 any motions on behalf of the Defendant?

4 MR. STEEN: Yes, Your Honor. At this time we would
5 like to move for a directed verdict. We do not feel that
6 the State provided any evidence with regards to Mr. Edge
7 having control over the alleged pills or that there was
8 the analysis and the testimony.

9 THE COURT: Well, you agreed -- you've already
10 stipulated to the analysis of S.L.E.D; that it was
11 Oxycodone.

12 MR. STEEN: Yes, Your Honor.

13 THE COURT: What's your -- you have any response to
14 that for the record?

15 MS. JOHNSON LEE: Yes, Your Honor. If I recall
16 correctly the Informant, Blake Sutton, actually identified
17 the Defendant on the record and said that was the person
18 who sold them the drugs in question.

19 THE COURT: Oh, there is no question about that.
20 There was a plethora of evidence, if believed, and then
21 you've got the video where -- but there is sufficient
22 evidence for the jury to consider. But there is no
23 question about the fact that the testimony shows that it
24 was Oxycodone, which is a controlled substance.

25 And there is a plethora of testimony that it was this

1 defendant who was engaged in that. And I think while the
2 video -- audio is not -- the video is not the best in the
3 world it looks like the Defendant to me. But that's for
4 the jury to consider.

5 MS. JOHNSON LEE: Yes, Your Honor. There are a
6 couple of points in time you actually see his face turning
7 on the video, and his hand comes back at least twice.

8 THE COURT: I understand. All of which is for the
9 jury. That motion, Mr. Steen, is respectfully denied.

10 MR. STEEN: Thank you, Your Honor.

11 THE COURT: There is more than adequate testimony, if
12 believed, for the jury to go forward as the finders of the
13 facts. Now, have the Defendant stand. I need to make an
14 inquiry. Stand. Please stand.

15 Mr. Edge, I want to go through this, and you can talk
16 to your lawyer later and I'll provide later. We're at
17 that stage, now, where you have the opportunity to testify
18 in your own behalf and present any other witnesses that
19 you care to. You well understand that?

20 MR. EDGE: Yes, sir.

21 THE COURT: Now, you have the absolute right to
22 testify. You understand that?

23 MR. EDGE: Yes, sir.

24 THE COURT: Talk a little louder.

25 MR. EDGE: Yes, sir.

1 THE COURT: You also are presumed innocent, and you
2 don't have to prove a thing. Consequently, you have the
3 absolute right not to testify. Do you understand?

4 MR. EDGE: Yes, sir.

5 THE COURT: Now, if, and I say that advisedly, it's
6 your decision. If you decide not to testify I will charge
7 the jury that that is your absolute right as it is their's
8 and mine. I will further charge the jury if you decide
9 not the testify that the fact that you did not testify
10 cannot even be used in the jury room in their discussions.
11 You understand that?

12 MR. EDGE: Yes, sir.

13 THE COURT: Your -- the fact that you did not testify
14 raises absolutely no inference against you. Now, this is
15 a serious matter for you and your defense. Obviously, you
16 would discuss it with your esteemed counsel, but the
17 ultimate decision to testify or not testify rests with you
18 and you alone. Do you understand that?

19 MR. EDGE: Yes, sir.

20 THE COURT: You cannot be later heard to say that
21 whatever your decision was was your lawyer's. It wasn't
22 yours. It's yours. Now, we're going to break for lunch.
23 It's 12:30. Come back at two o'clock. That will give you
24 an hour and a half to discuss this issue with your
25 attorney. You understand that?

1 MR. EDGE: Yes, sir.

2 THE COURT: Do you understand, now, that you have the
3 absolute right to testify?

4 MR. EDGE: Yes, sir.

5 THE COURT: And do you understand that you have the
6 absolute right not to testify?

7 MR. EDGE: Yes, sir.

8 THE COURT: Do you have any questions about what I've
9 said to you?

10 MR. EDGE: No, sir.

11 THE COURT: Sir?

12 SPEAKER 2: No, sir.

13 THE COURT: All right. We're going to be in recess.
14 Mr. Steen, you, of course, may discuss that at length with
15 him, and I will require of him before the jury comes out
16 as to whether he wishes to testify or not testify.

17 MR. STEEN: Thank you, Your Honor.

18 THE COURT: Anything else we need to talk about
19 before lunch?

20 MR. STEEN: Nothing from the Defense.

21 THE COURT: For scheduling purposes, other than the
22 possibility of his testifying is there any other
23 witnesses? I need to know for scheduling.

24 MR. STEEN: No, Your Honor.

25 THE COURT: All right. So whether he testifies or

1 not we can argue and charge and conclude this case this
2 afternoon; is that correct.

3 MR. STEEN: Yes, Your Honor.

4 THE COURT: You agree with that, Solicitor?

5 MS. JOHNSON LEE: Yes, Your Honor.

6 THE COURT: All right. Be ready to have your closing
7 arguments at two o'clock. Thank you.

8 MS. JOHNSON LEE: Yes, sir.

9 THE COURT: Thank you. Both of you have handled this
10 case very promptly and expeditiously and I thank you.

11 MR. STEEN: Thank you, Your Honor.

12 MS. JOHNSON LEE: Thank you, Your Honor.

13 (WHEREUPON, Court was in recess at 12:36 p.m. and
14 reconvened at 2:26 p.m.)

15 THE COURT: All right. Mr. Steen, the record will
16 reflect that prior to recession for the lunch period I
17 inquired in detail of the Defendant Edge as his right to
18 testify or not testify. Have you now confirmed with him
19 as to that issue?

