

21654

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

William Jeffrey Young, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHRISTOPHER W. BROWN,

APPELLANT

APPELLATE CASE NO. 2014-000293

RECORD ON APPEAL

BENJAMIN JOHN TRIPP
Appellate Defender

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

Attorney for Appellant

ALAN WILSON
Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3727

Attorneys for Respondent

ANDERS
NO DEF. BRIEF
No Respondent's Brief Filed
RECEIVED
JAN 12 2015
SC Court of Appeals

INDEX

INDEX.....	i
TRIAL TRANSCRIPT (FEBRUARY 3 – 5, 2014).....	1
MOTION FOR DOUBLE JEOPARDY BY MR. KING.....	34
<i>NEIL V. BIGGERS</i> HEARING	
TESTIMONY	
SEAN PERKINS.....	46
WILL CROSBY.....	52
OPENING STATEMENT BY MR. LIETZOW.....	71
OPENING STATEMENT BY MR. KING.....	79
TESTIMONY	
WILL CROSBY.....	84
MARK BROWN.....	123
SEAN PERKINS.....	152
MARK BROWN.....	220
JENNIFER LEISER.....	225
ANDY MILLER.....	237
MOTION FOR A DIRECTED VERDICT BY MR. KING.....	270
COLLOQUY REGARDING DEFENDANT’S RIGHT TO TESTIFY.....	273
TESTIMONY CONTINUED	
CHRISTOPHER BROWN.....	279
BELINDA BROWN.....	307

WES VICARS	317
SETH LEVY.....	321
SAM WEATHERFORD.....	324
SPARVARIE TAYLOR	328
RENEWAL OF DIRECTED VERDICT MOTION BY MR. KING	333
CLOSING ARGUMENT BY MR. KING.....	341
CLOSING ARGUMENT BY MR. LIETZOW	357
CHARGE ON THE LAW.....	373
JURY QUESTION #1 AND RECHARGE	389
JURY QUESTION #2	395
JURY QUESTION #3	398
VERDICT	400
MOTION FOR A NEW TRIAL BY MR. KING	408
SENTENCING	414
COURT’S EXHIBIT #3	417
INDICTMENTS	418
CERTIFICATE OF COUNSEL.....	422

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON	)	
State of South Carolina,	)	
	)	
v.	)	Case No. 11-GS-10-6482
	)	
Christopher W. Brown,	)	
	)	
Defendant.	)	

TRANSCRIPT OF JURY TRIAL

The within Jury Trial in the above-captioned matter was held on February 3-5, 2014, before The Honorable Jeffrey Young in Courtroom 3B of the Charleston County Courthouse, 100 Broad Street, Charleston, South Carolina; attended by counsel as follows:

APPEARANCES:

Spencer Compton, Assistant Solicitor
 Christopher Lietzow, Assistant Solicitor
 9TH CIRCUIT SOLICITOR'S OFFICE
 100 Meeting Street, 4th Floor
 Charleston, South Carolina 29401
 Appearing for State of South Carolina

Jason King, Public Defender
 Shirene Hansotia, Public Defender
 CHARLESTON COUNTY PUBLIC DEFENDER
 100 Meeting Street, 4th Floor
 500 Carteret Street
 Beaufort, South Carolina 29901
 Appearing for Defendant

Deborah Garrison
Circuit Court Reporter – 9th Judicial Circuit
 P O Box 901
 Johns Island, South Carolina 29457
dgarrison@sccourts.org

State of South Carolina v. Christopher W. Brown

2

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Jury Qualification

Before The Honorable W. Jeffrey Young

INDEX

Index of Testimony	3
Index of Statements in Mitigation	3
Index of State's Exhibits	4
Index of Defendant's Exhibit	4
Index of Court's Exhibits	4
Qualification & Selection of Jury	5
Defense Motion for double jeopardy	34
Neil v. Biggers Hearing	45
Welcome by The Honorable Jeffrey Young	59
Jury Sworn	60
Opening Statement by Solicitor	71
Opening Statement by Defense Counsel	80
Defense's Motion for Directed Verdict	270
Examination of Defendant	273
Directed Verdict Motion Renewed	333
Charge Conference	334
Closing Argument by Defense Counsel	341
Closing Argument by Solicitor	357
Jury Charge	373
Jury Question #1 & Recharge	389
Jury Question #2	395
Jury Question #3	398
Verdict	400
Defense Motion for New Trial	408
Sentence	414
Certificate of Court Reporter	416

State of South Carolina v. Christopher W. Brown

3

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Jury Qualification
Before The Honorable W. Jeffrey Young

INDEX OF TESTIMONY

Neil v. Biggers Hearing

Witness	Direct	Cross	Redirect	Recross
Sean Perkins	46			
Will Crosby	52	55		

INDEX OF TESTIMONY

(before Jury)

Witness	Direct	Cross	Redirect	Recross
Will Crosby	84	106	117	120
Mark Brown	123	138		
Sean Perkins	152	189	215	
Mark Brown	220	331	223	224
Jennifer Leiser	225			
Andy Miller	237	261	268	
Christopher Brown	279	296		
Belinda Brown	307	314		
Wes Vicars	317	320		
Seth Levy	321	323		
Sam Weatherford	324			
Spavarie Taylor	328	330		

STATEMENTS IN MITIGATION

Belinda Brown	411
Edna Brown	411
Christopher Brown	412

State of South Carolina v. Christopher W. Brown

4

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Jury Qualification

Before The Honorable W. Jeffrey Young

INDEX OF STATE'S EXHIBITS

No.	Description	Reference
1	CD of controlled buy from CI's view	102
2	CD of controlled buy from Investigator's view	42
3	Aerial Map	132
4	14 grams of powder cocaine	236
	(* NOTE: Returned by Clerk to Sherry Niblock of 9 th Circuit Solicitors Office	
5	CD of 8/26/10 Buy	200
6	CD of 9/15/09	184
7	Lab Report	232

INDEX OF DEFENDANT'S EXHIBITS

(None Entered)

INDEX OF COURT'S EXHIBITS

1	Lineup Advisory for Crosby	42
2	Lineup photographs (6 pack)	42
3	Defense's Requests to Charge	340
4	Copy of Charge provided to jury	340
5	Jury Question re: constructive possession	389
6	Jury Question re: hand of one & predisposition	395
7	Answer to Court's Exhibit 6	400
8	Jury Question re: entrapment	400

FEBRUARY 3, 3014

9:00 A.M.

(STATUTORY JURY QUALIFICATION
BY THE HONORABLE DEADRE JEFFERSON)
(IN CHAMBERS CONFERENCE)
(DEFENDANT PRESENT)

THE COURT: Mr. King, I'm looking at number five on your list. Real quick. I generally don't ask that question because it doesn't matter. It's against the law. I'll ask if whether they're biased or not. I'm not going to ask this particular question.

MR. KING: Yes, sir.

THE COURT: Do y'all have any objection to his other questions?

MR. LIETZOW: None, Your Honor.

THE COURT: Okay. Do you have any objection to their questions? And I've got some that are kind of similar to all these. So when I finish going through all the questions, I'll make sure that you've had an opportunity to ---

MR. KING: Maybe number ten, Your Honor, on the same grounds as my number five. It says, "any member believe that narcotics, and particularly cocaine, should be legal or is justifiable..." ---

State of South Carolina v. Christopher W. Brown

6

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Jury Qualification

Before The Honorable W. Jeffrey Young

1 THE COURT: Yeah. I'm not going to ask
2 that one either.

3 MR. LIETZOW: That's fine.

4 MR. KING: And number two, I'm sorry,
5 Your Honor. It's a different version of the
6 same question.

7 THE COURT: All right. Yeah. I do ask
8 the one about alcohol in DUI cases, but
9 that's still a legal substance so that's why
10 I am -- I'm striking that one. Okay, we're
11 ready for the panel.

12 (JURY PANEL IN @ 12:05 P.M.)

13 THE COURT: All right. Good morning,
14 ladies and gentlemen, and let me welcome you
15 again to your courthouse to serve as jurors
16 in this case.

17 I'm Judge Jeff Young. I'm from Sumter,
18 the town, not the Fort. When I used to be in
19 the military, I'd tell people I was from
20 Sumter and everybody always thought that's
21 where the war started. No, I'm from the
22 place where the war didn't start.

23 Now, ladies and gentlemen, we are about
24 to start the case of Christopher Wynne Brown,
25 and ladies and gentlemen.

State of South Carolina v. Christopher W. Brown

7

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Jury Qualification

Before The Honorable W. Jeffrey Young

1 Mr. Brown is charged with trafficking in
2 cocaine. And the indictment reads as
3 follows:

4 That in Charleston County, South
5 Carolina, on or about September 15th, 2009,
6 the Defendant, Christopher Wynne Brown, un-
7 lawfully and knowingly, did sell, deliver,
8 manufacture, cultivate, purchase, or bring
9 into the state, or did provide financial
10 assistance, or otherwise aid, abet, attempt
11 or conspire to sell, manufacture, cultivate,
12 deliver, purchase, or bring into the state,
13 or did possess or attempt to possess a
14 controlled substance, or a controlled
15 substance analogue, to wit: cocaine in excess
16 of ten grams, but less than twenty-eight
17 grams in violation of Section 44-53-370 of
18 the South Carolina Code of Laws, 1976 as
19 amended.

20 Now, ladies and gentlemen ---

21 MS. COMPTON: Approach, Your Honor?

22 THE COURT: You may.

23 (BENCH CONFERENCE)

24 THE COURT: All right. Ladies and
25 gentlemen, everything I just said is the

State of South Carolina v. Christopher W. Brown

8

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Jury Qualification

Before The Honorable W. Jeffrey Young

1 same, except for I got the date wrong. It
2 was February 3rd of 2009.

3 Now, ladies and gentlemen, let me remind
4 you, the fact that the Defendant was arrest-
5 ed, charged and indicted is in no way indica-
6 tive that he committed the crime contained in
7 this indictment.

8 The Defendant has pled not guilty and,
9 therefore, the State has the burden of
10 proving his guilt beyond a reasonable doubt.

11 So, again, ladies and gentlemen, I remind
12 you that this indictment is simply the papers
13 that bring this case into this courtroom and
14 should not in any way be considered against
15 the Defendant.

16 Now, ladies and gentlemen, before we
17 start this trial, there's a number of
18 questions that I'm going to need to ask you.
19 So I'm going to need to have you placed under
20 oath. Well, y'all are already under -- y'all
21 took an oath down there so y'all are still
22 under oath.

23 Now, the reason, ladies and gentlemen
24 that you're under oath, because this is such
25 a crucial stage of the trial. You know, just

State of South Carolina v. Christopher W. Brown

9

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Jury Qualification

Before The Honorable W. Jeffrey Young

1 like a building must have a firm foundation
2 to be strong and protect those who live in
3 it, so must the jury be strong as the basis
4 of a fair and impartial trial, and to protect
5 those who participate. The solicitor's
6 office for the State and for the Defendant,
7 who is on trial. And ladies and gentlemen,
8 your answers to these questions will be the
9 foundations by which these attorneys build a
10 jury. They're relying on your truthful
11 answers to help them strike an unbiased jury
12 who will listen diligently and deliver a true
13 and just verdict. And, again, ladies and
14 gentlemen, thank you for your truthfulness as
15 I ask you each one of these questions.

16 Now, ladies and gentlemen, the first
17 question, has anyone on the jury panel ever
18 been related by blood or marriage or had a
19 close personal or business relationship with
20 the Defendant, Chris Brown, who is sitting
21 before me?

22 Mr. Brown, if you would please stand up
23 and face the jury?

24 DEFENDANT: (Complies)

25 THE COURT: Thank you. So, in regard

State of South Carolina v. Christopher W. Brown

10

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Jury Qualification

Before The Honorable W. Jeffrey Young

1 to my last question, is there anyone who
2 knows Mr. Brown, or his family members or
3 anything like that? (No response). All
4 right. Thank you. No one is standing.

5 Now, ladies and gentlemen, this is a list
6 of possible witnesses in this case. And what
7 I'm going to do is I'm going to go down the
8 entire list, and then I'm going to ask you
9 questions about your relationship with these:

10 Detective Sean Perkins of the
11 Charleston County Sheriff's Office,

12 Detective Andrew Miller of the
13 Charleston County Sheriff's Office,

14 Will Crosby,

15 Detective Mark Brown of the Charles-
16 ton County Sheriff's Office,

17 Brent Roy of the Charleston County
18 Sheriff's Office,

19 Susan Moody,

20 Jennifer Leiser,

21 Candy Logan,

22 Special Agent Rod Rape of the DEA,

23 Special Agent Thomas Costanzo, also
24 of the DEA,

25 Belinda Brown,

State of South Carolina v. Christopher W. Brown

11

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Jury Qualification

Before The Honorable W. Jeffrey Young

1 Sam Weatherford,
2 Wes Vicars,
3 Spavarie Taylor and
4 Seth Levy.

5 Is there any member of the jury plan who
6 has had a close personal or business
7 relationship or related by blood or marriage
8 to any of these potential witnesses? If so,
9 please stand. (No response). All right.
10 Thank you. No one's standing.

11 Now, ladies and gentlemen, the attorneys
12 who are trying this case are Mr. Chris
13 Lietzow and Ms. Spencer Compton for the
14 State.

15 Mr. Lietzow, would you introduce yourself
16 to the jury?

17 MR. LIETZOW: Yes, Your Honor. Good
18 afternoon. Thank y'all for being here. My
19 name is Chris Lietzow on behalf of Scarlet
20 Wilson, the Ninth Circuit Solicitor's Office,
21 with Spencer Compton. We'll be prosecuting
22 this case today and possibly over the next
23 few days.

24 THE COURT: All right. Mr. King, would
25 you like to introduce your team to the jury?

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Jury Qualification
Before The Honorable W. Jeffrey Young

12

1 MR. KING: Thank you, Your Honor. I'm
2 Jason King the Public Defender's Office. I
3 am representing Christopher Brown today.
4 Sitting with me is Shirene Hansotia, another
5 attorney in our office.

6 THE COURT: Thank you. Now, ladies and
7 gentlemen, has any member of the jury panel
8 ever been related by blood or marriage to any
9 of these attorneys or been represented by
10 these attorneys or anyone who is in their
11 respective law firm, being the solicitor's
12 office or the public defender's office? If
13 so, please stand? (No response).

14 Has any member of the jury panel or
15 expressed any opinion about any issue or
16 matter involved in this case? If so, please
17 stand? (No response).

18 All right. Thank you. No one is
19 standing.

20 Are any of the members of the jury
21 panel former members of law enforcement in
22 any capacity? If so, please stand? (No
23 response). All right. Thank you. No one's
24 standing.

25 Is there any member of the jury

State of South Carolina v. Christopher W. Brown

13

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Jury Qualification

Before The Honorable W. Jeffrey Young

1 panel who has family or close personal
2 friends who are employed by a law enforcement
3 agency. If so, please stand? (No
4 response). All right. Thank you.

5 Is there any member of the jury who has a
6 friend -- and I think I've already ask this
7 in a way -- or anyone employed with the Ninth
8 Circuit Solicitor's Office? If you're
9 related by blood or marriage to anybody that
10 works in the solicitor's office or have a
11 close friend who is employed in the Ninth
12 Circuit Solicitor's Office, please stand.
13 All right.

14 THE CLERK: There's one standing, Your
15 Honor.

16 THE COURT: Excuse me. Yes, ma'am.
17 What's your name and jury number, please?

18 THE JUROR: Elaine Gooch, Juror Number
19 99.

20 THE COURT: All right. Ms. Gooch.

21 THE JUROR: I have a friend that works
22 with the solicitor's office.

23 THE COURT: Okay. Who would that friend
24 be?

25 THE JUROR: Cliff Barfield.

State of South Carolina v. Christopher W. Brown

14

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Jury Qualification
Before The Honorable W. Jeffrey Young

1 THE COURT: Okay. Would the fact that
2 you know Mr. Barfield, who's in the Ninth
3 Circuit Solicitor's Office, make it so that
4 you can't be fair and impartial to the State
5 or the Defense of this case?

6 JUROR NUMBER 99: No.

7 THE COURT: So you can be fair and
8 impartial?

9 JUROR: Yes.

10 THE COURT: Thank you, ma'am. All right.
11 Is any member of the jury panel or any
12 members of your immediate family affiliated
13 with a victims' rights organization or
14 organizations which promote law enforcement,
15 such as:

16 Citizens Against Violent Crime, which
17 would be CAVE,

18 PAR, People Against Rape,

19 MADD, Mothers Against Drunk Drivers,

20 SADD, Students Against Drunk Drivers, or
21 any other group that has as its primary
22 function the promotion of law enforcement?

23 If so, please stand? (No response) All
24 right. Thank you. No one is standing.

25 Is there any member of the jury currently

State of South Carolina v. Christopher W. Brown

15

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Jury Qualification

Before The Honorable W. Jeffrey Young

1 have any criminal charges pending by the
2 Ninth Circuit Solicitor's Office or have any
3 charges that's that was dismissed or *not*
4 *processed* by the solicitor's office? If so,
5 please stand? (No response). All right.
6 Thank you. No one's standing.

7 Ladies and gentlemen of the jury panel,
8 have you or any member of your family or
9 close personal friend ever been accused of a
10 crime or charged with a crime and accused --
11 and "charged" would mean if you were even
12 wrongfully accused, investigated, arrested,
13 or convicted? If so, please stand?

14 JUROR NUMBER 198: (Stands)

15 THE COURT: Yes, ma'am. State your
16 name and juror number?

17 JUROR NUMBER 198: My name is Caitlyn
18 Nye. And I don't know my juror number, and I
19 don't care.

20 THE COURT: Okay. We'll find that out.

21 CLERK: It's number 198.

22 THE COURT: You're number 198, ma'am.

23 JUROR NUMBER 198: My stepfather was
24 arrested a couple of weeks ago

25 THE COURT: The fact that your -- is it

State of South Carolina v. Christopher W. Brown

16

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Jury Qualification

Before The Honorable W. Jeffrey Young

1 your father-in-law?

2 JUROR NUMBER 198: Stepfather.

3 THE COURT: Does the fact that your
4 stepfather was arrested make it so that you
5 can't be fair and impartial to the State or
6 the Defendant in this case?

7 JUROR NUMBER 198: Yes.

8 THE COURT: You can be?

9 JUROR NUMBER 198: I cannot be.

10 THE COURT: You cannot be fair and
11 impartial?

12 JUROR NUMBER 198: Right. No.

13 THE COURT: Any objection to this juror
14 being excused for cause?

15 MR. LIETZOW: None from the State, Your
16 Honor.

17 MR. KING: None from the Defense.

18 THE COURT: Thank you, ma'am. You may be
19 seated. They may pick you on another jury.

20 Yes, ma'am. State your name and juror
21 number.

22 JUROR NUMBER 201: Henrietta Parker,
23 Juror Number 201. My son, Terry Parker of
24 James Island was accused of a crime, so right
25 now he's going for -- is in St. George.

State of South Carolina v. Christopher W. Brown

17

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Jury Qualification

Before The Honorable W. Jeffrey Young

1 THE COURT: Okay. Would the fact that
2 your son was charged make it so that you
3 can't be fair and impartial and listen to the
4 evidence in this case and make a decision
5 based upon the evidence presented here?

6 JUROR NUMBER 201: No, sir.

7 THE COURT: You can?

8 JUROR NUMBER 201: Yes, sir.

9 THE COURT: Thank you, ma'am. Yes,
10 ma'am, in the back?

11 JUROR NUMBER 276: My name is Terrie
12 Wallace. I have a son that had a drug charge
13 about five years ago. I can remain
14 impartial.

15 THE COURT: All right. So you could
16 listen to the evidence and make your decision
17 based upon the evidence that's presented in
18 this courtroom?

19 JUROR NUMBER 276: Yes, sir.

20 THE COURT: Thank you. Yes, ma'am?

21 JUROR NUMBER 111: I'm Laura Hickey,
22 Juror Number 111. My brother was arrested
23 once for marijuana and one time for
24 possession ----

25 THE COURT: Okay. Would the fact that

State of South Carolina v. Christopher W. Brown

18

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Jury Qualification

Before The Honorable W. Jeffrey Young

1 your brother was arrested for marijuana and
2 the other charge, make it so that you can't
3 be fair and impartial to the State nor the
4 Defense in this case?

5 JUROR NUMBER 111: No..

6 THE COURT: Thank you, ma'am. Anyone
7 else? (No response).

8 Ladies and gentlemen, in a criminal trial
9 each juror takes an oath to follow the law as
10 the Court instructs, even if they personally
11 believe that the law is wrong or unfair. And
12 I will charge you on that. Is there any
13 member of the jury panel think that they
14 would be unable to follow the law as
15 instructed, even if they personally believe
16 the law to be wrong or unfair? If so, please
17 stand? (No response). Okay. Thank you. No
18 one is standing.

19 Does any member of the jury panel have
20 any religious convictions, philosophical or
21 moral beliefs, or political orientations that
22 it would make it difficult for you to sit in
23 judgment of a fellow citizen? If so, please
24 stand. (No response). Thank you. No one's
25 standing.

State of South Carolina v. Christopher W. Brown

19

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Jury Qualification

Before The Honorable W. Jeffrey Young

1 Does any member of the jury panel know of
2 any reason whatsoever why he or she should
3 not serve as a juror in this case, with
4 particular emphasis being placed on your
5 ability to be fair and impartial to both the
6 State and the Defendant. If so, please
7 stand? (No response). Okay.

8 Does the State have any additional ques-
9 tions they would like me to ask?

10 MR. LIETZOW: None, Your Honor. Thank
11 you, sir.

12 THE COURT: Does the Defense have any
13 additional questions you would like for me to
14 ask?

15 MR. KING: No, Your Honor.

16 THE COURT: All right. Thank you. All
17 right. Ladies and gentlemen, at this time
18 the computer is going to generate a list.
19 When your name is called -- do y'all have any
20 objection to them, because it's so crowded,
21 just staying where they're at and just
22 standing up?

23 MR. LIETZOW: No, sir.

24 MR. KING: That's fine.

25 THE COURT: Okay. When your name is

State of South Carolina v. Christopher W. Brown

20

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Jury Qualification

Before The Honorable W. Jeffrey Young

1 called, please stand. The State and the
2 Defense will then have an opportunity to
3 strike you.

4 Ladies and gentlemen, please do not take
5 it personally if they strike you. Each side
6 has some idea as to what they feel would be
7 the optimum jury for them. And so they can
8 strike you for any reason, for no reason,
9 except for based upon your race or your
10 gender.

11 Ladies, if you're placed on the jury,
12 please come forward, bring all of your
13 personal items with you and then they will
14 direct you into the jury box. Thank you.

15 Let me see the attorneys for one second.

16 (OFF RECORD BENCH CONFERENCE)

17 THE COURT: Now, ladies and gentlemen,
18 we'll pick twelve primary jurors and two
19 alternates, so there'll be fourteen of you
20 who will have the opportunity to sit with US.
21 You may proceed.

22 CLERK: Ladies and gentlemen, when your
23 name's called if you would, please, just
24 stand where you are: Juror Number 207,
25 Teresa Puckett.

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Jury Qualification
Before The Honorable W. Jeffrey Young

21

1 (WHITE FEMALE BEFORE COUNSEL)

2 CLERK: What say you for the State?

3 MR. LIETZOW: Please present this juror.

4 CLERK: What say you for the Defendant?

5 MR. KING: Please seat this juror.

6 CLERK: Ma'am, if you'll please gather
7 your belongings and make your way to the jury
8 box. You've been selected as a juror in the
9 trial of this case.

10 (JUROR NUMBER 207 SEATED)

11 CLERK: Juror Number 252, Ashley
12 Spangler.

13 (WHITE FEMALE BEFORE COUNSEL)

14 CLERK: What say you for the State?

15 MR. LIETZOW: Please present this juror.

16 CLERK: What say you for the Defendant?

17 MR. KING: Please seat Ms. Spangler.

18 CLERK: Ma'am, if you would, please make
19 your way to the jury box. You've been
20 selected as a juror in the trial of this
21 case.

22 (JUROR NUMBER 252 SEATED)

23 CLERK: Juror Number 143, Andrew
24 Lanfersiek.

25 (WHITE MALE BEFORE COUNSEL)

State of South Carolina v. Christopher W. Brown

22

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Jury Qualification
Before The Honorable W. Jeffrey Young

1 CLERK: What say you for the State?

2 MR. LIETZOW: Please present this juror.

3 CLERK: What say you for the Defendant?

4 MR. KING: Please excuse this juror.

5 THE CLERK: Sir, if you would, please

6 remain seated. I'm sorry, keep your seat.

7 You've been excused from the trial of this

8 case.

9 (JUROR NUMBER 143 EXCUSED)

10 CLERK: Juror Number 253, Paula

11 Spedale.

12 (WHITE FEMALE BEFORE COUNSEL)

13 CLERK: What say you for the State?

14 MR. LIETZOW: Please present this juror.

15 CLERK: What say you for the Defendant?

16 MR. KING: Please seat this juror.

17 CLERK: Ma'am, if you will, please make

18 your way to the jury box. You've been

19 selected as a juror in the trial of this

20 case.

21 (JUROR NUMBER 253 SEATED)

22 CLERK: Juror Number 116 Mark Hiott.

23 (WHITE MALE BEFORE COUNSEL)

24 CLERK: What say you for the State?

25 MR. LIETZOW: Please excuse this juror.

State of South Carolina v. Christopher W. Brown

23

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Jury Qualification

Before The Honorable W. Jeffrey Young

1 THE CLERK: Sir, you may remain seated.
2 You've been excused from the trial of this
3 case.

4 (JUROR NUMBER 116 EXCUSED)

5 CLERK: Juror Number 185, Debra Melvin.

6 (BLACK FEMALE BEFORE COUNSEL)

7 CLERK: What say you for the State?

8 MR. LIETZOW: Please excuse Ms. Melvin.

9 CLERK: Thank you. You may be seated.
10 You've been excused from the trial of this
11 case.

12 (JUROR NUMBER 185 EXCUSED)

13 CLERK: Juror Number 276, Terrie
14 Wallace.

15 (WHITE FEMALE BEFORE COUNSEL)

16 CLERK: What say you for the State?

17 MR. LIETZOW: Please excuse this juror.

18 THE CLERK: Ma'am, you may be seated.
19 You've been excused from the trial of this
20 case.

21 (JUROR NUMBER 176 EXCUSED)

22 CLERK: The State has exhausted three
23 of its five strikes. Juror Number 32, Gerod
24 Brown.

25 (BLACK MALE BEFORE COUNSEL)

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Jury Qualification
Before The Honorable W. Jeffrey Young

24

1 CLERK: What say you for the State?

2 MR. LIETZOW: Please present this juror.

3 CLERK: What say you for the Defendant?

4 MR. KING: Please seat this juror.

5 THE CLERK: Sir, if you could just gather
6 your belongings and make your way to the jury
7 box. You've been selected as a juror in the
8 trial of this case.

9 (JUROR NUMBER 32 SEATED)

10 CLERK: Juror Number 114, Russell
11 Hightower.

12 (WHITE MALE BEFORE COUNSEL)

13 CLERK: What say you for the State?

14 MR. LIETZOW: Please present this juror.

15 CLERK: What say you for the Defendant?

16 MR. KING: Please seat this juror.

17 CLERK: Sir, if you'll just make your way
18 to the jury box. You've been selected as a
19 juror in the trial of this case.

20 (JUROR NUMBER 114 SEATED)

21 CLERK: Juror Number 201, Henrietta
22 Parker.

23 (BLACK FEMALE BEFORE COUNSEL)

24 CLERK: What say you for the State?

25 MR. LIETZOW: Please excuse this juror.

State of South Carolina v. Christopher W. Brown

25

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Jury Qualification

Before The Honorable W. Jeffrey Young

1 CLERK: Ma'am, you may be seated. You've
2 been excused from the trial of this case.

3 (JUROR NUMBER 201 EXCUSED)

4 CLERK: The State has one strike re-
5 maining. Juror Number 255, Ashley Steiger-
6 wald.

7 (WHITE FEMALE BEFORE COUNSEL)

8 CLERK: What say you for the State?

9 MR. LIETZOW: Please present this juror.

10 CLERK: What say you for the Defendant?

11 MR. KING: Please excuse this juror.

12 CLERK: Ma'am, you may be seated. You've
13 been excused from the trial of this case.

14 (JUROR NUMBER 255 EXCUSED)

15 CLERK: Juror Number 293, Gregory
16 Winkler.

17 (WHITE MALE BEFORE COUNSEL)

18 CLERK: What say you for the State?

19 MR. LIETZOW: Please present this juror.

20 CLERK: What say you for the Defendant?

21 MR. KING: Please seat this juror.

22 CLERK: If you would, please gather your
23 belongings and make your way to the jury box.
24 You've been selected as a juror in the trial
25 of this case.

State of South Carolina v. Christopher W. Brown

26

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Jury Qualification

Before The Honorable W. Jeffrey Young

1 (JUROR NUMBER 293 SEATED)

2 CLERK: Juror Number 249, Justin Smoak.

3 (WHITE MALE BEFORE COUNSEL)

4 CLERK: What say you for the State?

5 MR. LIETZOW: Please present this juror.

6 CLERK: What say you for the Defendant?

7 MR. KING: Please seat this juror.

8 CLERK: Sir, if you would, please make
9 your way to the jury box. You've been
10 selected as a juror in the trial of this
11 case.

12 (JUROR NUMBER 249 SEATED)

13 CLERK: Juror number 111, Laura Hickey.

14 (WHITE FEMALE BEFORE COUNSEL)

15 CLERK: What say you for the State?

16 MR. LIETZOW: Please present this juror.

17 CLERK: What say you for the Defendant?

18 MR. KING: Please seat this juror.

19 CLERK: Ma'am, if you would, please make
20 your way to the jury box. You've been
21 selected as a juror in the trial of this
22 case.

23 (JUROR NUMBER 111 SEATED)

24 CLERK: Juror Number 242, Benjamin
25 Smith.

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Jury Qualification
Before The Honorable W. Jeffrey Young

27

1 (WHITE MALE BEFORE COUNSEL)

2 CLERK: What say you for the State?

3 MR. LIETZOW: Please present this juror.

4 CLERK: What say you for the Defendant?

5 MR. KING: Please seat this juror.

6 CLERK: Sir, if you would, please make
7 your way to the jury box. You've been
8 selected as a juror in the trial of this
9 case.

10 (JUROR NUMBER 242 SEATED)

11 CLERK: Juror Number 123, Mal Innis.

12 (BLACK MALE BEFORE COUNSEL)

13 CLERK: What say you for the State?

14 MR. LIETZOW: Please present this juror.

15 CLERK: What say you for the Defendant?

16 MR. KING: Please seat this juror.

17 CLERK: Sir, if you would, please make
18 your way to the jury box. You've been
19 selected as a juror in the trial of this
20 case.

21 (JUROR NUMBER 123 SEATED)

22 CLERK: Juror number 168, Constance
23 Mason.

24 (WHITE FEMALE BEFORE COUNSEL)

25 CLERK: What say you for the State?

State of South Carolina v. Christopher W. Brown

28

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Jury Qualification

Before The Honorable W. Jeffrey Young

1 MR. LIETZOW: Please present this juror.

2 CLERK: What say you for the Defendant?

3 MR. KING: Please seat this juror.

4 THE CLERK: Ma'am, if you would, please
5 make your way to the jury box. You've been
6 selected as a juror in the trial of this
7 case.

8 (JUROR NUMBER 168 SEATED)

9 CLERK: Juror Number 107, Lisa Henning.

10 (WHITE FEMALE BEFORE COUNSEL)

11 THE COURT: What say you for the
12 State?

13 MR. LIETZOW: Please present this juror.

14 CLERK: What say you for the Defendant?

15 MR. KING: Please excuse this juror.

16 CLERK: Ma'am, you may be seated. You've
17 been excused from the trial of this case.

18 (JUROR NUMBER 107 EXCUSED)

19 CLERK: The Defendant has exhausted
20 three of their five strikes. Juror Number
21 85, William Flowers.

22 (WHITE MALE BEFORE COUNSEL)

23 CLERK: What say you for the State?

24 MR. LIETZOW: Please present this juror.

25 CLERK: What say you for the Defendant?

State of South Carolina v. Christopher W. Brown

29

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Jury Qualification
Before The Honorable W. Jeffrey Young

1 MR. KING: Please excuse this juror.

2 CLERK: Sir, you may be seated. You've
3 been excused from the trial of this case.

4 (JUROR NUMBER 85 EXCUSED)

5 CLERK: Both the State and Defendant
6 have one strike remaining. Juror Number 222,
7 Molly Rumph.

8 (WHITE FEMALE BEFORE COUNSEL)

9 CLERK: What say you for the State?

10 MR. LIETZOW: Please present this juror.

11 CLERK: What say you for the Defendant?

12 MR. KING: Please seat the juror.

13 CLERK: Ma'am, if you would, please make
14 your way to the jury box. You've been
15 selected as a juror in the trial of this
16 case.

17 (JUROR NUMBER 222 SEATED)

18 CLERK: Now striking for our alternate.
19 Strikes are one and one. Juror Number 219,
20 Luanne Rodgers.

21 (WHITE FEMALE BEFORE COUNSEL)

22 CLERK: What say you for the State?

23 MR. LIETZOW: Please present this juror.

24 CLERK: What say you for the Defendant?

25 MR. KING: Please seat this juror.

State of South Carolina v. Christopher W. Brown

30

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Jury Qualification

Before The Honorable W. Jeffrey Young

1 CLERK: Ma'am, if you would, make your
2 way to the jury box. You've been selected as
3 the first alternate in the trial of this
4 case.

5 (JUROR NUMBER 219 SEATED)

6 CLERK: Now, striking for our second
7 alternate. The strikes are one and one.
8 Juror Number 47, Viola Carter.

9 (BLACK FEMALE BEFORE COUNSEL)

10 CLERK: What say you for the State?

11 MR. LIETZOW: Please present this juror.

12 CLERK: What say you for the Defendant.

13 MR. KING: Please seat Ms. Carter.

14 CLERK: Ma'am, if you would, please make
15 your way to the jury box. You've been
16 selected as the second alternate in the trial
17 of this case.

18 (JUROR NUMBER 47 SEATED)

19 CLERK: Thank you, Your Honor.

20 THE COURT: Thank you. And when they're
21 all seated if you'd call the roll.

22 CLERK: Absolutely.

23 (JURY SEATED @ 12:40 P.M.)

24 CLERK: Please raise your hand as I call
25 your name:

State of South Carolina v. Christopher W. Brown

31

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Jury Qualification

Before The Honorable W. Jeffrey Young

1 Juror 207, Teresa Puckett
2 Juror 252, Ashley Spangler
3 Juror 253, Paula Spedal
4 Juror 32, Gerod Brown
5 Juror 114, Russell Hightower
6 Juror 293, Gregory Winkler
7 Juror 249, Justin Smoak
8 Juror 111, Laura Hickey
9 Juror 244, Benjamin Smith
10 Juror 12, Mal Innis,
11 Juror 168, Constance Mason
12 Juror 222, Molly Rumph
13 Juror 219; Luanne Rodgers, and
14 Juror 47, Viola Carter.

15 THE COURT: Thank you, sir.

16 CLERK: Thank you, Your Honor.

17 THE COURT: All right. Ladies and
18 gentlemen, y'all have been selected as the
19 jurors. I'm going to send you back for just
20 a few minutes and I'll bring you back out
21 here.

22 While you're back there for just a few
23 minutes, if you could select who you want to
24 be the foreperson on the jury. And that can
25 be any of the first twelve selected. It

State of South Carolina v. Christopher W. Brown

32

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Jury Qualification

Before The Honorable W. Jeffrey Young

1 can't be one of the alternates.

2 So while you're back there for the next
3 few minutes, please don't discuss anything
4 about the case.

5 Please do select who you want to be the
6 foreperson of the jury. All right. Thank
7 you.

8 (JURY OUT AT 12:40 P.M.)

9 THE COURT: Are there any objections to
10 the jury that have been selected or the
11 manner in which they've been selected? From
12 the State?

13 MR. LIETZOW: None, Your Honor.

14 THE COURT: From the Defense?

15 MR. KING: No, Your Honor.

16 THE COURT: All right. So that will be
17 our jury. All right. Ladies and gentlemen,
18 those of you who were not fortunate enough to
19 get selected for this jury, I assure you
20 there will be other opportunities for you to
21 serve your county and state this week.

22 So I'm going to send you back down. To
23 the jury assembly room and ---

24 CLERK: Your Honor, we are actually
25 finished with the panel for the remainder of

State of South Carolina v. Christopher W. Brown

33

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Jury Qualification

Before The Honorable W. Jeffrey Young

1 the day.

2 THE COURT: Okay.

3 CLERK: And if you guys would, as I
4 instructed you earlier, call the jury infor-
5 mation line after 6:00 p.m. this evening.
6 Instructions on whether you report tomorrow
7 or not.

8 THE COURT: Thank you, ladies and
9 gentlemen. Thank you for your service.

10 (JURY PANEL OUT @ 12:43 P.M.)

11 MR. LIETZOW: Judge, some judges in
12 Charleston like us to stand for the jury when
13 they leave.

14 THE COURT: I generally do it. I don't
15 require y'all to do it, but as the finder of
16 the law, I stand for the finders of fact, so
17 that's how -- but I don't require y'all.

18 MR. LIETZOW: All right. I just wanted
19 to ---

20 THE COURT: I know in Federal Court they
21 make everybody stand when the jury comes in
22 or goes out. But it's whatever you're most
23 comfortable with.

24 MR. LIETZOW: All right. Thank you.

25 THE COURT: And I assure you, whichever

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Motion for Double Jeopardy
Before The Honorable W. Jeffrey Young

34

1 one y'all does and however you do it, the
2 other one will follow.

3 Are there any motions to be made? And
4 how long do y'all think it'll take.

5 MR. LIETZOW: Judge, I don't want to
6 speak for the defense. I do believe there
7 were some pretrial motions, though.

8 MR. KING: Yeah. I don't believe it
9 will be very extensive, Judge. I have a
10 double jeopardy *Motion to make. The case
11 law I have is -- I've already disclosed that.

12 THE COURT: Yes, sir. Thank you,

13 MR. KING: This was several buys.
14 Your Honor has one of the other indictments.

15 THE COURT: Right. I think we got that
16 cleared up, but it was not in front of the
17 jury panel. We had a sidebar.

18 MR. KING: If it was a different defense,
19 Judge, I might have a different view on that,
20 but I think that that's going to come out
21 anyway. I think that's going to be a secret
22 for too long. There were about -- I believe
23 it was five buys, Judge. He was tried on one
24 of them and acquitted on trafficking. That
25 was one after this buy. So he was tried

State of South Carolina v. Christopher W. Brown

35

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Motion for Double Jeopardy
Before The Honorable W. Jeffrey Young

1 (sic) on April 22nd, 2009. This is in
2 February.

3 The argument is that if the jury found
4 out that he was not predisposed to committing
5 a crime in April, then how could he be
6 predisposed to committing a crime two months
7 earlier in February.

8 Your Honor, I'll hand up a have a couple
9 of cases, Judge, ---

10 THE COURT: He has not been tried on this
11 particular case?

12 MR. KING: He has not, Judge.

13 THE COURT: In this jurisdiction?

14 MR. KING: That's right.

15 THE COURT: What would the State like
16 to say?

17 MS. COMPTON: Your Honor, just that there
18 are a couple of cases finding, since they're
19 a continuous defense theory of -- Haskell
20 (phonetic) is one that I'm aware of. I
21 believe that was a State official in a
22 bribery scheme that was, in fact, ongoing.

23 These are separate incidents, Your Honor.
24 It began in February of 2009 with the last
25 one in August of 2010, Your Honor. So we

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Motion for Double Jeopardy
Before The Honorable W. Jeffrey Young

36

1 would submit that this is not a continuous
2 offense and, in fact, each one is a separate
3 charge that the State should ---

4 THE COURT: And in similar situations
5 that I've had, that's been the case.

6 This is a separate date. This is a
7 separate charge. What he might have been
8 doing on one day might be different than what
9 happened on another. Each one is fact
10 determinative.

11 MR. KING: Yes, sir. Just for the
12 record then ---

13 THE COURT: Yes, sir.

14 MR. KING: --- I would cite, it's a
15 Supreme Court case, *Ashe v. Swinson* at 397
16 U.S. 426. This isn't directly on point but
17 it was a case where they tried someone for
18 robbing more than one person. He was
19 acquitted in one of the people and the State
20 tried to try him for another one in the
21 group.

22 THE COURT: And that was one incident;
23 is that correct?

24 MR. KING: Right.

25 THE COURT: These are all separate

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Motion for Double Jeopardy
Before The Honorable W. Jeffrey Young

37

1 dates and everything like that?

2 MR. KING: That's correct, Your Honor.
3 I was just making the argument that based on
4 the acquittal that I believe the jury would
5 have found that he was predisposed on April
6 22nd, and that should apply two months
7 earlier. I guess I -- I'm making it on
8 double jeopardy, it may be collateral
9 estoppel.

10 THE COURT: I'm going to respectfully
11 deny your motion. What other motions? What
12 about -- are the Motions going to take a
13 while?

14 Because if I could bring the jury back
15 and release them for lunch then we can get
16 started at a reasonable time on the trial.

17 MR. LIETZOW: Judge, I have not spoken to
18 the investigator yet. We're scrambling to
19 get our witnesses in. They're here.

20 So, Your Honor, as far as whether they'll
21 take a long time or not, I believe that there
22 is a *Neil v. Biggers* hearing, which I don't
23 anticipate taking too long.

24 MR. KING: I don't think so either,
25 Judge. It's more of a formality.

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Motion for Double Jeopardy
Before The Honorable W. Jeffrey Young

38

1 THE COURT: Well, why don't do this?
2 Why don't we bring the jury back in. We
3 won't swear them. Let them go for lunch and
4 have them be back here at two-thirty (2:30).
5 And then if we can be here at two fifteen
6 (2:15), we can do the *Neil v. Biggers* motion
7 hearing and then we'll be ready to start the
8 trial. And that'll give you all time to get
9 all your people here, okay?

10 MR. LIETZOW: Yes, sir.

11 THE COURT: All right. Let's bring our
12 jury back.

13 (BAILIFF DELIVERS NOTE FROM JUROR)

14 THE COURT: Y'all think we'll be out of
15 here by Wednesday? It's a two-day trial?

16 MR. LIETZOW: It took two days last time.
17 I think it should take about the same amount
18 of time, yes, sir.

19 THE COURT: I've got one of the jurors
20 who needs to fly out on Wednesday and wants
21 to know -- Mr. Smoak. He should be able to
22 make it. Bring them in.

23 (JURY IN @ 12:46 P.M.)

24 BAILIFF: The jury's present, Your
25 Honor.

State of South Carolina v. Christopher W. Brown

39

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Motion for Double Jeopard

Before The Honorable W. Jeffrey Young

1 THE COURT: All right. Which one is --
2 who is the foreperson?

3 BAILIFF: This one, (indicating
4 juror).

5 THE COURT: Thank you, ma'am. And your
6 name?

7 JUROR NUMBER 252: Ashley Spangler.

8 THE COURT: All right. Thank you, y'all
9 may be seated. All right.

10 Thank you, ma'am, for taking on the
11 responsibility of being the foreperson. Now,
12 you will always sit there.

13 The rest of y'all may sit wherever you
14 want to. And sometimes I kept the alternates
15 separated, but it doesn't matter because
16 y'all need to be comfortable wherever you're
17 seated. So sit anywhere you want to.

18 I have found that jurors tend to be
19 territorial. It's funny. Even for a short
20 trial, jurors always want to get back in the
21 same seat, but you can sit anywhere you want
22 to, other than the seat reserved for the
23 foreman.

24 Ladies and gentlemen, I'm going to
25 release you for lunch now with strict

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Motion for Double Jeopardy
Before The Honorable W. Jeffrey Young

40

1 instructions that you don't talk to anyone
2 about this case or anything about it.

3 You know what I've found -- I used to
4 work for NSA when I was in the military.
5 And if you don't say anything, nobody asks
6 anything about it. So when you go back to
7 your job, if you're going by there for lunch
8 or something like that, if you just say, 'I'm
9 on a jury.' Even if you don't tell them what
10 the case is about, what's going to happen is
11 they're going to say, 'Yeah, you know, I was
12 on a jury like that one time and this is...'
13 You don't need that extra information. This
14 case is going to be determined by what is
15 presented in this courtroom.

16 So ladies and gentlemen, have a nice
17 lunch, be back here at two thirty (2:30). Do
18 not discuss the case with anyone else, even
19 amongst yourselves but have a nice lunch.

20 I will tell you, don't eat a big lunch
21 because I've found that jurors get sleepy in
22 the afternoon. I had one juror one time they
23 ate a big lunch and it kind of got -- it was
24 a day like today, it was kind of gloomy, it
25 was warm in there and that juror was sound

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Motion for Double Jeopardy
Before The Honorable W. Jeffrey Young

41

1 asleep. I made all the jurors stand up and
2 that juror was snoring. You don't want to be
3 that juror. That was pretty embarrassing for
4 him.

5 So ladies and gentlemen, have a nice
6 lunch and I'll see y'all back here at 2:30
7 when you'll be sworn and we will start the
8 case at that time. Thank you.

9 (JURY OUT @ 12:46 P.M.)

10 THE COURT: All right. The Court's in
11 recess until two fifteen (2:15). Thank you
12 very much.

13 MR. KING: Your Honor, if I may, one
14 quick question. My client is out on bond and
15 we'd ask that he be allowed to remain on bond
16 during the trial.

17 THE COURT: Do y'all have any objection?

18 MR. LIETZOW: We have no objection.

19 THE COURT: They don't have any
20 objection, so that's fine. Now, I may have
21 a problem overnight but for right now, no.

22 MR. KING: Okay. Thank you.

23 (LUNCH RECESS)

24 (SO MARKED for identification, State's
25 Exhibit Numbers 1, 2, 3, and 4)

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Motion for Double Jeopardy
Before The Honorable W. Jeffrey Young

42

1 (SO MARKED for identification, Court's
2 Exhibit Numbers 1 and 2)

3 MR. LIETZOW: Judge, one of the jurors --
4 and I don't know his number ---

5 MS. COMPTON: 249.

6 MR. LIETZOW: Juror number 249 has a
7 friendship with one of the assistant
8 solicitors in the office. And after they
9 were sent to lunch, he made a phone call to
10 that assistant solicitor. We wanted to
11 disclose that to Your Honor and we wanted to
12 make the Defense aware of that.

13 THE COURT: All right. This is the one
14 who -- Mr. Smoak?

15 MR. LIETZOW: Yes, sir, Your Honor.

16 THE COURT: He's the baseball player?

17 MR. LIETZOW: Right, Your Honor.

18 THE COURT: So he's going to be -- can't
19 be here Wednesday. Do y'all have any
20 objection -- I mean, y'all -- I guess y'all
21 are from a big town. In towns like Sumter,
22 everybody knows everybody. I guess I can
23 bring him in here and question him on that
24 information. Who is the solicitor that he's
25 friends with?

State of South Carolina v. Christopher W. Brown

43

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Motion for Double Jeopardy
Before The Honorable W. Jeffrey Young

1 MR. LIETZOW: Kelly LaPlante.

2 THE COURT: LaPlante?

3 MR. LIETZOW: Yes, Your Honor.

4 MR. KING: I will ask that you excuse
5 that juror. I think one of my *voir dire*
6 questions was were they friends with anyone
7 employed by the Ninth Circuit Solicitor's
8 Office.

9 THE COURT: It was.

10 MR. KING: If I'd know he was, I
11 probably would have struck him.

12 THE COURT: You would have struck him?

13 MR. KING: Yes, sir. And he's got to
14 leave on Wednesday anyway and that's ---

15 MR. LIETZOW: Your Honor, I don't have
16 any objections to excusing him.

17 THE COURT: All right. Well, just pull
18 him out of the pack. Go ahead and bring him
19 up here now and we will -- cut up two pieces
20 of paper, put the alternates name on it, put
21 them in a cup and we'll let -- who's our lady
22 who's here for her 403? Come on up here and
23 we'll select a juror, the alternate juror.
24 Put their name in a hat and draw them out.

25 COURT REPORTER: Ma'am, for the record,

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Motion for Double Jeopardy
Before The Honorable W. Jeffrey Young

44

1 will you tell me your name?

2 MS. HAYES Cameron Hayes.

3 (JUROR 249 ENTERS COURTROOM)

4 THE COURT: Mr. Smoak?

5 JUROR NUMBER 249: Yes, sir.

6 THE COURT: I understand that you have
7 a -- you know one of the solicitors; is that
8 correct?

9 JUROR NUMBER 249: Yeah, I guess I do.

10 THE COURT: Why didn't you -- why didn't
11 you disclose that when I asked that question?

12 JUROR NUMBER 249: I didn't know what she
13 did or who she worked for. I just --

14 THE COURT: All right. I'm going to take
15 you off this jury. I understand you've got a
16 possible conflict this week anyway if this
17 trial goes past tomorrow?

18 JUROR NUMBER 249: Correct.

19 THE COURT: So I'm going to transfer you
20 to another term of court. This does not
21 satisfy your service as a juror. Do you
22 understand that?

23 JUROR NUMBER 249: Right.

24 THE COURT: But transfer him to another
25 term of court. And when's your baseball

State of South Carolina v. Christopher W. Brown

45

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Neil v Biggers Hearing
Before The Honorable W. Jeffrey Young

1 season over with. Hopefully, it goes a
2 long way.

3 JUROR NUMBER 249: Hopefully it goes
4 into October.

5 THE COURT: Put him on a jury that's
6 after October.

7 CLERK: Yes, sir.

8 THE COURT: All right. Thank you, Mr.
9 Smoak. You're released for the week.

10 JUROR NUMBER 249: Thank you.

11 (JUROR NUMBER 249 EXCUSED)

12 THE COURT: Now for the Alternate -- I'm
13 sorry, what was your name?

14 MS. HAYES: Cameron Hayes.

15 THE COURT: Ms. Hayes has duly selected
16 Juror Number 47 to be our new primary juror.
17 Now, in a civil case, you would go one and
18 two. But in a criminal case, you do a blind
19 draw. Thank you, Ms. Hayes, for your
20 assistance.

21 All right. We had a *Motion we need to
22 take up at this time?

23 MR. KING: Yes, sir. I'm not sure how
24 you handle it, just maybe I was trying to
25 cover myself on the Neil v. Biggers because

State of South Carolina v. Christopher W. Brown

46

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Neil v Biggers Hearing
Before The Honorable W. Jeffrey Young

1 there was an identification by a policeman by
2 lineup.

3 THE COURT: All right.

4 MR. KING: I don't know that we have to
5 have a separate hearing.

6 THE COURT: Okay. Is the State ready to
7 proceed?

8 MR. LIETZOW: Yes, Your Honor.

9 THE COURT: All right. (*Neil)

10 MR. LIETZOW: The State calls Detective
11 Sean Perkins.

12 THE COURT: Detective Perkins, come
13 forward and be sworn.

14 (WITNESS TAKES STAND)

15 THE COURT: You may proceed.

16 MR. LIETZOW: Thank you, Your Honor.

17 *SEAN PERKINS, having been sworn to tell
18 the truth, and nothing but the truth,
19 testified as follows:

20 DIRECT EXAMINATION

21 BY MR. LIETZOW:

22 Q. Detective Perkins, where are you
23 employed at?

24 A. I'm currently employed with the
25 North Charleston Police Department.

State of South Carolina v. Christopher W. Brown

47

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Neil v Biggers Hearing
Before The Honorable W. Jeffrey Young

1 Q. Where were you employed in February
2 of 2009?

3 A. Charleston County Sheriff's Office.

4 Q. As part of the investigation
5 involving this defendant, did you participate
6 in a photo lineup with the confidential
7 information, Mr. Will Crosby?

8 A. Yes, I did.

9 Q. What was your role in that lineup
10 proceeding?

11 A. We contact SLED with a photo for
12 them to generate a photo lineup. And then
13 they email back that photo lineup to us and
14 we present the photo lineup to the informant
15 with a sheet of instructions to see if they
16 can actually identify the person that they
17 gave us the information. We're just
18 basically confirming that that is the person
19 for the buy.

20 MR. LIETZOW: May I approach, Your Honor?

21 THE COURT: You may.

22 DIRECT EXAMINATION CONTINUED

23 BY MR. LIETZOW:

24 Q. Do you recognize this?

25 A. Yes, I do.

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Neil v Biggers Hearing
Before The Honorable W. Jeffrey Young

48

1 Q. And how do you recognize that?

2 A. It has my signature on it.

3 Q. Can you share with the Court what
4 that is, please?

5 A. This is the metro major case unit
6 photo lineup instructions that we give to the
7 informant to read and make sure that they
8 understand it, and sign.

9 And it also contains the, what we call a
10 six-pack, which is a six-person photo lineup.

11 MR. LIETZOW: For the records purposes,
12 this is Court's Exhibit Number 1 and the
13 Court's Exhibit Number 2 ---

14 THE COURT: All right.

15 MR. LIETZOW: --- That Detective Perkins
16 in referring to.

17 DIRECT EXAMINATION CONTINUED

18 BY MR. LIETZOW:

19 Q. And where did this -- on what date
20 did this lineup identification occur?

21 A. It was February 3rd, 2009.

22 Q. And do you know where that was
23 located at?

24 A. It's at our metro office.

25 Q. Where is that at?

State of South Carolina v. Christopher W. Brown

49

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Neil v Biggers Hearing
Before The Honorable W. Jeffrey Young

1 A. It's over off of Bridgeview Drive in
2 North Charleston.

3 Q. Were there any other law enforcement
4 officers present during this identification?

5 A. I can't recall if there was anybody
6 else in the room with me or not. I don't --
7 I should have it in the report if there was.

8 Q. What, if anything, was Mr. Crosby
9 told before being shown that photo?

10 A. Basically to -- I mean, the
11 instruction is on here. You know, don't pay
12 any attention towards like discoloration of
13 the photos, because they come from different
14 places. Or to markings, different clothing
15 that the people may have in the pictures.
16 And, you know, there's no pressure. We just
17 lay it out in front of them and ask them, 'do
18 you recognize anyone in this photo?' And
19 then they let us know if they do or not.

20 Q. And I believe you've already stated,
21 but if you would restate again how many
22 photos were displayed as part of that lineup?

23 A. There were six.

24 Q. And did you attempt to influence or
25 suggest to Mr. Crosby in any way which photo

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Neil v Biggers Hearing
Before The Honorable W. Jeffrey Young

50

1 to select?

2 A. No, sir.

3 Q. Did you show any other photos to Mr.
4 Crosby prior to having him view these photos
5 on this day?

6 A. No.

7 Q. And did Mr. Crosby select a photo
8 out of that lineup?

9 A. Yes.

10 Q. And did he indicate whether the
11 person he picked out was somebody that he was
12 familiar with and was part of the ongoing
13 investigation that you guys were working on?

14 A. Yes, he did.

15 Q. How did he do that?

16 A. He pointed to it and said that
17 that's the Defendant. He circled it, which
18 is number two, and he initialed it.

19 Q. How long did it take him to pick out
20 that photo?

21 A. It was pretty much instantaneous.

22 Q. Was there any hesitation?

23 A. No.

24 Q. Any doubts?

25 A. No.

State of South Carolina v. Christopher W. Brown

51

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Neil v Biggers Hearing
Before The Honorable W. Jeffrey Young

1 Q. Did he know Mr. Chris Brown before
2 picking, before selecting his photo out of
3 this lineup?

4 A. Yes.

5 Q. Do you see the individual that he
6 selected in that lineup in the courtroom here
7 today?

8 A. I do.

9 Q. Would you please point to him and
10 describe that individual?

11 WITNESS: Pardon me for standing up?

12 THE COURT: Yes, sir.

13 WITNESS: The Defendant, in the gray
14 shirt and the tie. Mr. Brown.

15 MR. LIETZOW: Please let the record
16 reflect that Mr. Perkins identified the
17 Defendant, Christopher Brown.

18 THE COURT: The record will so reflect.

19 MR. LIETZOW: Thank you, Your Honor.

20 THE COURT: Mr. King?

21 MR. KING: I beg the Court's indul-
22 gence?

23 THE COURT: Yes, sir.

24 MR. KING: (Sidebar with Solicitor
25 Hansotia), I don't have any questions for Mr.

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Neil v Biggers Hearing
Before The Honorable W. Jeffrey Young

52

1 Perkins.

2 THE COURT: Thank you.

3 WITNESS: Thank you, Your Honor.

4 THE COURT: You may step down.

5 MR. LIETZOW: No further questions, Your
6 Honor.

7 THE COURT: All right.

8 (WITNESS STEPS DOWN)

9 THE COURT: Call your next witness.

10 MS. COMPTON: The State calls Will
11 Crosby.

12 (WITNESS TAKES STAND)

13 *WILL CROSBY, having been sworn to
14 tell the truth, and nothing but the truth,
15 testified as follows:

16 DIRECT EXAMINATION

17 BY MS. COMPTON:

18 Q. Good afternoon, Will. How are you?

19 A. I've done better, but I'm doing
20 alright.

21 Q. Okay. Fine. Now, we're here to
22 talk about the time you met with detectives
23 on February 3rd, 2009. You remember that?

24 A. Oh, yes. Yeah, I remember.

25 Q. At that time, had you identified

State of South Carolina v. Christopher W. Brown

53

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Neil v Biggers Hearing
Before The Honorable W. Jeffrey Young

1 somebody that you knew by the name of Chris
2 Brown?

3 A. Yes, ma'am.

4 Q. And had you told -- can you speak up
5 just a little bit so the court reporter can
6 get you?

7 A. Yes, ma'am.

8 Q. Thanks. And had you told them --
9 what did you tell them that you know about
10 Chris Brown? How did you know him?

11 A. Through Marcus Gibbes.

12 Q. How long had you known him?

13 A. Maybe a year. Maybe -- maybe a
14 year.

15 Q. Did you know him by sight? If you
16 saw him in the grocery store, would you
17 recognize him?

18 A. Yes.

19 Q. If you saw him around, driving down
20 the street, you'd probably recognize him?

21 A. Yes.

22 Q. Okay. Now you gave the information
23 to detectives that you knew Chris Brown?

24 A. Yes, ma'am.

25 Q. Okay. And did they give you any

1 sort of identification procedure to confirm
2 that?

3 A. They just gave me a picture lineup.

4 Q. Okay. I'm showing you what's been
5 marked as Court's Exhibit Number 2. Do you
6 recognize that?

7 A. Yes, ma'am.

8 Q. What is it?

9 A. It's the lineup that I was given.

10 Q. Okay. And did you make any selec-
11 tions out of that lineup?

12 A. Yes, ma'am.

13 Q. Which number is that?

14 A. Number 2.

15 Q. And who is that?

16 A. That's Chris Brown.

17 Q. Okay. Now, did the police officers
18 in any coerce you to make that identifica-
19 tion?

20 A. No, ma'am.

21 Q. Did they tell you that's who you had
22 to pick?

23 A. No, ma'am.

24 Q. Did they give you any hints about
25 who that was?

State of South Carolina v. Christopher W. Brown

55

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Neil v Biggers Hearing
Before The Honorable W. Jeffrey Young

1 A. No, ma'am.

2 Q. And -- I'm sorry. I'll show it to
3 you again. Next to your selection here it
4 says, "WC." Are those your initials?

5 A. Yes, ma'am.

6 Q. And did you initial that?

7 A. Yes, ma'am.

8 Q. Okay.

9 MS. COMPTON: Nothing further, Your
10 Honor.

11 THE COURT: Mr. King?

12 CROSS EXAMINATION

13 BY MR. KING:

14 Q. Mr. Crosby, you said before you made
15 that identification you'd known Mr. Brown for
16 about a year; is that right?

17 A. Yes, sir.

18 Q. Do you remember the first time you
19 met him?

20 A. I don't recall the first time I met
21 him. I believe -- I don't -- I can't recall.

22 Q. Would you know where you usually met
23 him? Would it be a specific place?

24 A. The Ponderosa neighborhood.

25 Q. And you saw him -- how many times

1 would you say you saw him face-to-face before
2 you made that identification in the lineup?

3 A. Can you repeat the question?

4 Q. On February 3rd, before you picked
5 him out of that lineup ---

6 A. Uh-huh, (affirmative nod).

7 Q. --- how many times had you seen him
8 face-to-face?

9 A. A few times. Ten, twenty maybe.

10 Q. You can't be sure exactly how many
11 times?

12 A. No, sir. I can't tell you for sure.
13 I mean, it's ten times, ten to fifteen times,
14 I can't give you an exact number.

15 Q. It could have been as low as ten?

16 A. Yes, sir.

17 Q. And when you would see him, how long
18 would you usually see him? How long would
19 you interact?

20 A. It would vary. Sometimes we would
21 talk about work. Sometimes we would
22 generally just conversate. It varied.

23 Q. Had you seen him shortly before that
24 lineup?

25 A. (No verbal response).

State of South Carolina v. Christopher W. Brown

57

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Neil v Biggers Hearing
Before The Honorable W. Jeffrey Young

1 Q. Well, I guess -- let me ask it
2 another way. Do you remember how long before
3 -- when was the last time before you made
4 that identification on February 3rd?

5 A. I can't be sure. I really, I have
6 no clue.

7 MR. KING: I have nothing further.

8 THE COURT: All right. Thank you. Any
9 redirect?

10 MS. COMPTON: No. None, Your Honor.

11 THE COURT: Thank you. You may step
12 down.

13 (WITNESS STEPS DOWN)

14 THE COURT: Anything further from the
15 State?

16 MR. LIETZOW: Nothing, Your Honor.

17 THE COURT: Mr. King?

18 MR. KING: Your Honor, we would argue
19 that while it's not even suggestive, much
20 less that it's not reliable.

21 THE COURT: Yeah. The whole thing is
22 reliability. And that's -- unless it's unduly
23 suggestive. They sent it off to SLED and it
24 came back with people that they have on there
25 looking similar to the Defendant. The

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Neil v Biggers Hearing
Before The Honorable W. Jeffrey Young

58

1 witness had an opportunity to review the
2 Defendant and he had good degree of attention
3 in the matter. He knew him prior to this. I
4 think he would be able to identify him.

5 MR. KING: Thank you.

6 THE COURT: All right. Anything further?

7 MR. LIETZOW: Nothing from the State,
8 Your Honor.

9 THE COURT: Y'all want to take a five-
10 minute break before we bring the jury in or
11 y'all ready to go?

12 MR. LIETZOW: I'm ready whenever, Your
13 Honor. May I approach the court reporter and
14 hand this back?

15 MR. KING: Five minutes, Your Honor?

16 THE COURT: Yeah.

17 MR. KING: Thank you. THE COURT: I'll
18 let you get your thoughts together on your
19 argument. All right. The court will take a
20 five-minute recess.

21 But you can tell the jury I want them
22 back in here in about five minutes. That
23 way, if anyone has to go to the restroom or
24 whatever, they can do that now.

25 (BRIEF RECESS)

State of South Carolina v. Christopher W. Brown

59

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Welcome by The Court
Before The Honorable W. Jeffrey Young

1 (DEFENDANT PRESENT)

2 THE COURT: Okay. You want to get our
3 jurors.

4 (JURY IN @ 2:45 P.M.)

5 THE BAILIFF: The jury's present, Your
6 Honor.

7 THE COURT: All right. Thank you.

8 CLERK: Your Honor ---

9 THE COURT: Yes?

10 CLERK: Do you want us to get notepads
11 so that the jurors can take notes.

12 THE COURT: No.

13 CLERK: No problem.

14 *THE COURT: All right. Ladies and
15 gentlemen, I hope you had a nice lunch.

16 It's hard to believe that this is the
17 same city that I was in last week with all of
18 the ice and snow. I was staying out in a
19 cabin out on Johns Island. A friend of mine
20 has a horse farm. And I stayed out there and
21 it never got over fifty-five degrees in that
22 building I was in. Of course, it's up to
23 seventy-something degrees today. Nice. Sam
24 (Clerk), would you please swear our jury?

25 CLERK: Absolutely, Your Honor.

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Welcome by The Court
Before The Honorable W. Jeffrey Young

60

1 * (WHEREUPON JURY SWORN)

2 CLERK: Please let the record reflect
3 that all jurors are sworn.

4 THE COURT: Okay. Ladies and gentlemen,
5 over the break, Mr. Smoak had a conflict. So
6 Ms. Carter -- where is Ms. Carter? Ms.
7 Carter you are now one of our primary jurors.
8 And we do that just out of a random draw, not
9 in any particular order. All right.

10 Ladies and gentlemen, before we begin
11 this trial, I want to tell you that this
12 trial will probably be different from what
13 you might expect. You know, most people
14 never have an opportunity to attend and
15 participate in an actual court session as
16 y'all are today. And they think from
17 watching TV and movies and reading in books
18 that trials are always full of high drama and
19 intense action and riveting circumstances.

20 Now, while all these things might be true
21 at times, I want to remind you that this
22 trial is not for entertainment. This is a
23 real trial, which is a fundamental part of
24 our democracy and it's a search for the truth
25 in an effort to make sure that justice is

State of South Carolina v. Christopher W. Brown

61

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Welcome by The Court
Before The Honorable W. Jeffrey Young

1 done. And searching for the truth and
2 assuring that justice is done is often slow,
3 repetitive, and deliberative.

4 Now, ladies and gentlemen, it's the exact
5 opposite of what you see on TV, movies, and
6 have read in books.

7 Now, ladies and gentlemen, this courtroom
8 and this whole courthouse is a place of honor
9 that is dedicated to the protection and the
10 preservation of citizens rights through what
11 has been called, and what I truly believe in
12 the bottom of my heart, the greatest justice
13 system ever created by man.

14 The attorneys who are appearing before
15 you are advocates for the parties that they
16 represent. But first and foremost, they are
17 officers of this Court who are sworn to
18 uphold the integrity and the fairness of our
19 judicial system and to help you in your
20 search for the truth. Ladies and gentlemen,
21 you should expect -- I'm sure they won't let
22 you down -- them to be professional,
23 competent, and ethical in the representation
24 of their client's interests.

25 And remember, ladies and gentlemen, that

1 you too just took an oath to listen to the
2 evidence in this case and reach a fair and
3 just verdict. And ladies and gentlemen, you
4 are expected to be professional, reasonable,
5 and ethical as well.

6 And, again, thank you for accepting this
7 very important responsibility of jury service
8 and your contribution to our justice system.

9 Now, ladies and gentlemen, what I'm going
10 to tell you now is just intended to serve as
11 an introduction to the trial of this case.
12 These remarks are not a charge on the law,
13 which I will give you the law that's appli-
14 cable of this case at the end of the trial.
15 This is merely an explanation of the
16 procedures that we will follow throughout
17 this trial so you may better understand what
18 is happening.

19 Ladies and gentlemen, let me say up front
20 -- I know they gave you a pad and paper, but
21 during this trial it's my policy that jurors
22 do not take notes during trials. Therefore,
23 it's very important that you listen closely
24 throughout this trial.

25 Now, ladies and gentlemen, the Defendant

State of South Carolina v. Christopher W. Brown

63

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Welcome by The Court

Before The Honorable W. Jeffrey Young

1 in this case is charged with trafficking in
2 cocaine and the indictment was filed in this
3 case. And I want to remind you that the
4 specific elements will be presented by the
5 attorneys and we'll explain those to you at
6 the conclusion of the case. And you will get
7 a full detail on what the exact elements of
8 that case are.

9 But I do want to remind you that the
10 indictment charging the Defendant, as I told
11 you when y'all were in the larger group, is
12 simply the documents by which the case is
13 brought into court. And it is in no way or
14 any sense any evidence of the allegations
15 contained therein.

16 The Defendant has pled not guilty to
17 charge of trafficking in cocaine. So the
18 State, therefore, has the burden of proving
19 each and every element of the charge beyond a
20 reasonable doubt. And it will be your duty
21 as jurors to decide whether or not the State
22 has met that burden.

23 Now, ladies and gentlemen, your purpose
24 as jurors is to determine the facts of the
25 case. You're to determine the facts from the

1 testimony that you'll receive from the
2 witness stand and from any other testimony or
3 exhibits that are made a part of the record
4 in this Court. And it will be up to you to
5 determine the inferences from the evidence
6 that has been presented and in determining
7 whether the State has met that burden.

8 Now, ladies and gentlemen, it is
9 especially important that you perform your
10 duty diligently and conscientiously, because
11 ordinarily there is no way to correct an
12 erroneous determination of facts by a jury.

13 And on the other hand but with equal
14 emphasis, the same law that made you the
15 judges of the facts, makes me as the judge of
16 the trial, judge of the law. The law as
17 given to you by me is the only law that you
18 may consider. You must accept and follow the
19 law as I give it to you, even though you
20 might disagree.

21 I'll make a deal with you. I cannot tell
22 you what the facts are and you cannot dis-
23 agree with me about what the law is or what
24 the law should be. Your job as jurors is to
25 take the law, as I give it to you, and apply

State of South Carolina v. Christopher W. Brown

65

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Welcome by The Court
Before The Honorable W. Jeffrey Young

1 it to the facts as you find them from the
2 testimony from the witnesses or any other
3 exhibits placed into evidence.

4 And after hearing the evidence, you will
5 deliberate and render a true and just
6 verdict, under the solemn oath you just took
7 as a juror.

8 Now, ladies and gentlemen, until I advise
9 you to begin your deliberations at the
10 conclusion of this case, as I told you, you
11 must not discuss the case with anyone else,
12 including your fellow jurors.

13 You may not use a computer, a cell phone
14 or other electronic device, with communica-
15 tions capabilities while in attendance at
16 this trial or during your deliberations.
17 Now, these devices may be used when you break
18 for lunch or when you go home for the
19 evening. But even then, they cannot be used
20 to disclose any information about the case
21 when you're not in court. The information
22 about the case would include, but certainly
23 would not be limited to, any information
24 about a party or a witness, an attorney or
25 any other court officer. Any news account

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Welcome by The Court
Before The Honorable W. Jeffrey Young

66

1 about the case, any information collected
2 through juror research on any topic that is
3 raised or any testimony that is presented or
4 any information presented or collected
5 through juror research on any issue that you
6 think might be helpful in deciding the case.
7 And the idea behind that is that all the
8 information that you'll need to reach a
9 verdict will come from within the four walls
10 of this courtroom.

11 So ladies and gentlemen, after the case
12 is submitted to you, you must discuss it only
13 in the jury room with your fellow jurors.

14 Now, the attorneys and the defendant and
15 anyone involved in this case are instructed
16 that they are not to talk to you in any way.
17 So if you see someone who's involved in this
18 case on this small courthouse square we have
19 down here, and they don't even say hello,
20 they're not being unfriendly, they're just
21 following my instructions.

22 Now, ladies and gentlemen, it's very
23 important that you keep an open mind and not
24 decide any issue in this case until all of
25 the evidence has been presented and the

State of South Carolina v. Christopher W. Brown

67

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Welcome by The Court
Before The Honorable W. Jeffrey Young

1 attorneys have made their closing arguments,
2 and I have instructed you on the law of this
3 case.

4 And it's your solemn responsibility to
5 determine the guilt or innocence of the
6 Defendant and your verdict must be based
7 solely on the evidence as it is presented in
8 this courtroom and the law as I give it to
9 you.

10 Now, ladies and gentlemen, in just a
11 moment, the Solicitor will make what is
12 called an opening statement, in which he will
13 explain to you what he believes the issues
14 are in this case. The attorney for the
15 Defendant may also make a opening statement,
16 but he's not required to do so. But I do
17 remind you that what the attorneys tell you
18 during their opening statements is not
19 evidence in this case. It is only their
20 contention as to what they believe the issues
21 are in this particular case.

22 Now, ladies and gentlemen, from time to
23 time during this trial, you may hear one of
24 the lawyers say something like, 'Your Honor,
25 I believe we have a question or a matter of

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Welcome by The Court
Before The Honorable W. Jeffrey Young

68

1 law we need to discuss' or, 'Your Honor, may
2 we approach the bench?' Or sometimes I might
3 find it necessary to excuse you from the
4 courtroom. And the reason for that, when the
5 attorneys and I discuss certain matters of
6 law, it may be necessary for me to make a
7 statement as to the facts. And, as I said,
8 since you are the judges of the fact, I don't
9 want anything that I might say to influence
10 you in any way whatsoever. And I may have to
11 make a ruling concerning evidence that is
12 about to be presented.

13 Also, ladies and gentlemen, during
14 this trial you may hear one of the attorneys
15 make an objection to certain evidence that is
16 about to be presented. Whether I sustain,
17 which would be to grant the objection or
18 overrule, which means to deny the objection,
19 that should not be construed that I favor one
20 side over the other. I do not. Nor should
21 you infer that the objecting party is trying
22 to hide something from you.

23 In this case, or in this courtroom as in
24 all situations in life, there are specific
25 rules that must be followed. And the

State of South Carolina v. Christopher W. Brown

69

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Welcome by The Court
Before The Honorable W. Jeffrey Young

1 attorneys, as officers of this court, are
2 merely trying to follow the rules of evidence
3 in this court in making their objections, and
4 I have to make a ruling based on what I
5 believe the law in the State of South
6 Carolina to be concerning the evidence being
7 presented.

8 Now, ladies and gentlemen, in determining
9 what the true facts are in a case, you must
10 decide whether or not the testimony of a
11 witness is believable.

12 It will be my responsibility to rule, as
13 a matter of law, as to whether certain
14 testimony is admissible. But once the
15 testimony is admitted, whether or not you
16 decide to believe it is entirely up to you.

17 In deciding whether to believe a witness,
18 you have a right to consider the interest of
19 any witness, the bias of any witness, the
20 prejudice of any witness, the opportunity for
21 the witness to have actually observed the
22 things about which the witness may testify,
23 and the way the witness might act on this
24 witness stand. Ladies and gentlemen, you
25 have the right to consider anything that is

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Welcome by The Court
Before The Honorable W. Jeffrey Young

70

1 in the record that will help you evaluate the
2 testimony of the witness. That means as
3 jurors, it is your responsibility to pay
4 close attention to the witnesses, to observe
5 the witnesses, to listen to the witnesses and
6 to pay close attention to the attorneys and
7 to the Court.