20 MR. STEEN: Yes, Your Honor. He is no testifying
21 today.

22 THE COURT: Is that your position, Mr. Edge?

23 MR. EDGE: Yes, sir, Your Honor.

24 THE COURT: You fully understood that you had the
25 right to do so if you cared to?

1 MR. EDGE: Yes, sir.

2 THE COURT: And you're saying to me that you do not
3 desire, and I will charge this jury appropriately. Thank
4 you so much.

5 MR. STEEN: Thank you, Your Honor.

6 THE COURT: All right. To keep from sending the jury
7 out and then back again you've already rested, have you
8 not?

9 MS. JOHNSON LEE: Yes, Your Honor.

10 THE COURT: Any motions at this -- any witnesses for
11 the Defense?

12 MR. STEEN: No witnesses for the Defense, Your Honor.

13 THE COURT: Does the Defense rest?

14 MR. STEEN: Defense rests, Your Honor.

15 THE COURT: Be glad to hear any motions now.

16 MR. STEEN: At this time we would like to renew our
17 motion for a directed verdict for the previous reasons
18 stated before.

19 THE COURT: Thank you. I certainly accept that, and
20 would conclude that if believed there is ample evidence
21 for the jury to make a determination as finders of the
22 facts. So I disallow, respectfully, your motion. This is
23 a jury issue. There is plenty of evidence, if believed
24 ---

25 MR. STEEN: Thank you, Your Honor.

1 THE COURT: --- for the jury to make an appropriate
2 determination. Now, as is my policy I like to charge the
3 jury prior to summation. Jurors in the past, and this
4 started here in Marlboro County when the jurors stopped
5 after the trial one day and said, "Judge, I wish you would
6 have charged the jury before I heard their summation. I
7 could have followed their positions better.

8 And that makes sense to me. So I've done that now
9 for the last 15 years or so. Propose to do it now. You
10 don't have any objection do you, Mary Thomas?

11 MS. JOHNSON LEE: No, Your Honor.

12 THE COURT: And you ---

13 MR. STEEN: No objection, Your Honor.

14 THE COURT: Okay. And I'm going to let my law clerk
15 here assist me with the proper charge to the jury. This
16 is my charge, you understand that? Bring the jury in.

17 (WHEREUPON, the jury panel enters the courtroom at
18 2:30 p.m.)

19 THE COURT: You ready?

20 LAW CLERK: Yes, sir.

21 THE COURT: The State has concluded its presentation.
22 We now go to the Defense.

23 MR. STEEN: Defense rests, Your Honor.

24 CHARGE OF THE COURT

25 THE COURT: The Defense rests which is certainly your

1 right. Ladies and gentlemen, you've heard now all of the
2 testimony in the trial of this case. The Defendant as is
3 his absolute right has elected not to testify. This
4 Defendant and every Defendant comes into Court under
5 presumption of innocence. And that presumption remains
6 with him unless the jury, if at all, has found him guilty
7 beyond a reasonable doubt.

8 Now, the fact that this Defendant did not testify
9 raises absolutely no adverse inferences against him. It
10 is his constitutional right not to testify. That's yours
11 and it is mine. The State has the burden of proving him
12 guilty, if they can, to your satisfaction beyond a
13 reasonable doubt. He doesn't have to prove a thing. It's
14 their problem.

15 Now, I charge you, Madam Foreman, the fact that he
16 did not testify must not even enter into your
17 deliberations in the jury room. That's his right, his
18 constitutional right. So it has no adverse against him.
19 So don't even have any discussion in the jury room that he
20 did not testify. That is just simply his right.

21 Now, under our system we usually have summation of
22 counsel and then the trial judge gives you the law. Many
23 years ago in this courtroom a juror stopped me after the
24 trial and said, "Judge, I wish you would have told me what
25 the law was before they argued. I could have followed

1 their positions better had I known what the law was when
2 they talked to me about the facts." And that makes
3 absolute sense to me, and I've done that for the last 15
4 years or so. And with consent of counsel I'm going to
5 give you the charge now.

6 It is the responsibility of the trial judge to
7 prepare the charge on the law as it relates to issues
8 before you heard in this courtroom. During the lunchtime
9 I have prepared the appropriate and applicable law for
10 your consideration. And after that we'll have final
11 summation of counsel.

12 The Defendant -- the State will have the first
13 argument, and the Defendant the last argument. Now, as I
14 introduced this is my Law Clerk Associate, John McLeod, of
15 Chesterfield. I have asked him to read this charge on the
16 law to you. Be assured that I have prepared it during the
17 lunch time. It is my charge to you. Please accept his
18 rendition of this charge as specifically coming from me.
19 Thank you. John, you may proceed.

20 LAW CLERK: The indictment charges the Defendant with
21 distribution of a scheduled two drug, Oxycodone. I remind
22 you that the fact that the Defendant was arrested, charged
23 and indicted in this case is not evidence in this case and
24 cannot be considered by you as evidence of guilt in this
25 case. Nor does it create any presumption or inference of

1 guilt. This document is simply the formal written
2 instrument which contains the charge made against the
3 Defendant. It is the formal document by which the case is
4 brought into this Court.