8 Ladies and gentlemen, please don't let
9 your thoughts wander, but give strict
10 attention to the testimony in this case, so
11 at the end of all the testimony, after the
12 argument of counsel, and the charge of the
13 law by me, you will then be in a position to
14 determine what the true facts are and apply
15 those to the law as I give it to you, and
16 thus render a true and just verdict.

17 Now, Ms. Spangler, in addition, it will
18 be your responsibility to preside in the jury
19 room and be the jury spokesperson here in the
20 courtroom. It will also be your response-
21 bility to write down the verdict on the
22 verdict form that I give you, but I'll give
23 you further instructions on that at a later
24 time.

25 Now I will give the parties an opportu-

State of South Carolina v. Christopher W. Brown

71

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Opening Statement by Solicitor
Before The Honorable W. Jeffrey Young

1 nity to object to anything that I've
2 stated. Any objection from the State?

3 MR. LIETZOW: No, sir.

4 THE COURT: Any objection from the
5 Defense?

6 MR. KING: No, Your Honor.

7 THE COURT: All right. Thank you. We
8 will now begin the trial. Solicitor?

9 *MR. LIETZOW: May it please the Court?

10 THE COURT: Yes, sir. You may proceed.

11 MR. LIETZOW: I'd like to thank y'all for
12 being here today. I know that you guys have
13 family obligations, professional obligations,
14 probably a whole host of other things that
15 you would rather be doing. On behalf of
16 myself, the Ninth Circuit Solicitor's Office
17 and the State of South Carolina, I thank you
18 for being here.

19 You've heard that the Defendant is
20 charged with trafficking cocaine. This
21 involves the drug trade, the drug business.
22 And ladies and gentlemen, the drug business
23 is nasty. It destroys lives, breaks apart
24 families, and ruins communities.

25 The way the drug business works, and I'd

1 like to illustrate this for you guys, is it's
2 a top-down approach. At the top, you have
3 what's typically referred to as the kingpin,
4 "KP" for kingpin. And usually this is the
5 person who has access to the cocaine, in this
6 case -- or has the connection to get the
7 drugs in the first place.

8 This person is very paranoid by nature.
9 They're dealing with a lot of weight, as it's
10 called in the business, of cocaine. And
11 typically the more weight that somebody is
12 holding onto or dealing with, the less people
13 that they're talking to, and the more
14 paranoid by nature that they are. They don't
15 want to get in trouble so they insulate
16 themselves.

17 The way they work is they may have a
18 handful of trusted lieutenants. So they get
19 their product from somewhere, and then what
20 they do is, they distribute or sell their
21 quantity of cocaine to their trusted right-
22 hand men; in this case "LT", for lieutenants.

23 Now, the kingpin is not out on the corner
24 doing hand-to-hand transactions, selling to
25 everyday users. As I've already said, that

State of South Carolina v. Christopher W. Brown

73

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Opening Statement by Solicitor
Before The Honorable W. Jeffrey Young

1 person is very paranoid and they're only
2 talking to a very small amount of people, and
3 they're the lieutenants.

4 Just as the little kingpin is very
5 paranoid, these lieutenants are carrying a
6 good amount of weight of cocaine and so
7 they're also going to be paranoid. And
8 they're also going to be very insulated.
9 What they usually do is, in order to make a
10 profit, sometimes they'll sell off a quantity
11 to somebody who is known and who's trusted
12 and who is buying a decent amount of cocaine;
13 typically half an ounce of cocaine, an ounce
14 of cocaine -- five hundred to a thousand
15 dollars, depending on the fluctuating value
16 of the market.

17 So like I said, they're selling to the
18 users, but they're also selling to other
19 people in their organization, because they
20 need to make money off what they're selling
21 so they can afford to pay the kingpin for
22 what they're getting from him.

23 These guys are mid-level dealers. You
24 know, they're also selling to their, to
25 users, and it just branches out from there.

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Opening Statement by Solicitor
Before The Honorable W. Jeffrey Young

74

1 These guys are selling to any number of
2 people. And eventually, they're getting down
3 to what's called the "corner boys", who are
4 making the hand-to-hand transactions on the
5 streets, selling to the addicts, selling to
6 the users.

7 And as I said, the higher you go in these
8 organizations, the more insulated, the more
9 paranoid.

10 These are the guys down on the streets
11 that are getting arrested by the cops,
12 they're doing the hands-to-hands.

13 And, you know, sometimes these guys
14 (indicating KP on chart) get arrested, but
15 they're a little bit smarter and they take a
16 little bit less risk than the corner boys do,
17 but as you can see, it can branch out
18 exponentially.

19 The ultimate thing to do is they'll bring
20 the money in for themselves to make a living
21 off of it, and they're also sending money
22 back up to the guys in the organization,
23 because it is a business. It's a nasty
24 business.

25 Fortunately for us, law enforcement has

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Opening Statement by Solicitor
Before The Honorable W. Jeffrey Young

75

1 become quite efficient at battling the drug
2 trade. These guys are not going to let
3 strangers into their lives, for good reason.
4 They don't want to go to jail.

5 Now, I'm sure you guys have heard about
6 the use of confidential informants. The
7 slang term for those people are "snitches",
8 "rats", any number of things. And they don't
9 just exist in the drug trade, but they're
10 also deal with murders, armed robberies. We
11 are going to focus on confidential informants
12 in the drug trade.

13 These guys are paranoid. They want to
14 cut off the kingpin at the very top so that
15 this whole pyramid scheme falls apart. They
16 will arrest somebody down at the level of the
17 corner boys, tell them 'We are going to hold
18 you accountable. If you can get us to the
19 big boys so that we can put an end to this
20 drug trade, we might be able to help you
21 out.' They don't make promises, because they
22 can't but it's a way they can get access to
23 people higher up in the organization. So
24 confidential informants are very key in drug
25 investigations. They want to flip the corner

1 boy to the lieutenant, the lieutenant all the
2 way up to the kingpin, to put an end to this
3 dirty drug business. If any of you have seen
4 the HBO show *The Wire*, that's the concept.
5 It's the best show of all time.

6 Hopefully this drawing (indicating chart)
7 will help you out a little bit.

8 The case that we are here about today
9 deals with trafficking cocaine. Judge Young
10 has said that you won't be able to take notes
11 but, luckily for you guys, there are only two
12 elements for trafficking cocaine. You have
13 to remember that the State has the burden of
14 proof, we have to show all the elements of
15 the crime of trafficking in order for you to
16 find the defendant guilty.

17 For trafficking, we only have to show two
18 elements: one, that he was in possession of
19 more than ten grams of cocaine and, secondly,
20 that it was cocaine or any mixture thereof.
21 We do not have to prove to you that this
22 defendant was selling cocaine, but we will.
23 And we will go one step further, the
24 defendant was in possession of ten or more
25 grams of cocaine of any mixture containing

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Opening Statement by Solicitor
Before The Honorable W. Jeffrey Young

77

1 cocaine, weighing more than ten grams.

2 I want to be honest with you guys from
3 the very outset. Chris Brown is not the
4 kingpin of this organization. Chris Brown is
5 a lieutenant, pretty close to the top, but he
6 is not the kingpin.

7 This is not a *Miami Vice* style of
8 trafficking. The defendant is a lieutenant
9 in a drug organization selling low level drug
10 weights.

11 But this charge is serious. It's serious
12 enough for us to prosecute it, and it's
13 serious enough for you guys to take it
14 seriously, but Chris Brown isn't the largest
15 drug dealer in the world and I am not trying
16 to tell you that he is.

17 You are going to hear from several
18 witnesses during this trial. The first
19 witness you are going to hear from is the
20 confidential informant who we were able to
21 use to get to Chris Brown, and ultimately
22 work our way up the chain of this drug
23 organization.

24 The confidential informant, Will Crosby,
25 does not want to be here today. He will be

1 honest with you, and he'll tell you that.
2 But he was motivated to help us out. He had
3 valuable information that law enforcement was
4 able to use to break apart this drug
5 organization. It is what it is.

6 Will Crosby will tell you that on
7 February 3rd, 2009, that Chris Brown sold him
8 fourteen (14) grams of cocaine.

9 You will also hear from an undercover
10 police officer who was with Will Crosby when
11 the drug sale went down. He will be able to
12 see you the perspective from the law
13 enforcement side. And you'll hear from
14 Detectives Miller and Perkins, who will
15 further help you guys to understand how this
16 works. They will give you a lot of
17 information, hopefully they can do a better
18 job of explaining it than I've been able to
19 do today, about how Mr. Brown was involved.

20 Finally, you hear from the chemist who
21 will testify that she tested the substance
22 Mr. Brown sold was indeed cocaine, that it
23 did weigh more than ten grams. You will hear
24 from her at the end and she will testify that
25 it was in fact cocaine.

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Opening Statement by Solicitor
Before The Honorable W. Jeffrey Young

79

1 You will also see a video of the sale
2 when Chris Brown sold these drugs. Again, I
3 am laying out all my cards up front and I
4 will tell you that that video isn't the
5 greatest video. You can't directly see Chris
6 Brown on the video. Unfortunately you can't
7 see the hand-to-hand transaction clearly
8 taking place but that's okay because you will
9 be able to hear their conversation and Will
10 Crosby will tell you that he bought that
11 cocaine from Chris Brown. The undercover
12 officer who was present at the time of the
13 buy will also tell you that Chris Brown made
14 the sale, that Chris Brown was in possession
15 of those drugs.

16 We are confident that after hearing the
17 testimony of all the witnesses, we are
18 confident that you unquestionably find that
19 Christopher Brown was in possession of ten
20 grams of cocaine, that we have proven it was
21 cocaine, and you will find him guilty of
22 trafficking cocaine. Thank you.

23 THE COURT: Mr. King.

24 *MR. KING: Chris Brown is no drug
25 dealer. He's no lieutenant. He was dragged

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Opening Statement by Defense
Before The Honorable W. Jeffrey Young

80

1 into this business, this dirty business
2 that the solicitor spoke about. It is a
3 dirty business.

4 The police has to deal with informants in
5 making drug deals. They take them, use them
6 as their agent to make deals.

7 We are presenting you with the defense of
8 entrapment. The defense of entrapment is a
9 legal defense in South Carolina. Whatever
10 you may have heard about "entrapment" on TV
11 or in movies, forget about that. Entrapment
12 is simply that Christophe Brown was induced
13 to commit this crime by an agent of the
14 government and that he had no predisposition
15 to commit the crime but for the inducement by
16 this government agent.

17 There is a difference between catching a
18 criminal and making a criminal. When the
19 government creates a criminal by inducement,
20 then under our laws he is not guilty.

21 The police were trying to catch a man
22 named Marcus Gibbes. He was the kingpin of
23 this organization. He was a drug dealer, a
24 major drug dealer, maybe even for Familia
25 Mexican cartel.

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Opening Statement by Defense
Before The Honorable W. Jeffrey Young

81

1 And somebody who was dealing drugs for
2 Marcus Gibbs was Will Crosby. Will Crosby
3 was a drug dealer. He'd been dealing drugs,
4 using/selling between 2003 and 2008 when he
5 was caught. Back in 2008 he was pulled over
6 by the North Charleston Police Department and
7 they found drugs in car, they found drugs in
8 his house. He was charged with trafficking
9 cocaine.

10 So once he is put in that position he
11 starts speaking up to the police. He tells
12 them that the drugs that they found were
13 drugs that came from Marcus Gibbs. Here is
14 a man looking at a charge for trafficking
15 cocaine, who can help himself by cooperating
16 with the police. He starts giving them
17 names. He gives them the name of Marcus
18 Gibbs. He does not give them the name of
19 Christopher Brown. This is a man in a
20 desperate situation, who can help himself.

21 Christopher Brown grew up with Marcus
22 Gibbs, they were friends, went to school
23 together, played together, lived in the same
24 neighborhood. Their kids played together.
25 I think that Christopher's wife was a distant

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-6, 2014 - Opening Statement by Defense
Before The Honorable W. Jeffrey Young

82

1 relative of Marcus. So they knew each other.

2 But unlike Marcus Gibbes, Christopher
3 Brown was a family man. He's been married
4 for over fourteen years. He has a mortgage.
5 He's lived in the same house for over twelve
6 years, a wife and three children.

7 He's always worked. Back in 2009, he had
8 his own business doing hardwood floors. He
9 currently works for MaxCARE. He's been there
10 a few years, a flooring company. He works.
11 He doesn't deal drugs for a living.

12 He volunteers as a youth football coach
13 for the City of Charleston. And you're going
14 to hear from some witnesses who know him, who
15 are going to tell you about his character.

16 You're going to hear from a pastor who's
17 known him for fifteen years to talk about his
18 character.

19 He's never been arrested for drugs before
20 this. And he's thirty-eight years old, or
21 something.

22 Will Crosby needed Christopher Brown, who
23 was friends with Marcus Gibbes. And Will
24 Crosby couldn't get Marcus Gibbes because he
25 got arrested and got out of jail and Marcus

State of South Carolina v. Christopher W. Brown

83

Case No. 11-GS-10-6482

Jury Trial of February 3-6, 2014 - Opening Statement by Defense
Before The Honorable W. Jeffrey Young,

1 Gibbes wouldn't have anything to do with him.
2 Maybe he suspected he was an informant. So
3 the police want Marcus Gibbes, but Will
4 Crosby can't get him. So he goes after
5 Christopher.

6 He calls Christopher and tried to get him
7 to sell cocaine. He talks to him about work
8 because Will Crosby's in the construction
9 business, Christopher Brown was in the
10 flooring business. And persuades him to get
11 involved.

12 And after that, Will Crosby, the drug
13 dealer, his charges get dismissed. And now
14 Christopher Brown sits in that chair over
15 there. We've exchanged a criminal for a
16 family man that works and is not a drug
17 dealer.

18 So at the end of this trial, if you
19 believe the police induced Christopher,
20 Christopher Brown, to commit this crime and
21 that Christopher Brown wouldn't have other
22 wise committed it, he had no predisposition
23 to commit a crime like that, then that's a
24 legal defense. He's not guilty and we're
25 asking you to find him not guilty. Thank

1 you.

2 THE COURT: The State may call its first
3 witness.

4 MS. COMPTON: Thank you, Your Honor. The
5 State calls Will Crosby.

6 (WITNESS TAKES STAND)

7 *WILL CROSBY, having been sworn to tell
8 the truth, and nothing but the truth,
9 testified as follows:

10 DIRECT EXAMINATION

11 BY MS. COMPTON:

12 Q. Will, tell the jury, how old are
13 you?

14 A. Thirty-nine.

15 Q. What kind of work do you do?

16 A. I'm a carpenter.

17 Q. And where are you from?

18 A. North Charleston, the North
19 Charleston area.

20 Q. You've lived here all your life?

21 A. All my life.

22 Q. Do you want to be here right now?

23 A. Not at all.

24 Q. Why are you here?

25 A. It's my obligation.

State of South Carolina v. Christopher W. Brown

85

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Will Crosby - Direct Examination

1 Q. Did I subpoena you?

2 A. Yes.

3 Q. And does that subpoena require your
4 presence today?

5 A. Yes.

6 Q. Now, you've been in trouble with the
7 law before; right?

8 A. Yes, I have.

9 Q. Were you arrested back in 2009 or
10 2008 for drug charges?

11 A. Yes, ma'am.

12 Q. And were those charges dismissed by
13 my office?

14 A. Yes, ma'am, they were.

15 Q. And have you ever had, since then, a
16 criminal conviction?

17 A. (No verbal response)

18 Q. Have you been convicted of anything?
19 Did you plead guilty to anything in 2012?

20 A. Yes. Oh, yeah. Yes, I have.

21 Q. Okay. And what was that?

22 A. Assault.

23 Q. Okay. Are you on probation right
24 now?

25 A. Yes, ma'am, probation.

1 Q. Okay. Now, back in 2008 -- was it
2 2008 or 2009 that you first ever -- when you
3 got arrested for drugs?

4 A. 2008.

5 Q. All right. Did you -- did the
6 detectives ask you if there was anyone that
7 you could, what they call, "roll on"? If
8 there was anybody that you could tell them
9 about to help yourself out?

10 A. Yeah. Yes, they did.

11 Q. Okay. And did you take that oppor-
12 tunity to help yourself out?

13 A. Yes, ma'am.

14 Q. Okay. Now, you told them that you
15 knew Chris Brown?

16 A. Initially I told them I knew Marcus
17 Gibbes, and that's who they were wanting.

18 Q. Okay. And then at any point did you
19 also told them that you knew Chris Brown?

20 A. Yes, ma'am. I did at one point.

21 Q. You started and you told them that
22 you knew Marcus Gibbes; right?

23 A. Yes, ma'am.

24 Q. Because you thought that would be
25 valuable information?

State of South Carolina v. Christopher W. Brown

87

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Will Crosby - Direct Examination

1 A. Yes, ma'am.

2 Q. And today let's talk about Chris
3 Brown. He's the one on trial today. So how
4 long had you known Chris?

5 A. Probably about a year, around a year
6 probably.

7 Q. So it would be the beginning of 2008
8 through about 2009.

9 A. Possibly, sometime in there.

10 Q. All right. And how did you meet
11 Christopher Brown?

12 A. Through Marcus Gibbes.

13 Q. Okay. Why did he introduce him to
14 you?

15 A. Because Marcus was busy at one point
16 -- and I was buying drugs from Marcus. And
17 Marcus was busy one day and said he had a
18 friend that would take care of it for him.
19 So he gave me the number and told me to call
20 this guy.

21 Q. All right. He told you to call
22 Chris long before you ever got involved with
23 the police; right?

24 A. Yes, ma'am.

25 Q. Okay. And had you tried to call

1 Chris per Marcus' instructions?

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

3 Q. Okay. So had you bought drugs from
4 Chris before?

5 A. No, ma'am, not prior to that.

6 Q. Not to Marcus. I'm sorry?

7 A. No, I never bought none. Marcus,
8 Marcus had told me to call Chris because
9 Marcus couldn't get to me.

10 Q. Okay. And you called Chris?

11 A. Yes, ma'am.

12 Q. At that point did Chris sell you
13 drugs?

14 A. Yes, ma'am.

15 Q. Okay. And, again, this was before
16 you got picked up or involved with the
17 police; right?

18 A. Yes, ma'am.

19 Q. So at that point, over the course of
20 2008, you testified; is that about right?

21 A. Yes, ma'am.

22 Q. How many times do you think you
23 bought drugs from Chris Brown?

24 A. I could not be specific, twenty
25 maybe.

State of South Carolina v. Christopher W. Brown

89

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Will Crosby - Direct Examination

1 Q. Okay. So you a fair amount of your
2 drugs from Chris Brown all along?

3 A. Through that period of time, yes,
4 ma'am.

5 Q. Before you got involved with the
6 police?

7 A. Yes, ma'am.

8 Q. Now, did he typically sell you
9 cocaine or were there other drugs?

10 A. Just cocaine.

11 Q. So he was just dealing cocaine?

12 A. Yes, ma'am.

13 Q. Okay. Now, after you got arrested,
14 did you meet with Detective Perkins?

15 A. Yes, I did.

16 Q. Okay. And that was when Detective
17 Perkins asked you if you could help yourself;
18 right?

19 A. Yes, ma'am.

20 Q. And that was when they asked you
21 about Marcus Gibbes; right?

22 A. Yes, ma'am.

23 Q. And about Chris Brown; right?

24 A. Yes, ma'am.

25 Q. And Marcus [sic] Brown, right?

1 A. Yes, ma'am. They wanted Marcus
2 Gibbes and he wasn't answering my calls,
3 because he knew I'd got arrested. So I -- I
4 owed Marcus money and I continued to try to
5 get in touch with Marcus, you know, to get
6 straighten out with him. Then he turned me
7 over to Chris Brown and he wouldn't
8 communicate with me except but through Chris.

9 Q. So he turned you over to his right-
10 hand man?

11 A. I can't say that that was his right-
12 hand man. I'm just saying that Marcus told
13 me to talk to Chris.

14 Q. So he had turned you over to Chris?

15 A. Yes, ma'am.

16 Q. Okay. I apologize. Now, in the
17 past how much dope were you buying from Chris
18 at a time?

19 A. A half ounce usually.

20 Q. Okay. And do you know what a half
21 ounce is, like in grams?

22 A. Fourteen grams.

23 Q. Fourteen grams?

24 A. (Affirmative nod).

25 Q. Now, is that -- if somebody were to

State of South Carolina v. Christopher W. Brown

91

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Will Crosby - Direct Examination

1 use drugs, one day they decided to use some
2 cocaine, would they use all fourteen of those
3 grams or is that a large amount or ---

4 A. Not at one time.

5 Q. Okay. So how much would somebody
6 use at a time?

7 A. That varies one the person. Some-
8 body with a bad drug habit can go through
9 fourteen grams in -- I don't know. I never
10 timed myself with it, but not that long.

11 Q. So is cocaine usually snorted? How
12 do you take it?

13 A. It can be snorted, smoke it, shoot
14 it. Every time I ever had a problem with
15 drugs, I snorted cocaine.

16 Q. Okay. And in any one sitting, how
17 much cocaine would you snort at a time?

18 A. Depending on how much I'd been
19 drinking -- it's just hard to say.

20 Q. Like a gram?

21 A. A gram, (affirmative nod). Half a
22 gram.

23 Q. Okay. So fourteen grams would get
24 you through a few sittings; is that correct?

25 A. Yes, ma'am.

1 Q. Fourteen grams is enough. And
2 that's not just one use; right?

3 A. Yes, ma'am.

4 Q. Okay. That's enough for you to use
5 maybe fourteen, maybe twenty times?

6 A. Yes, ma'am.

7 Q. Okay. Now, how much did Chris
8 usually charge you for this half ounce of
9 cocaine?

10 A. It would vary. Usually it was about
11 five to six hundred dollars, more along the
12 six hundred dollar line.

13 Q. Okay. And you were with detectives
14 on January 26th. That was a few days before
15 the case we're talking about today; right?

16 A. I'm not sure.

17 Q. All right. Let me rephrase that.
18 You remember going undercover? Or you
19 remember going with the undercover officer
20 and ---

21 A. Yes, ma'am.

22 Q. --- going to buy drugs from Chris;
23 right?

24 A. Yes, ma'am.

25 Q. A few days before that, did you set

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Will Crosby - Direct Examination

93

1 it up with Chris?

2 A. I'm not able to recall. I did have
3 a meeting and I made a phone call, yes.

4 Q. Okay. So at some point before you
5 went and bought those drugs, you set it up on
6 the phone; right?

7 A. Yes.

8 Q. Tell me about that?

9 A. Well, I can't hardly remember too
10 many of the details. You know, it was a
11 while back. But I was trying to figure out
12 some way to get to Marcus and so we decided
13 that we would call Chris and see if Chris
14 could get me in contact with Marcus again.

15 Q. Okay. And did Chris put you in
16 touch with Marcus that day?

17 A. No, ma'am.

18 Q. Did Chris agree himself to sell you
19 the drugs?

20 A. Yes, ma'am.

21 Q. Was this the same as the other sales
22 you'd had with him in the past? I mean,
23 except for the fact that you were with the
24 police. But to his knowledge, was it the
25 same?

1 A. Yes, ma'am.

2 Q. Did you use the same amounts that
3 you usually bought?

4 A. Yes, ma'am.

5 Q. About the same price?

6 A. Yes, ma'am.

7 Q. The same lingo when you talked about
8 it?

9 A. Yes, ma'am.

10 Q. Okay. So do you know how much
11 cocaine you set up to buy from Chris once you
12 were there with the police?

13 A. A half a ounce.

14 Q. Okay. And how much were you going
15 to pay for that?

16 A. Six hundred dollars.

17 Q. And I think you testified earlier
18 that that was about what you had been paying
19 for it?

20 A. Yes, ma'am.

21 Q. So then let's fast forward now to
22 February 3rd. The day that this all
23 happened. You go to the police department
24 narcotics office and meet Detective Perkins
25 again?

State of South Carolina v. Christopher W. Brown

95

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Will Crosby - Direct Examination

1 A. No, they come and picked me up from
2 my house.

3 Q. Okay. Did they bring you back to
4 the narcotics office?

5 A. Yes, ma'am.

6 Q. Were there other detectives there?

7 A. Yes, ma'am.

8 Q. Did they do anything? Did they
9 search you or talk to you?

10 A. Well, they searched me as soon as I
11 got there and went through everything I had
12 on. And we went from there.

13 Q. Okay. Did they show you any kind of
14 lineup or any kind of identification proce-
15 dures?

16 A. Yes, ma'am.

17 Q. Okay. What was the procedure for
18 that?

19 A. They handed me a piece of paper with
20 pictures on it and asked me if Chris Brown
21 was on that paper, on this paper. I told
22 them yes and pointed out which one it was.

23 Q. Was it tough for you to pick him
24 out?

25 A. No, ma'am.

1 Q. Did you feel pretty confident when
2 you picked him out of that six pack?

3 A. Yes, ma'am.

4 Q. Okay. Now, did they give you any
5 kind of equipment, audio, video, a wire?

6 A. Yes, ma'am.

7 Q. All right. And how did that work?

8 A. They pretty much just got me to call
9 and set it up, then they wired me up, put
10 this stuff on me; told me what shirt to wear
11 and what to do and -- (pause).

12 Q. Okay. Now, did they give you money
13 or were you using your own money?

14 A. They gave me money.

15 Q. Okay. All right. So once you were
16 wired up and you had the money, did you call
17 Chris again?

18 A. Yes.

19 Q. Okay. Do you remember what Chris
20 told you at that point, right at the very
21 beginning when you were first leaving the
22 office?

23 A. I can't recall.

24 Q. Okay. So what did you do at that
25 point, did y'all leave the office? Did you

State of South Carolina v. Christopher W. Brown

97

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Will Crosby - Direct Examination

1 know where he was?

2 A. It's been a while, so it's hard to
3 remember. But, yes, we left the office. I
4 rode with the officer and we called Chris and
5 set up a meeting spot.

6 Q. Okay. Who chose that meeting spot,
7 did you?

8 A. I can't remember. I can't recall.

9 Q. How did you know where to go?

10 A. I normally go to the same
11 neighborhood, Ponderosa. I'd call him when I
12 get close and then he told me where to meet.

13 Q. And when you say "normally," what do
14 you mean?

15 A. I mean, normally -- that's where,
16 you know, where I would go meet Marcus or
17 whomever, that's where I would be, the area I
18 would go to, to meet Marcus Gibbes would be
19 the Ponderosa. And, therefore, that's where
20 I met Chris.

21 Q. Do you mean when you would buy
22 drugs?

23 A. Yes, ma'am.

24 Q. And do you know why you would go to
25 Ponderosa?

1 A. I assume it's because they lived
2 close by.

3 Q. Okay. Now, so you and the officer
4 headed to Ponderosa; right?

5 A. Yes, ma'am.

6 Q. And the whole time you're wearing a
7 wire; is that right?

8 A. Yes, ma'am.

9 Q. Listen, I know it's tough. So when
10 you were driving, did you have to call him
11 again just to figure out where to go?

12 A. I believe so, yes, ma'am. We got
13 close and we called.

14 Q. Okay. What happened during that
15 conversation?

16 A. He just told me to pull up at the
17 park. I think that's where we met.

18 Q. He told you to pull up by the park?

19 A. Yes, ma'am.

20 Q. So you didn't say, 'I'm going to go
21 to the park because that's where the cameras
22 are?'

23 A. No, ma'am.

24 Q. All right. What happened when you
25 got to the park?

State of South Carolina v. Christopher W. Brown

99

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Will Crosby - Direct Examination

1 A. We stayed there, waited to Chris to
2 show up.

3 Q. Did he show up?

4 A. Yeah. He showed up.

5 Q. And then what did you do?

6 A. I got out of the car and purchased
7 that half ounce.

8 Q. Totally as planned?

9 A. Ma'am?

10 Q. Totally as planned?

11 A. Yes, ma'am.

12 Q. Okay. Did it seem unusual? Was he
13 acting strange in any way, any differently?

14 A. No, ma'am.

15 Q. Did you use any kind of -- did you
16 induce him in any way? Did you tell him he
17 had to come?

18 A. No, ma'am. I was trying -- all I
19 would ask him about was Marcus and how I
20 could get in touch with Marcus. 'Have you
21 heard from Marcus?' Or what-have you.
22 Something like that, you know.

23 Q. Did you tell him he had to sell you
24 drugs?

25 A. No, ma'am.

State of South Carolina v. Christopher W. Brown

100

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Will Crosby - Direct Examination

1 Q. Did you beg him to sell you drugs?

2 A. No, ma'am.

3 Q. Did he do it freely, voluntarily?

4 A. I would assume so.

5 Q. Okay. Was it like you'd done in the
6 past?

7 A. Yes, ma'am.

8 Q. Okay. Now, do you see the indivi-
9 dual who sold you the drugs in the courtroom
10 today?

11 A. Yes, ma'am.

12 Q. Okay. What's he wearing?

13 A. He's wearing a beige shirt and a
14 stripped tie.

15 Q. Okay.

16 MS. COMPTON: Your Honor, would the
17 reflect that the witness has identified the
18 Defendant, Christopher Brown?

19 THE COURT: The record will so reflect
20 that the witness identified the Defendant.

21 MS. COMPTON: Thank you, Judge. Permis-
22 sion to approach the witness?

23 THE COURT: You may.

24 MS. COMPTON: Thank you, Judge.

25 DIRECT EXAMINATION CONTINUED

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Will Crosby - Direct Examination

101

1 BY MS. COMPTON:

2 Q. Q. Now, Will, I am showing you
3 what has been marked for identification only
4 as State's Exhibit 1. Do you recognize the
5 front of this disk?

6 A. Yes, ma'am.

7 Q. How do you recognize it?

8 A. It has my initials on it.

9 Q. Okay. Did you have an opportunity
10 to watch this video?

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

12 Q. All right. Is that when you signed
13 your initials on it?

14 A. Yes, ma'am.

15 Q. Okay. When you saw the video, was
16 it an accurate representation of what you
17 remember happening that day?

18 A. Yes, ma'am.

19 Q. Did you recognize your voice on it?

20 A. I really did not.

21 Q. Okay. Did it sound strange on the
22 recording?

23 A. Yeah. It sounds strange on the
24 recording.

25 Q. Do you remember that to be what

State of South Carolina v. Christopher W. Brown

102

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Will Crosby - Direct Examination

1 happened that day?

2 A. Yes, ma'am.

3 Q. Okay.

4 MS. COMPTON: Your Honor, at this time,
5 I'd move to admit State's Exhibit 1?

6 THE COURT: Any objection, Mr. King?

7 MR. KING: May we approach, briefly,
8 Your Honor?

9 THE COURT: Yes, sir.

10 (OFF RECORD BENCH CONFERENCE)

11 THE COURT: Counsel may proceed. State's
12 Exhibit 1.

13 (SO ENTERED AS STATE'S EXHIBIT 1)

14 BY MS. COMPTON: Thank you, Your Honor.
15 And at this time I ask permission to publish
16 this video in its entirety to the jury.

17 THE COURT: All right.

18 MS. COMPTON: Thank you, Your Honor. I
19 beg the Court's indulgence.

20 DIRECT EXAMINATION CONTINUED

21 BY MS. COMPTON:

22 Q. (Video playing), let's stop it right
23 there. And let me get you to set the scene.
24 Where were y'all right there in this part, do
25 you know, in the very beginning?

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Will Crosby - Direct Examination

103

1 A. We were at the narc squad place.

2 Q. Okay. So you were at the
3 detective's office, right?

4 A. Yes.

5 Q. Okay. And is this when they were
6 getting you set up with the wire that you
7 testified earlier?

8 A. Yes.

9 Q. All right, (video playing). Let's
10 stop it there and get you to set the scene
11 for us again. Where are you when this was
12 happening?

13 A. I'm in the car with the cop, in the
14 car with the police officer.

15 Q. Okay. Were you driving or were you
16 riding?

17 A. I was riding while the police were
18 driving.

19 Q. Okay. All right. At this point are
20 y'all making small talk?

21 A. Pretty much whatever the cops wanted
22 to talk about.

23 Q. Okay, (video playing). And, Will,
24 I'm going skip ahead to the park a little bit
25 later, just so the jury knows what we are

1 skipping. (Video playing), that was the
2 phone call that you indicated earlier when
3 you testified ---

4 A. Yes, ma'am.

5 Q. I'm sorry, when you testified
6 earlier that you called the Defendant?

7 A. Yes, ma'am.

8 Q. (Video playing), I'm going to stop
9 it again here. What we're seeing. That was
10 the phone call you testified about earlier;
11 right?

12 A. Yes, ma'am.

13 Q. And then from there is the next
14 little bit is just y'all driving to that
15 location?

16 A. Yes, ma'am.

17 Q. Okay. Did anything happen between
18 that phone call and buy location?

19 A. Nothing at all.

20 Q. All right, (video playing). Okay.
21 Will, being out there that day, how did it
22 make you feel?

23 A. Not good.

24 Q. Were you nervous?

25 A. Not really. I was with the police.

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Will Crosby - Direct Examination

105

1 I really wasn't nervous.

2 Q. But it was not a good feeling.

3 A. No, not at all.

4 Q. Now, did you also, working with the
5 police, buy drugs from Chris other times when
6 you were working with the police, after this?

7 A. Yes.

8 Q. Do you remember how many times after
9 this?

10 A. However many times that it took
11 until they were done.

12 Q. Okay. So on days -- just like this,
13 they put you in a wire again?

14 A. They'd come pick me up, and take me
15 over there and tell me what to do. And I did
16 what they told me to do.

17 Q. Okay. And on any of those times,
18 did Chris seem hesitant to sell you drugs?

19 A. No, ma'am.

20 Q. Did you force him to do it?

21 A. No.

22 MS. COMPTON: I beg the Court's
23 indulgence.

24 THE COURT: Yes, ma'am.

25 MS. COMPTON: All right. Nothing

State of South Carolina v. Christopher W. Brown

106

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Will Crosby - Cross Examination

1 further.

2 THE COURT: Mr. King

3 CROSS EXAMINATION

4 BY MR. KING:

5 Q. Mr. Crosby, you see kinda miserable
6 being here.

7 A. (No verbal response).

8 Q. How are things going for you right
9 now; are you working now?

10 A. I'm working every single day.

11 Q. Where do you work?

12 A. I work for Ramsey Tile Company.

13 Q. Where do you live now?

14 A. I live in Charleston.

15 Q. Who do you live with?

16 A. Roommates.

17 Q. Now, I'm going to go back to 2000 --
18 go back to -- you first met Marcus Gibbes
19 around 2003; does that sound right?

20 A. Yes, sir.

21 Q. And you started buying drugs from
22 him in 2003?

23 MS. COMPTON: Objection. Relevance.

24 THE COURT: Overruled.

25 CROSS EXAMINATION CONTINUED

State of South Carolina v. Christopher W. Brown

107

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Will Crosby - Cross Examination

1 BY MR. KING:

2 Q. And you started buying drugs from
3 him back in 2003?

4 A. Yes, sir.

5 Q. And you started off with some
6 smaller amounts like seven and a half grams?

7 A. Yes, sir.

8 Q. Every other day for a few months?

9 A. Yes, sir.

10 Q. And then about a half ounce a week?

11 A. Yes, sir.

12 Q. And then a few years later you were
13 buying a half ounce and getting fronted a
14 half ounce; right?

15 A. Yes, sir.

16 Q. That means you're paying for a half
17 ounce, but you get another half ounce that
18 you don't have to pay for right then?

19 A. Right.

20 Q. And then you're selling some of it,
21 and then you'd have to go back and pay him
22 the profits?

23 A. Yeah.

24 Q. So you've been using and selling
25 drugs -- you were using drugs and selling

1 drugs from 2003 to 2008; correct?

2 A. Yes, sir.

3 Q. And then in 2008 you were pulled
4 over by the North Charleston Police Depart-
5 ment?

6 A. Yes, sir.

7 Q. Do you remember that day?

8 A. Yes, sir.

9 Q. And the police searched your car and
10 found cocaine in your car?

11 A. Yes, sir.

12 Q. And they went back and searched your
13 house, they found cocaine there?

14 A. Yes, sir.

15 Q. Like thirty-six grams of cocaine?

16 A. Yes, sir.

17 Q. And you told the police that cocaine
18 came from Marcus Gibbes the day before;
19 right?

20 A. Yes, sir.

21 Q. And you ended up getting charged
22 with trafficking in cocaine; right?

23 A. Yes, sir.

24 Q. And possession with intent to
25 distribute cocaine in the proximity to the

State of South Carolina v. Christopher W. Brown

109

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Will Crosby - Cross Examination

1 school?

2 A. Yes, sir.

3 Q. Is that right?

4 A. Yes, sir.

5 Q. And so now you're charged with
6 trafficking cocaine and you're facing
7 possible prison time; right?

8 A. Yes, sir.

9 Q. Three to ten years?

10 A. Yes, sir.

11 Q. Actually, the mandatory minimum of
12 three years; right?

13 A. Yes, sir.

14 Q. So if you were convicted of that
15 you've got to do at least three years?

16 A. Yes, sir.

17 Q. You were looking at prison time?

18 A. Yes, sir.

19 Q. That's just on -- and there's
20 another charge as well that carries over ten
21 years?

22 A. Right.

23 Q. And is a felony a serious charge?

24 A. Certainly.

25 Q. You didn't want to go to prison?

1 A. Did not want to go.

2 Q. So you volunteered to work with
3 police and started giving them -- you started
4 off giving them Marcus Gibbes name?

5 A. Yes, sir.

6 Q. And they were interested in that
7 name; right?

8 A. Yes, sir.

9 Q. Do you remember when you became an
10 official informant? Do you remember when
11 you become a confidential informant, meaning
12 when you actually started with the police?

13 A. Yes, sir.

14 Q. When was that?

15 A. I can't remember the exact date, but
16 it was a month or two after my arrest; well,
17 after I got out jail.

18 Q. That was still in 2008?

19 A. Yes, sir. Near the end of 2008,
20 yeah.

21 Q. And then eventually you were intro-
22 duced, I guess, from the North Charleston
23 Police Department to Detective Perkins?

24 A. Yes, sir.

25 Q. And you met with them in the

State of South Carolina v. Christopher W. Brown

111

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Will Crosby - Cross Examination

1 beginning of 2009, does that sound right,
2 about January 15th when you signed the
3 paperwork as the CI?

4 A. Yes, sir.

5 Q. And you ended up giving the police,
6 giving Detective Perkins Christopher Brown's
7 name; right?

8 A. Yes, sir.

9 Q. Again, ---

10 A. I -- initially, it was all about
11 Marcus, but I could not get to Marcus, so
12 whatever it took to get to Marcus was to call
13 Chris.

14 Q. Okay. Marcus was the main target?

15 A. That's right.

16 Q. But he was ignoring your phone
17 calls?

18 A. Right. He would not answer my phone
19 calls.

20 Q. All right. He may have known that
21 you got busted and was working, that you
22 might be ----

23 A. I couldn't make that assumption. He
24 just wasn't answering my calls.

25 Q. So you needed another way to help

1 yourself because Marcus Gibbes was not
2 working?

3 A. Yes, sir.

4 Q. Then he told you to get in touch
5 with Christopher Brown, and you knew Chris
6 because he worked in the flooring business;
7 right?

8 A. Yes, sir.

9 Q. He had his own business?

10 A. Yes, sir, he did.

11 Q. You knew that he drove a white work
12 van?

13 A. Yes, sir.

14 Q. You've seen him drive his work van?

15 A. Yes, sir.

16 Q. And you even tried to ask him if he
17 had any work for you; right?

18 A. Yes, sir.

19 Q. Because you were going through a
20 hard time around the end of 2009?

21 A. Yeah. I was getting pretty strung
22 out at the time. I asked, though I knew it
23 was possible -- but he wouldn't give me a
24 job.

25 Q. He didn't have any work for you?

State of South Carolina v. Christopher W. Brown

113

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Will Crosby - Cross Examination

1 A. At the time he was pretty busy but
2 he didn't have room for another employee.

3 Q. Do you think he would have given you
4 a job if he was able to?

5 A. I was pretty strung out at that
6 time. If I was the boss, I wouldn't have
7 given me a job at that time.

8 Q. You were strung out during the time
9 of this video?

10 A. No. During the time of the video, I
11 was completely sober.

12 Q. Now, before this video that we
13 watched, that's February 3rd, 2009. You had
14 to make a phone call to set it up; right?

15 A. Yes, sir.

16 Q. And sometimes the police are present
17 for the phone calls; is that right?

18 A. Yes, sir.

19 Q. They're recorded?

20 A. Yes, sir.

21 Q. But you also called Christopher
22 Brown when the police weren't present; right?

23 A. Yes, sir.

24 Q. Phone calls that were not recorded?

25 A. Yes, sir.

1 Q. And that were not witnessed by the
2 police at all?

3 A. Yes, sir.

4 Q. You were telling Christopher that
5 you couldn't find work; right?

6 A. Yes, sir.

7 Q. You didn't have any money coming in?

8 A. Yes, sir.

9 Q. And he told you, *'I know how that*
10 *is'*?

11 A. Yes, sir.

12 Q. And in addition to construction and
13 carpentry work, you also made money as a drug
14 dealer; right?

15 A. Yes, sir.

16 Q. So you were telling him basically
17 that, *'I can't find work.'* This is 2009;
18 right?

19 A. Yes.

20 Q. In a recession, it's hard to find
21 work?

22 A. Yes, sir.

23 Q. You can't find work. You have no
24 money coming in?

25 A. No, sir.

State of South Carolina v. Christopher W. Brown

115

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Will Crosby - Cross Examination

1 Q. And you're appealing to him to help
2 you get some cocaine so you can sell it and
3 make some money?

4 A. Yes, sir.

5 Q. And so you can live?

6 A. Right.

7 Q. And you never got to Marcus Gibbes?

8 A. No, sir.

9 Q. So the police wired you up, gave you
10 hundreds of dollars; right?

11 A. Yes, sir.

12 Q. Drove you out -- picked you up from
13 your house ---

14 A. Yes, sir.

15 Q. --- took you back to the metro
16 station where they wired you up?

17 A. Yes, sir.

18 Q. Drove you out to Ponderosa?

19 A. Yes, sir.

20 Q. And you didn't just go immediately
21 when you get picked up; right? You had to
22 wait?

23 A. For?

24 Q. On the video?

25 A. Yeah. Yeah. We had to wait until

1 he showed up.

2 Q. You had to wait?

3 A. Uh-huh (affirmative).

4 Q. And you had to call him. You called
5 him like maybe five times on the video; is
6 that right?

7 A. Yes, sir.

8 Q. And there was somebody else in the
9 car on that video; right?

10 A. Yes, sir.

11 Q. Two people in the car?

12 A. Yes, sir.

13 Q. After you cooperated, your charges
14 were dismissed?

15 A. Yes, sir.

16 Q. Expunged?

17 A. Well, I don't know if they're
18 expunged. I know that they've been
19 dismissed.

20 Q. You're not convicted of them;
21 they're gone?

22 A. They're gone.

23 Q. And then June 7, 2012, you got in
24 trouble again and you have a conviction for,
25 was it a felony assault and battery in the

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Will Crosby - Redirect Examination

117

1 first degree?

2 A. Yes, sir.

3 Q. Right?

4 A. Yes, sir.

5 MR. KING: That's all questions that I
6 have, Your Honor.

7 THE COURT: Any redirect?

8 MS. COMPTON: Briefly, Your Honor.

9 *REDIRECT EXAMINATION

10 BY MS. COMPTON:

11 Q. Will, Mr. King asked you about three
12 years in prison; right?

13 A. Yes, ma'am, he did.

14 Q. Are you pretty familiar with how all
15 of that works?

16 A. Somewhat, yeah.

17 Q. Okay. Does three years mean three
18 years?

19 A. Three years, well, it depends on
20 what you're sentenced.

21 Q. I mean, if you got sentenced to
22 three years, are you going to serve that?

23 A. Well, you know, you're not going to
24 serve the whole three years.

25 Q. Why not?

1 A. You'll probably do eighty or ninety
2 percent of it and good time and not get in
3 trouble, so on and so forth.

4 Q. Are you eligible for something like
5 parole?

6 A. Yeah, parole, probation.

7 Q. So you said you could get credit for
8 good time, right?

9 A. Yes, ma'am.

10 Q. And parole?

11 A. Yes, ma'am.

12 Q. Okay. Now, when you got arrested
13 back in 2008, you told us you think you were
14 pretty strung out that day?

15 A. Yes, ma'am.

16 Q. Would you say that the arrest was a
17 wake up call?

18 A. Sure was.

19 Q. Okay. Now, when you told officers
20 that you thought Chris could get to Marcus,
21 that's what you told Mr. King; right?

22 A. Yes, ma'am.

23 Q. Why could he get to Marcus?

24 A. Because they were friends.

25 Q. Okay. And had they in the past

State of South Carolina v. Christopher W. Brown

119

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Will Crosby - Redirect Examination

1 worked together selling drugs?

2 A. I can't tell you that.

3 Q. Did Marcus introduce you to Chris?

4 A. Yes, ma'am.

5 Q. And so was Chris your connection to
6 Marcus?

7 A. No, Marcus was my connection to
8 Chris.

9 Q. I'm sorry. When you were cooperat-
10 ing, did you know you could buy drugs from
11 Chris?

12 A. Not until Marcus told me to go meet
13 this guy named Chris, to buy some drugs.

14 Q. And did you think that Chris -- had
15 you met Chris through Marcus while y'all were
16 out taking your kids to school?

17 A. No, ma'am.

18 Q. You met him through Chris [sic]
19 because they were selling drugs; right?

20 A. Yes, ma'am.

21 MS. COMPTON: Thank you.

22 THE COURT: Any recross based on her
23 redirect?

24 MR. KING: Thank you, Your Honor.

25 *RECROSS EXAMINATION

1 BY MR. KING:

2 Q. She was asking you about three years
3 in prison, does that mean it's no big deal?
4 Wouldn't it be a big deal to go serve three
5 years.

6 A. It's a big time, I wouldn't want to
7 do that.

8 Q. Right. It's a big deal.

9 A. Yeah.

10 Q. So you're not trying to minimize
11 that at all; right?

12 A. No.

13 MS. COMPTON: Objection, Your Honor.

14 THE COURT: Overruled.

15 RECROSS EXAMINATION CONTINUED

16 BY MR. KING:

17 Q. You didn't want to go to jail?

18 A. I didn't want to go to jail.

19 Q. And that's just the minimum.

20 A. Right.

21 Q. Now, did you testify that you didn't
22 know that Chris was selling drugs until
23 Marcus ---

24 A. I didn't even know Chris until
25 Marcus introduced me.

State of South Carolina v. Christopher W. Brown

121

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Will Crosby - Recross Examination

1 Q. Now, is that when you were working
2 as an informant?

3 No.

4 MR. KING: That's all the questions
5 that I have, Your Honor.

6 THE COURT: All right. Thank you. You
7 may step down.

8 (WITNESS STEPS DOWN)

9 MS. COMPTON: Your Honor, permission that
10 this witness be excused.

11 THE COURT: Any objection to this witness
12 being excused?

13 MR. KING: No.

14 THE COURT: All right. Have a nice day,
15 sir.

16 All right. I think this is a good time
17 for us to take a short recess, about a
18 fifteen-minute recess. If anybody wants a
19 Coca-Cola or something, will you please give
20 it to them. Thank you, ladies and gentlemen.
21 Please do not discuss anything about the case
22 while you're out.

23 (JURY OUT @ 4:03 P.M.)

24 THE COURT: All right. Why don't we
25 gather back at twenty after.

State of South Carolina v. Christopher W. Brown

122

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Will Crosby - Recross Examination

1 (BRIEF RECESS)

2 (DEFENDANT PRESENT)

3 THE COURT: Anything before we bring our
4 jury back in?

5 MR. LIETZOW: No, sir.

6 THE COURT: How many more witnesses do
7 y'all think y'all are going to have today.

8 MR. LIETZOW: Judge, all of our witnesses
9 are here except one. We'll let us go as long
10 as y'all let us go.

11 THE COURT: All right. I need to be
12 somewhere, probably about 5:00.

13 MR. LIETZOW: That's fine. Thank you,
14 Your Honor.

15 THE COURT: All right. Let's bring our
16 jury in.

17 (JURY IN @ 4:22 P.M.)

18 THE BAILIFF: The jury's present, Your
19 Honor.

20 THE COURT: All right. Thank you. You
21 may be seated. The State may call its next
22 witness.

23 MR. LIETZOW: Thank you, Your Honor. The
24 State calls Detective Mark Brown.

25 (WITNESS TAKES STAND)

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Mark Brown - Direct Examination

123

1 MARK BROWN, having been sworn to tell the
2 truth, and nothing but the truth, testified
3 as follows:

4 DIRECT EXAMINATION

5 BY MR. LIETZOW:

6 Q. Thank you, Detective. Where are you
7 presently employed?

8 A. Charleston Police Department.

9 Q. How long have you been working
10 there?

11 A. Almost three years.

12 Q. And what is your position there?

13 A. I'm an investigator in the field
14 intelligence unit.

15 Q. Where were you employed in February
16 of 2009?

17 A. I was employed with the Hanahan
18 Police Department, but I was assigned to the
19 Charleston County Sheriff's Office metro.

20 Q. Okay. And what was your position
21 there?

22 A. I was a detective.

23 Q. All right. Detective, how long have
24 you been involved in law enforcement?

25 A. I'm going into my ninth year.

1 Q. What about involving narcotics and
2 drugs?

3 A. Almost three years. Two years and
4 nine months.

5 Q. What type of educational background
6 do you have?

7 A. I currently hold a Bachelors in
8 Political Science, a Master's in Criminal
9 Justice. And I'm currently working on my
10 doctorate in organizational leadership.

11 Q. And what type of training and
12 experience do you have that specifically
13 relates to narcotics?

14 A. I've taken various courses dealing
15 with drug interdiction, stopping cars,
16 finding drugs that way.

17 Different investigations on things such
18 as methamphetamines. I've taken apart
19 methamphetamine labs.

20 I've take the basic detective classes at
21 the police academy, as well as undercover
22 techniques.

23 Q. And can you estimate the number of
24 drug cases that you've worked on in your nine
25 years?

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Mark Brown - Direct Examination

125

1 A. That I was the lead on, probably
2 sixty, but I've participated in close to a
3 hundred and eighty?

4 Q. And how many controlled drug sales,
5 such as the one we're here today for, have
6 you been involved with?

7 A. Approximately a hundred and fifty.

8 Q. Let's shift and focus on this
9 specific incident. When did this particular
10 investigation begin?

11 A. It began early January in 2009.

12 Q. And what was your specific role in
13 this investigation?

14 A. I was acting, on this particular
15 day, I was acting in an undercover capacity.

16 Q. Okay. Can you share with the jury
17 specifically and in detail what that involves
18 and what goes into something like that?

19 A. It depends on the circumstances.
20 A lot of times when you act in an undercover
21 role, sometimes you can do something as
22 simple as drive the informant up to meet
23 whomever your target is, your suspect is.
24 You could also participate directly in the
25 transaction if that person, you know, you

1 would exchange money for the drugs. The role
2 as an undercover is often to provide
3 surveillance in some cases where you can't
4 sit down the street from this person's house.
5 And also security in case something goes
6 wrong on the deal, i.e., a robbery or gun-
7 shots, anything like that.

8 Q. How many times have you worked with
9 a confidential informant?

10 A. Probably about sixty buys.

11 Q. So is working with a confidential
12 informant a common law enforcement technique?

13 A. Yes, sir.

14 Q. Why?

15 A. Well, confidential informants have,
16 they have access to information that doesn't
17 show up in our data bases or in our files or
18 what we might not obtain otherwise. They
19 know things about that person like, you know,
20 who's selling drugs? Where they're selling
21 drugs, where they keep them. You know, how
22 many people are underneath them? Are they
23 someone that works alone? Also, you know, we
24 can get information from that person for
25 safety reasons, weapons, history of violence,

State of South Carolina v. Christopher W. Brown

127

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Mark Brown - Direct Examination

1 things that might not show up on the NCIC rap
2 sheet.

3 Q. Are you able to just easily
4 penetrate into a drug selling ring and get
5 the information you need?

6 A. No.

7 Q. Is that another reason why CIs can
8 be important?

9 A. Yes.

10 Q. Is judging -- I keep saying CI,
11 that's short for confidential informant. Is
12 judging a CIs credibility important?

13 A. Yes.

14 Q. Can you explain why that is?

15 A. If you're going to understand the
16 CIs credibility because ---

17 MR. KING: Objection. Bolstering.

18 THE COURT: Overruled. He can give a
19 general overview. Overruled.

20 WITNESS: It's important to understand
21 the confidential informant's credibility
22 because you have to -- because if you're
23 going to make cases and, you know, arrest and
24 go through courtroom proceedings, so you have
25 to make sure that things you're doing are

1 legally sound and also ethically sound, so
2 that the two don't conflict.

3 DIRECT EXAMINATION CONTINUED

4 BY MR. LIETZOW:

5 Q. And when you work with a CI if they
6 don't have credible information, are they
7 themselves not credible?

8 A. No.

9 Q. Did Will Crosby the CI in this case
10 have credible information that you were
11 interested in?

12 A. Yes.

13 MR. KING: Objection, Your Honor. That's
14 bolstering.

15 THE COURT: I'm going to let him answer
16 that one question. What was it?

17 DIRECT EXAMINATION CONTINUED

18 BY MR. LEITZOW:

19 Q. Please state your answer to that
20 again?

21 A. "Yes."

22 MR. LIETZOW: May we approach, Your
23 Honor.

24 THE COURT: You may.

25 (BENCH CONFERENCE)

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Mark Brown - Direct Examination

129

1 THE COURT: You may proceed as instruct-
2 ed.

3 DIRECT EXAMINATION CONTINUED

4 BY MR. LIETZOW:

5 Q. Detective Brown, what was that
6 important information that Will Crosby had in
7 this case?

8 A. That he had connections to Marcus
9 Gibbes.

10 Q. And why was that important y'all?

11 A. It was important to us because
12 Marcus Gibbes was a major player in the drug
13 trade in the Charleston area.

14 Q. And being more specific, through
15 that information, did you guys learn of
16 anybody, any other individuals that he might
17 have been involved with in the drug trade?

18 A. Chris Brown.

19 Q. Let's talk about February 3rd, 2009.
20 Tell us what happened on that day.

21 A. The information came to the
22 headquarters at metro. He was searched by
23 Detective Perkins, Detective Miller. He was
24 then fitted with an audio transmitter or
25 wire. I then drove the informant to the

1 area, to the Ponderosa subdivision located in
2 the West Ashley section of Charleston County,
3 South Carolina. Once -- while we were en
4 route, he made a few phone calls to Mr. Brown
5 and asked him where he was. One of the first
6 phone calls he ask him where he was and he
7 stated that he was waiting on a sale in Red
8 Top.

9 MR. KING: Objection. Hearsay.

10 MR. LIETZOW: Just trying to save time.

11 THE COURT: There might be just a little
12 leading, what was the objection?

13 MR. KING: I move to strike from the
14 record.

15 THE COURT: Sustained.

16 DIRECT EXAMINATION CONTINUED

17 BY MR. LIETZOW:

18 Q. Okay. So you mentioned that Will
19 called Chris. Did Will have to -- did Will
20 do anything such as use trickery or deception
21 to convince Chris to sell him drugs?

22 A. No.

23 Q. What happened next?

24 A. Went to an area. He made contact
25 with someone on the phone again. And he

State of South Carolina v. Christopher W. Brown

131

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Mark Brown - Direct Examination

1 directed them -- he told him he was about ten
2 minutes away and he directed him to go to the
3 dead-end of Hitching Post Road in Ponderosa.

4 Q. Chris Brown directed y'all to go?

5 A. Yes, sir.

6 Q. Tell us what happened after that
7 phone call? Again, let me back up. So that
8 was the second phone call that was made ---

9 A. Yes, sir.

10 Q. --- between Will and Chris Brown.
11 Again, was there anything that was out of the
12 ordinary? Was there any arm-twisting, we'll
13 call it, by Will Crosby to get Chris Brown to
14 meet him there and ultimately sell drugs?

15 A. No.

16 Q. After that second phone call, what
17 happened?

18 A. We went to the dead-end of Hitching
19 Post Road. I backed in. We waited and we
20 had a little bit of small talk. And I
21 observed the white Cadillac come down the
22 street towards us.

23 MR. LIETZOW: I beg the Court's
24 indulgence.

25 DIRECT EXAMINATION CONTINUED

1 BY MR. LIETZOW:

2 Q. I guess I'm going to have to
3 share it so we both can see it at the same
4 time. Do you recognize this Detective Brown?

5 A. Yes, sir.

6 Q. What is this?

7 A. It's a part of the Ponderosa
8 subdivision?

9 Q. Okay. Is this a fair and accurate
10 depiction of the location that you guys were
11 in when this deal took place?

12 A. Yes, sir.

13 MR. LIETZOW: The State would move that
14 into evidence.

15 THE COURT: Any objection?

16 MR. KING: No objection.

17 THE COURT: Without objection, State's
18 Exhibit Number ---

19 MR. LIETZOW: Number 3.

20 THE COURT: --- Number 3 is admitted.

21 (SO ENTERED AS STATE'S EXHIBIT 3)

22 DIRECT EXAMINATION CONTINUED

23 BY MR. LIETZOW:

24 Q. You can -- why don't you stand up so
25 the jury can see. For a point of reference,

State of South Carolina v. Christopher W. Brown

133

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Mark Brown - Direct Examination

1 where were you and Will located during the
2 sale?

3 A. We were right here at the dead-end
4 of Hitching Post, right here (indicating).

5 Q. So where did Chris Brown drive in
6 and where was he located?

7 A. He said he was coming from 17, but
8 he drove in down this way, and we were right
9 here -- if you can see around my fat finger.

10 Q. Was there any other law enforcement
11 in the general vicinity?

12 A. Detective -- not on that particular
13 street, no.

14 Q. Okay. But were they within close --
15 were they within a short range of where you
16 guys were located?

17 A. Yes, sir. They were close by for
18 our safety -- safety concerns.

19 Q. I would just like to set a picture
20 overreaching picture of the situation. You
21 guys arrived, the phone calls were made. Did
22 Chris Brown eventually arrive to the location
23 where the sale was to take place?

24 A. Yes.

25 Q. And what kind of car was he driving?

1 A. A white Cadillac.

2 Q. And was he the driver of that car?

3 A. Yes, sir.

4 Q. What happened when he pulled in?

5 A. When he pulled in, Will gave him a
6 greeting. Will got out of the car, made
7 contact with him. They exchanged the metro
8 funds for the cocaine. Will got back in the
9 car and we left. The white Cadillac pulled
10 out and drove away. I relayed the tag number
11 to Detective Perkins and we went back to the
12 metro office.

13 Q. Give the jury a perspective of your
14 location while this sale is taking place?

15 A. It probably as far as from me to
16 this first juror on the end.

17 Q. So you were very close to him?

18 A. (Affirmative nod).

19 Q. You had a view of what ultimately
20 occurred?

21 A. Yes, sir.

22 Q. Did you see the driver of the white
23 Cadillac, who was involved in that drug sale,
24 here in the courtroom here today?

25 A. Yes, sir.

State of South Carolina v. Christopher W. Brown

135

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Mark Brown - Direct Examination

1 Q. Would you please point him out and
2 describe him?

3 A. Yes, sir. The black male wearing
4 the gray shirt and multi-colored tie,
5 (pointing to defendant).

6 MR. LIETZOW: Please let the record
7 reflect ---

8 THE COURT: The record will so reflect
9 that the witness has pointed out the
10 Defendant in this case.

11 DIRECT EXAMINATION CONTINUED

12 BY MR. LIETZOW:

13 Q. Let's talk a little bit about the
14 exchange between Chris Brown and Will Crosby.
15 Was -- I know I've already asked these
16 questions as far as the phone calls are
17 concerned, but I'd like to ask it again. Was
18 there any arm twisting by Will to get Chris
19 to sell him those drugs?

20 A. No, sir. We were in and out of
21 there fairly quickly.

22 Q. So, you know, he didn't have to --
23 I'm going to repeat the question or ask him
24 multiple times, you know, did you use any
25 trickery or anything of that nature?

State of South Carolina v. Christopher W. Brown

136

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Mark Brown - Direct Examination

1 A. No, sir.

2 Q. And, you, as a law enforcement
3 officer, did you do anything that would
4 induce Chris Brown to sell drugs on that
5 date?

6 A. No, sir.

7 Q. Was Chris Brown reluctant or
8 hesitant in any to sell Will Crosby that
9 cocaine?

10 A. No, sir.

11 Q. Did it appear to you that Chris
12 Brown was afraid of Will Crosby in any way?

13 A. No, sir.

14 Q. Take us through briefly what
15 happened after Chris Brown sold the cocaine
16 to Will Crosby?

17 A. After Mr. Brown sold the cocaine to
18 Mr. Crosby, we left the area.

19 And we began -- I made contact with
20 Detective Perkins. I let him know that the
21 purchase was successful. I made sure he got
22 the tag number all down over the wire.

23 Mr. Crosby then lifted up the lid and put
24 the cocaine in the center console, and then
25 Will and I were going back to the metro

State of South Carolina v. Christopher W. Brown

137

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Mark Brown - Direct Examination

1 office.

2 Q. Okay. Why do you relay the tag
3 information to Detective Perkins?

4 A. To confirm identity.

5 Q. Were you able to get any information
6 from that on that day?

7 A. Yes, sir.

8 Q. And what was that information?

9 A. That was it -- you mean from the
10 tag?

11 Q. Yes, sir?

12 A. It's ALV 270.

13 Q. And who is that tag registered to?

14 A. Chris Brown.

15 Q. Did anything that occurred that day
16 give you pause or make you think twice about
17 the situation that you were involved in?

18 A. No.

19 Q. So what happened that day was a very
20 standard controlled drug sale.

21 A. Yes.

22 MR. LIETZOW: I beg the Court's
23 indulgence.

24 THE COURT: Yes, sir.

25 DIRECT EXAMINATION CONTINUED

1 BY MR. LIETZOW:

2 Q. I don't know if we've already stated
3 it, but what county was the dead end of
4 Hitching Post Road in?

5 A. Charleston County.

6 Q. Charleston County? Okay. Did Chris
7 Brown seem to know what he was doing that
8 day?

9 A. Yes.

10 Q. He didn't look uncomfortable or
11 unsure of himself?

12 A. No.

13 Q. So Chris Brown looked like somebody
14 who was there, familiar with what was going
15 on?

16 A. Yes.

17 MR. LIETZOW: The State has no further
18 question, Your Honor, of this witness.

19 THE COURT: Mr. King.

20 MR. KING: Thank you, Your Honor. I beg
21 the Court's indulgence.

22 THE COURT: Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. KING

25 Q. You mentioned Marcus Gibbes earlier?

State of South Carolina v. Christopher W. Brown

139

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Mark Brown - Cross Examination

1 A. Yes, sir.

2 Q. You were familiar with Marcus Gibbes
3 through your narcotics investigation?

4 A. Yes, sir.

5 Q. And from what you're aware of, would
6 you consider him a kingpin?

7 A. A major player, yes, sir.

8 Q. A major player?

9 A. Yes, sir.

10 Q. Do you know anything about him
11 having connections to a Mexican Cartel?

12 A. No, I didn't know that much until --
13 I just knew he was a big player in this area.

14 Q. And you were familiar with his name?

15 A. Yes, sir.

16 Q. Before you met Will Crosby?

17 A. Yes, sir.

18 Q. Now, before you met Will Crosby,
19 were you familiar with Christopher Brown?

20 A. No, sir.

21 Q. And during this transaction you're
22 taking about describing Mr. Brown's behavior
23 and, you know, how he was acting. You're
24 parked, you're driving the car; right?

25 A. Yes, sir.

1 Q. And you're parked -- let's say
2 you're parked facing this way, just assume?

3 A. Yes, sir.

4 Q. You'd be on the left side driving
5 and Mr. Crosby is here?

6 A. Yes.

7 Q. And he gets out of the car and the
8 Cadillac is pulled up this way, right?

9 A. Yes, sir.

10 Q. So he gets out of the car, and
11 really he's kind of at the window with his
12 back kind of blocking; right? Wouldn't his
13 back be blocking the people that's basically
14 inside the car?

15 A. He would block the hands, but yeah
16 -- I mean, I can see everything else.

17 Q. So you didn't actually see the hand-
18 to-hand transaction?

19 A. No, sir.

20 Q. And it was -- this was a seconds-
21 long encounter; right? This was maybe thirty
22 seconds? It wasn't very long; right?

23 A. No, sir.

24 Q. It wasn't like y'all stood out there
25 and chatted for a real long time?

State of South Carolina v. Christopher W. Brown

141

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Mark Brown - Cross Examination

1 A. No, sir.

2 Q. He got out, got back in, and y'all
3 were gone?

4 A. Yes, sir.

5 Q. So it's fair to say you didn't have
6 a real long time to observe Mr. Brown or his
7 demeanor.

8 A. Yes, sir.

9 Q. You just had a brief time?

10 a. Yes, sir.

11 Q. And you testified that y'all had to
12 wait on him; right?

13 A. Yes, sir.

14 Q. You ended up waiting like maybe
15 thirty minutes to an hour maybe?

16 A. Round about; yes, sir.

17 Q. And during that time Will Crosby
18 makes about five phone calls during that
19 time, to Mr. Brown?

20 A. I don't recall.

21 Q. Do you remember him calling him
22 several times at least?

23 A. Yes, sir, at least once.

24 Q. And you said you didn't hear arm
25 twisting on that phone; right?

1 A. No, sir.

2 Q. Now, you were just listening to what
3 Will Crosby's saying; right?

4 A. Yes, sir.

5 Q. And he's communicating to you.
6 You're not talking on the phone to
7 Christopher Brown. You're just sitting
8 beside him?

9 A. Yes, sir.

10 Q. And Will Crosby's telling you this
11 and telling you that, what he's saying?

12 A. Yes, sir.

13 Q. But you're not hearing what exactly
14 he's saying, exactly what Christopher Brown
15 is saying on the phone. You're just hearing
16 what Will Crosby's telling you?

17 A. Yes, sir.

18 Q. And you weren't present for all the
19 other phone calls that Will Crosby made to
20 Christopher Brown before August; right?

21 A. No, sir, I wasn't.

22 MR. KING: That's all the questions I
23 have.

24 THE COURT: Any redirect based upon his
25 cross-examination?

State of South Carolina v. Christopher W. Brown

143

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Mark Brown - Cross Examination

1 MR. LIETZOW: Nothing, Your Honor.

2 THE COURT: All right. Thank you, you
3 may step down.

4 WITNESS: Yes, sir.

5 THE COURT: Let me see the attorneys up
6 here.

7 (BENCH CONFERENCE)

8 THE COURT: Ladies and gentlemen of the
9 jury, we're going to go ahead and break for
10 this afternoon. I'm going to give you
11 instructions to be back here tomorrow morning
12 at ten o'clock. Get a good night's rest.

13 Don't talk to anybody about this case. I
14 doubt if you'll see anything on the news
15 about it, but if you do, don't look at it.
16 If there's in the newspaper tomorrow, I doubt
17 that there will be, don't read it.

18 And I'll see you back here fresh in the
19 morning. We'll have a long day of testimony.
20 Thank you.

21 (JURY OUT @ 4:45 P.M.)

22 THE COURT: All right. Y'all may be
23 seated.

24 Now, Mr. King, I believe you wanted to
25 put something on the record?

1 MR. KING: Yes, Judge. I'd made an
2 objection when the State moved to introduce
3 the video of the transaction.

4 THE COURT: Yes, sir.

5 MR. KING: I just wanted to put on the
6 record what we discussed in a bench
7 conference. I was objecting to the entire
8 video coming in because a lot of it is just
9 conversation between the informant and that
10 officer, which I believe to be hearsay and
11 not admissible. The things that don't
12 involve -- at least not Christopher Brown's
13 statements. It's Will Crosby talking about
14 Christopher Brown, things that I believe are
15 unfair and prejudicial.

16 THE COURT: Well, I'm not so sure that
17 would be hearsay, simply from the fact that
18 you had Will Crosby testify here. I'm
19 letting it in. And so I overrule your
20 objection.

21 MR. KING: And I ---

22 THE COURT: There was an objection made
23 and I might have missed, but I thought -- and
24 then I started listening to the testimony
25 more closely. Was the statement that you

State of South Carolina v. Christopher W. Brown

145

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Mark Brown - Cross Examination

1 objected to again hearsay, that I sustained,
2 a statement of Will Crosby?

3 MR. KING: It was a statement -- it was
4 this officer testifying about a statement
5 that Will Crosby made that Christopher Brown
6 had made. It was double ---

7 THE COURT: That would not be hearsay
8 because Mr. Will Crosby had been here and
9 testified. So I'm going to reverse myself on
10 that and I'm not going to strike that.

11 Anything else we need to bring up?

12 MS. COMPTON: And, Your Honor, you may
13 have already heard this. I just want to,
14 just out of an abundance of caution, just
15 make sure for the record, that we have
16 admitted State's Exhibit Number 1.

17 THE COURT: My understanding is it was
18 admitted. We published it. It would not
19 have been published had it not been admitted.

20 MS. COMPTON: I certainly agree, Your
21 Honor. I just wanted to make sure the record
22 ---

23 THE COURT: So that would be State's
24 Exhibit Number ---

25 MS. COMPTON: Number 1.

1 THE COURT: --- Number 1. Anything else
2 we need?

3 MR. KING: One more thing from the
4 bench conference, Your Honor?

5 THE COURT: Yes, sir.

6 MR. KING: We had a lot of bolstering,
7 Judge.

8 THE COURT: Yes, sir.

9 MR. KING: Just put that on the record
10 that I objected to the bolstering for -- the
11 officer testifying about what Will had told
12 him -- or about Will Crosby's credibility.

13 THE COURT: Well, I don't know that he
14 said a whole lot about his credibility. He
15 said he gave him information that he thought
16 was important and that it's necessary for a
17 CI to be credible. I don't know that he
18 actually said his testimony was credible.

19 I do not find that he was bolstering and
20 I overrule your objection. But you're
21 protected on the record. All right?

22 MS. COMPTON: Thank you, Judge.

23 THE COURT: Thank you. All right.

24 Court's adjourned until ten o'clock tomorrow
25 morning because I've got a pretrial

State of South Carolina v. Christopher W. Brown

147

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Mark Brown - Cross Examination

1 conference in another matter.

2 MR. KING: Would you allow Mr. Brown to
3 remain out on bond?

4 THE COURT: What is the State's position
5 on that?

6 MR. LIETZOW: Judge, we have no position
7 on that. The last time we had the trial ---

8 THE COURT: You don't have a position?

9 MR. LIETZOW: No, sir.

10 THE COURT: This is a serious situation.
11 I've had them before where somebody looking
12 at the possibility that there might be prison
13 time.

14 MR. KING: He's always showed up, Judge.
15 He showed up for a previous trial, all the
16 time.

17 THE COURT: Okay.

18 MR. KING: He'll be here.

19 THE COURT: All right.

20 MR. KING: Thank you, Your Honor.

21 (COURT IN RECESS)

22 (TRANSCRIPT CONTINUED NEXT PAGE)

23

24

25

FEBRUARY 4, 2014

10:00 A.M.

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Mark Brown - Cross Examination

148

1

2

(DEFENDANT PRESENT)

3

4

THE COURT: Is there anything we need to
take up before we bring the jury in?

5

MR. LIETZOW: Yes, Your Honor.

6

THE COURT: Yeah.

7

8

MR. LIETZOW: Concerning your amended
ruling on the issue yesterday involving ---

9

THE COURT: Hearsay?

10

MR. LIETZOW: Yes, sir.

11

THE COURT: Right.

12

13

14

15

16

17

MR. LIETZOW: The State is requesting
that we be allowed to recall that witness.
It's our understanding that, you know, that
in the presence of the jury that was
prejudicial. As far as they're concerned,
they're not even allowed to consider that.

18

19

20

21

22

Considering Your Honor's amended ruling,
we would like to either have an opportunity
to re-question that witness or if we could
make a curative statement to the jury on that
issue. And, frankly ---

23

THE COURT: I'll do that.

24

MR. LIETZOW: Excuse me?

25

THE COURT: I'll do that rather than ---

State of South Carolina v. Christopher W. Brown

149

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Mark Brown - Cross Examination

1 MR. LIETZOW: Okay. There is one other
2 issue, Your Honor. After you sustained that
3 objection, there was a further question I was
4 going to go into that I believe he would have
5 also objected, or sustained an objection to.
6 But given the amended ruling, that is an
7 important aspect of the case that we would
8 like to present as far as predisposition
9 goes.

10 THE COURT: All right. Mr. King?

11 MR. KING: Your Honor, I just renew my
12 same objection. It was -- Mark Brown was on
13 the stand. He was the guy that was driving
14 the car along with Will Crosby. Will
15 Crosby's talking on the phone to Christopher
16 Brown and Will Crosby's relating what he says
17 Christopher is saying. So Detective Brown
18 was giving a statement that Will Crosby said
19 that Christopher Brown said. It's almost two
20 levels of hearsay.

21 And what he's saying is, is that
22 Christopher -- I believe the statement was
23 that Christopher was off doing another sale.

24 THE COURT: Yeah. But if I remember,
25 that had already had been played on the

1 video. I mean, that's already in evidence on
2 the video. So that's why I didn't have a
3 problem with it. I mean, the subject in
4 cross-examination has been put on the record,
5 so it's not hearsay.

6 And I guess if that's the only way to
7 hear it, do you have your witness available
8 right now?

9 MS. COMPTON: Your Honor, let me look and
10 just make sure.

11 THE COURT: Well, I mean, if you want to
12 do it at a later time, that's all right.

13 MR. LIETZOW: We're ready to go forward
14 with another witness. We asked that
15 particular witness to be here at ten thirty.

16 THE COURT: Okay. But I'm going to allow
17 it. I mean, I just don't think it's hearsay
18 and I stopped him and I may have stopped some
19 further legitimate testimony. And,
20 therefore, I need to make a curative
21 instruction, as I would do with you if I had
22 changed my ruling.