5 The Defendant has pled not guilty to this indictment,
6 and that plea puts the burden on the State to prove the
7 Defendant guilty. A person charged with committing a
8 criminal offense in South Carolina is never required to
9 prove himself innocent. I charge you that it is an
10 important rule of the law that the Defendant in a criminal
11 trial no matter what the seriousness of the charge may be
12 will always be presumed to be innocent of the crime for
13 which the indictment was issued unless guilt has been
14 proved by evidence satisfying you of that guilt beyond a
15 reasonable doubt.

16 This presumption of innocence does not end when you
17 begin your deliberations but it accompanies the Defendant
18 throughout the trial until you reach a verdict of guilt
19 based on evidence satisfying you of that guilt beyond a
20 reasonable doubt. The presumption of innocence is like a
21 robe of righteousness placed about the shoulders of the
22 Defendant which remains with the Defendant until it has
23 been stripped from the Defendant by evidence satisfying
24 you of the Defendant's guilty beyond a reasonable doubt.

25 The presumption of innocence is not mere legal

1 theory. It is not just a legal phrase. It is a
2 substantial right to which every defendant is entitled
3 unless you the jury are satisfied from the evidence of the
4 defendant's guilt beyond a reasonable doubt. The State
5 has the burden of proving the defendant guilty beyond a
6 reasonable doubt.

7 Some of you may have served as jurors in civil cases
8 where you were told that it was only necessary to prove
9 that a fact is more likely true than not true. Such as by
10 the greater weight or by the preponderance of the
11 evidence. In criminal cases the State's proof must be
12 more powerful than that. It must be beyond a reasonable
13 doubt.

14 Proof beyond a reasonable doubt is proof that leaves
15 you firmly convinced of the defendant's guilt. There are
16 very few things in this world that we know with absolute
17 certainty. And in criminal cases the law does not require
18 proof that overcomes every possible doubt. If based on
19 your consideration of the evidence you are firmly
20 convinced that the defendant is guilty of the crime
21 charged you must find the defendant guilty.

22 If on the other hand you think there is a real
23 possibility that the defendant is not guilty you must give
24 the defendant the benefit of the doubt and find him not
25 guilty. I remind you that during this trial you and I

1 have certain duties to perform. As the trial judge it is
2 my responsibility to preside over the trial of this case.
3 And I also have the duty to rule upon the admissibility of
4 the evidence offered during this trial.

5 You are to consider only the competent evidence
6 before you. If there was any testimony ordered stricken
7 from the record in this case during this trial you must
8 disregard that testimony. You are to consider only the
9 testimony which has been presented from this witness
10 stand, any exhibits which may have been made a part of the
11 record in this case and any stipulations of counsel.

12 I have the additional duty to charge you the law
13 applicable to this case. As the presiding judge I am the
14 sole judge of the law of this case, and it is your duty as
15 jurors to accept and apply the law as I now state it to
16 you. If you already have any idea as to what the law is
17 or what the law ought to be and it does not agree with
18 what I now tell you the law is you must abandon this idea
19 because you are sworn to accept the law and apply the law
20 exactly as I state it to you.

21 In every case tried in this court before a jury the
22 jury becomes the sole and exclusive judge of the facts in
23 a case. A trial judge cannot intimate, state, comment on
24 or make any statement to a trial jury about the facts in a
25 case. Since you the jury are the sole judge of the facts

1 in this case you are not to infer from what I have said
2 during the progress of this trial in ruling upon the
3 admissibility of evidence or otherwise or anything that I
4 say now during the course of this instruction to you that
5 I have any opinion about the facts in this case. The law
6 does not allow me to have an opinion about the facts in
7 this case.

8 This is a matter solely for you the jury to
9 determine. As jurors it is your duty to determine the
10 affect, value, weight and truth of the evidence presented
11 during this trial. Necessarily you must determine the
12 credibility of witnesses who have testified in this case.
13 Credibility simply means believability. It becomes your
14 duty as jurors to analyze and to evaluate the evidence and
15 to determine which evidence convinces you of its truth.

16 In the determining believability of witnesses who
17 have testified in this case you may believe one witness
18 against several witnesses or several witnesses over one
19 witness. You may believe a part of the testimony of a
20 witness and reject the remaining part of the testimony of
21 that same witness. You may believe the testimony of a
22 witness in its entirety or reject the testimony of a
23 witness in its entirety.

24 You may consider whether any witness has exhibited to
25 you any interest, bias, prejudice or other motive in this

1 case. You may also consider the appearance and manner of
2 a witness while on the witness stand.

3 A person who has a past criminal record is competent
4 to testify during a trial. A past criminal -- a past
5 record does not affect the ability of that witness to
6 testify. The past record may only be considered by you,
7 if at all, in determining the witness' believability.
8 Remember you are the sole judges of the facts in the case
9 and the believability of any and all of the witnesses.

10 I instruct you and emphasize that the fact that the
11 defendant did not testify is not a factor to be considered
12 by you in any way in your deliberations and in your
13 consideration on the question of the guilt or Innosense of
14 the defendant. It must not be considered by you in any
15 manner whatsoever. A defendant has the constitutional
16 right to remain silent, and the assertion of this right
17 must not be considered by you in your deliberations.

18 I repeat under your oath you are to draw no
19 conclusion whatsoever from the fact that the defendant in
20 this case did not testify. The fact that this defendant
21 did not testify, should not even be discussed in the jury
22 room. The burden of proof as I have stated to you is on
23 the State. The defendant is not required to prove his
24 Innosense. The burden on proof remains on the State to
25 prove guilt beyond a reasonable doubt.