23 MR. KING: And my second objection is,
24 is that that detective didn't have any
25 personal knowledge of what he was testifying

State of South Carolina v. Christopher W. Brown

151

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Mark Brown - Cross Examination

1 about. What he's testifying to is what Will
2 Crosby said ---

3 THE COURT: Right. Mr. Crosby had
4 already testified so it's not hearsay when he
5 says it. All right. Let's bring our jury
6 in.

7 MR. KING: Thank you, Your Honor.

8 THE COURT: Let me, just for scheduling
9 purposes, see the attorneys for a minute.

10 (OFF RECORD BENCH CONFERENCE)

11 (JURY IN @ 10:13 A.M.)

12 THE BAILIFF: The jury's present, Your
13 Honor.

14 THE COURT: All right. You may take your
15 seats. Good morning ladies and gentlemen. I
16 hope y'all had a nice evening and you're all
17 rested, ready for a good day of testimony. Is
18 the State ready to proceed?

19 MR. LIETZOW: We are, Your Honor.

20 THE COURT: Is the Defense?

21 MR. KING: Yes, Your Honor.

22 THE COURT: All right. The State will
23 call their next witness.

24 MR. LIETZOW: The State calls Detective
25 Sean Perkins.

State of South Carolina v. Christopher W. Brown

152

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Sean Perkins - Direct Examination

1 (WITNESS TAKES STAND)

2 SEAN PERKINS, having been sworn to tell
3 the truth, and nothing but the truth,
4 testified as follows:

5 DIRECT EXAMINATION

6 BY MR. LIETZOW:

7 Q. Good morning, Detective Perkins?

8 A. Good morning.

9 Q. Can you tell the jury where you're
10 present employed?

11 A. The City of North Charleston Police
12 Department.

13 Q. And how long have you been with
14 North Charleston?

15 A. This will be my fourth year.

16 Q. And what is your position there?

17 A. I'm a narcotics detective.

18 Q. And where were you employed in
19 February of 2009 through September of 2009?

20 A. Charleston County Sheriff's Office.

21 Q. And what was your position there?

22 A. I was a narcotics detective.

23 Q. Detective, how long have you been a
24 law enforcement officer?

25 A. This will be my thirteenth year.

State of South Carolina v. Christopher W. Brown

153

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Sean Perkins - Direct Examination

1 Q. And specifically, how long have you
2 been working with narcotics and drugs?

3 A. This will be just over five years.

4 Q. And tell the jury what kind of
5 training and experience you have that relates
6 to your position with narcotics?

7 A. I have an Associates Degree in
8 Criminal Justice.

9 I attended the basic narcotics investi-
10 gator course given by the DEA.

11 I've taken an undercover operations
12 course through the South Carolina Criminal
13 Justice Academy.

14 I've been through three high-risk
15 training courses in Mississippi, which
16 include all the way from search warrants to
17 arrest warrants. I've been to basic
18 undercover school and surveillance
19 operations.

20 Q. Okay. Can you estimate the number
21 of drug cases that you've worked on in your
22 career?

23 A. Upwards to a hundred or so. I can't
24 give an exact number.

25 Q. And how many of those involve

1 selling drugs?

2 A. Probably ninety-five percent.

3 MR. LIETZOW: Your Honor, at this point
4 the State would move to enter Detective Sean
5 Perkins as an expert witness concerning
6 narcotics sales and law enforcement handling
7 of narcotics investigations?

8 THE COURT: Any objection? Would you
9 like to voir dire him?

10 MR. KING: No, I don't have an objection.

11 THE COURT: Okay. Without objection.
12 Ladies and gentlemen, normally a witness can
13 only testify as to what they saw, heard,
14 smelled, tasted or felt. However, when
15 somebody has an extra level of education and
16 experience, we allow them to give opinions to
17 things other than what they felt with their
18 senses.

19 Now, whether or not you decide to accept
20 his opinion, it will be up to you. And you
21 shouldn't treat him as anything special, or
22 any witness any more special than any other
23 witness. You need to give him the degree and
24 weight that you think his testimony deserves.
25 And if you choose not to believe it, that's

State of South Carolina v. Christopher W. Brown

155

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Sean Perkins - Direct Examination

1 up to you as well.

2 I will allow him to testify as an expert
3 based upon the fact that the Defense
4 concurred. All right. Thank you. You may
5 proceed.

6 DIRECT EXAMINATION CONTINUED

7 BY MR. LIETZOW:

8 Q. Detective when did this investi-
9 gation that we're here for today begin?

10 A. The first meeting that I had with
11 the informant was roughly January 12th of
12 2009.

13 Q. And explain what your role in that
14 investigation was?

15 A. When we decide to work with an
16 informant, bring them in, we do a debrief.
17 It's a basically get to know each other
18 situation. They want to get to know us; we
19 want to get to know them. We ask basic
20 questions of, you, what they are and we go
21 through an agreement.

22 Q. Were you the case agent in this
23 case?

24 A. I was, yes.

25 Q. Can you explain a little bit about

1 what being a case agent involves?

2 A. The case agent is basically you're
3 the overseer of the entire thing. You get it
4 started, you decide whether to move forward,
5 adapt to whatever direction that it is going
6 to go, ask for assistance from other
7 agencies, other detectives. So that's
8 basically what we do to get the ball started.

9 Q. You mentioned this investigation
10 started when you met the confidential
11 informant that we heard from yesterday.

12 A. (Affirmative nod).

13 Q. How many times have you worked with
14 a confidential informant?

15 A. About ninety-five percent of the
16 cases that I work involve informants.

17 Q. So that's a common technique?

18 A. It's a very common technique.

19 Q. And why is that?

20 A. Informants are an essential role,
21 you know, to law enforcement in every aspect
22 of law enforcement, whether it would be the
23 drug business, investigating murders, bank
24 robberies. There's always someone that'll
25 have a better in and information that's real-

State of South Carolina v. Christopher W. Brown

157

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Sean Perkins - Direct Examination

1 time versus what the police have. And the
2 reason we utilize them is they're necessary
3 to provide this real-time information that I
4 otherwise, or any other citizen otherwise,
5 could not get. Because we're not basically
6 in that environment. So that's why an
7 informant is important to help, you know, in
8 starting an investigation and see it all the
9 way through.

10 Q. As an expert, I'd like you to
11 explain to the jury a little bit about the
12 drug trade itself?

13 A. Well, as everybody has seen and
14 you've heard, you know, it's not anything
15 that you see on TV. It's not pretty.

16 But it has no other basis in society
17 except to make money. That's it. It has no
18 other good for society.

19 So it's just like any other business and
20 basically it is a business. You have your
21 top guy who's calling all the shots. And as
22 a CEO of any other company, they kind of stay
23 insulated, but they select and direct and
24 depend on the rest of the people to run their
25 organization. And that's kind of where the

1 Defendant fell. So it's all about making
2 money. And, you know, and the more money you
3 make, the more that they thrive on, and the
4 better living, you know, that they have.

5 Q. Let's talk generally about the
6 process of working with a CI. Explain how
7 that takes place?

8 A. Informants come to us on their own
9 or they're, you know, requested by other
10 agencies. We basically -- like I explained
11 just a second ago, we do a debrief. We fill
12 out an agreement. They have to initial, read
13 over that -- read over that agreement,
14 initial it, understand it and basically abide
15 by it at all times. If they don't, then we
16 won't work with them. It's just plain and
17 simple. The safety is the utmost and the,
18 you know, ethical for the case. That's most
19 important.

20 Q. Can you describe a little bit more
21 in detail about that confidential informant
22 agreement?

23 A. It's an agreement that says -- I can
24 read it word-for-word if you'd like. But in
25 general it's: 'You're not a law enforcement

State of South Carolina v. Christopher W. Brown

159

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Sean Perkins - Direct Examination

1 officer. You can't act like a law
2 enforcement officer. You can't be under the
3 influence when you're working with us. You
4 can't seek out innocent people. You have to
5 basically provide information on crimes that
6 you are either aware of, the things you knew
7 about in the past or that are ongoing now.'

8 They have to be, they have to know that
9 they're going to be searched when they come
10 in. If they don't agree to that, then they
11 can't work with us. And they have to know
12 that they're going to wear a wire, and they,
13 you know, have to be accepting of that as
14 well.

15 Q. Is judging a confidential infor-
16 mant's credibility important?

17 A. It is. I mean, we're not going to,
18 you know, we're not going to go after -- you
19 have to be able to trust them. Just like I
20 said in the beginning, we do a debrief so
21 they can get to know us and we can get to
22 know them. And if there's anything that, you
23 know, we deem is going to be unsafe or
24 unethical, you know, whatever they're telling
25 us, we won't work with them.

1 And we follow up on the things that they
2 tell us to make sure that it does kind of
3 jive with what they've been saying, to where
4 the direction of the investigation may go.

5 Q. Okay. So you get a confidential
6 informant and you go out and you utilize the
7 confidential informant in these operations.
8 During these operations, is maintaining
9 control of a confidential informant important
10 to you?

11 A. Absolutely. It's the key. That's
12 why we call -- you'll hear two words. It's
13 either "buy walk" or a "controlled buy."

14 We now call it a controlled buy because
15 if it gets out of control or one aspect of it
16 goes wrong, we basically just shut it down.

17 Q. What was the credible information
18 that Will Crosby brought to you guys as a law
19 -- brought to law enforcement that you were
20 able to act upon?

21 A. When we first met Will, we sat down
22 and we got to know each other as I explained.
23 And he brought some information that was
24 pretty interesting to us. He was telling us
25 about a pretty big drug organization that

State of South Carolina v. Christopher W. Brown

161

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Sean Perkins - Direct Examination

1 many law enforcement agencies already knew
2 about.

3 And with that, you know, we're like,
4 well, this is a good in, because we can't get
5 in without a CI. That's just the way it
6 works. I mean, I can't go and do it. So
7 that's why we utilize them.

8 So during that debrief, we knew that we
9 couldn't get directly to Marcus, to this
10 gentleman named Marcus Gibbes, who was the
11 kingpin. He said, you know, there was
12 another guy involved in his organization is
13 the Defendant, Chris Brown. He goes, 'I've
14 purchased from him before. I feel
15 comfortable doing so, and he'll sell it to me
16 again.' And basically that's how we started
17 the investigation.

18 Q. Tell us about what happened on
19 January 26, 2009.

20 A. Well, basically -- I'm sorry. On
21 January 26, 2009 after our -- it was kind of
22 our second meeting that we had. He came and
23 we spoke and we kind of devised our game
24 plan. After they initially gave us our
25 information, we'd sit and talk to other

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Sean Perkins - Direct Examination

162

1 agencies to make sure that what he told us is
2 credible, that this person actually exists
3 or, you know, so on.

4 And so he came in, we spoke. Again, we
5 devised our plan about pursuing dealing with
6 drugs with Chris Brown.

7 Q. And then what happened on February
8 3rd of 2009?

9 A. February 3rd was the day that the CI
10 came in. We had already spoke to him prior,
11 which it's not abnormal that he would make a
12 phone call to a person that he'd been dealing
13 with over the years without the presence of
14 law enforcement.

15 We actually encourage the CI to do like
16 -- 'hey, keep in touch with them because you
17 don't want to go out abnormal and act
18 anything differently to raise their
19 suspicions.' Because then, they're probably
20 not going to sell to him. So if you've been
21 a friend for somebody for a year or two years
22 or three years, it would be abnormal for you
23 not to keep in contact with them. So he had
24 made that arrangement out of our -- at the
25 request of us, you know.

State of South Carolina v. Christopher W. Brown

163

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Sean Perkins - Direct Examination

1 And to further the investigation or at
2 least get it started, we'd be like for him to
3 stay in contact with him.

4 So he came in on that day and that's when
5 we began to do the controlled buy.

6 Q. And to your knowledge, what was the
7 terms of that agreement that Will and Chris
8 Brown entered into?

9 A. He was going to purchase approxi-
10 mately a half ounce of cocaine for six
11 hundred dollars from Chris Brown.

12 Q. Whose terms were those?

13 A. It was a mutual agreement.

14 Q. Can you explain that a little bit
15 more.

16 A. Well, normally, a CI is not going to
17 purchase a kilo of cocaine if they're
18 normally used to purchasing a half ounce or a
19 gram. Again, that would be raising major
20 suspicions.

21 It's just like if you go and buy a Honda,
22 you're not going to go the next day and buy a
23 Ferrari.

24 So he was normally busying half ounces of
25 cocaine from Chris Brown. If that's what he

1 felt comfortable with, that's what we're
2 going to do. We're going to be comfortable
3 and normal. So he setup a buy to, you know,
4 purchase six hundred dollars worth of
5 cocaine.

6 Q. In your experience -- I guess it's a
7 fluctuating market rate. But at that time,
8 in February of 2009, was a half ounce of
9 cocaine for six hundred dollars fair market
10 value?

11 A. That was fair, yes.

12 Q. What does that indicate to you?

13 A. I'm sorry?

14 Q. What does the fact that they were
15 able to come to an agreement that was a fair
16 market value, what does that indicate to you?

17 A. Well, he'd sold to him in the past
18 and that's what he was normally used to
19 purchasing. He wasn't going to charge him
20 nine hundred dollars if it normally was six.
21 You're going to run with your customer.

22 Q. So Will comes in, this arrangement's
23 made; what happens next?

24 A. As Will testified to, he goes
25 through a search, a body -- we strip search

State of South Carolina v. Christopher W. Brown

165

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Sean Perkins - Direct Examination

1 him. We then give him a pre-recorded money
2 provided by us, six hundred dollars. They're
3 outfitted with audio transmitter, recording
4 devices and then we introduce him to the
5 undercover.

6 Q. Let's go back and say again, go into
7 each one of those deeper. Why do you search
8 the confidential informant?

9 A. Well, we search them -- obviously,
10 we don't want them bringing into our office
11 or into, to be produced into the buy; i.e.,
12 any drugs. We don't want them bringing their
13 money. We don't want them -- weapons.
14 Anything like that. So we make sure that
15 they're basically clean before we put any,
16 you know, before we get involved in it.

17 Q. You provide pre-recorded funds to
18 purchase the drugs with?

19 A. Yes.

20 Q. Why do you do that?

21 A. Well, it's out investigation so we
22 give them recorded money in case later on
23 that money comes up somewhere, that we can
24 compare the notes and kind of retrieve the
25 money.

1 Q. How would you be able to determine
2 if that was the money you, in fact, gave the
3 confidential informant?

4 A. We obviously photocopy the money
5 before every buy. It goes in the case file.
6 Whether it becomes relevant later or not,
7 that's just what we do. We always record it.
8 And then we can compare it with that sheet of
9 paper.

10 Q. So do you look at the serial number
11 then on the bills?

12 A. We do, yes.

13 Q. You testified you equipped the CI
14 with audio wire. What's the purpose of doing
15 that?

16 A. The first and most important thing
17 is everyone's safety throughout the
18 operation, whether it's the informant and
19 especially the undercover. So when they're
20 wearing the wire, it basically gives us, you
21 know -- technology is technology. Sometimes
22 it fails, sometimes it's great. But the
23 importance of it is, is to always monitor
24 what they're either saying and/or doing.

25 So if they came up to, you know, if they

State of South Carolina v. Christopher W. Brown

167

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Sean Perkins - Direct Examination

1 came up to a buy and they were like, 'why do
2 you have this gun in my face?' You know,
3 that's pretty important. You know, we signed
4 on my agreement that their safety is utmost
5 key. So that's why we need to be able to
6 monitor that, rush in and, you know, kind of
7 save them and the situation.

8 Q. Okay. You give him pre-recorded
9 funds, ---

10 A. (Affirmative nod).

11 Q. --- fitted him with audio wire, you
12 search him.

13 A. Yes.

14 Q. What happened next after that?

15 A. They go out to the car and that's
16 where they are actually introduced to the
17 undercover. And they drive -- this time,
18 this particular buy, they started en route to
19 the Ponderosa area to meet with Chris Brown.

20 Q. And where were you at while this was
21 taking place?

22 A. We followed the undercover and the
23 CI. Basically, we followed them all the way
24 up until a safe distance of the scene.

25 Again, I'll go on further. In the drug

1 business, everyone that's involved it,
2 they're skeptical. They're always paranoid.
3 They have lookouts. There will be counter-
4 surveillance. So we try to position our-
5 selves in the areas to where we would just
6 blend in. We're obviously not driving police
7 cars with lights on them. So we try to blend
8 in the best that we can.

9 So once we get close to the target area
10 -- I say "target area." That's our
11 predetermined location -- we let the UC go.
12 We have either phone-to-phone contact with
13 them and plus we can hear them on the same
14 monitor that the informant is wearing.

15 So at that particular time, I was near
16 the front of the neighborhood, the Ponderosa
17 area.

18 Q. So were you able to see the sale
19 take place?

20 A. I was not.

21 Q. Were you able to hear the sale take
22 place over the wire?

23 A. Yes.

24 Q. And what did you hear take place?

25 A. We heard the multiple phone calls

State of South Carolina v. Christopher W. Brown

169

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Sean Perkins - Direct Examination

1 that were made en route there. We were able
2 to hear all the multiple phone calls made
3 asking, 'Where are you?'

4 When's he going to be there?

5 'Is this your car.'

6 'He's pulling up now.'

7 And then we hear the informant get out of
8 the vehicle. You know, we don't know who he
9 was making contact with at the time because I
10 can't see it. But -- I can't see it. But we
11 hear him making contact. They were taking.
12 They make small talk. They exchange. The
13 sale is good. He gets back in the car.

14 And then maybe thirty seconds to a minute
15 later is when the undercover let's us know,
16 'hey, the deal's good.'

17 And that also lets us know for the
18 surveillance units when it's over with to
19 watch again for counter surveillance and to
20 monitor where the target had drove off to and
21 where they're going.

22 Q. So while you were monitoring this
23 sale take place over the wire, were you able
24 to conclude that the Defendant was in control
25 of the situation?

1 A. Yeah, absolutely. There was no --
2 I mean, there was no -- I mean, there was no
3 voice fluctuation in his voice and he was
4 pretty calm, acted normal. It was pretty
5 quick.

6 Q. What would you do if somebody that
7 law enforcement or a confidential informant
8 was purchasing drugs from told you to just
9 get the heck out of there?

10 A. We'd leave. We wouldn't beg them to
11 sell us drugs because if they're suspicious
12 or "heat up", you know, like we call it,
13 we're going to get out of there because, you
14 know, you don't want to put yourself at risk,
15 or put the UC and the CI at risk. You know,
16 deals go bad. Sometimes they go bad for the
17 worst. So we're not going to sit there and
18 beg somebody or someone to do something that
19 they just totally are against. We just get
20 the heck out of there.

21 Q. So the sale then took place
22 successfully. Did you arrest Chris Brown at
23 that point?

24 A. We did not.

25 Q. And can you explain why you did not

State of South Carolina v. Christopher W. Brown

171

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Sean Perkins - Direct Examination

1 arrest Chris Brown?

2 A. In many investigations we -- we knew
3 that this was a part of a big drug organiza-
4 tion. And making an immediate arrest doesn't
5 really do any good. Sometimes it can, but in
6 this case we decided to let go. And we were
7 going to attempt to make more purchases, and
8 see where the investigation lead us.

9 Q. When you guys got back to the metro
10 office, what happened?

11 A. The informant goes in. We go
12 through a debrief again, basically just
13 rundown what happens. They're immediately
14 strip searched again. We recover the drugs,
15 whether it's either on them or if they've
16 left it in the vehicle, we'll retrieve that
17 immediately. So they're searched, make sure
18 that they didn't either, you know, pinch or
19 anything like that, maybe keep some of the
20 money that we gave him.

21 Q. What do you mean by pinch?

22 A. Basically steal drugs that he just
23 purchased. Sometimes, they'll try to take a
24 portion of it for their own ????. So that's
25 why we strip search them is to make sure they

1 there's, is to make sure that there's -- you
2 know, they came back with the same thing they
3 left with. We retrieve the audio equipment
4 and we download it. We listen to it, we look
5 at it, and, we log it into evidence.

6 MR. LIETZOW: I beg the Court's
7 indulgence.

8 THE COURT: Yes, sir.

9 DIRECT EXAMINATION CONTINUED

10 BY MR. LIETZOW:

11 Q. Did you test the substance to make a
12 preliminary determination of what it was?

13 A. I did. It field tested presumptive
14 for cocaine.

15 Q. And what was the approximate weight
16 of that cocaine?

17 A. It was roughly fifteen and a half
18 (15.5) grams.

19 Q. And then after you tested it, what
20 did you do with the drugs?

21 A. We log it into evidence, and then it
22 gets sent to a crime lab, whether it would be
23 SLED or Charleston County -- I'm sorry --
24 the City of Charleston's crime lab. It is
25 then tested by someone more qualified.

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Sean Perkins - Direct Examination

173

1 Q. Do you photograph any?

2 A. Yes.

3 Q. Do you take precautionary measures
4 to prevent the drugs from being tampered
5 with?

6 A. Yes. It's sealed, placed in a bag
7 and then it's stapled. There's a chain of
8 custody so it doesn't go in other hands
9 unless they're -- if it does, then it's
10 signed.

11 MR. LIETZOW: May I approach the witness,
12 Your Honor?

13 THE COURT: You may.

14 MR. LIETZOW: I'm showing the witness
15 what's been marked as State's Number 4 for
16 identification purposes only.

17 DIRECT EXAMINATION CONTINUED

18 BY MR. LIETZOW:

19 Q. Do you recognize that, Detective?

20 A. I do.

21 Q. How are you able to recognize that?

22 A. This was submitted by me. It has my
23 badge number when I was at the sheriff's
24 office, 9905.

25 Q. And what's the identifying number on

1 that, please?

2 A. It is the same case number.

3 Q. Can you state that for the record?

4 A. Yeah. It's 2009-002-467, which is
5 the case number that was assigned to this
6 case.

7 Q. On February 3rd, 2009, did you or
8 any other law enforcement officers or Will
9 Crosby act in a manner to induce or trick or
10 twist Chris Brown's arm to sell cocaine?

11 A. None whatsoever.

12 Q. You mentioned you were the case
13 agent. How many of these sales did Chris
14 Brown conduct while you were the case agent?

15 A. Approximately five.

16 MR. LIETZOW: I beg the Court's indul-
17 gence.

18 THE COURT: Yes, sir.

19 DIRECT EXAMINATION CONTINUED

20 BY MR. LIETZOW:

21 Q. We're going to talk about -- we've
22 already talked about the time that Chris sold
23 cocaine on February 3rd.

24 We're also going to talk about the time
25 that he sold it on February 19th, just a few

State of South Carolina v. Christopher W. Brown

175

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Sean Perkins - Direct Examination

1 weeks later.

2 We're also going to talk about a time
3 that Chris Brown sold it on September 15th.

4 And we're also going to talk about the
5 time that he sold it on August 26, 2010;
6 okay?

7 A. Yes, sir.

8 Q. Were they all conducted in a similar
9 manner?

10 A. Yes.

11 Q. Let's talk about February 19, 2009.
12 Where did that sale take place?

13 A. It was in or around the Ponderosa
14 area.

15 Q. Did it take place near the Red Top
16 area of Charleston?

17 A. If I can refer to the ---

18 Q. Yes, you can?

19 A. Yes. Originally, it was set up to
20 go to the Ponderosa area. And during that,
21 phone calls were made and they changed the
22 location. So we went to 3864 Savannah
23 Highway, which is in the Red Top area.

24 Q. And on that date, did Will call the
25 Defendant to arrange the purchase?

1 A. Yes.

2 Q. And were you able to hear that?

3 A. Yes.

4 Q. And was that first arrangement?

5 A. I'm sorry?

6 Q. Let me restate that. Was that
7 arrangement like the first one we've already
8 talked about?

9 A. Yes.

10 Q. And what arrangement did they make
11 on that day?

12 A. They were going to -- they arranged
13 to make the purchase of eleven hundred
14 dollars (\$1,100) worth of cocaine.

15 Q. What was the weight of that cocaine?

16 A. It was approximately an ounce.

17 Q. Is that a lot of cocaine, in your
18 opinion?

19 A. It's a significant amount.

20 Q. And I've already asked you this --
21 so I'll ask you this for this particular buy
22 and all the other ones we're going to talk
23 about -- but at that time for the market
24 rate, was that a fair price?

25 A. It was fair.

State of South Carolina v. Christopher W. Brown

177

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Sean Perkins - Direct Examination

1 MR. LIETZOW: I beg the Court's indul-
2 gence.

3 THE COURT: Yes, sir.

4 DIRECT EXAMINATION CONTINUED

5 BY MR. LIETZOW:

6 Q. How much would an average street-
7 level drug addict purchase in any one sale?

8 A. Average level? A gram to three
9 grams. They call it, you know, an eight
10 ball, which is roughly over four grams. Your
11 typical user is only going to, you know,
12 purchase, about a gram at a time. Normally.

13 Q. How many grams are in an ounce?

14 A. It's twenty-eight.

15 Q. And how much would a low-level,
16 corner-boy be -- how many ounces would a low-
17 level corner-boy be selling on the street?

18 A. A corner-boy's only going to be
19 holding, probably -- we call them the one-by-
20 one bags and it may be a gram. They may have
21 four, five, six grams all separating out,
22 ready to go. But they're not going to be
23 carrying -- they're not going to be carrying
24 an ounce on them, ready to go; your low-level
25 guy is not.

1 Q. On February 19th, did you search and
2 equip Will with audio and video before the
3 sale?

4 A. We did.

5 Q. Did you provide him with those pre-
6 recorded funds?

7 A. Yes.

8 Q. And did that sale successfully take
9 place?

10 A. It did.

11 Q. What was Chris Brown driving that
12 day?

13 A. If it's okay, I'm going to refer to
14 the report.

15 Q. That's fine.

16 A. (Upon review), at approximately 2:14
17 he arrived in a black, Ford Expedition.

18 Q. Did the audio and video turn out to
19 be useful in this sale?

20 A. No, I didn't see it? I noted in the
21 last sentence that it malfunctioned. As I
22 testified earlier, sometimes it goes good,
23 sometimes it doesn't. We don't know if the
24 video's going to turn out until we get back
25 because there's just no way of monitoring

State of South Carolina v. Christopher W. Brown

179

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Sean Perkins - Direct Examination

1 realtime. The only thing that we can monitor
2 realtime is hearing them say what they have
3 to say. So I notated that one portion of the
4 video recording malfunctioned and was no
5 value to us.

6 Q. So the sale took place, I assume.

7 A. (Affirmative nod).

8 Q. Did the confidential informant and
9 the undercover officer go back to a pre-
10 arranged location to debrief?

11 A. Yes. The same. It happens the same
12 every time. Search, before and after they
13 come back. We debrief. We'll either type
14 out a written statement or we'll write a
15 written statement explaining our own version
16 of what happened. The evidence is collected,
17 logged-in and we go from there.

18 Q. And did you test the substance to
19 determine whether it was presumptive for
20 cocaine?

21 A. Always, (affirmative nod). Yes,
22 sir.

23 Q. Was it?

24 A. Yes.

25 Q. And what was the weight of that?

1 A. Approximately twenty-nine grams.

2 Q. On February 19, 2009, did Will
3 Crosby or any law enforcement officers twist
4 Chris Brown's arm to get him to sell cocaine?

5 A. No.

6 Q. All right. Detective, let's talk
7 about September 15th, 2009. Please tell the
8 jury where this controlled sale took place.

9 A. Mr. Brown contacted the CI and told
10 him to meet him in the Ponderosa subdivision
11 and to call him when he got there. And then
12 later received another call and instructed
13 him to go back to the Red Top area.

14 Q. Did -- and I know these questions
15 are repetitive, but it's important to focus
16 on each day. Did Will call Chris Brown to
17 arrange that sale on that day?

18 A. Yes. At approximately 4:05 p.m. we
19 placed a recording on the phone call to Mr.
20 Brown's phone number and arranged the
21 purchase of a half ounce of cocaine for
22 approximately five hundred (\$500) dollars.

23 Q. And did you search the CI before
24 that sale?

25 A. Yes.

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Sean Perkins - Direct Examination

181

1 Q. The same detail as before, wire,
2 searched?

3 A. Outfitted with a wire, searched,
4 provided prerecorded funds.

5 Q. What was Chris Brown driving that
6 day that the sale took place?

7 A. Pardon for me having to look, but
8 there was three vehicles that he had so each
9 one was different. I'm sorry but having to
10 look for that. (Upon review), on this
11 particular buy, he was driving the white Ford
12 van.

13 Q. Did the sale successfully take
14 place?

15 A. It did.

16 Q. Did the audio and video turn out to
17 be useful on this date?

18 A. Yes.

19 MR. LIETZOW: May I approach the witness,
20 Your Honor?

21 THE COURT: You may.

22 MR. LIETZOW: (Tenders document to be
23 marked as exhibit).

24 COURT REPORTER: State's Exhibit 6 for
25 identification.

1 DIRECT EXAMINATION CONTINUED

2 BY MR. LIETZOW:

3 Q. Detective, I'm showing you what's
4 been marked for identification purposes only
5 as State's Exhibit Number 6. Do you
6 recognize-nize what that is?

7 A. I do.

8 Q. How are you able to identify that?

9 A. It has my initials on it and it has
10 the same case number that I stated earlier.

11 Q. Have you had an opportunity to view
12 that disk?

13 A. Yes.

14 Q. And when reviewing that, the
15 contents of that disk, does that disk provide
16 a fair and accurate representation of what
17 happened on that date particularly?

18 A. It does.

19 Q. What was your role on that date?

20 A. Again, as in the previous purchases,
21 myself and another detective, we monitored
22 the wire and the undercover and the CI from a
23 safe location away from the incident location
24 for the main reasons that I explained
25 earlier, is to provide surveillance and not

State of South Carolina v. Christopher W. Brown

183

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Sean Perkins - Direct Examination

1 be seen, so we can kind of fit in, so
2 everything goes, hopefully, smoothly.

3 Q. Did you have an opportunity to
4 review the video immediately after the sale
5 took place?

6 A. Yes.

7 MR. LIETZOW: Your Honor, the State would
8 move to enter State's Exhibit Number 6 into
9 evidence.

10 THE COURT: Any objection?

11 MR. KING: Yes, Your Honor, I would
12 object. It's a different date. It's not
13 what we are on trial here for today.

14 THE COURT: Mr. Lietzow:

15 MR. LIETZOW: Your Honor, this goes to
16 predisposition. I would like to publish this
17 disk in front of the jury to show that this
18 is a repeated course of activity that the
19 Defendant continues to engage in.

20 And it's also going to show that law
21 enforcement used no trickery to get him to
22 sell cocaine on this particular date, which
23 goes to the defense of entrapment that the
24 defense is presented.

25 THE COURT: All right. Under Rule

1 404(b), I believe it's admissible. I will
2 give a curative instruction to the jury in my
3 charge. Overruled.

4 (SO ENTERED AS STATE'S EXHIBIT 6)

5 MR. LIETZOW: May I have permission to
6 publish?

7 THE COURT: You may.

8 DIRECT EXAMINATION CONTINUED

9 BY MR. LIETZOW:

10 Q. (State's Exhibit 6, an audio
11 recording, played before jury). Explain to
12 the jury what just took place, what they just
13 heard on video?

14 A. It was a phone call that the infor-
15 mant and the Defendant were having, letting
16 him know he was on his way.

17 The other voice that you here in there is
18 the undercover, which is Detective Constanzo.
19 And he was basically relaying to me, 'Hey did
20 you hear that?' Just to make sure that, you
21 know, to keep me kind of up-to-date with
22 realtime of what was going on, if we were
23 going to have to change our locations or
24 whatever.

25 Q. (Exhibit 6 playing), can you set the

State of South Carolina v. Christopher W. Brown

185

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Sean Perkins - Direct Examination

1 stage or explain what just took place?

2 A. Well, that was the deal that I just
3 explained. The informant walked up to the
4 car, tapped Mr. Brown up. They spoke,
5 exchanged the recorded money for the drugs..
6 You know, they made small talk about --
7 excuse my language -- 'this shit's on point,
8 it's not sticking to the bag.' Which
9 basically means that it hasn't been stepped
10 on, it's kind of more pure cocaine. And
11 then, you know, they made small talk, kind of
12 casual. He's walking away and you can hear
13 the Defendant say, you know, 'holler at me.'
14 And he was like, 'I will.'

15 Q. Is it -- why did -- that buy is a
16 little bit different than the one we saw on
17 February 3rd. Why did Will Crosby walk away
18 from the undercover officer and to the
19 Defendant's van on that particular day?

20 A. Well, that's what he's instructed to
21 do when they met so he didn't pull right up
22 next to his car. We parked -- as you see,
23 he's parked in a location where people can
24 keep eyes on him.

25 Q.

1 (CELL PHONE RINGING IN COURTROOM)

2 THE COURT: What was that? Bailiff, take
3 that phone.

4 WITNESS: He pulled up to an area
5 away from the undercover, so the CI had to
6 get out of the vehicle and walk up, walk up
7 to him. And you heard him say on the video
8 to the undercover, 'he wants me to walk over
9 here.' So that's what he did.

10 DIRECT EXAMINATION CONTINUED

11 BY MR. LIETZOW:

12 Q. And I ask you the same question
13 again, did you or Will Crosby or anybody
14 under law enforcement's control twist Chris
15 Brown's arm to sell cocaine that day?

16 A. No.

17 Q. And did you arrest Chris that day?

18 A. We did not.

19 Q. And is that the same reason that we
20 gave last time?

21 A. Yeah. It's just it was an active,
22 on-going investigation.

23 Q. Did you have an opportunity -- what
24 happened after that video took place?

25 A. The same as all the other buys. We

State of South Carolina v. Christopher W. Brown

187

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Sean Perkins - Direct Examination

1 went back -- we followed. The CI comes back
2 to the vehicle. The UC let's us know that
3 the deal is good. Surveillance units will
4 stay in the area, kind of watch for either
5 counter surveillance or where the target is
6 going. And then we drove back to our metro
7 office, strip searched, all the evidence is
8 collected and we get the wire back off of
9 him, we download everything and we log it
10 into evidence.

11 Q. Did you test the cocaine that day?

12 A. I did. It field tested presumptive
13 for cocaine content and was approximately
14 fifteen (15) grams.

15 Q. Were you involved with the 8/26/2010
16 sale where Chris Brown sold cocaine?

17 A. I was not.

18 Q. Why not?

19 A. I'd left the sheriff's office at
20 that time and was employed with the North
21 Charleston Police Department.

22 Q. Yesterday, Chris Brown -- I'm sorry
23 -- Will Crosby stated that he has sold
24 cocaine also in his past.

25 A. Right.

1 Q. At any time did you or your office
2 provide any cocaine for Will Crosby to sell?

3 A. Absolutely not.

4 Q. To the Defendant?

5 A. Absolutely not.

6 Q. At any time did you or anyone of
7 your law enforcement officers or Will Crosby
8 provide cocaine to Chris Brown to then sell
9 back to Will Crosby?

10 A. Absolutely not.

11 MR. LIETZOW: I beg the Court's indul-
12 gence.

13 THE COURT: Yes, sir.

14 DIRECT EXAMINATION CONTINUED

15 BY MR. LIETZOW:

16 Q. Detective, on February 3rd, there
17 was another individual with Mr. Brown. Was
18 there always a second individual with Mr.
19 Brown?

20 A. No, you can see for the last video
21 he's by himself.

22 Q. So there wasn't any indication that
23 somebody in the car could have been coercing
24 Chris Brown outside of the presence of law
25 enforcement?

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Sean Perkins - Cross Examination

189

1 A. No.

2 Q. Let me rephrase that. Was there
3 another individual in the car on September 15
4 or February 19th that could have been coerc-
5 ing Chris Brown to sell cocaine outside the
6 presence of the defendant? Oh, I'm sorry,
7 outside the presence of law enforcement?

8 A. No.

9 MR. LIETZOW: Your Honor, that's all the
10 questions we have for Detective Perkins.

11 THE COURT: All right. Mr. King.

12 MR. LIETZOW: Thank you. Please answer
13 any questions that Mr. King has for you.

14 WITNESS: Yes, sir.

15 CROSS-EXAMINATION

16 BY MR. KING:

17 Q. You were the case agent, right?

18 A. Yes, sir.

19 Q. And you've talked about working with
20 informants?

21 A. Yes, sir.

22 Q. That's a necessary evil in the
23 narcotics business of law enforcement?

24 A. Yes, sir.

25 Q. You're working with criminals to

1 some extent, right?

2 A. Some are not criminals, but some
3 are.

4 Q. Some are?

5 A. Yes.

6 Q. And you can't ever completely trust
7 them; can you?

8 A. You can't trust anybody fully, I
9 don't guess.

10 Q. You make them sign a code of
11 conduct; right?

12 A. Yes.

13 Q. You don't really think that works
14 for somebody who's a dishonest person; do
15 you, signing a code of conduct?

16 A. (No response).

17 Q. Doesn't it seem more like something
18 some lawyer came up with, maybe, to cover the
19 police department?

20 A. I can't give you an accurate answer
21 as to who came up with that, if it was
22 developed by an attorney or not. You know,
23 as a law enforcement organization, I'm sure
24 they had attorneys involved and make sure
25 we've got the proper paperwork so we're

State of South Carolina v. Christopher W. Brown

191

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Sean Perkins - Cross Examination

1 ethical..

2 Q. Yeah. I'm just saying if someone
3 was going to do something dishonest, you
4 don't think signing that piece of paper's
5 going to change anything for them; do you?

6 A. Perhaps.

7 Q. And you have to search them before
8 the buy; right, to make sure they're not
9 hiding anything?

10 A. Correct.

11 Q. And after it's over you talk about
12 strip searching them again. You're talking
13 all their clothes off doing a full strip
14 search?

15 A. Yes.

16 Q. Because you can't trust them;
17 correct?

18 A. Well, it's not that we can't trust
19 them. We just want to make sure that they
20 came back, or leave and come back with the
21 same thing to be everything that we provided
22 them.

23 Q. Well, but that's because you don't
24 trust that they would come back with nothing.
25 You don't trust that they would come back

1 having done it correctly. That's why you
2 search them; right?

3 A. That's just the procedures that are
4 set for us. I answer to those procedures.

5 This is all procedure?

6 A. Absolutely. That's what our policy
7 and procedure says.

8 Q. And the procedure's probably because
9 informants can't always be trusted to not
10 hide some drugs or something like that?

11 A. Partly because of that.

12 Q. You talked about controlled buys,
13 explained what a controlled buy is. And
14 that's where -- the point of that is the
15 police are in the control of what's going on;
16 right?

17 A. (No response).

18 Q. In a controlled buy. That's what a
19 controlled buy is?

20 A. In general terms, yes. That's to
21 try ---

22 Q. It means controlled by the police?

23 A. No. It's controlled so it doesn't
24 get out of hand.

25 Q. Controlled by whom?

State of South Carolina v. Christopher W. Brown

193

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Sean Perkins - Cross Examination

1 A. Well, obviously, it's us and any
2 other parties involved.

3 Q. It's not controlled by Will Crosby?

4 A. No.

5 Q. So it's controlled by the police?

6 A. Yes. It's controlled by us because
7 we try to make sure that it's safe for
8 everyone going on. If it gets out of
9 control, then -- it's like I said, we call it
10 a buy walk or a controlled buy. Both are the
11 same things.

12 If it gets out of control it opens up for
13 scrutinization and then everybody wants to,
14 you know -- it just wouldn't be ethical and
15 we wouldn't be able to produce it in a case.

16 Q. So you want to control as much of
17 this as you can?

18 A. (No response).

19 Q. This operation?

20 A. Yeah. I mean, it's called a
21 controlled buy. I can't help what the title
22 is, you know, that's what it is.

23 Q. And so that's why they wire the
24 informant up so he's recording?

25 A. Right.

1 Q. It's probably for his safety so that
2 you know what ---

3 A. Yeah. It's for his safety and
4 everybody's safety involved, you know -- and
5 the UC. I mean, they may be an informant but
6 it's still our responsibility to, you know,
7 look out for them.

8 Q. And it's also so you know exactly
9 what happened?

10 A. That's right.

11 Q. You know exactly what the suspect
12 says to the informant?

13 A. We try to. Yeah, I mean, we monitor
14 realtime. Like I said, I mean, technology
15 isn't the best so sometimes you may not hear
16 it initially, but we go back and review it.
17 That's what it's there for, for evidentiary
18 purposes.

19 Q. Right. Right. You want to know
20 what the defendant or the suspect has said to
21 the informant and have that recorded?

22 A. Yes.

23 Q. So that it can be used as evidence?

24 A. Yes.

25 Q. And you want to know what the

State of South Carolina v. Christopher W. Brown

195

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Sean Perkins - Cross Examination

1 informant is saying to the suspect as well;
2 right? Because you don't want the informant
3 threatening the suspect?

4 A. Right.

5 Q. Or pulling a gun on the suspect to
6 try to get them to sell drugs; do you? You
7 want ---

8 A. Right.

9 Q. And a lot of times, these controlled
10 buys you get the informant and you place
11 telephone calls to the suspect; right?

12 A. Yes.

13 Q. And you listen in and you record it?

14 A. We try to. Sometimes we don't have
15 the technical means to record the call, but
16 we are either sitting there with them when
17 they make the call, yes.

18 Q. You wouldn't have the technical
19 means to record the call?

20 A. Sometimes we don't have the
21 recorders on. It just depends on whether
22 we're -- if you're talking about the little
23 digital recorders that are able to, you know,
24 put in their ear where so we can hear. But,
25 yes, most -- the majority of the time, we're

State of South Carolina v. Christopher W. Brown

196

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Sean Perkins - Cross Examination

1 there to monitor the call.

2 Q. Ideally, you would like to have all
3 the phone calls recorded that are setting up
4 a buy?

5 A. In a perfect world, yes.

6 Q. And because that means that you have
7 complete control over everything and you know
8 exactly everything that the informant has
9 said to the suspect; right?

10 A. Yes, sir.

11 Q. And you've got all this evidence to
12 present. You've got a series of phone calls
13 leading up to a purchase that may be present-
14 ed as evidence; right?

15 A. Yes.

16 Q. But in this case, Crosby's not
17 really under control; right? Because he's
18 calling Christopher Brown without your super-
19 vision?

20 A. No, he's under control. As I
21 testified to earlier, we encourage the
22 informant to keep in constant contact with
23 their contacts that they've had before. If
24 they're friends, we don't want to do anything
25 abnormal that they wouldn't be doing before.

State of South Carolina v. Christopher W. Brown

197

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Sean Perkins - Cross Examination

1 I mean, if that's placing phone calls to them
2 to keep in good graces with them, 'hey, man,
3 you up' Sometimes they're like, 'I don't
4 have anything to sell you right now, but I
5 got you in about three or four days' or 'I've
6 got to travel here. I'll get it next week.'

7 So, when you say if he's not under
8 control, he is. We encourage them to stay in
9 contact.

10 Q. So Will Crosby's making numerous
11 phone calls to Christopher Brown, keeping in
12 contact with him?

13 A. Uh-huh (affirmative).

14 Q. But they're not recorded?

15 A. Right, because we're not there.

16 Q. You're not there?

17 A. Right.

18 Q. You're not present for it.

19 A. Right.

20 Q. Like, for example, on the video
21 that's been admitted into evidence on
22 February 3rd, 2009, the first thing that you
23 say, if you can, try to see if you can get a
24 number for Marcus Gibbes?

25 A. Right.

1 Q. That's showing you're -- you're
2 trying to get to him to get to Marcus.
3 That's been established so I don't think
4 anybody's disputing that, that you were
5 trying to get to Marcus eventually; right?

6 A. You're asking me if we were?

7 Q. Right? That's not disputed?

8 A. Right. He was ---

9 Q. He's the ultimate target?

10 A. Ultimate target in the organization
11 that your Defendant was a part of.

12 Q. Right. And then he says -- and Will
13 Crosby says, *yeah, I told him that yesterday.*
14 *I was like, what's --* and he said, all right,
15 later when he called. He wasn't trying to
16 dodge him or anything. So he's telling you
17 then that he was calling yesterday; right?

18 A. Sure.

19 Q. But you have no idea what was said
20 between Will Crosby and Christopher Brown in
21 that phone call because you weren't present
22 for that? That was not under your control?

23 A. You talking about the ones made
24 outside of our presence, I would have no --
25 I can't testify to that.

State of South Carolina v. Christopher W. Brown

199

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Sean Perkins - Cross Examination

1 Q. Do you have any idea what Will
2 Crosby was saying to Christopher Brown on
3 that phone?

4 A. No, sir. I would not.

5 Q. And then he's riding in the car with
6 Detective Brown in the video. In another
7 portion of that video he's telling Detective
8 Brown, he says, 'I'll be calling him and
9 talking to him about work, talking to him
10 about my homeboy.' So he's telling Detective
11 Brown that he's calling him repeatedly,
12 right? Letting him know.

13 A. Yes.

14 Q. Then in another portion of the
15 video, he's taking to Detective Brown again.
16 He said, 'That's what I told him. I had a
17 little side work, told him last week I had a
18 little bit of work and now he could go ahead
19 and get something.

20 'I ain't got no more work. I ain't going
21 to have no money coming in. And he's like,
22 'I know man, I know how it is man, just
23 holler at me.' All right. So he's telling
24 Detective Brown how he's making these phone
25 calls, talking about how he's not getting any

1 work. You know, he's basically manipulating
2 Christopher Brown by saying that he doesn't
3 have any work. He doesn't have any money
4 coming in; right? And he's telling you guys
5 this; right?

6 A. I wouldn't say he's manipulating
7 him, but he's making phone calls.

8 Q. But in a perfect world, ideally, you
9 would like to have all those phone calls
10 recorded so that you can use that as
11 evidence. Because if they're -- if these
12 phone calls have evidentiary value, if it
13 shows Christopher Brown is a willing seller
14 of cocaine, you'd want to present that to the
15 jury; right?

16 A. We can only add the ones that are
17 recorded by the confidential informant in our
18 presence and at our office. I can't record
19 phone calls that he's having on his own time
20 to anybody.

21 Q. Well, you could set it up. You
22 could set it up to where you were present
23 every time Will Crosby called Christopher
24 Brown. And you could get a recording of it?

25 A. I could not have.

State of South Carolina v. Christopher W. Brown

201

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Sean Perkins - Cross Examination

1 Q. That's impossible to do?

2 A. With the other case load and my
3 personal life, there is no way that I could
4 deal with Will Crosby twenty-four hours a
5 day, seven days a week, to record every phone
6 call that he may or may not make.

7 Q. Well, you wouldn't have to do it.
8 You could set it up for specific times. You
9 could have -- 'okay, we're going to make a
10 specific phone call this day.' It might take
11 twenty minutes, thirty minutes. And then set
12 up another phone -- you wouldn't have to deal
13 with him twenty-four hours a day. I mean,
14 you could set up specific phone calls leading
15 all the way up to a buy; right?

16 A. We could, yes.

17 Q. And you could play all those for the
18 jury?

19 A. We could have done that.

20 Q. But we don't have that. And we have
21 no idea what Will Crosby said to Christopher
22 Brown all those times he called him before
23 February 3rd? We have no idea; right?

24 A. (No response).

25 Q. You have no idea?

1 A. No, I've testified I don't know what
2 he said to him.

3 Q. Now, you said that Will Crosby
4 became an informant -- do you remember when
5 you were contacted by the North Charleston
6 Police Department?

7 A. I think it was sometime in late
8 2008. I did not even meet the informant
9 until January of 2009.

10 Q. So you had maybe a few weeks to a
11 month or so that he's working as an
12 informant, to be keeping in contact with
13 Christopher Brown and setting this up. And
14 you encouraged him to make calls to
15 Christopher Brown?

16 A. What time period are you referring
17 to?

18 Q. From the time that ---

19 A. We met?

20 Q. Yeah. That he became an informant
21 up to February 3rd?

22 A. Okay. Can you rephrase -- what
23 question are you asking me? Is it if I
24 encouraged him to make phone calls?

25 Q. Yes?

State of South Carolina v. Christopher W. Brown

203

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Sean Perkins - Cross Examination

1 A. Yeah. I testified that's -- we want
2 you to be as normal as you possibly can. If
3 not, that raises suspicion and basically they
4 wouldn't sell to you. He's already admitted
5 that he was friends with him and he purchased
6 from him in the past. If you cut out all
7 ties or communication, that's going to look
8 weird. In the drug business that's weird.

9 Q. But all that's coming from -- Will
10 Crosby's saying that he bought from
11 Christopher Brown times before all this;
12 right?

13 A. He testified to that; yes.

14 Q. But the only way we know that is
15 because he's saying that. I mean, you don't
16 have any evidence to that, do you?

17 A. No, I'm just going on the debrief-
18 ing.

19 Q. You're going on by what Will Crosby
20 told you?

21 A. Yes, that's typical with a CI. We
22 have a debriefing, get to know each other.
23 We get to know their history and that's how
24 we, you know, that's how we proceed.

25 Q. And Will Crosby was trying to work

1 off his felony trafficking charge?

2 A. Yes.

3 Q. And there's one point in the video
4 where he says he was trying to get in the
5 military and that he says that Sean said he
6 would talk to a recruiter with him? Did you
7 ever discuss with him about maybe helping him
8 get in the military, get his charges
9 expunged?

10 A. Well, as a veteran, I took an
11 interest in the fact that he would want to go
12 into the military. I mean, with his record,
13 he probably didn't have a very good
14 opportunity. But I'm not going to bash the
15 guy for, you know, for what his hopes and
16 dreams may be.

17 Q. You were willing to help him?

18 A. If I had the opportunity, I'd help
19 anybody. I've known other people that aren't
20 criminals, young kids I meet on the street.
21 If they talk about going into the military,
22 I'm the first one. I'll be like, 'hey, I'll
23 drive you to the recruiter's office, if I
24 have to.'

25 Q. And we talked about this before,

State of South Carolina v. Christopher W. Brown

205

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Sean Perkins - Cross Examination

1 your ultimate target here was Marcus Gibbes;
2 right?

3 A. Right.

4 Q. In the video that's the first thing
5 out of your mouth is to try to get a number
6 for Marcus Gibbes today; right?

7 A. He happened to be in the top-tier
8 portion of a drug organization that Chris
9 Brown was part of. Like a ladder, he was a
10 rung on the ladder. You start with the
11 bottom and go up.

12 Q. And you heard Will Crosby testify
13 yesterday; right?

14 A. Yes, sir.

15 Q. And he was asked about whether
16 Christopher Brown was the right-hand man of
17 Marcus Gibbes. And he said, I can't say
18 that. Remember that?

19 A. I remember, yes.

20 Q. I think he even said he didn't know
21 about them working together as far as drugs
22 were concerned; right?

23 A. Right.

24 Q. So you're just assuming all of this;
25 right? You don't have some evidence that you

1 we don't know about, do you?

2 A. As to what, that he's his right-hand
3 man?

4 Q. As to Christopher Brown working with
5 Marcus Gibbes as his right-hand man?

6 A. Through the debriefing of the CI.
7 I mean, eventually we determined that, you
8 know, he was able to -- he had contact with
9 Marcus so he's involved in that same drug
10 organization and that's the route that we
11 were going to go.

12 Q. Everything coming from the debrief-
13 ing of Will Crosby?

14 A. Yeah, that. And, you know, we do
15 our own investigations because, you know, we
16 try to find out, you know, through other
17 detectives, other agencies, 'Have you heard
18 of this guy?' You know, we have computer
19 data bases that we try to go through. Yeah,
20 we try to verify everything to make a
21 credible ---

22 Q. Had you heard of Christopher Brown
23 before you met Will Crosby?

24 A. I had not, but in the drug business,
25 I find that as being a successful business

State of South Carolina v. Christopher W. Brown

207

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Sean Perkins - Cross Examination

1 man. I give him credit. The more you can
2 stay out of the limelight, and keep your nose
3 under the radar from law enforcement, that's
4 doing good work. And the higher you are up
5 in the chain of command, let's just say, the
6 more insulated you are, the more people that
7 you have to basically take the hits for you,
8 take the charge, because they're smaller
9 guys. So, yeah, I hadn't heard of Chris
10 Brown up until that moment but that doesn't
11 surprise me.

12 Q. So you were aware of Marcus Gibbes
13 before you met Will Crosby?

14 A. Yes.

15 Q. But you were not aware of
16 Christopher Brown before you met Will Crosby?

17 A. No.

18 Q. Will Crosby couldn't get in touch
19 with Marcus Gibbes; is that right?

20 A. Not initially. He used to but not
21 initially.

22 Q. But when you were working with him,
23 he was never able to get in touch with Marcus
24 Gibbes?

25 A. Not that I can remember.

1 Q. Based on your -- as an expert in
2 narcotics, is it fair to assume that might be
3 because Will Crosby had just been arrested
4 with a large amount of cocaine; right?

5 A. It could be.

6 Q. Marcus Gibbs' cocaine?

7 A. Right.

8 Q. And he owed Marcus Gibbs money for
9 the cocaine that was seized by the police
10 too; right?

11 A. Yes.

12 Q. So he was trying -- he was actually
13 trying to contact Marcus Gibbs and make sure
14 everything was okay between them and that he
15 was going to pay him back. Wasn't that going
16 on, too? He was trying to get the money back
17 to Marcus Gibbs?

18 A. Yeah. In a drug deal, if you owe
19 the drug dealer money you need to pay them.
20 He tried to make good by getting the money
21 back but somehow or another -- in any good
22 business practice if you owe somebody money,
23 you're going to have to end up paying them
24 back.

25 Q. So Marcus Gibbs wouldn't have

State of South Carolina v. Christopher W. Brown

209

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Sean Perkins - Cross Examination

1 anything to do with will Crosby while he was
2 under your supervision as an informant?

3 A. Well, I can't say that he wouldn't
4 have anything to do with him. We just were
5 unsuccessful in getting in touch with him.

6 Q. For a year and a half?

7 A. I mean -- you'd be surprised. Drug
8 dealers don't want everyone calling. They
9 dump phones like crazy. They'll have five
10 and six phones on them at a time. So they're
11 very -- generally, they're very skeptical of
12 people that they deal with. And I'm giving
13 Marcus credit, he was a good businessman. He
14 stayed insulated and he stayed away from
15 getting his hands dirty. I mean, he
16 eventually got caught but -- so for us to not
17 be able to get in touch with him because he's
18 wanting to distance himself from a guy that
19 just got caught, absolutely, I wouldn't
20 answer the phone either. I wouldn't give him
21 any phone number.

22 Q. And you wouldn't think that Marcus
23 Gibbes' right-hand man would do that either,
24 because wouldn't anybody close to him know
25 the same thing? *'Hey, Will Crosby just got*

1 busted. He might be snitch.' So wouldn't
2 anybody in that circle know that and not want
3 to deal with him?

4 A. No.

5 Q. And that's why Will Crosby had the
6 idea to go around that circle to try to find
7 another connection to Marcus Gibbes, his
8 friend?

9 A. Well, he was already buying -- from
10 his testimony he was already buying from
11 Christopher Brown, so ---

12 Q. That's what he says. If you believe
13 what he says?

14 A. Right. That's what he testified.
15 He bought ---

16 Q. If you believe him?

17 A. That's what he testified to
18 yesterday. He was comfortable with him so he
19 was going to go and buy from him again.

20 Q. You said something about phones.
21 You knew Christopher Brown's phone number;
22 right?

23 A. We established that.

24 Q. We established?

25 A. Yes, sir.

State of South Carolina v. Christopher W. Brown

211

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Sean Perkins - Cross Examination

1 Q. You know he's still got that phone
2 number?

3 A. Do I know he does?

4 Q. (Affirmative nod).

5 A. I have no idea.

6 Q. Are you aware of him changing phone
7 numbers, tossing phones, anything like that
8 like drug dealers do?

9 A. Not all drug dealers do, but I don't
10 know if he ever changed his phone.

11 Q. You just said just a second ago that
12 that is real common for them. And if it is
13 common, and I don't know if it is, there is
14 no evidence Christopher Brown ever did that;
15 right?

16 A. No, he had the same phone.

17 Q. Marcus Gibbes got caught; right? He
18 eventually got caught?

19 A. Yes.

20 Q. Not through Will Crosby, through
21 some other investigation, another informant;
22 right?

23 A. I wasn't active for that case. I
24 just know that he was arrested.

25 Q. You're aware through your

1 involvement -- you've been trying to get
2 Marcus Gibbes for a year and a half. I'm
3 sure you're aware of what ultimately
4 happened, right? He was your target for a
5 long time.

6 A. Well, ultimately, I received a phone
7 call through some colleagues that he was
8 arrested.

9 Q. And he was arrested at a buy/bust?

10 A. I can't recall exactly.

11 MR. LIETZOW: Objection, Your Honor.
12 Relevance.

13 THE COURT: He's on cross-examination.
14 Overruled.

15 CROSS EXAMINATION

16 BY MR. KING:

17 Q. Do you have any idea why ---

18 A. I'm sorry. I just know that he was
19 caught with a, at least a significant amount
20 of kilos of cocaine. ---

21 Q. Right?

22 A. --- and a substantial amount of cash
23 in his car and at his residence.

24 Q. They found some of it in his car,
25 went back to his house and they found kilos

State of South Carolina v. Christopher W. Brown

213

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Sean Perkins - Cross Examination

1 and thousands of dollars?

2 A. Yeah. But, I mean, I can't
3 accurately tell you how that played out
4 because I didn't work for that agency that
5 took him down.

6 Q. And he's in prison now? Marcus
7 Gibbes is in federal prison?

8 A. Yes.

9 Q. So you ended up getting the kingpin,
10 got "the man"?

11 A. (No verbal response).

12 Q Right, you got him? But it had to
13 be through another investigation, another
14 informant?

15 A. (No response).

16 Q. I guess you weren't really involved
17 in that part?

18 A. I wasn't involved.

19 Q. And you were talking about monitor-
20 ing multiple phone calls made in that video
21 of February 3rd, like you're monitoring
22 what's going on and you can hear what's on
23 the video?

24 A. Yes. It was also relayed by the
25 undercover which we could hear. So in case

1 we didn't hear it, he can say 'Hey, did you
2 hear this?'

3 Q. Right.

4 A. And so we can try to -- you know,
5 like I said, with what -- when we have
6 available technology, we try to utilize it
7 the best we can.

8 Q. And you don't hear anything on that
9 video that we can't; right? What you're
10 hearing is the same thing we're hearing when
11 we watch that video?

12 A. Yes.

13 Q. And you can't hear Christopher Brown
14 on that video on the phone. All you hear is
15 what Will Crosby is relating; right?

16 A. Yes. Exactly.

17 Q. So everything's being related by
18 Will Crosby on that trip and the call, when
19 those phone calls are being made?

20 A. Yeah. You're hearing exactly what I
21 heard on the phone.

22 Q. And these other sales you're talking
23 about, you didn't actually witness any of
24 those; right? You weren't present like ---

25 A. I was never the undercover. I was

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Sean Perkins - Redirect Examination

215

1 just the case agent.

2 Q. So you're off at a distance just
3 listening. You're not witnessing what's
4 going on?

5 A. That's how we do it because the
6 undercover is there.

7 Q. And that would be Costanzo in those
8 other cases?

9 A. (Affirmative nod), and Detective
10 Brown was, in reference to this case was the
11 undercover for this case. Costanzo was one.

12 MR. KING: That's all the questions
13 I have.

14 THE COURT: Any redirect to that cross?

15 MR. LIETZOW: Just briefly, Your Honor.

16 *REDIRECT EXAMINATION

17 BY MR. LIETZOW:

18 Q. Detective Perkins, would you put you
19 or any of the other law enforcement officers
20 in danger by working with a CI if you didn't
21 feel that the situation was safe?

22 A. Absolutely not. I have a family --
23 I have a family and the job's, you know,
24 enough risk. I wouldn't add to it.

25 Q. Have you ever declined working with

1 a CI?

2 A. Absolutely have.

3 Q. It was mentioned that law enforce-
4 ment has control over these sales that take
5 place. Is it a common technique for law
6 enforcement to do what they did in this
7 situation?

8 A. It's pretty much ninety-nine point
9 nine percent of how they go. If it wasn't
10 controlled, they would go out and do whatever
11 they did and that wouldn't be ethical or
12 provide you a case.

13 Q. And does Chris Brown know when law
14 enforcement is monitoring the calls that Will
15 makes to Chris Brown?

16 A. Does the Defendant know?

17 Q. Yes?

18 A. No.

19 Q. So he doesn't know when law enforce-
20 ment is listening?

21 A. No.

22 Q. Does he know when law enforcement is
23 not listening?

24 A. No.

25 Q. When you overheard the calls that

State of South Carolina v. Christopher W. Brown

217

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Sean Perkins - Redirect Examination

1 took place between Will and Chris Brown, did
2 it seem like Chris Brown was hesitant to talk
3 to Will Crosby or didn't want to talk to him?

4 A. No, if he didn't answer, he would
5 call him back. And on several of the
6 incidents, several of the meetings he
7 actually picked the meeting spot, so he was
8 seeking out Will.

9 Q. There's been a lot of talk about
10 this organization. And you testified that
11 Marcus Gibbes was the overall target of this
12 investigation?

13 A. Correct.

14 Q. Do your plans always go down exactly
15 like you envisioned them when you're trying
16 to work your way through a drug organization?

17 A. It never works out perfectly. You
18 always have to adapt and overcome. People
19 move. I testified that sometimes they get
20 different phones, you know. We always have
21 to go in whatever direction that the case
22 leads us. If it leads us in a bad direction,
23 then we won't go there. So, no, it never
24 works out perfectly.

25 Q. You're qualified as an expert. In

1 your opinion, was Chris Brown acting like
2 someone who had never sold cocaine before on
3 February 3rd, February 19th, September 15th?

4 A. No. I mean, you can see him in the
5 video. I mean, if you -- he came up, they
6 shook hands, they made small talk. He didn't
7 appear to be nervous. I mean, in my opinion,
8 if you're nervous and you don't want to do
9 something, you're not going to sell to
10 somebody. You're just not going to do it.

11 MR. LIETZOW: No further questions.

12 THE COURT: Any recross based upon his
13 redirect?

14 MR. KING: No, sir.

15 THE COURT: All right. Thank you. You
16 may step down.

17 THE WITNESS: Thank you.

18 (WITNESS STEPS DOWN)

19 THE COURT: All right. Ladies and
20 gentleman, I think now is a good time for a
21 morning break. We'll take about a ten-minute
22 recess and then we'll -- please do not
23 discuss anything about the case. Okay.

24 (JURY OUT @ 11:23 A.M.)

25 (BRIEF RECESS)

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Mark Brown - Cross Examination

219

1 (JURY IN @ 11:35 A.M.)

2 THE COURT: All right. Ladies and
3 gentlemen, yesterday testimony was taken of
4 Detective Mark Brown. I sustained an
5 objection as to certain testimony.

6 After y'all happily adjourned, I reversed
7 my ruling and for that portion -- it's not
8 stricken from the record.

9 The State now intends to recall him and
10 ask that question again and any follow-up
11 questions relating to that. The Defense will
12 then have an opportunity to cross-examine on
13 those particular issues.

14 All right. You may call your next
15 witness.

16 MR. LIETZOW: The State Calls Detective
17 Mark Brown.

18 (WITNESS TAKES STAND)

19 *MARK BROWN, having been sworn to
20 tell the truth, and nothing but the truth,
21 testified as follows:

22 DIRECT EXAMINATION

23 BY MR. LIETZOW:

24 Q. Thank you Detective for coming back.

25 A. Yes, sir.

1 Q. We've already heard the majority of
2 your testimony so we're going to fast forward
3 and go quick.

4 So I can set the scene, you and Will
5 Crosby are at the location that you're
6 instructed to go to waiting for the sale to
7 take place?

8 A. Yes, sir.

9 Q. Tell us what happened at that point.

10 A. He made contact with Mr. Brown by
11 phone and asked him where he was. And at
12 this time, Mr. Brown said that he was waiting
13 on a sale at that time.

14 Q. Tell us what happened next, please.

15 A. After he said that he was waiting on
16 a sale at Red Top, he said that he had the
17 cocaine he was going to sell him at his house
18 at 864 Cartwright Drive, in the Ponderosa
19 subdivision in Charleston County.

20 MR. LIETZOW: No further questions, Your
21 Honor.

22 THE COURT: All right. Mr. King.

23 MR. KING: Thank you, Your Honor.

24 CROSS EXAMINATION

25 BY MR. KING:

State of South Carolina v. Christopher W. Brown

221

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Mark Brown - Cross Examination

1 Q. You said that Christopher Brown said
2 he was off making another sale?

3 A. Yes, sir.

4 Q. All right. Did you hear Christopher
5 Brown say that?

6 A. No, sir.

7 Q. Will Crosby was telling you that?

8 A. Yes, sir.

9 Q. Okay. And you're just repeating
10 what Will Crosby is telling you after he's
11 talking on the phone?

12 A. Yes, sir. And relaying it to
13 Detective Perkins.

14 Q. Okay. And isn't what he actually
15 said, he says, *"he's waiting on somebody
16 who's supposed to bring it, but then didn't
17 do something."*

18 Then he said -- then he corrects himself
19 and says, *"mine's at the house, so he's going
20 to go back here and get mine."*

21 Doesn't he at one point say he's waiting
22 on somebody who's supposed to bring it, as in
23 the drugs that he's trying to get; you
24 remember that?

25 A. I don't recall. No, sir.

1 Q. And that Will Crosby never used the
2 word "sale"?

3 A. I don't recall him saying sale.

4 MR. KING: Your Honor, may I play that
5 portion of the tape?

6 THE COURT: Yes, sir.

7 CROSS EXAMINATION CONTINUED

8 BY MR. KING:

9 Q. (Audio playing), did you hear that?

10 A. Yes, sir.

11 Q. He said, somebody's supposed to
12 bring it to him. But you're saying -- he's
13 saying two different things. He's saying
14 that "mine's at the house." But then he says
15 he's waiting on somebody to bring it?

16 A. Yes, sir.

17 Q. (Audio playing), that's what you
18 relayed to whoever you were talking to?
19 Detective Perkins?

20 A. Yes, sir.

21 Q. (Audio playing), he went to take
22 somebody something?

23 A. Yes, sir.

24 Q. That's what he ends up saying?

25 A. Yes, sir.

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Mark Brown - Recross Examination

223

1 Q. And he doesn't say that Christopher
2 Brown's off selling somebody else cocaine?

3 A. No, sir.

4 MR. KING: That's all the questions.

5 THE COURT: Any redirect?

6 MR. LIETZOW: Briefly, Your Honor.

7 THE COURT: All right. Thank you. I'm
8 sorry, you said you did?

9 MR. LIETZOW: Just briefly, Your Honor.

10 THE COURT: Okay.

11 *REDIRECT EXAMINATION

12 BY MR. LIETZOW:

13 Q. Detective Brown, clearly Chris Brown
14 was out doing something, right?

15 A. Yes, sir.

16 Q. And there's multiple parties that
17 are involved, both saying the drugs are at
18 Chris Brown's house, somebody's bring him
19 something. What do you make of that?

20 A. What I make of it was that he was
21 waiting on a sale somewhere and the he only
22 brought just enough for that sale. And that
23 then he was going to go back to his house and
24 get the drugs he's going to sell to Will
25 Crosby.

1 MR. LIETZOW: Nothing further, Your
2 Honor.

3 THE COURT: Any recross?

4 MR. KING: Just briefly, Your Honor.

5 *RECROSS EXAMINATION

6 BY MR. LIETZOW:

7 Q. And it's also possible that he's
8 going to meet the guy that he's going to get
9 the drugs to bring to sell Will Crosby;
10 right? Because you just said at one point he
11 says he's waiting on somebody to bring it?

12 A. Yes, sir.

13 Q. But then he corrects himself?

14 A. That's possible.

15 Q. And did you see Christopher Brown go
16 to his house and get it?

17 A. No, sir.

18 MR. KING: That's all the questions that
19 I have.

20 THE COURT: You may step down.

21 THE WITNESS: Thank you, sir.

22 (WITNESS STEPS DOWN)

23 THE COURT: You may call your next
24 witness.

25 MS. COMPTON: Thank you, Your Honor. The

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Jennifer Lieser - Direct Examination

225

1 State calls Jennifer Lieser.

2 (WITNESS TAKES STAND)

3 JENNIFER LISTER, having been sworn
4 to tell the truth, and nothing but the truth,
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MS. COMPTON:

8 Q. Good morning, Ms. Leiser.

9 A. Good morning.

10 Q. Tell us where you are employed?

11 A. I am currently employed by the
12 Charlotte-Mecklenburg Police Department in
13 the chemistry section of their crime lab.

14 Q. How long have you been up there?

15 A. I have been working for the
16 Charlotte PD for about four and a half years.

17 Q. Is that where you were employed by
18 in 2009?

19 A. In 2009 I was employed by the
20 Charleston police department, in the
21 chemistry section of their crime lab.

22 Q. How long were you with the
23 Charleston police department?

24 A. I was with the Charleston police
25 department for about three and a half years.

1 Q. Okay. Now, you said that you were
2 employed in their crime lab. What was your
3 specific title and what were your duties?

4 A. My specific title was associate
5 criminalist. Since I was an associate
6 criminalist in the chemistry section, often
7 referred to as a forensic chemist, I tested
8 evidence for the presence of controlled
9 substances. I also did some biology related
10 testing.

11 Q. What is your background and
12 education?

13 A. I have a bachelor of science in
14 Biology from the College of Charleston.

15 I have attended the Drug Enforcement
16 Administration's chemists seminar.

17 I took courses at West Virginia
18 University in the analyses of controlled
19 substances as well as the interpretation of
20 mass spectra data.

21 I attended the South Carolina Law
22 Enforcement Division's course in marijuana
23 analysis.

24 Q. Thanks. Now, have you ever analyzed
25 substances to determine whether or not that

State of South Carolina v. Christopher W. Brown

227

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Jennifer Lieser - Direct Examination

1 substance contains illegal drugs?

2 A. Yes, I have.

3 Q. Can you estimate how many times
4 you've done that in your career?

5 A. I would say on average that I've
6 done about eight hundred cases a year.

7 Q. So over the course of the years that
8 would be multiplied exponentially?

9 A. Yes.

10 Q. Have you analyzed substances to
11 determine whether or not that contain
12 cocaine, specifically?

13 A. Yes, I have.

14 Q. Could you estimate how many you've
15 done of those?

16 A. I'd say about fifty percent of the
17 cases I've done have been confirmed to
18 contain cocaine.

19 Q. Have you testified in court before
20 about drug analyses that you have done?

21 A. Yes, I have.

22 Q. Have you been qualified as an expert
23 during those testimonies?

24 A. Yes, I have.

25 Q. About how many times would you

1 estimate that you've been qualified as an
2 expert in court?

3 A. I've been qualified as an expert in
4 court about a hundred times.

5 MS. COMPTON: Your Honor, at this time I
6 would move to have Ms. Lieser qualified as an
7 expert in chemical analyses.

8 THE COURT: Do you wish to *voir dire*
9 her?

10 MR. KING: No, Your Honor.

11 THE COURT: Do you have any objections?

12 MR. KING: I have no objections.

13 THE COURT: Ladies and gentlemen, I am
14 going to qualify her as a drug expert?

15 MS. COMPTON: Yes, Your Honor, in
16 chemical analyses.

17 THE COURT: Ladies and gentlemen, as I
18 said before, normally a witness can only
19 testify to what they tasted, smelled, saw or
20 felt. However, when somebody have a certain
21 level of expertise and experience in a
22 certain field or science, they are allowed to
23 give their opinion. Whether or not you as
24 jurors decide to accept their opinion will be
25 totally up to you. Thank you. You may

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Jennifer Lieser - Direct Examination

229

1 proceed.

2 MS. COMPTON: Your Honor, if I may have a
3 moment -- court's indulgence, (tenders
4 document to be marked as exhibit.

5 COURT REPORTER: State's Exhibit 7 for
6 identification.

7 MS. COMPTON: Permission to approach the
8 witness, Your Honor?

9 THE COURT: Yes, ma'am.

10 MS. COMPTON: Thank you, Your Honor.

11 DIRECT EXAMINATION CONTINUED

12 BY MS. COMPTON:

13 Q. Ms. Lieser, I am showing you for
14 identification only at this point State's
15 Exhibit 4. State's Exhibit 4 actually
16 contains two items. Can you take a look at
17 these and let me know if you recognize them.

18 A. (Upon review), I do recognize them.

19 Q. How do you recognize them?

20 A. The plastic bag inside contains my
21 initials when I heat-seal the bag after my
22 analysis. It also contains the label that I
23 made with the case number, complaint number.
24 It also -- the bag inside also contains those
25 numbers as well as my initials after my

1 analysis.

2 Q. Is there any kind of case number
3 also listed on the outer envelope?

4 A. On the outer envelope, I have
5 written my -- the lab number as well as the
6 case number.

7 Q. Now, when evidence first comes to
8 you, is there any paperwork that your office
9 fills out when you receive new drug evidence?

10 A. Yes. When evidence comes to the
11 laboratory, an evidence request is filled
12 out. It contains a description of the
13 evidence as well as a chain of custody.

14 Q. At this time I am showing you what
15 has been marked as State's Exhibit 7 at this
16 time. Do you recognize this?

17 A. (Upon review), yes. State's Exhibit
18 7 is the evidence examination request with
19 the chain of custody for the lab.

20 Q. Is one of those requests filled out
21 in every case?

22 A. Yes.

23 Q. So who makes the initial request?

24 A. The initial request is made by the
25 officer submitting the evidence.

State of South Carolina v. Christopher W. Brown

231

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Jennifer Lieser - Direct Examination

1 Q. What kind of information does this
2 request contain?

3 A. This request contains the officer
4 who requested the evidence for analysis, what
5 department they worked for, their contact
6 information, a rough address of the incident
7 as well as a description of the evidence.

8 MS. COMPTON: Your Honor, at this time I
9 would move to admit State's Exhibit 7 as a
10 business record of the Charleston Police
11 Department.

12 THE COURT: Any objection?

13 MR. KING: I think that it's hearsay,
14 Your Honor.

15 THE COURT: Lay a little more
16 foundation for it.

17 MS. COMPTON: Thank you, Your Honor.

18 DIRECT EXAMINATION CONTINUED

19 BY MS. COMPTON:

20 Q. You testified that this is a record
21 that is created in every case that comes in
22 to the Charleston police department; correct?