1 It is a violation of the criminal law of South
2 Carolina for any person to manufacture, distribute or
3 dispense a controlled substance. This indictment charges
4 that the defendant did willfully, unlawfully and
5 feloniously distribute an quantity of Oxycodone, a
6 narcotic controlled substance.

7 For the defendant to be convicted of this crime there
8 are certain elements that the State must prove and prove
9 beyond a reasonable doubt.

10 First, the State must prove that the substance
11 involved in this case was Oxycodone, a controlled
12 narcotic.

13 Second, the State must prove that the defendant did
14 willfully, unlawfully and feloniously distribute the
15 controlled substance.

16 There are two possible verdicts which you may find
17 for the indicted charge: Guilty or not guilty. There is
18 no significance whatsoever in the order in which I state
19 these possible verdicts. It is simply that one must be
20 stated first.

21 Ladies and gentlemen, your verdict must be a
22 unanimous one. Madam Forelady, when the jury agrees on
23 the verdict you will write the verdict on the back of the
24 indictment and sign your name as foreperson. Then knock
25 on the jury room door and inform the bailiff that you have

1 reached a verdict. At that time we will receive you back
2 in the courtroom.

3 Madam Forelady, ladies and gentlemen of the jury, as
4 you retire to begin you deliberations I wish to express
5 the hope that each of you will be mindful of the
6 importance of your responsibility. You are not called
7 upon to serve as jurors very often, and the proper
8 performance of the duty requires each of you to reach the
9 height of freeing your mind of all improper influences.

10 You and I are acting for the community. That's why
11 you must see to it that the trial is fair and the verdict
12 is just. The reason is that this Court is entrusted with
13 the honor of this community, the honor of this State, and
14 the honor of this country in seeking that seeking that
15 every case tried here receives fair and impartial justice.

16 Now, you the jury take into your care and
17 preservation the honor of this community, the honor of
18 this country and the honor of this State. Now, do not get
19 the idea that I am trying to intimate to you how I might
20 think you should decide this case. As I have already told
21 you under the laws of the State of South Carolina you the
22 jury are the sole judge of all questions of fact.

23 It would be highly improper for me to influence you
24 in the performance of that duty. So I am not trying to
25 tell you what verdict you should find. But as the

1 presiding officer of this Court I am vitally concerned
2 that whatever verdict you find will be the result of you
3 going into that jury room and confining your consideration
4 to the evidence and the law that you have heard in this
5 courtroom, weighing it fairly and impartially as I have
6 every confidence that you will.

7 Everyone is entitled to justice in this case, both
8 the State and the Defendant. All are entitled to justice.
9 Nothing more and nothing less. You owe no support or
10 sympathy to anyone. The Court is of the confirmed opinion
11 that whatever verdict you reach will represent truth and
12 justice for all parties involved. Remember your verdict
13 must be unanimous.

14 THE COURT: Thank you, John. Madam Forelady, at that
15 conclusion of the final summation of counsel I will be
16 sending in the jury room this indictment. On the back of
17 the indictment is the word, 'verdict'. You will turn and
18 under the word, 'verdict' write your verdict. It must
19 unanimous, and please sign your name. I'm going to let
20 you go to the jury room in just a moment. I'll be calling
21 you back in about three minutes. Please retire to the
22 jury room, and I'll be calling you right back.

23 (WHEREUPON, the jury panel was excused from the
24 courtroom at 2:46 p.m.)

25 THE COURT: Any additions or exceptions to the

1 charge? What says the State?

2 MS. JOHNSON LEE: Nothing, Your Honor.

3 THE COURT: What says the Defense?

4 MR. STEEN: Nothing, Your Honor.

5 THE COURT: All right. Under our rules, Solicitor,
6 you will go first since there is no -- the Defendant did
7 not put up any testimony. You understand?

8 MS. JOHNSON LEE: Yes, sir.

9 THE COURT: Bring the jury back.

10 (WHEREUPON, the jury panel enters the courtroom at
11 2:48 p.m.)

12 THE COURT: All right, Solicitor, you may proceeded
13 with final summation.

14 MS. JOHNSON LEE: Thank you, Your Honor. May it
15 please the Court, counsel.

16 CLOSING STATEMENT BY MS. JOHNSON LEE

17 MS. JOHNSON LEE: We have come to the end of the
18 trial, and now it is time for the case to come to you the
19 jury. As I told you when I started we are here today
20 because Thomas Randall Edge sold pills containing
21 oxycodone to Blake Sutton who is an undercover paid
22 informant for the Bennettsville Police Department and
23 that's a crime. That's illegal. That's why we're here,
24 and that's what he is indicted for.

25 As the Judge told you the indictment, a copy which

1 you will have back in the jury room, is not evidence.
2 This is the charging document that brings us to Court. He
3 is indicted for distribution of schedule two drugs, and in
4 the body of the indictment it references the schedule two
5 drug being oxycodone. You are going to have the S.L.E.D.
6 report, which was entered into evidence, back in the jury
7 room with you and the S.L.E.D. report shows that these
8 yellow tablets were oxycodone acetaminophen and schedule
9 two.

10 Now, distribution means -- it doesn't necessarily
11 have to be selling. It can be giving, selling for money,
12 selling for exchange for some other product or item.
13 Distribution just means giving it to another person for
14 whatever reason. Thomas Edge in that car on October 5th
15 gave those pills over to Blake Sutton. He did it in
16 exchange for \$120, and it was money that was marked by the
17 Bennettsville Police Department by copying the serial
18 numbers.

19 And now you heard variations of the story on the
20 stand, and you heard the instructions. It is up to you to
21 decide how much of any person's testimony to believe
22 whether all of it or some of it or part of it. You are
23 the fact finders. The Judge is the judge of the law. He
24 tells us all what the law is, what we have to abide by and
25 what we have to go by.

1 You are the judge of the facts. You decide who is
2 telling the truth. You decide what the truth is today.
3 And you use everything that we gave you when you go back
4 and use everything that the people on the stand testified
5 to. You have the physical items which isn't that much.
6 It's the video which you can watch back there, and which
7 the Judge told you earlier that you can watch that back
8 there if you want to. Arrangements can be made for you to
9 re-watch the video if you want to. And I encourage you to
10 do that if you have any questions at all.

11 As I said earlier, it's not the best video in the
12 world, but if we had come in and just put folks on the
13 stand to testify that would have been acceptable and would
14 have been legal. But if you've got a video, no matter how
15 good or bad it is, it's better for us to give that to you
16 so at least you got some kind of evidence to back up what
17 the people are testifying to. And that's the best
18 available evidence because you can actually kind of see
19 what was going on inside that car when the camera wasn't
20 moving around all over the place. But you can at least
21 hear what was being said and hear them discussing the buy.

22 There was some testimony from Blake Sutton about he
23 was there to buy 20 pills for a \$120. If you would add it
24 up it would justify 20 pills. There were only 19 pills
25 and the S.L.E.D. report shows 19 pills. They actually had

1 to cut one up to test it. You're going to have them back
2 there with you. You can actually count them, 18 and a
3 half. There are 18 pills, and a 19th that was cut in
4 half.

5 You heard Blake Sutton say he didn't open the bottle.
6 He told that a couple of different times. He said he
7 thought he was getting 20 pills, but he didn't open the
8 bottle. He said he set the buy up for Percocets. Now,
9 the S.L.E.D. report doesn't actually say what the name of
10 the drug is it. It just gives you what the compounds are.
11 And it wouldn't matter if it was Percocets or some other
12 drug.

13 Blake Sutton called the defendant and said, "I want
14 to buy a \$120 worth of Percocets." And what he actually
15 purchased, whether it was Percocets or some other drug,
16 was Oxycodone with Tylenol. Oxycodone is illegal, and
17 that's what he sold to him. It would be like going to
18 McDonald's and ordering an Egg McMuffin, paying for the
19 Egg McMuffin and getting home, unwrapping it and finding
20 out you got a sausage biscuit. It's no different than
21 when you purchase something. Okay.

22 Blake Sutton's testimony about his years working was
23 kind of all over the place. From the very beginning he
24 said ten years. Then later on he said about two years.
25 He was kind of all over the place with it.

1 You heard Larry Turner testify that he has made
2 hundreds of buys for him. Not ten like Blake testified
3 to, but about a hundred buys over the years. And he has
4 worked with him for about 10 to 12 years and worked for
5 Tim Hood for about two years.

6 Tim Hood did testify that he has been in narcotics
7 investigation for about two years. So at least that does
8 back up some of what Blake testified to. The video
9 doesn't lie. The S.L.E.D. report doesn't lie, and here
10 are the pills.

11 Now, let's discuss the pills. On the video Tim Hood
12 searched the C.I., the informant, Mr. Sutton, before he
13 sent him on his way. He did that to make sure that he
14 didn't have anything on his person. Make sure he didn't
15 have some pills he could hid away that he could stick in a
16 bottle or stick in something and give them later on
17 because they got to keep it honest. They can't keep
18 spending taxpayer's money giving this guy \$200 of our
19 money, taxpayer's money, to go make a buy and then not
20 actually getting the right illegal product.

21 They can't have them setting people up. It's got to
22 be the real deal. So they make sure that he doesn't have
23 anything on him. When they put the video on him. They
24 drop him off nearby. And then, of course, Ira Dease is at
25 one location and Larry Turner is at another location. So

1 they can kind of surveill things.

2 The informant walks to the car, gets in the car, buys
3 the pills, takes the pills. After the buy and gets out of
4 the car and he goes back walking, walking, walking,
5 walking until he gets back into Tim Hood's car. Tim Hood
6 gets these pills from him, searches him to make sure he
7 has nothing else on him and then Tim Hood turns these over
8 to Ira Deese and he puts them in a locked drawer at the
9 Bennettsville Police Department.

10 They stayed in his locked drawer in which only he has
11 access to, only he has that key, until he puts them into
12 what's called a Best Packet, the S.L.E.D. drug analysis
13 security envelope, inside here. He put them there to take
14 to S.L.E.D. and sealed it up so it's tamper evident and
15 carried it to S.L.E.D.

16 S.L.E.D. is the only one who can open that and
17 analyze it. S.L.E.D. analyzed it, and they did a report
18 that they sent back to Ira Dease. They repackaged it in
19 this package here, and it's all sealed up. And you see
20 some initials and a date on it. It's all sealed up.

21 And then on June 4th, Larry Turner goes to S.L.E.D.
22 to drop off some things, and he picks up this package just
23 like this and brings it back to Bennettsville Police
24 Department and puts it in that evidence locker that's
25 open, turns the lock and it's locked and nobody can open

1 it back up. It is secured, and the only person that can
2 get to it is Kel Hall, the evidence custodian, who
3 actually goes inside the evidence room, retrieves it from
4 that locker and puts it in the evidence room where it
5 stayed until he brought it today.