23 A. That's correct.

24 Q. Are those records maintained in the
25 ordinary course of business?

1 A. Yes, they are. They're kept with
2 the case file, with all the data, and there's
3 a report that is issued for every piece of
4 evidence.

5 Q. Are you familiar with the way in
6 which those records are kept?

7 A. At the time they were kept in the
8 laboratory.

9 Q. But you're familiar with the process
10 of keeping those records?

11 A. Yes.

12 MS. COMPTON: At this time, I would move
13 to admit it, Your Honor.

14 THE COURT: Over your objection.

15 MS. COMPTON: Thank you.

16 (SO ENTERED AS STATE'S EXHIBIT 7)

17 DIRECT EXAMINATION CONTINUED

18 BY MS. COMPTON:

19 Q. Now, at the bottom of that, is that
20 information referred to as the chain or
21 custody information?

22 A. Yes, at the bottom of the form are
23 all the initials, dates and time when the
24 evidence changed hands.

25 Q. Can you read to me from State's

State of South Carolina v. Christopher W. Brown

233

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Jennifer Lieser - Direct Examination

1 Exhibit 7 the custody -- the chain of where
2 these drugs were and when?

3 A. The evidence was submitted to the
4 laboratory by Brent Malloy (phonetic) on
5 February 10th, 2009 at 9:30

6 It was given over to Susan Moody, was the
7 technician in the lab at the time on February
8 10th, 2009, at 9:30.

9 I then took control of the evidence and I
10 signed the property sheet, or the request, on
11 February 10th, 2009, at 10:58.

12 Then the evidence was handed over to
13 Elizabeth Nichole Wiggins-Mitchell on
14 February 17th, 2009.

15 It was then returned to Brent Malloy on
16 February 17th, 2009.

17 Q. During the time that it was in your
18 custody, what did you do with it?

19 A. While it was in my custody, I tested
20 it for the presence of controlled substances.

21 Q. I'd like to refer back to State's
22 Exhibit 4, if you can. When you received
23 that bag initially, could you tell whether or
24 not it had been tampered with or opened by
25 anyone in the process?

1 A. Initially I received this envelope
2 containing this outer plastic bag. That was
3 heat-sealed with these initials on the top.

4 Q. Can you tell the jury what "heat
5 sealed" means?

6 A. Heat-sealed is just a method by
7 which we seal evidence in a plastic bag. The
8 heat seal creates a tamper-proof evidence
9 seal.

10 Q. That means that if someone were to
11 open it -- that the only way to open it is to
12 cut it, is that right?

13 A. Yes. Correct.

14 Q. Now, when you received that
15 evidence, could you tell whether it had been
16 tampered with at the time?

17 A. I could not, it was still heat-
18 sealed.

19 Q. Could you tell whether or not it had
20 been tampered with?

21 A. It had not been tampered with, did
22 not appear to have been tampered with.

23 Q. If it had -- if there were any cuts
24 in the packaging, are you then able to
25 analyze those drugs?

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Jennifer Lieser - Direct Examination

235

1 A. We would have returned the evidence
2 if there had appeared to be any kind of
3 tampering. We would not have continued with
4 the analysis.

5 MS. COMPTON: Your Honor, at this time,
6 pursuant to *State v. Hatcher*, I would move to
7 admit State's Exhibit 4.

8 THE COURT: Any objections?

9 MR. KING: Your Honor, we would object
10 in that the proper chain of custody has not
11 been established and the handling does not
12 have all the names of ---

13 MS. COMPTON: Your Honor, we would
14 certainly argue that the detective has
15 already testified that he did collect it from
16 the CI, that he then put it into evidence, in
17 the evidence bag which has been heat-sealed.
18 I have had Ms. Leiser go through the chain of
19 custody and identify everyone in it. Also,
20 she testified that the heat-sealed bag had
21 not been tampered with and that it was still
22 intact when she received it.

23 THE COURT: All right. I will permit
24 it.

25 MS. COMPTON: Thank you, Your Honor.

1 (SO ENTERED AS STATE'S EXHIBIT 4)

2 DIRECT EXAMINATION CONTINUED

3 BY MS. COMPTON:

4 Q. Now, did you have an opportunity to
5 chemically analyze the contents of State's
6 Exhibit 4??

7 A. Yes, I did.

8 Q. Did you form an opinion as to the
9 contents?

10 A. Yes, I did.

11 Q. What is that opinion?

12 A. I found State's Exhibit 4 to contain
13 cocaine.

14 Q. And what was -- you also testified
15 concerning the weight of that substance?

16 A. (No verbal response).

17 Q. What was the official lab weight of
18 that substance?

19 A. The official lab weight was
20 fourteen-point-six two grams (14.62). That
21 is the weight of just the powder, with no
22 additional packaging.

23 MS. COMPTON: I have no further
24 questions.

25 THE COURT: Mr. King?

State of South Carolina v. Christopher W. Brown

237

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Andy Miller - Direct Examination

1 MR. KING: I have no questions of this
2 witness.

3 THE COURT: You may step down. Any
4 objection to this witness being excused?

5 MS. COMPTON: No, Your Honor.

6 MR. KING: No objection.

7 THE COURT: You are also excused.

8 Thank you, ma'am.

9 (WITNESS STEPS DOWN)

10 THE COURT: Yes, sir?

11 MR. LIETZOW: The State calls Detective
12 Andy Miller.

13 (WITNESS TAKES STAND)

14 ANDREW MILLER, having been sworn to tell
15 the truth, and nothing but the truth,
16 testified as follows:

17 DIRECT EXAMINATION

18 BY MR. LIETZOW:

19 Q. Good afternoon, Detective Miller?

20 A. Good afternoon.

21 Q. Will you please tell the jury where
22 you're currently employed?

23 A. I'm currently employed with the
24 Charleston County Sheriff's Office.

25 Q. And what is your position there?

1 A. I'm a narcotics detective.

2 Q. And how long have you been working
3 for Charleston County Sheriff's Office?

4 A. I've been working there for
5 approximately thirteen years.

6 Q. So you're a narcotics detective.
7 What does that involve?

8 A. As a detective -- as was stated
9 before, we investigate narcotics offenses as
10 well as vice offenses throughout the County
11 of Charleston.

12 Q. And where were you employed in
13 February of 2009 through August of 2010?

14 A. I was with the Charleston County
15 Sheriff's Office in narcotics, a metro major
16 crimes unit.

17 Q. Was your job title and position the
18 same at that time?

19 A. Yes, sir.

20 Q. Detective Miller, how long have you
21 been involved in law enforcement?

22 A. Sixteen years.

23 Q. Of those sixteen years, how long
24 have you been working narcotics and drugs?

25 A. A little over five.

State of South Carolina v. Christopher W. Brown

239

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Andy Miller - Direct Examination

1 Q. What type of training and experience
2 do you have that specifically relates to that
3 area of expertise?

4 A. I have an associates degree in
5 Criminal Justice. I also have a Bachelor's
6 Degree in Public Justice.

7 I've attended a two-week course put on by
8 the DEA in reference to basic narcotics
9 skills.

10 I've been through interrogation and
11 interrogation process.

12 I've been through multiple classes in
13 Mississippi that the DEA also puts on.

14 Q. Can you estimate the number of drug
15 cases that you've worked on?

16 A. As lead, probably forty-five or
17 fifty. As with others, probably over a
18 hundred.

19 Q. And how many of those cases were
20 sales that were similar to what we're here
21 today for?

22 A. A very high percentage, about
23 ninety-five percent.

24 Q. When did this investigation start?

25 A. I believe in January of 2009.

1 Q. And what was your role in this
2 investigation?

3 A. I was co-case with Detective
4 Perkins.

5 Q. And can you briefly describe to the
6 jury what got this investigation going?

7 A. The CI, Will, came into -- was
8 arrested by the North Charleston Police
9 Department. And the North Charleston Police
10 Department contacted us. And then we went
11 and met with the confidential informant.

12 Q. And did he have information that you
13 found valuable?

14 A. Yes, he did.

15 Q. And what was that information?

16 A. He advised us of Marcus Gibbes as
17 well as the Defendant.

18 Q. And how many times have you worked a
19 CI in your career in law enforcement?

20 A. Again, a lot of those cases were --
21 probably forty-five or fifty, almost every
22 one is -- not every one, but a high
23 percentage of are from confidential
24 informants.

25 Q. So that's a common law enforcement

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Andy Miller - Direct Examination

241

1 technique?

2 A. Yes, sir.

3 Q. Will you work with a CI that you
4 don't find credible?

5 A. I will not.

6 Q. Have you turned CIs away in the
7 past?

8 A. Yes.

9 Q. We've already heard extensively what
10 happened on February 3rd, 2009, but can you
11 tell the jury briefly what happened from your
12 perspective?

13 A. I arrived with Detective Perkins.
14 Usually one person handles the radio or we'll
15 jot down notes or something of that nature in
16 reference to -- because there's a lot of
17 stuff going on. We're listening through a
18 wire. We're listen if someone's talking on
19 the telephone with the undercover. And we
20 just bounce ideas off each other.

21 Q. Where were you located then when the
22 actual sale took place?

23 A. We were away from the deal. We were
24 in front of the neighborhood.

25 Q. Were you able to hear over the wire

1 what was going on?

2 A. Yes.

3 Q. And were you able to hear the
4 arrangements that Chris Brown and Will Crosby
5 were making?

6 A. Yes.

7 Q. Did anything that you heard indicate
8 to you that Will is coercing Chris Brown to
9 sell him cocaine?

10 A. No.

11 Q. And did that sale successfully take
12 place?

13 A. Yes, it did.

14 Q. And same question. Did anything
15 that you overheard on wire during that sale
16 indicate to you that there was coercion by
17 law enforcement, by Detective Brown or by
18 Will Crosby?

19 A. No.

20 Q. What happened after the sale took
21 place?

22 A. After the sale took place Detective
23 Brown took Will Crosby and followed him back
24 to the office. Once they were back to the
25 office, just go through our standard

State of South Carolina v. Christopher W. Brown

243

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Andy Miller - Direct Examination

1 protocol, which is search the CI, take all
2 the wire off, obtain the drugs and put them
3 in evidence.

4 Q. Were you aware or were you involved
5 with any other of these sales involving Chris
6 Brown?

7 A. Yes. After Detective Perkins left
8 the sheriff's office, I then became the case
9 agent over this case.

10 Q. Were you aware of the sale that took
11 place February 19th?

12 A. Yes, sir.

13 Q. And September 15th?

14 A. Yes, sir.

15 Q. And August 26th, 2010?

16 A. Yes, sir.

17 Q. And you testified that when Perkins
18 left you became the case agent. Does that
19 make you the case agent then for the August
20 26th, 2010?

21 A. Yes, sir.

22 Q. I'd like to go into detail a little
23 on this with you since we haven't heard it
24 yet. Tell us what happened first?

25 A. Myself and Detective Frost, who is a

1 detective at the sheriff's office met with
2 the confidential informant. He said that
3 he'd already spoke with the Defendant. And
4 he made a statement in there that -- I need
5 to refer back to my notes.

6 Q. That's fine.

7 A. Referring back to the report, let's
8 see -- (upon review), that he told CI that --
9 if the CI continued to make buys this whole
10 time, he would be back with Marcus, showing
11 that he had affiliation with Marcus Gibbes.

12 Q. What was the arrangement on this
13 date that Will Crosby and Chris Brown made
14 for the sale of cocaine?

15 A. They were going to buy a half-O,
16 which in terms -- a half-O means half ounce.
17 That was just a little slang term that they
18 used. To determine what a half ounce is and
19 that's cocaine.

20 Q. Okay.

21 A. And he was going to pay five hundred
22 fifty dollars (\$550) for that.

23 Q. And did you hear this arrangement
24 take place?

25 A. Yeah. This arrangement was actually

State of South Carolina v. Christopher W. Brown

245

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Andy Miller - Direct Examination

1 before that.

2 Q. And did Will ask Chris Brown how
3 much he would sell the half-O of cocaine for?

4 A. Yes.

5 Q. And what was that response?

6 A. He responded it was for five hundred
7 fifty dollars (\$550).

8 Q. Who responded to that?

9 A. The Defendant.

10 Q. Was this an accurate price for a
11 half an ounce of cocaine at the time, given
12 the market value?

13 A. Yes.

14 Q. Tell us what happened next, please?

15 A. After we made the initial phone
16 call, we then searched the CI and wired him
17 up. At this time, the CI had maintained his
18 driver's license. Before, he did not have
19 driver's license, so now we can send him off
20 in one of our vehicles that's already been
21 searched. And he drove down to the meet
22 location, followed by us, all the way to that
23 location until he went all the way down to
24 the dead end with the recording device on and
25 we were able to monitor that buy. And we

1 listened to the wire. And we were actually
2 sitting on Bunkhouse Road, right before
3 Cartwright Road.

4 Q. The State's referring to what's been
5 marked into evidence as State's Exhibit
6 Number 3. Would you maybe stand up and just
7 hold this and point to the jury so they have
8 a point of reference where you were located?

9 A. This is Bunkhouse Road. Here's
10 Cartwright drive down here, is where we have,
11 the Defendant lives. We were sitting
12 approximately right here, watching this road
13 right here.

14 Q. Where on this map did the sale take
15 place?

16 A. Just let me refer back to my notes.
17 I believe it was on Hitching Post Road. Let
18 me see. Yes, it was on Hitching Post Road.
19 Right here on Hitching Post.

20 Q. Okay. Was it at the dead end?

21 A. Yes.

22 Q. Is that the dead end?

23 A. Oh, I'm sorry. I'm pointing at the
24 wrong road.

25 Q. That's fine.

State of South Carolina v. Christopher W. Brown

247

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Andy Miller - Direct Examination

1 A. I was looking at it incorrectly.

2 Q. Okay.

3 MR. LIETZOW: I beg the Court's indul-
4 gence?

5 THE COURT: Yes, sir.

6 DIRECT EXAMINATION CONTINUED

7 BY MR. LIETZOW:

8 Q. I'm going to ask you to speak a
9 little bit louder into the microphone.

10 A. I'm sorry.

11 Q. That's fine. What were you doing
12 prior to the sale taking place?

13 A. Before the actual sales?

14 Q. (Affirmative nod).

15 A. We actually followed him there and
16 made sure that the CI went down Hitching Post
17 Road and we parked on Bunkhouse and we just
18 waited and did surveillance.

19 Q. Okay. Were you out in front of the
20 Defendant's house at any time during this?

21 A. No.

22 MR. LIETZOW: I beg the Court's indul-
23 gence?

24 THE COURT: Yes, sir.

25 DIRECT EXAMINATION CONTINUE

1 BY MR. LIETZOW:

2 Q. Were you able to observe Chris Brown
3 leaving his residence before the sale took
4 place

5 A. We observed him leaving the area
6 because we knew that he lived at 864
7 Cartwright Drive and we could see his vehicle
8 down in that area.

9 And once we parked, we saw him exit that
10 residence and then come straight to the meet.

11 Q. Did he make any detours from that
12 drive?

13 A. No. There were other surveillance
14 units.

15 Q. What kind of car was he driving that
16 day?

17 A. On that day, he was running a white
18 Cadillac with a South Carolina tag AMV 270,
19 which comes back to Christopher Brown.

20 Q. Then what happened?

21 A. He went down and that's when he got,
22 the actual sale took place. The CI gave him
23 the five hundred and fifty dollars, pre-
24 recorded fund. Mr. Brown then gave our
25 confidential informant, which was Will, the

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Andy Miller - Direct Examination

249

1 fourteen -- the approximately fourteen point
2 eight (14.8) grams of cocaine

3 Q. And you were able to hear this on
4 the wire?

5 A. Yes, sir.

6 Q. Did anything that you hear cause you
7 to believe that Will is tricking him or
8 inducing him to sell cocaine?

9 A. No.

10 Q. What happened after ---

11 MR. LIETZOW: May I approach the witness,
12 Your Honor?

13 THE COURT: You may.

14 DIRECT EXAMINATION CONTINUED

15 BY MR. LIETZOW:

16 Q. Detective Miller, I'm showing you
17 what's been marked for identification
18 purposes as State's Exhibit Number 5. Do you
19 recognize that?

20 A. Yes, sir.

21 Q. How do you recognize that?

22 A. It has my initials on it as well as
23 this is my handwriting.

24 Q. Okay. And have you seen the
25 contents of that recording?

State of South Carolina v. Christopher W. Brown

250

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Andy Miller - Direct Examination

1 A. Yes, sir.

2 Q. And what is on that recording?

3 A. There's pictures of the actual drugs
4 afterwards, after we had purchased them.
5 There's one recorded phone call and there's
6 videos on there.

7 Q. Okay. And is the contents of that
8 recording a fair and accurate depiction of
9 what occurred on August 26th, 2010?

10 A. Yes, sir.

11 MR. LIETZOW: Your Honor, at this time,
12 the State would move to enter Number 5
13 formally into evidence.

14 THE COURT: Any objection?

15 MR. KING: Same as before, Your Honor.

16 THE COURT: Let me see the attorneys.

17 (SO ENTERED AS STATE'S EXHIBIT 5)

18 (OFF RECORD BENCH CONFERENCE)

19 THE COURT: The objection will be
20 sustained.

21 DIRECT EXAMINATION CONTINUED

22 BY MR. LIETZOW:

23 Q. What happened after the sale
24 successfully took place?

25 A. The CI then drove back up towards

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Andy Miller - Direct Examination

251

1 Bunkhouse Road where he was observed by
2 surveillance units, and then followed back to
3 the office by myself and Detective Frost.

4 Q. So Will was monitored throughout
5 this entire process?

6 A. Yes, sir.

7 Q. Was there any opportunity for him to
8 go off and improv and do whatever he wanted
9 to do?

10 A. No.

11 Q. How can you be sure of this?

12 A. That would have been caught on the
13 recordings if he talked to anybody at the
14 time that he was physically out of our sight.
15 But the entire time we followed him to the
16 deal, and then we followed him away from the
17 deal. He was alone in the car.

18 Q. Is it unusual for a situation like
19 this where Will is not having undercover
20 officers riding next to him? Is that an
21 unusual law enforcement technique?

22 A. No, the rare one is actually the
23 undercover, because the undercover is
24 actually is put into harms way in reference
25 to that. And I always -- because when you

1 have an undercover operation, we have a team,
2 six individuals ready to react at any point
3 in time in case something goes wrong.

4 Because again, there's no amount of drugs or
5 money or anything else that's worth any of
6 our lives.

7 Q. I'm not sure if we talked about it
8 earlier, but why the change this time for
9 this? Why the change?

10 A. I'd have to remember why in my
11 memory from four years ago, but I think it
12 was a lack of manpower situation where I did
13 not have enough detectives for a react team
14 to do an undercover.

15 Q. Did Will Crosby have a driver's
16 license at this point?

17 A. Yes. He had his driver's license.

18 Q. Did that influence your decision in
19 any way?

20 A. Oh, yes. It's much easier when
21 there's not -- they're not suspicious of a
22 second person in the vehicle. As you saw, I
23 think, on the video before, the undercover
24 sat a good ways away or sometimes they met
25 right next to each other. But it limits

State of South Carolina v. Christopher W. Brown

253

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Andy Miller - Direct Examination

1 their a suspicion if he goes by himself,
2 because it's not so many -- the person that
3 he's always dealt with every time.

4 Q. Were you involved in a search
5 warrant that was done on Mr. Brown's house?

6 A. Yes, I was.

7 Q. And can you tell the jury the
8 address of the house that you conducted the
9 search warrant that you went on?

10 A. It was 864 Cartwright Drive.

11 Q. And referring to States Number 3,
12 could you point out to the jury where that's
13 located?

14 A. And it's right down here, you go
15 down here to the dead-end (indicating).

16 MR. LIETZOW: Just let the record reflect
17 that Detective Miller identified where the
18 Defendant lived, where the search warrant was
19 done.

20 THE COURT: The court reporter will so
21 reflect that in the record.

22 DIRECT EXAMINATION CONTINUED

23 BY MR. LIETZOW:

24 Q. What was the day of that search
25 warrant?

1 A. I'd have to get -- I don't remember
2 it, I don't see it on here.

3 Q. We'll come back to that. Don't
4 worry about it.

5 A. Okay.

6 Q. Did you find anything illegal in Mr.
7 Brown's house?

8 A. We did not.

9 Q. Explain?

10 A. When doing search warrants,
11 basically what we do is it's on surprise. We
12 use the element of surprise. We will buy
13 from somebody. We'll get probable cause for
14 a search warrant. We'll take it to a judge.
15 We'll get that judge -- hopefully they will
16 see that we have probable cause for a search
17 warrant and then he will sign.

18 Once it's signed, then we can use --
19 within ten days we have to serve that search
20 warrant. It's usually of our choosing. So
21 we would choose a specific time to execute
22 that search warrant, which would usually be
23 in the morning after the kids go to school.
24 We don't want to traumatize anyone. So if he
25 has children, we wait for them to go to

State of South Carolina v. Christopher W. Brown

255

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Andy Miller - Direct Examination

1 school, then we hit the house when we know
2 the individual's at home through our
3 surveillance, in watching him and watching
4 the residence.

5 So at this point in time we would review
6 all these things to make sure that our
7 subject is home and hopefully -- I can never
8 guarantee that there's drug in the residence
9 because we don't know. I'm not in the
10 residence. That's why we get a search
11 warrant, there's probable cause that we knew
12 drugs available.

13 But on this date we were not able to do
14 so, because things happened outside of our
15 control. And, again, we are investigating an
16 entire situation, an entire organization, but
17 we were actually focused on Christopher
18 Brown.

19 Q. What happened that was outside of
20 your control that influenced the way you did
21 this search warrant?

22 A. The DEA actually arrested Marcus
23 Gibbes, who we believe was the supplier of
24 Chris Brown. That sets a chain of things
25 into motion at this point in time, because we

1 know once someone is arrested, it sends shock
2 waves.

3 Q. What do you mean by shock waves?

4 A. Phone calls are sent.

5 Q. From whom to whom?

6 A. It could be from anybody. When
7 someone driving by the accident scene
8 recognizes a car, recognizing an individual,
9 and all of a sudden when we arrest them, it's
10 not -- we go up, and we're not there for five
11 minutes, we're gone. They're on a traffic
12 stop for an hour. Lots of cars pass by.
13 I've been on search warrants where my
14 confidential informant will call me. I never
15 tell them when I'm going to hit a house.
16 They never know when we're going to conduct a
17 search warrant for our safety. So they'll
18 call me and tell me 'hey, you're at such and
19 such a house.' The only way he found out is
20 people in that surrounding area made phone
21 calls. The phone tree has gone out and
22 everybody knows that we're at this location.
23 Q. So when Marcus Gibbes was arrested
24 -- did the DEA conduct a search warrant when
25 Marcus Gibbes was arrested?

State of South Carolina v. Christopher W. Brown

257

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Andy Miller - Direct Examination

1 A. Yes.

2 Q. Was this before the search warrant
3 was done on Chris Brown's house?

4 A. Yes. We were still obtaining the
5 search warrant for Chris Brown's. We had the
6 probable cause set up. And I have to add the
7 final phase to that search warrant prior to
8 getting it signed by the judge.

9 Q. How much time took place between the
10 search warrant that was done on Marcus
11 Gibbes' house and the search warrant that was
12 done on Chris Brown's house?

13 A. They were already at, I believe,
14 Marcus Gibbes' house when we were still
15 obtaining the search warrant for Chris
16 Brown's house.

17 Q. Okay. So do you have a general
18 estimate of the amount of hours, minutes?

19 A. It would be hours.

20 Q. Hours? And is there any other
21 information that you have concerning the
22 search warrant?

23 A. It takes a while because you have to
24 understand I have to go back and I have to
25 physically type that search warrant. And

1 then I have to find a judge, which judges at
2 that time -- you know, it was eight or nine
3 o'clock at night. I have to go drive to
4 their house and hopefully they answer their
5 phone the first time and I get a hold of
6 them. And then once I get it signed, that's
7 when you can execute that search warrant.
8 You still have to rally up and go with a team
9 and enter into the house because we do not
10 know what we're going to encounter once we
11 enter that house.

12 Q. So what you're saying is there was a
13 large amount of time between Marcus' search
14 warrant and Chris Brown's search warrant?

15 A. Yes.

16 Q. Did you find anything else in Chris
17 Brown's house that was important or that you
18 deemed noteworthy during the search warrant?

19 A. We found several things. I'd have
20 to look. We found his tax returns in there.
21 We found several -- the reason why we look
22 for paperwork and the like is make sure we
23 have obtained a search warrant for the house
24 where Chris Brown lives. We didn't just pick
25 a random house.

State of South Carolina v. Christopher W. Brown

259

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Andy Miller - Direct Examination

1 Q. But you found nothing illegal?

2 A. No. There was nothing illegal.

3 MR. LIETZOW: Court's indulgence?

4 THE COURT: Yes, sir.

5 DIRECT EXAMINATION CONTINUED

6 BY MR. LIETZOW:

7 Q. Q. Were you involved in Chris
8 Brown's arrest?

9 A. Yes, I was.

10 Q. And was Chris Brown given an oppor-
11 tunity to work with you as a confidential
12 informant?

13 A. Yes, he was.

14 Q. And tell us about that, please?

15 A. During the time -- I believe his
16 attorney was David Aylor at the time. And he
17 contacted me, he contacted us and David
18 Aylor, we met in his office, myself and
19 another detective, and we actually signed
20 Chris Brown as a confidential informant.

21 Q. Did anything successful come of this
22 relationship?

23 A. Well, he gave us names that we
24 couldn't corroborate or couldn't do anything
25 with and people in certain locations, but he

1 never gave us anything substantial. And as
2 we were talking about CIs before, you have to
3 give us something substantial that we can
4 verify. You can't just give us, say, John
5 Smith sells drugs.

6 Well, who's John Smith?

7 Where does John Smith live?

8 What does John Smith's drive?

9 Because once we get all these things and
10 everything that the tell us lines up in
11 order, then that corroborates what they're
12 telling us.

13 Q. And what did you do at that point
14 then?

15 A. We stayed in contact with his
16 attorney, David Aylor, who was supposed to --
17 he was supposed to contact us on a weekly
18 basis about Marcus, to either tell us where
19 drugs. And he just never proceeded to make
20 contact with us.

21 Q. Did you terminate the relationship?

22 A. Yes.

23 MR. LIETZOW: I beg the Court's
24 indulgence.

25 THE COURT: Yes, sir.

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Andy Miller - Cross Examination

261

1 MR. LIETZOW: No further questions.
2 Please answer any questions that Mr. King
3 might have?

4 WITNESS: Yes, sir.

5 THE COURT: Mr. King?

6 CROSS EXAMINATION

7 BY MR. KING:

8 Q. Detective Miller, do you think maybe
9 that he didn't work out as a CI because he's
10 not a drug dealer and you didn't know any
11 names to give you?

12 A. No. Because the same thing I offer
13 every confidential informant is if you can
14 put a large amount of dope on the table,
15 which is a kilo, that we could really help
16 you out, because that's the whole world of a
17 narcotics detective, we get to say that we
18 got a kilo.

19 He told me at one point in time that
20 wouldn't be a problem, that he could put a
21 kilo on the table. And I said, *'well, I'll*
22 *believe it when I see it.'*

23 Q. So you were giving him an oppor-
24 tunity that if he worked with you then he
25 could have worked his charges off, like Will

1 Crosby?

2 A. Well, we could talk with the
3 solicitor. I do not have any control over
4 that. I did not promise him anything or
5 anything else. I can say, *'I can talk to the*
6 *solicitor and if the solicitor agrees, then,*
7 *therefore, yes. We can, we can help you*
8 *out.'*

9 Q. But there's a chance that could
10 happen because that's exactly what happened
11 with Will Crosby, right?

12 A. Yes. There's a chance ---

13 Q. His charges got completely
14 dismissed?

15 A. Yes.

16 Q. All right. And so he knows that he
17 might be able to get his charges dismissed if
18 he can help you out, but he couldn't help you
19 out. He wasn't able to find anything that
20 would help you.

21 A. Or didn't want to. It all depends
22 on your point of view.

23 Q. Right. It could be open to any
24 interpretation?

25 A. Yes.

State of South Carolina v. Christopher W. Brown

263

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Andy Miller - Cross Examination

1 Q. You testified about the February 3rd
2 buy. You were monitoring that buy from a
3 distance in the neighborhood; correct?

4 A. Yes.

5 Q. And you made some comments about
6 what was going on. You didn't see the buy go
7 down. I mean, you were off at a distance
8 listening?

9 A. Right. I did not see the buy.

10 Q. And you don't hear anything that
11 you're listening to that's not on that
12 recording that we have; right?

13 A. Right.

14 Q. So you're cannot give us any infor-
15 mation that we don't already have from that
16 recording?

17 A. Right.

18 Q. You didn't see anything that's not
19 on that recording?

20 A. Right. I didn't.

21 Q. All right. Christopher Brown was
22 arrested; right?

23 A. Yes, that's correct.

24 Q. In 2010?

25 A. Yes.

1 Q. And so you know at that point that
2 part of your procedure is, and in this case
3 you said, to get a search warrant as fast as
4 you could?

5 A. Right.

6 Q. To search his house?

7 A. Yes.

8 Q. All right. And you got it as fast
9 as you could?

10 A. Yes, sir.

11 Q. Would you think that was, what,
12 maybe an hour, two hours or something?

13 A. Yes. Give or take. I didn't time
14 it because we were already in a different
15 operation downtown so I had to go from
16 downtown back to the office, get in front of
17 my computer, start typing and actually also
18 obtain the information from the North
19 Charleston Police Officer who did Marcus
20 Gibbes. I think it was North Charleston or
21 the DEA when they took down Marcus Gibbes.
22 So I'm having to get that information as part
23 of the process.

24 Q. And the search warrant was executed
25 about 1:00 a.m. Wednesday morning?

State of South Carolina v. Christopher W. Brown

265

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Andy Miller - Cross Examination

1 A. I believe so. I don't have that in
2 front of me.

3 Q. And so his children and his wife
4 were there at the house at the time?

5 A. Yes, sir.

6 Q. And this search warrant has a lot of
7 stuff in it, listed in it because you're --
8 based on your experience you know different
9 things to look for when you're searching a
10 house of a drug dealer; right?

11 A. Yes.

12 Q. And you've got a whole list of
13 property sought. The most important thing
14 would be drugs; right? I mean, the number
15 one thing you would want to find if you're
16 searching Christopher Brown's house would be
17 cocaine; right?

18 A. Yes.

19 Q. The next thing you would be looking
20 for would be any paraphernalia associated
21 with the drug trade; right?

22 A. Yes, sir.

23 Q. Like you could find plastic baggies,
24 right? Because they're always in some sort
25 of plastic container or baggies; right?

1 A. Yes, sir.

2 Q. Scales, because that's how they
3 weigh it out and put it put into bags and
4 stuff like that?

5 A. Yes, sir.

6 Q. Paperwork. It says books, records,
7 receipts, notes, ledgers, any paperwork
8 related to drug sales. Sometimes drug
9 dealers keep records; right?

10 A. Yes, sir.

11 Q. Papers, notes related to domestic
12 and foreign travel. I guess sometimes drug
13 dealers are trying to get away or they have
14 contacts where they're traveling to get
15 drugs?

16 A. Yes, sir.

17 Q. Address and telephone books or
18 papers and names and addresses of co-
19 conspirators, sources of supply, customers,
20 all that stuff. Did you find any of that?

21 A. Did not.

22 Q. Precious metals and jewelry, large
23 amounts of cash, you were looking for that
24 too, right?

25 A. Did not find any.

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Andy Miller - Cross Examination

267

1 Q. Didn't find any of that?

2 A. No, sir.

3 Q. Photographs that reveal co-
4 conspirators assets or controlled substances.
5 You didn't find any of that?

6 A. No, sir.

7 Q. Surveillance equipment, cameras,
8 monitors. I guess drug dealers set up
9 surveillance around their houses so they
10 know, I guess, the people approaching or
11 anything.

12 A. Some of them use surveillance.

13 Q. Didn't find any of that?

14 A. No.

15 Q. Cell phone, pagers, answering
16 machines, all that stuff. You didn't find
17 anything of value there?

18 A. No, sir. I believe we took the cell
19 phone.

20 Q. Have you got any evidence to present
21 from that cell phone?

22 A. I do not, sir.

23 Q. You took his tax returns?

24 A. Miscellaneous paperwork with his
25 name on it, that address.

1 Q. And that's been lost. You remember
2 that?

3 A. Right.

4 Q. Nobody can find that?

5 A. I cannot find it. It was put in the
6 evidence locker and that's the last time I
7 saw it.

8 Q. So the one thing you did find and it
9 was lost. But it didn't have any value
10 anyway; correct?

11 A. Yeah.

12 Q. Except Mr. Brown's tax returns?

13 A. Correct.

14 MR. KING: That's all from this witness,
15 Your Honor.

16 THE COURT: Thank you. Any redirect?

17 MR. LIETZOW: Briefly, Your Honor.

18 REDIRECT EXAMINATION

19 BY MR. LIETZOW:

20 Q. You testified that there were
21 children and his wife at the house. Are you
22 respectful of the occupants inside the house
23 when you do a search warrant?

24 A. Yes, sir.

25 Q. Is that standard law enforcement

State of South Carolina v. Christopher W. Brown

269

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Andy Miller - Redirect Examination

1 procedures?

2 A. Yes, sir. We try to make as little
3 impact as we can.

4 Q. Was the Defendant, Christopher
5 Brown, there when you first arrived to do the
6 search warrant?

7 A. He was not.

8 Q. And to your knowledge, was Chris
9 Brown ever dealing drugs out of his house?

10 A. One time he was home and the
11 reference to that was he came from his
12 residence one time. That's one of the
13 statements that was made.

14 Q. I'm going to show you this. If I
15 showed you this, would this refresh your
16 memory as to what date the search warrant
17 took place?

18 A. Yes, sir.

19 Q. Can you please share that with the
20 jury?

21 A. That was 9/1 of 2010.

22 Q. Thank you.

23 MR. LIETZOW: No further questions, Your
24 Honor.

25 THE COURT: Any recross based on his

State of South Carolina v. Christopher W. Brown

270

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Andy Miller - Redirect Examination

1 redirect?

2 MR. KING: No, Your Honor.

3 THE COURT: Thank you. You may step
4 down.

5 MR. LIETZOW: Your Honor, at this time,
6 the State would rest their case in chief.

7 THE COURT: All right. All right.
8 Ladies and gentlemen, this is a good time to
9 send y'all to lunch. Please have a nice
10 lunch. Be back here at two o'clock.

11 And please do not discuss the case with
12 anyone or amongst yourselves while you're at
13 lunch. Thank you.

14 (JURY OUT @ 12:20 P.M.)

15 THE COURT: Are there any motions to
16 be made?

17 MR. KING: Yes, Your Honor. At this time
18 I'd make a motion for a *directed verdict.
19 We'd ask that you find entrapment as a matter
20 of law. I believe inducement has been shown.

21 The cross examination with Will Crosby
22 and he admitted that he was calling
23 Christopher Brown, you know, over and over
24 again, talking to him about work, talking to
25 him about he can't find work, how he has no

State of South Carolina v. Christopher W. Brown

271

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Andy Miller - Redirect Examination

1 money coming in, making some sort of appeal.

2 And similar to the first United States
3 Supreme Court case on entrapment of sorts.
4 And that case is a prohibition case where an
5 informant bought some liquor from a guy and
6 he used the fact that they were both veterans
7 of World War I to sort of, you know, to
8 establish that camaraderie. And I think that
9 Will Crosby is doing a similar thing by, you
10 know, he's trying to find work. Mr. Brown
11 has his own business. He's trying to make a
12 living hisself. He's sort of appealing to
13 that. So I believe that there's an
14 inducement and the State cannot prove beyond
15 a reasonable doubt that he has no previous
16 intent.

17 THE COURT: All right. Mr. Lietzow?

18 MR. LIETZOW: Your Honor, first of all,
19 we don't think this motion for a directed is
20 valid. All the arguments that Mr. King made
21 are final arguments to be heard to the jury.

22 Furthermore, it's the State's position
23 that the defense should not even be entitled
24 to an entrapment defense as a matter of law.
25 Entrapment is a two-pronged element of

State of South Carolina v. Christopher W. Brown

272

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Andy Miller - Redirect Examination

1 defense. The first element is that the
2 defense must present by a scintilla of
3 evidence that ---

4 THE COURT: We're not at that stage yet.

5 MR. LIETZOW: Okay. I'll save that
6 argument for a later time, Your Honor.

7 In the light most favorable to the State,
8 law enforcement has provided ample testimony
9 that Chris Brown was not induced to sell
10 drugs. And he was, in fact, predisposed to
11 sell drugs. And we believe that this case is
12 best submitted to the jury.

13 THE COURT: At this stage of the trial,
14 this Court's more concerned about the
15 existence not the weight to be given the
16 evidence.

17 It may very well be in the end of all the
18 evidence that the jury will find that there
19 is entrapment. But at this point in time, I
20 think there's enough to send it to the jury
21 and so I'm going to respectfully deny your
22 motion.