6 You can look at it, touch it, feel it and see it's
7 not been cut open, peeled open, and it is completely
8 sealed up. There is a trail from Thomas Edge inside that
9 car to this courtroom today of these pills and every step
10 of the way where they were.

11 We ask you when you back there to deliberate to watch
12 the video again, look at the report, talk about everything
13 that you have heard here today. And when you are done we
14 are asking you to please find Thomas Edge guilty of
15 distribution of that schedule two drug, Oxycodone. Miss
16 David, Ira Dease and other law enforcement officers and I
17 ask you to please find him guilty as indicted. And we
18 thank you for your attention today and taking time out of
19 your day to be here. Thank you.

20 THE COURT: Thank you, Maam.

21 MS. JOHNSON LEE: Thank you, Your Honor.

22 THE COURT: Mr. Steen.

23 MR. STEEN: Thank you, Your Honor.

24 CLOSING STATEMENT BY MR. STEEN

25 MR. STEEN: Good afternoon and thank y'all for your

1 attention here today. This has been a short trial, but
2 it's been a very important one. This is Mr. Edge's day in
3 Court and without y'all it would not have been possible.
4 You heard the Solicitor say that the video doesn't lie,
5 and you can kind of see what's going on. We all saw the
6 same video from the same angle. I saw no pill bottle
7 change hands. I saw no money change hands, and the only
8 people I saw on that video was Ruby Quick and the
9 confidential informant.

10 The fact that we had the C.I. that testified, the
11 Solicitor touched on that. And he had some credibility
12 issues. He has two prior forgeries of check charges. As
13 the Solicitor said he said he had done about ten buys and
14 the Lieutenant for the Bennettsville Police Department
15 says it is about a hundred.

16 During our ten minute conversation he gave me three
17 different lengths of time that he was a C.I. You have to
18 take all that into account when determining where is his
19 testimony coming from. You heard he got paid \$200 for 18
20 minutes of work that day. If he don't show pills he don't
21 get paid. He walked, as Detective Hood testified, 10 to
22 15 minutes. You saw the video. No one else was around
23 but woods. Those pills could have been anywhere. He has
24 to make sure he has pills or he don't get paid.

25 As the Solicitor mentioned the pills, those pills

1 have sat in the desk drawer for 168 days before they were
2 sent to S.L.E.D. to see what they were. We know what they
3 are now. They are Oxycodone with Tylenol like the
4 Solicitor said. And as the Judge said about the law the
5 State must prove beyond a reasonable doubt that the
6 defendant did distribute pills and that the pills were
7 Oxydodone.

8 You heard the testimony that the pills came from one
9 of the local pharmacies that day picked up by Ms. Ruby
10 Quick. Her own mom's prescription. You see her getting
11 back in the car from picking up the pills. She hands the
12 pills to Mr. Edge. He hands it to the defendant. He had
13 no idea. Those were her pills.

14 You heard on the video as Mr -- the C.I. was walking
15 away on phone. She has plenty more. Not he has plenty
16 more. She has plenty more. He was just the person he
17 called that day. Now he's here today looking to y'all for
18 some help.

19 You heard the Judge say to do a fair verdict here
20 today, and I hope y'all take everything into account to
21 see that Mr. Edge did not willfully and feloniously
22 distribute the pills to the confidential informant. So we
23 ask that, you know, take a close look at the evidence.
24 Watch the video. I want y'all to make the right decision,
25 but I hope that at the end you will find Mr. Edge not

1 guilty of the charges here today. Thank y'all.

2 COLLOQUY

3 THE COURT: Madam Foreman, ladies and gentlemen, you
4 now have heard all of the testimony in this case. You
5 have heard summations from fine counsel, and I have given
6 you the instructions on the law as may be applicable to
7 the issues in this case.

8 Again, Madam Foreman, this is the indictment. The
9 indictment now is not evidence. It is simply allegations.
10 When you the jury have reached a unanimous verdict of
11 either not guilty or guilty please turn over to the word,
12 'verdict' and write your verdict and sign your name.

13 You may now retire to the jury room, and this
14 evidence is coming in with you. Thank you.

15 (WHEREUPON, the jury panel was excused from the
16 courtroom at 3:03 p.m.)

17 (WHEREUPON, the jury panel begins deliberations at
18 3:05 p.m.)

19 (WHEREUPON, Court was in recess at 3:05 p.m. and
20 reconvenes at 3:45 p.m.)

21 QUESTION FROM THE JURY

22 THE COURT: All right. There was a statement of
23 inquiry from the jury, basically, to the effect was the
24 container, what was the?

25 CLERK OF COURT: Pill bottle.

1 THE COURT: A pill bottle.

2 THE COURT: What was the?

3 CLERK OF COURT: Was it with the defendant.

4 THE COURT: I called the State and the Defense
5 attorneys into chambers, and we agreed that the reply
6 would be that there is testimony in the record to that
7 effect, however, that's for your decision as finders of
8 fact. Can we agree with that for the State?

9 MS. JOHNSON LEE: Yes, Your Honor.

10 THE COURT: Defense?

11 MR. STEEN: Yes, Your Honor.

12 THE COURT: And, Hattie, can you put it together?

13 COURT REPORTER: Yes, I will try.

14 THE COURT: Okay. Why did they tear -- bring the
15 jury in, please.

16 (WHEREUPON, Court's Exhibit Nos. 1 AND 2 were marked
17 for identification and received into evidence.)

18 VERDICT OF THE JURY

19 (WHEREUPON, the jury panel enters the courtroom at
20 3:47 p.m.)

21 THE COURT: Madam Foreman, I have been advised that
22 your jury has reached a unanimous verdict, is that
23 correct?

24 JURY FOREPERSON: Yes sir.

25 THE COURT: If this be the unanimous verdict of this

1 jury so signify by raising your right hand. Please raise
2 your right hand. Everyone has so signified. Mr. Clerk,
3 accept the verdict.

4 CLERK OF COURT: Just a minute, Judge. She's going
5 to get it. She left is on the table.

6 THE COURT: Did you write your verdict as I
7 instructed under the word, 'verdict' and sign your name?

8 JURY FOREPERSON: Yes sir.

9 THE COURT: Thank you. Publish the verdict.

10 CLERK OF COURT: Docket Number 2012-GS-34-0696, State
11 of South Carolina, County of Marlboro vs Thomas R. Edge.
12 Indictment for distribution of schedule two drugs. We the
13 jury find the Defendant guilty. Laverne Pauling,
14 12/3/2013.

15 THE COURT: Mr. Foreman, ladies and gentlemen, I have
16 no comment to make upon the jury except to say that the
17 evidence would certainly justify your verdict in this
18 case. I want the record -- I want this jury to hear the
19 record of this defendant, please.

20 Let me tell you why. Quite often in sentencing the
21 bad record of a defendant will come into evidence for my
22 purposes. Jurors have gone and the next morning they are
23 reading in the paper about the bad record and say, "Why in
24 the world didn't the Judge tell us this?" Well, our rule
25 is that if you convict him as you have done it must be

1 based on the law and evidence in this courtroom and not
2 from some prior convictions. But in case you happen to
3 read in the paper about a prior record I wanted you to
4 hear it now. Proceed and give it to me.

5 MS. JOHNSON LEE: Yes, Your Honor. In 1981 Mr. Edge
6 was convicted of voluntary manslaughter and sentenced to
7 18 years in prison. In 2011 he was sentenced to 12 months
8 each in prison for a total of six drug charges.

9 THE COURT: For what?

10 MS. JOHNSON LEE: There were a total of six drug
11 charges.

12 THE COURT: Go ahead.

13 MS. JOHNSON LEE: Your Honor, there are others, but
14 that is his primary record, Your Honor. There were some
15 other minor things that were dismissed that he had been
16 charged with, but that is the relevant record.

17 THE COURT: Well, there was testimony that I did not
18 let in the record involving his constant contact with the
19 selling of drugs for which he has not been convicted of,
20 is that true?

21 MS. JOHNSON LEE: He does have two pending drug
22 charges, Your Honor. He also -- they are pending now, and
23 these instances occurred while he was out bond on the
24 charge in which we came to Court on today. So we will be
25 dealing with those.

1 THE COURT: He was out on bond for a drug charge when
2 this act was committed?

3 MS. JOHNSON LEE: He was out on bond for these
4 charges when I the two new ones were committed, and will
5 be dealing with those at a later date.

6 THE COURT: Ladies and gentlemen, it's obvious from
7 your verdict of guilty that you are getting ready to take
8 a drug dealer off the streets of Marlboro County. And the
9 citizens of this County who are really concerned about
10 drugs in this County are grateful for your decision in the
11 case.

12 These drug dealers don't stop to think that these
13 drugs ultimately get in the hands of your children and
14 mine and your grandchildren and mine. These drug dealers
15 somehow don't understand that feeding drugs to these folks
16 that they are literally scrambling their brains. And I
17 tell you now that the Sheriff's Department of this to
18 County and the Chief and his dedicated policemen from
19 Bennettsville are dedicated to the concept that drugs will
20 be erased from streets of Bennettsville, South Carolina,
21 County of Marlboro to the extent that they are capable of
22 doing that.

23 And they are, the County and the City, you need to
24 know they are doing a good job, and that was evident from
25 this case. This is the only -- oh, incidentally, let me

1 say this to you. I told you to come back at 9:30 this
2 morning, and we didn't get started 10:30. A juror's time
3 is valuable to me so I need to explain to you why I was an
4 hour late. We had a murder case scheduled for next term
5 of court in January which would have lasted about a week.

6 It was determined this morning that that individual
7 wished to plead guilty. And, thus, it was in that hour we
8 got a guilty plea of a case that would have been lasted
9 over a week. So I apologize to you, Madam Foreman, but I
10 did want you to know we were out here doing the State's
11 business.

12 You are now excused for the day and for the week and
13 you go with my gratitude and thanks. You are excused.

14 (WHEREUPON, the jury panel was excused from the
15 courtroom at 3:54 p.m.)

16 SENTENCE OF THE COURT

17 THE COURT: All right. Mr. Steen, have the defendant
18 come forward. Mary Thomas, you are proceeding under
19 second offense?

20 MS. JOHNSON LEE: Second offense. It carries zero to
21 10 years, Your Honor.

22 THE COURT: All right. For the record which guilty
23 plea puts him in the second offense? For sentencing
24 purposes I need to know, of course.

25 MS. JOHNSON LEE: Yes, Judge. Your Honor, in 2011 he

1 actually had four different charges which he pled to
2 distribution of schedule one, two or three for pills. The
3 rap sheet doesn't specify the actual case number. And if
4 Your Honor needs the actual case number, if I can stand
5 down for five minutes and pull his file from my office I
6 will.

7 THE COURT: No. If you say it's there give it to her
8 later.

9 MS. JOHNSON LEE: Yes, Judge, I will.

10 THE COURT: Can you agree that he has a previous drug
11 charge?

12 MR. STEEN: Yes, Your Honor.

13 THE COURT: And can you agree that this is in effect
14 a second offense?

15 MR. STEEN: Yes, Your Honor.

16 THE COURT: Under the zero to 10 years?

17 MR. STEEN: Yes, Your Honor.

18 THE COURT: Mr. Edge, what you want to tell me? I
19 don't understand. This evidence was absolutely
20 overwhelming. There is no jury in the world that could
21 have found you not guilty. What you want to tell me?

22 MR. EDGE: I just feel like that the Bennettsville
23 Police Department has got it in for me. I mean I've asked
24 for help, Your Honor. And tried to, like the same people
25 that they used to set me up, I would call them and tell

1 them.

2 THE COURT: Well, my impression ---

3 MR. EDGE: And they never would want to hear it or
4 nothing done.

5 THE COURT: Well, Mr. Edge, in this case there is
6 evidence that they saw the transaction going down. There
7 was actual video with your picture in it, and the drugs
8 were introduce in the courtroom.

9 MR. EDGE: Yeah, but I wasn't the only one in the
10 car.

11 THE COURT: Sir?

12 MR. EDGE: I wasn't the only one in the car.

13 THE COURT: I understand that, but you are the only
14 one that handed it over.

15 MR. EDGE: Well, they were handed to me and it wasn't
16 ---

17 THE COURT: I understand. Maybe they may prosecute
18 her, too. They were handed to you by her and then she
19 handed them to the informant. Isn't that what happened?

20 MR. EDGE: Yeah.

21 THE COURT: Anyway, you've been fooling with selling
22 drugs for a long, long time. Long time. Therefore, the
23 sentence and judgment of this Court is that you be
24 confined for period of ten years. Thank you. I've got to
25 get you off the streets, sir. Thank you.

1 MS. JOHNSON LEE: Thank you, Your Honor.

2 MR. STEEN: Thank you, Your Honor. Your Honor, we
3 ask for any credit he's entitled to for the time he
4 served.

5 THE COURT: Yeah, sir. I'll give him credit for
6 that.

7 END OF TRANSCRIPT OF RECORD

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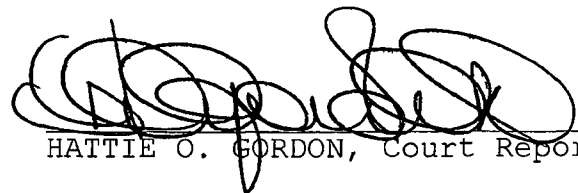
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF MARLBORO)

I, HATTIE O. GORDON, Official Court Reporter for the
4th Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had and
evidence introduced in the trial of the captioned case,
relative to appeal, in the Court of General Sessions for
Marlboro County, South Carolina, on the 3rd day of
December, 2013.

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

March 12, 2014

A handwritten signature in dark ink, appearing to read 'Hattie O. Gordon', is written over a horizontal line.

HATTIE O. GORDON, Court Reporter

WITNESSES

Ira Dease

Bennettsville Police Department

Law Enforcement Case #: 8974-12

A

347

WAIVER OF PRESENTMENT

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

Defendant

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

Defendant

ARREST WARRANT NUMBER
2012A3420100168

ARRESTED ON: 2012-10-08

ACTION OF GRAND JURY

Grand Jury Foreperson

Date

VERDICT

Guilty

Petit Jury Foreperson

Date

DOCKET NUMBER:
2012-GS-34-0696

The State of South Carolina

County of Marlboro

COURT OF GENERAL SESSIONS

Term:
December 2012

THE STATE

vs.

Thomas R Edge

INDICTMENT FOR

Distribution of Schedule II Drug

§44-53-0370(b)(2)

CDR Code: 0188

A CERTIFIED
TRUE COPY

William B. Sunderburg
CLERK OF COURT
MARLBORO COUNTY

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)
COUNTY OF MARLBORO)

INDICTMENT FOR
Distribution of Schedule II Drug
§44-53-0370(b)(2)

At a Court of General Sessions, convened on December 4, 2012, the Grand Jurors of Marlboro County present upon their oath:

DISTRIBUTION OF A SCHEDULE II DRUG

CDR: 0188 44-53-0370(b)(2)

That Thomas R Edge did in Marlboro County on or about October 5, 2012, distribute, dispense or deliver, or did aid, abet, attempt or conspire to distribute, dispense or deliver a quantity of oxycodone, a Schedule II, under provisions of Section 44-53-0370, et. seq., S. C. Code of Laws, 1976, as amended, such possession not being authorized by law, in violation of Section 44-53-0370(b)(2), S. C. Code of Laws, 1976, as amended.

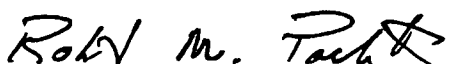
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


WILLIAM B. ROGERS, JR.
SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

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

May 14, 2014


Robert M. Pachak
Appellate Defender

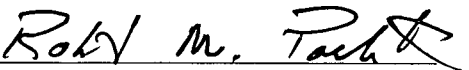
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

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

May 14, 2014


Robert M. Pachak
Appellate Defender

South Carolina Commission on Indigent Defense
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ATTORNEY FOR APPELLANT