23 I'm going to go ahead and question your
24 client now as to whether or not he wants to
25 testify. *Please place the Defendant under

State of South Carolina v. Christopher W. Brown

273

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Andy Miller - Redirect Examination

1 oath, please just for these limited purposes.

2 (WHEREUPON DEFENDANT SWORN)

3 THE COURT: You are Christopher Brown?

4 DEFENDANT: Yes, sir.

5 THE COURT: All right. Mr. Brown, at
6 this time I'm going to explain to you certain
7 of your rights. If you do not understand
8 anything that I say, please let me know. If
9 you want it explained in any greater detail,
10 I'll be glad to do that. Do you understand
11 that?

12 MR. BROWN: Yes, sir.

13 THE COURT: All right. Mr. Brown, at
14 this time we've reached the stage in the
15 trial where you may present your defense.

16 You have the right to claim the
17 protections given to you by the Fifth
18 Amendment of the United States Constitution,
19 which states in part that no person shall
20 ever be required to testify against himself
21 in a criminal case.

22 Now, this means that you cannot be
23 required to testify in this case, but you do
24 have a right to testify on your behalf. As I
25 said, no one can require you to testify.

1 This is a personal right and no one can waive
2 this right except for you.

3 If you decide to testify, you'll be
4 subjected to the same rules that apply to any
5 other witnesses and you may be examined and
6 cross-examined on any relevant issue in this
7 case.

8 In addition, if you have any convictions
9 involving dishonesty or false statement or
10 for crimes punishable by imprisonment of more
11 than one year, and this Court determines that
12 the probative value of admitting this
13 outweighs the prejudicial effect on you, then
14 the Solicitor will be able to introduce your
15 record to attack your credibility.

16 At this time, what crimes or convictions
17 would the State intend to put in of his?

18 MR. LIETZOW: Your Honor, he was
19 convicted in 2001, I believe, of possession
20 of stolen goods.

21 And he was convicted in 2002 of a
22 fraudulent check. I may have those dates
23 wrong.

24 In '92 a conviction of possession of
25 stolen goods.

State of South Carolina v. Christopher W. Brown

275

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Andy Miller - Redirect Examination

1 2001 convicted of a fraud check, Your
2 Honor.

3 THE COURT: And you would concede that
4 the first one in '92 would not be admissible?

5 MR. LIETZOW: Yes, Your Honor.

6 THE COURT: The fraudulent check might
7 be.

8 MR. KING: I believe that's outside
9 the ten-year window, Your Honor. 2011,
10 that's greater than ten years old.

11 THE COURT: All right.

12 MR. KING: Your Honor, if I may, the
13 offense occurred in 2009.

14 THE COURT: All right. I'm not going
15 to allow those in.

16 Now, if you decide not to testify,
17 the decision on your part must be made freely
18 and voluntarily and knowingly made of the
19 protections given to you by the Fifth
20 Amendment.

21 Now, if you decide not to testify, I will
22 instruct the jurors that they cannot consider
23 the fact that you did not testify against you
24 in any way whatsoever, and there's to be
25 absolutely no prejudice to you because you

1 did not testify.

2 It is left entirely up to you whether or
3 not you want to testify. You may talk to
4 your attorney or your family members or
5 anyone else, but the final decision will be
6 yours. What I am going to do -- do you
7 understand what I'm saying?

8 MR. BROWN: Yes, sir.

9 THE COURT: And you understand everything
10 that I've explained to you?

11 MR. BROWN: Yes, sir.

12 THE COURT: Now, have you discussed with
13 your lawyer whether or not you want to
14 testify?

15 MR. BROWN: Yes, sir.

16 THE COURT: And do you intend to testify?

17 MR. BROWN: Yes, sir.

18 THE COURT: Very good. Thank you. All
19 right. The Court will be in recess until two
20 o'clock.

21 MS. COMPTON: Your Honor, I'm so sorry.
22 If I may, I have just sort of a brief motion.
23 I need to bring this up. We would ask that,
24 because we're -- that the State be precluded
25 -- I mean, that the defense be precluded from

State of South Carolina v. Christopher W. Brown

277

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Andy Miller - Redirect Examination

1 asking his client whether or not he's ever
2 been arrested before. And that if he does,
3 that that would open the door to these prior
4 arrests. Just because they're not ---

5 THE COURT: I mean, that would be a
6 different matter.

7 MS. COMPTON: Yes, sir.

8 THE COURT: Yeah

9 MS. COMPTON: Right, that was ---

10 THE COURT: Or for impeachment
11 purposes.

12 MS. COMPTON: Just because they're not
13 admissible, you know, initially from our
14 perspective, we'd ask that he be precluded
15 from asking if there have been any other
16 arrests. And if he does, that would open the
17 door.

18 THE COURT: All right. Mr. King?

19 MR. KING: I may ask him has he ever been
20 arrested for drugs before.

21 THE COURT: Okay.

22 MR. KING: And I think that's a fair
23 question.

24 THE COURT: That's a different question.

25 MS. COMPTON: Thank you, Your Honor.

1 THE COURT: All right. As long as he
2 doesn't open the door then -- but if he opens
3 the door, then I think it's fair game.

4 MS. COMPTON: Thank you, Your Honor.

5 THE COURT: All right. The court's in
6 recess.

7 (LUNCH RECESS)

8 (DEFENDANT PRESENT)

9 THE COURT: Are we ready to continue?
10 Mr. King?

11 MR. KING:

12 THE COURT: Bring in the jury.

13 (JURY IN @ 2:05 P.M.)

14 BAILIFF: The jury's present, Your
15 Honor.

16 THE COURT: All right. Please be seated.
17 Is the Defense ready to proceed?

18 MR. KING: Yes, Your Honor.

19 THE COURT: All right. You may call your
20 first witness.

21 MR. KING: The Defense calls Christopher
22 Brown.

23 THE COURT: Okay.

24 (WITNESS TAKES STAND)

25 CHRISTOPHER BROWN, having been sworn to

State of South Carolina v. Christopher W. Brown

279

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Christopher Brown - Direct Examination

1 tell the truth, and nothing but the
2 truth, testified as follows:

DIRECT EXAMINATION

BY MR. KING:

Q. Mr. Brown, how old are you?

A. I'm forty-two, Saturday.

Q. Where were you born?

A. Charleston, South Carolina.

Q. Did you grow up here?

A. Yes.

Q. Where did you grow up?

12 A. In Charleston County, an area called
13 Red Top.

Q. And where did you go to high school?

A. St. Andrews High School.

Q. Did you finish school?

A. Yes.

Q. Are you married?

A. Yes.

Q. Tell us your wife's name?

A. Belinda Brown.

Q. Is she in the courtroom here today?

A. Yes, sir.

Q. How long you been married to her?

A. Fourteen years.

State of South Carolina v. Christopher W. Brown

280

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Christopher Brown - Direct Examination

1 Q. Do you have any children?

2 A. I have three children.

3 Q. How old are they?

4 A. My oldest is eighteen, my little boy
5 is twelve and my daughter is six.

6 Q. Where do you live right now?

7 A. Ponderosa -- Charleston, South
8 Carolina. Charleston County.

9 Q. What address?

10 A. 864 Cartwright.

11 Q. How long you been living there?

12 A. Eleven years.

13 Q. Back in 2009 what cars did you and
14 your wife have?

15 A. She had a red Expedition. I had a
16 white Cadillac. And for a little while I had
17 a white van.

18 Q. How old is the Cadillac, what year
19 is it?

20 A. '98, about ten years old.

21 Q. So you didn't have any fancy cars or
22 anything like that?

23 A. No, sir.

24 Q. Are you working now?

25 A. Yes, sir.

State of South Carolina v. Christopher W. Brown

281

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Christopher Brown - Direct Examination

1 Q. Where you working?

2 A. I work for MaxCARE. It's straight
3 down Meeting Street, City of Charleston.

4 Q. What do you do there?

5 A. I'm a floor technician.

6 Q. How long have you been at MaxCARE?

7 A. About three, three and -- almost
8 three and a half years.

9 Q. Now, what did you do before that,
10 before you were at MaxCARE?

11 A. I had my own flooring company.

12 Q. What was the name of that company?

13 A. Port City Hardwood Floors.

14 Q. Now, during 2009, around February
15 3rd, 2009, did you have your own business
16 then?

17 A. Yes, sir.

18 Q. What about before, have you had good
19 jobs before that?

20 A. Yes. JED Flooring I worked for a
21 couple of flooring companies. I also worked
22 for glass companies. Back in '98, I started
23 the floor business in '98, but before that I
24 worked on the glass work. And between '92
25 and '95, I worked for a company in downtown

1 Charleston.

2 Q. Have you had periods in your life
3 where you didn't work?

4 A. No, sir.

5 Q. Do you do any volunteering in the
6 community?

7 A. I've volunteered for the Red Top
8 community, the Ponderosa community and back
9 in '07, I went to the City of Charleston and
10 started volunteering for the City of
11 Charleston.

12 Q. And what do you do volunteering for
13 the City of Charleston?

14 A. Football, kids seven through
15 fourteen.

16 Q. What exactly do you do?

17 A. I coach kids, seven through
18 fourteen.

19 Q. And you've been doing that for how
20 long?

21 A. About six years.

22 Q. Now, let's talk about Marcus Gibbes.
23 Do you know Marcus Gibbes?

24 A. Yes, sir, I do.

25 Q. How do you know Marcus Gibbes?

State of South Carolina v. Christopher W. Brown

283

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Christopher Brown - Direct Examination

1 A. We came up together since we were
2 young. I'd say to about sixteen or seventeen
3 before we went different ways.

4 Q. Okay. So how long -- when did you
5 first meet him?

6 A. Kindergarten.

7 Q. Okay. Your children know his
8 children?

9 A. Yes. And his parents were raised up
10 with my parents.

11 Q. Okay. So there's a connection
12 there?

13 A. Yes, sir.

14 Q. So you had social interaction with
15 Marcus Gibbes?

16 A. Before my family life, but -- but
17 not before that except when we were teenagers
18 and after that we'd pass by here and there.
19 But when we were teenagers, we played
20 softball. But further than that, nothing
21 else.

22 Q. Were you ever involved with drugs
23 with Marcus Gibbes?

24 A. No, sir.

25 Q. And you're not a drug dealer like

1 Marcus Gibbs?

2 A. No, sir.

3 Q. Did you have any connection with the
4 Mexican Cartel?

5 A. No, sir.

6 Q. Now, let's talk about Will Crosby.
7 When is the first time you met Will Crosby?

8 A. Some guys sent Will Crosby to my
9 house back in '07. He had some sanders he
10 was trying to sell; which didn't belong to
11 him, so I didn't purchase it.

12 Q. Was he asking you about drugs back
13 then?

14 A. No, sir.

15 Q. Where did you meet him at back in
16 '07?

17 A. Well, obviously some guy sent him to
18 my house to try to sell me some hardwood,
19 some sander for hardwood, because he knew
20 that I was in the sanding business, flooring
21 business.

22 Q. Did you see him in your neighborhood
23 after that?

24 A. Yeah. I usually see him in the
25 neighborhood, but just passing by. He'd

State of South Carolina v. Christopher W. Brown

285

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Christopher Brown - Direct Examination

1 usually be some kids but I didn't have any
2 dealings with him.

3 Q. And at some point did Will Crosby
4 get your phone number?

5 A. Yes. I gave him a business card
6 that day.

7 Q. When did you give him a business
8 card?

9 A. This was in '07.

10 Q. Is that the same phone number you
11 have right now?

12 A. Yes, sir.

13 Q. How long have you had the phone
14 number you have right now?

15 A. Fourteen years.

16 Q. Now, February 3rd, 2009, that's what
17 this video was showing, now at some point
18 before that, had Will Crosby started to call
19 you?

20 A. Maybe two months, three months at
21 the most before that.

22 Q. What was he calling you about at
23 first?

24 A. At first he called me and told me
25 about a guy he used to deal with had died.

1 That was the first thing he called me about.
2 And then he told me, you know, he was looking
3 for work and was getting evicted and all, you
4 know, his personal problems.

5 Q. What about this person who died,
6 what did he tell you about that?

7 A. Yes. He told me that first because
8 that was ---

9 MR. LIETZOW: Objection, Your Honor.
10 Relevance.

11 THE COURT: Sustained.

12 DIRECT EXAMINATION CONTINUED

13 BY MR. KING:

14 Q. So he eventually starts calling you
15 about work.

16 A. Yes, sir.

17 Q. Is he asking you about drugs at that
18 point?

19 A. No, sir.

20 Q. Is he asking you for work?

21 A. Yes, he was asking me, but I didn't
22 have enough to offer him any and I didn't
23 want to get him involved with my company.

24 Q. Did he, at some point call you about
25 Marcus Gibbes?

State of South Carolina v. Christopher W. Brown

287

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Christopher Brown - Direct Examination

1 A. Yes, he did.

2 Q. Do you remember when that was?

3 A. That was maybe like the first of the
4 year, around January, or right around
5 Christmastime.

6 Q. And why was he calling you about
7 Marcus Gibbes?

8 A. He said he owed him some money.

9 Q. And why was he calling you?

10 A. I guess he wanted me to just give
11 him the message or -- he wanted to give me
12 the money to give to him, but I didn't want
13 nothing to do with it.

14 Q. You didn't take it?

15 A. No, I didn't take it.

16 Q. Now, at some point does he move
17 beyond talking about work and talking about
18 Marcus Gibbes?

19 A. Yes, he did.

20 Q. And what -- was he calling you
21 often?

22 A. Yeah, he was pestering me for a
23 couple of months and he just changed up and
24 was -- he come in there saying that he was
25 getting robbed and that people was tricking

1 him.

2 MR. LIETZOW: Objection, Your Honor.

3 This is all hearsay.

4 THE COURT: Rephrase your question.

5 DIRECT EXAMINATION CONTINUED

6 BY MR. KING:

7 Q. Did he try to get you to give him
8 some drugs?

9 A. Yes, he did.

10 Q. How often did he call you about
11 stuff like that?

12 A. Within the three months, he probably
13 done called me about twenty-five times, the
14 last ten or twelve calls was about drugs.

15 Q. So ten to twelve phone calls about
16 drugs leading up to February 3rd?

17 A. Yes, sir.

18 Q. Okay. Did he try to persuade you or
19 coerce you or anything like, threaten you in
20 any way like that to get you to buy him drugs
21 or get him drugs?

22 A. He used said he partners, which I
23 didn't know who his partners was. I wasn't
24 trying to get involved in all that but he'd
25 always say his partners.

State of South Carolina v. Christopher W. Brown

289

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Christopher Brown - Direct Examination

1 Q. Kind of how did you feel about that?

2 A. I was nervous because I didn't know
3 who his partners was, and I know people out
4 there get crazy when they get like that.

5 Q. So he was telling you that he didn't
6 have any work, right?

7 A. Yes.

8 MR. LIETZOW: Your Honor, that's asking
9 for a hearsay in response.

10 THE COURT: Overruled.

11 DIRECT EXAMINATION CONTINUED

12 BY MR. KING:

13 Q. Did you feel like he was pressuring
14 you to get you to get him drugs?

15 A. Yes, he was.

16 Q. Did you agree to get him drugs when
17 he first called you?

18 A. No, I didn't.

19 Q. What made you change your mind?

20 A. His threats that was made, threats
21 to my, my family, the community.

22 Q. Did you feel like he me actually
23 carry threats out?

24 A. Yes. He had a reputation of trying
25 to be a bad guy.

1 Q. What about, did he seem like a drug
2 addict to you?

3 A. Yes, he was.

4 Q. Have you had any experience with
5 drug addicts before?

6 A. Yes, I have.

7 Q. Any bad experiences?

8 A. Yes, I have.

9 Q. What did you think he might do?
10 MR. LIETZOW: Objection.

11 THE COURT: Sustained.

12 WITNESS: He just ---

13 THE COURT: Sustained.

14 WITNESS: So ---

15 THE COURT: Do not answer the question.

16 DIRECT EXAMINATION CONTINUED

17 BY MR. KING:

18 Q. So he's been calling you repeatedly?

19 A. Yes.

20 Q. Now, it starts off with work, then
21 to Marcus Gibbes, leading up to the drugs.

22 A. Yes.

23 Q. And sort of threatening phone calls
24 about, he's desperate to get drugs; right?

25 A. Yes.

State of South Carolina v. Christopher W. Brown

291

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Christopher Brown - Direct Examination

1 Q. So on February 3rd, 2009, did you
2 help Will Crosby get some drugs?

3 A. Yes, I did.

4 Q. Where did you get the drugs from?

5 A. I went back to Red Top and I just
6 asked guy around the neighborhood, anybody.

7 Q. You didn't get drugs from Marcus
8 Gibbes?

9 A. No, sir.

10 Q. Now, in this video we've been
11 watching, Will Crosby is making a lot of
12 phone calls to you and they're sitting and
13 wait. And they were testifying that you were
14 off selling drugs to somebody else. That's
15 what one of the detectives was trying to say.
16 What are they waiting on? What are you doing
17 when they're waiting and making phone calls
18 to you?

19 A. He had already called me a couple of
20 days before, and I told him that I didn't
21 know anything. And he was pressuring me,
22 threatening me to come, they was going to
23 hurt some somebody in the community. I
24 didn't know if it was the kids or my family
25 or what. But he pressured me to find some

1 for him.

2 Q. Did you have ready access to drugs?

3 A. I didn't have no access, but I
4 didn't know who it was in the streets.

5 Q. So when he's waiting on the video
6 and they're saying you're in Red Top. What
7 are you doing in Red Top?

8 A. Looking for a certain person to find
9 the drugs that he wanted.

10 Q. The drugs that Will Crosby got?

11 A. Yes.

12 Q. Now, who's the other man in the car
13 on that video?

14 A. I can't recall who that was. That
15 was five years ago, and I can't recall who he
16 was.

17 Q. What's he doing in the car?

18 A. He had the drugs, I was just letting
19 him see Will.

20 Q. So he's the one who had the ---

21 A. Drugs.

22 Q. Now, did he give the drugs to Will
23 Crosby or you?

24 A. He give it to him.

25 Q. Okay. And after that, you helped

State of South Carolina v. Christopher W. Brown

293

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Christopher Brown - Direct Examination

1 him get drugs a few more times; right?

2 A. Yes, I did.

3 Q. That was not the only time?

4 A. No, it wasn't.

5 Q. Was that the first time on February
6 3rd?

7 A. Yes, it was.

8 Q. Other than the times they've
9 mentioned, did you sell or help Will Crosby
10 get drugs at any other time than what they've
11 mentioned before?

12 A. No, sir.

13 Q. But then you got arrested for this
14 back in 2010?

15 A. Yes, I did.

16 Q. You went to jail?

17 A. Yes, I did.

18 Q. The police searched your house?

19 A. Yes, they did.

20 Q. What about your Cadillac?

21 A. They took the car, took all my
22 vehicles.

23 Q. How long did you stay in jail?

24 A. A month and a half.

25 Q. Did you have trouble getting on your

1 feet after that?

2 A. Yes, I did.

3 Q. Is that when you -- where did you go
4 back to work after that?

5 A. I got employed at MaxCARE.

6 Q. Why didn't you keep working in your
7 business?

8 A. My reputation was already ruined.

9 Q. Did people find out about this?

10 A. It was very public. Very, very
11 public.

12 Q. Newspaper articles?

13 A. A lot of that, internet, everything.

14 Q. Are you a drug dealer?

15 A. No, sir.

16 Q. Will Crosby says that you've been
17 selling him drugs maybe twenty times before
18 February 3rd. Did you ever sell him drugs
19 before February 3rd?

20 A. No, sir.

21 Q. Have you ever sold drugs to anybody
22 else?

23 A. No, sir.

24 Q. One of the detectives mentioned that
25 you had met and signed some sort of

State of South Carolina v. Christopher W. Brown

295

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Christopher Brown - Direct Examination

1 confidential informant agreement; right?

2 A. Yes, sir.

3 Q. Can you explain that? Well, how did
4 you get involved in that?

5 A. I had a earlier -- and David Aylor
6 was my attorney. He set it up without my
7 knowledge, with Detective Constanzo and
8 Detective Miller -- I don't know -- I know
9 that it was Detective Miller and another
10 detective. They had me in the office and
11 they just threw all kinds of questions at me.
12 David wasn't trying to represent me, he was
13 just listening.

14 Q. Did your lawyer tell you that, you
15 know, if you give them some good information
16 that that might help you with your charges?

17 A. Yes.

18 Q. Did you try to give them any good
19 information?

20 A. I'm not a drug dealer. It wasn't
21 going to work. What they wanted me to do, I
22 couldn't do.

23 Q. Did you give them names to begin
24 with?

25 A. There was some kids in my community

State of South Carolina v. Christopher W. Brown

296

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Christopher Brown - Cross Examination

1 who probably was doing it, but I didn't
2 know them like that, so I couldn't help them
3 like they wanted me to. I couldn't point
4 them the right way.

5 MR. KING: I have no further questions,
6 Your Honor. Please answer any questions the
7 State has.

8 THE COURT: Mr. Lietzow.

9 CROSS EXAMINATION

10 BY MR. LIETZOW:

11 Q. Good afternoon, Mr. Brown. Let's
12 talk about that confidential informant
13 agreement you filled out. You met with
14 Detective Miller in December of 2011 and
15 entered into that agreement; right?

16 A. Yes.

17 Q. So you had the same opportunity that
18 Will Crosby had; right?

19 A. If you want to say that.

20 Q. You met with the same detectives
21 that he met with and you had the same chance
22 to help yourself out that Will Crosby had;
23 right?

24 A. If you want to say that.

25 Q. And you were there to give them

State of South Carolina v. Christopher W. Brown

297

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Christopher Brown - Cross Examination

1 names of other people, just like yourself,
2 that were dealing for Marcus Gibbes; isn't
3 that right?

4 A. I never dealt with Marcus Gibbes.

5 Q. You testified that you knew Marcus
6 Gibbes for a long time, since kindergarten.

7 A. Yes, I did.

8 Q. So Marcus Gibbes, who is naturally a
9 paranoid by nature because he's a very big
10 drug dealer in Charleston, had a great and
11 close relationship with you. In fact, he
12 probably trusted you enough to allow you to
13 be one of his top drug distributors in that
14 organization; isn't that true?

15 A. No.

16 Q. You testified that you knew Will
17 Crosby before February 3rd, 2009; right?

18 A. Yes, I knew him.

19 Q. And you want the jury to believe
20 that you had never sold drugs to this man
21 before?

22 A. Yes, I do.

23 Q. So you want the jury to believe that
24 you were willing to sell a half an ounce of
25 cocaine to an individual for six hundred

1 dollars that you had never sold drugs to
2 before?

3 A. Because his partners -- who his
4 partners was, yes.

5 Q. And you're familiar that most casual
6 users and casual dealers are dealing with one
7 gram, two grams, three grams at the most;
8 right?

9 A. I don't know that for a fact.

10 Q. Okay. So you admit on February 3rd,
11 2009 when you did sell Will Crosby fourteen
12 point six (14.6) grams of cocaine for six
13 hundred (\$600) dollars at the end of Hitching
14 Post; right?

15 A. No, I didn't.

16 Q. You deny that?

17 A. I didn't sell it to him.

18 Q. You did not sell it to him?

19 A. I did not sell it.

20 Q. You were not there when the sale
21 went down?

22 A. I was there, but I did not sell it.

23 Q. Are you familiar with constructive
24 and active (sic) possession?

25 A. No.

State of South Carolina v. Christopher W. Brown

299

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Christopher Brown - Cross Examination

1 Q. And that sale took place in
2 Ponderosa; right?

3 A. Yes.

4 Q. Did that sale take place before or
5 after you volunteered in the Ponderosa
6 community?

7 A. Repeat that question?

8 Q. Did you sell drugs to Will Crosby on
9 February 3rd, 2009 in Ponderosa before or
10 after you volunteered in the Ponderosa
11 community?

12 A. It was after.

13 Q. After you volunteered?

14 A. Yes.

15 Q. And on February 19th, 2009, just
16 five days after Valentine's Day, you sold him
17 twenty-nine grams (29) for eleven hundred
18 (\$1,100) dollars. Do you remember that date?

19 A. I didn't sell it to him, someone
20 else did.

21 Q. You weren't there, somebody else
22 sold it to him?

23 A. Someone else was ---

24 Q. But you deny it.

25 A. No, I'm saying that someone else

1 sold it to him.

2 Q. So you deny that you had any
3 involvement on that day?

4 A. No, I'm not saying that.

5 Q. So you want the jury to believe that
6 you had no involvement, but yet you were
7 forced to do this?

8 A. I did not say that.

9 Q. You made a good bit of money on that
10 sale; didn't you?

11 A. I didn't make nothing.

12 Q. How about September 15th, 2009; you
13 remember that day?

14 A. Yes, I do.

15 Q. That was pretty obviously you on
16 that video; wasn't it?

17 A. Yes.

18 Q. You looked pretty comfortable on
19 that video; weren't you?

20 A. Yes.

21 Q. Didn't look like somebody who was
22 afraid of Will Crosby or didn't know what he
23 was doing as a drug dealer; huh?

24 A. I can explain that if you want me
25 to.

State of South Carolina v. Christopher W. Brown

301

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Christopher Brown - Cross Examination

1 Q. Well you sold thirteen point five
2 (13.5) grams of cocaine on that day; didn't
3 you?

4 A. No.

5 Q. How much did you sell that day?

6 A. I can't recall, but it did happen.

7 Q. And that was in the Red Top
8 community; right?

9 A. Yes.

10 Q. The same community you grew up in?

11 A. Yes.

12 Q. Was that before or after you
13 volunteered in the community that day?

14 A. It was after.

15 Q. Let's talk about August 26th, 2010.
16 Once again, you sold thirteen point five
17 grams (13.5) of cocaine for five hundred
18 dollars (\$500) at the dead end of Hitching
19 Post Road; didn't you?

20 A. Yes.

21 Q. So you made a good bit of money over
22 a year and a half while you were selling
23 cocaine; didn't you?

24 A. I didn't make none.

25 Q. You testified in 2008 that times

1 were hard. And I can appreciate that,
2 honestly. In 2008, you said you could not
3 provide Will Crosby a job because business
4 was a little slow; right?

5 A. Will wasn't getting on my payroll.

6 Q. Okay. You want the jury to believe
7 that over eighteen months, a year and a half,
8 you had no choice but to sell Will Crosby
9 drugs?

10 A. Yes. The only other option would
11 have gotten me in more trouble than I am now.

12 Q. You were entrapped and you had no
13 other option over that entire year and a half
14 span?

15 A. Right.

16 Q. You had no choice but to sell
17 fourteen (14) grams on February 3rd for five
18 hundred dollars (\$500).

19 No choice but to sell an ounce, twenty-
20 nine (29) grams on February 19th for eleven
21 hundred dollars (\$1,100).

22 Thirteen point five (13.5) grams on
23 September 15 for five hundred dollars (\$500).

24 And another thirteen and a half (13.5)
25 grams on August 26th for five hundred dollars

State of South Carolina v. Christopher W. Brown

303

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Christopher Brown - Cross Examination

1 (\$500).

2 You had no choice but to do that?

3 A. You're talking about a man with
4 money, who got it from y'all, who was his
5 partners.

6 Q. And you want the jury to believe
7 that you're a law abiding citizen; right?

8 A. Yes.

9 Q. Then why didn't you do what any
10 other law abiding citizen would have done in
11 that situation, called the police and let
12 them know about this situation?

13 A. Because the police were helping him.

14 Q. The police were helping him?

15 A. Yes.

16 Q. You don't think you could have
17 helped yourself by calling the police and
18 letting them know about situation. You don't
19 think at that point they would have said,
20 'Okay, this guy really isn't a drug dealer.
21 We'll move on.'

22 A. I didn't know who his partners was
23 and I had a family to protect.

24 Q. All the buys, you were the one that
25 was picking the meeting spots; right?

1 A. Yes, probably.

2 Q. So you were in control of that
3 situation; right?

4 A. At that point.

5 Q. You were calling the shots?

6 A. No.

7 Q. It didn't look like somebody that
8 was entrapped or that was being forced to do
9 something; did it?

10 A. I can't answer that question.

11 Q. You can't or won't?

12 A. I can't.

13 MR. KING: Judge, I think it's
14 argumentative.

15 THE COURT: Sustained.

16 MR. LIETZOW: I withdraw that.

17 CROSS EXAMINATION CONTINUED

18 BY MR. LIETZOW:

19 Q. You were pretty familiar with the
20 drug lingo and the market prices; weren't
21 you?

22 A. No, sir.

23 Q. How did you know how much you needed
24 to charge him on each of these occasions?

25 A. Because he called me weeks and weeks

State of South Carolina v. Christopher W. Brown

305

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Christopher Brown - Cross Examination

1 in advance.

2 Q. And you want the jury to believe
3 that he said, 'You're going to sell me
4 thirteen and a half grams and you're going to
5 charge me five hundred dollars'?

6 A. No..

7 Q. Then how did you know how to sell it
8 to him for five hundred dollars?

9 A. I had to go to the streets and found
10 it.

11 Q. So you were not going to go to the
12 streets and find drugs rather than to inform
13 the police and let them know the situation to
14 put a legal end to it?

15 A. He was strung out.

16 MR. LIETZOW: I beg the Court's indul-
17 gence.

18 THE COURT: Yes, sir.

19 CROSS EXAMINATION CONTINUED

20 BY MR. LIETZOW:

21 Q. Were you present yesterday when Mr.
22 Crosby testified that he was clean and sober
23 during the videos?

24 A. Yes.

25 Q. Did his behavior on those videos

1 look like somebody who was strung out and was
2 an addict at that time?

3 A. When he called me to set it up, he
4 sounded like he was high it.

5 Q. How about the one thing that every-
6 body has access to, and that's the video.
7 Did he look like he was strung out during
8 that video?

9 A. He had his partners with him when he
10 came to see me.

11 Q. Who were his partners and when did
12 they come see me?

13 A. Every time he came to see me, he had
14 his partners with him.

15 Q. Were those the undercover officers?

16 A. Yes.

17 Q. And you felt threatened by law
18 enforcement, undercover officers?

19 A. I didn't know who they were.

20 Q. But yet you were willing to sell
21 drugs in their presence.

22 A. To protect myself and protect my
23 family, yes, I was.

24 MR. LIETZOW: Beg the Court's indulgence.

25 THE COURT: Yes, sir.

State of South Carolina v. Christopher W. Brown

307

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Belinda Brown - Direct Examination

1 MR. LIETZOW: No further questions, Your
2 Honor.

3 THE COURT: Any redirect?

4 MR. KING: None, Your Honor.

5 THE COURT: All right. Thank you. You
6 may step down.

7 (WITNESS STEPS DOWN)

8 THE COURT: You may call your next
9 witness.

10 MR. KING: The Defense calls Belinda
11 Brown.

12 (WITNESS TAKES STAND)

13 * BELINDA BROWN, having been sworn to
14 tell the truth, and nothing but the truth,
15 testified as follows:

16 DIRECT EXAMINATION

17 BY MR. KING:

18 Q. Ms. Brown, you know this man sitting
19 over there with Ms. Hansotia?

20 A. Yes.

21 Q. Who is that?

22 A. That's my husband, Chris.

23 Q. How long have y'all been married?

24 A. Fourteen years.

25 Q. How long have you known him?

1 A. Next Friday will be twenty years
2 since we've been together. And I've known
3 him all my life. We grew up down the street
4 from each other.

5 Q. And where do you live?

6 A. I live in Ponderosa.

7 Q. How long have you lived there?

8 A. For almost twelve years.

9 Q. Do you own your house or rent?

10 A. Yes, we own.

11 Q. Have you got a mortgage?

12 A. Yes.

13 Q. Children?

14 A. Three.

15 Q. What do you do for a living?

16 A. I'm a hairstylist.

17 Q. Do you work for somebody or your-
18 self?

19 A. No, I have my own business. I've
20 been a hairstylist for the past twenty years,
21 but I've owned by own business for the past
22 fifteen years.

23 Q. So, I guess, back in 2009 both of
24 y'all had your own business?

25 A. Yes.

State of South Carolina v. Christopher W. Brown

309

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Belinda Brown - Direct Examination

1 Q. What about Christopher, is he
2 somebody who works or does he lay around?

3 A. He's always worked ever since we've
4 been dating.

5 Q. Have you ever known him to go for
6 long periods without a job?

7 A. No, sir.

8 Q. What kind of work was he doing in
9 2009?

10 A. 2009 he had his own business, hard-
11 wood flooring.

12 Q. And he's worked other places before
13 that?

14 A. Before that, yes. He's worked at
15 another flooring company. Before then, he
16 worked for the glass company. He worked for
17 an oil refining like, type company. He's
18 worked for McElroy for -- from, I think, from
19 '95 up until the time he closed down. He's
20 had other, restaurant jobs, and job through
21 the McElroy Corporations, steel corporations.

22 Q. Is he a good husband?

23 A. Yes, he is.

24 Q. Y'all wealthy, have a lot of money?

25 A. No, sir.

1 Q. He's not bringing home jewelry and
2 diamonds or anything like that?

3 A. No, sir. Chris couldn't bring
4 anything into my home that didn't have his
5 address and social security number attached
6 to it. So he didn't bring home money like
7 that, no.

8 Q. Now, do you know a guy named Marcus
9 Gibbes?

10 A. Yes, I do.

11 Q. How do you know Marcus Gibbes?

12 A. I know Marcus Gibbes because my
13 grandmother was a Gibbes before she got
14 married. And he is my cousin. Someway,
15 down the line, he's my family's.

16 Q. And your kids know Marcus Gibbes
17 too, I guess?

18 A. Yes.

19 Q. And do you, all the years that
20 you've been with Christopher, have you ever
21 seen him involved with drugs?

22 A. No, sir.

23 Q. Have you ever seen him doing drugs,
24 have drugs?

25 A. No, sir.

State of South Carolina v. Christopher W. Brown

311

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Belinda Brown - Direct Examination

1 Q. Or buy drugs?

2 A. No, sir.

3 Q. Or sell drugs?

4 A. No, sir.

5 Q. And you've had plenty of time to
6 learn about his character knowing him all
7 these years?

8 A. Yes, sir.

9 Q. What's your opinion of his
10 character?

11 A. He's a great father. He's a great
12 husband. He's a hard worker. I trust him.
13 I love him. I mean, I mean, he would, you
14 know, he takes care of his family. And
15 between me and him, we do it together. We've
16 taken care of our family, working.

17 Q. Now, this has been tough on you and
18 your family?

19 A. Oh, yes, it has.

20 Q. And at some point the police
21 searched your house?

22 A. Yes, they did.

23 Q. Was that like maybe one in the
24 morning, does that sound about right?

25 A. It was about one, somewhere between

1 one and two o'clock in the morning.

2 Q. Now, before the police searched your
3 house, did you take anything out of your
4 house?

5 A. We had a normal night. We had
6 dinner. The kids did homework, took baths,
7 watched TV for a little while, we went to
8 sleep. It wasn't anything out of the
9 ordinary.

10 Q. You didn't see Christopher or of any
11 of his friends or anybody who came over to
12 get things out of the house?

13 A. No, sir. Nobody really comes to our
14 house like that.

15 Q. And what happened when the police
16 got there to search?

17 A. Well, they came in. I know the
18 detective testified that, you know, they come
19 in peacefully, but they didn't come in
20 peacefully at all. Like, I said, it was
21 after like one o'clock. They kicked off our
22 door and a whole bunch of people came in
23 screaming, yelling, guns drawn.

24 They went into my children's room with
25 guns drawn out, pulling them from their beds.

State of South Carolina v. Christopher W. Brown

313

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Belinda Brown - Direct Examination

1 Detective Miller was the one that
2 actually came into my room. And I --
3 actually, I was already up out of the bed.
4 And I got out of the bed and the first thing
5 I saw was him coming into the room with a
6 flashlight in one hand and a gun in the next.
7 And he told me to get on the floor. He had
8 his foot, his knee in my back, on the floor,
9 with a gun in my face, telling me to lay down
10 and don't move. So I don't know how peaceful
11 that was.

12 My son, our eighteen year old son --
13 right now he's eighteen, but he's disabled.

14 MS. COMPTON: Objection. Relevance.

15 THE COURT: Sustained.

16 DIRECT EXAMINATION CONTINUED

17 BY MR. KING:

18 Q. Was the police coming into your
19 house like that, was this a surprise to you?

20 A. Yes, it was.

21 Q. And did you expect police to be
22 coming into your house with guns drawn,
23 searching your home?

24 A. No, sir.

25 Q. And you never saw the drugs inside

State of South Carolina v. Christopher W. Brown

314

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Belinda Brown - Cross Examination

1 your house?

2 A. No, sir.

3 Q. Or Chris ever involved in any kind
4 of drugs?

5 A. No, sir.

6 MR. KING: I have no further questions,
7 Your Honor. Please answer any questions the
8 State may have.

9 THE COURT: Ms. Compton.

10 MS. COMPTON: Thank you, Your Honor. May
11 it please the Court?

12 THE COURT: Yes, ma'am.

13 CROSS EXAMINATION

14 BY MS. COMPTON:

15 Q. Ms. Brown, you love your husband;
16 right?

17 A. Yes.

18 Q. And you've been in here for the
19 whole trial; haven't you?

20 A. Yes.

21 Q. I'm sure it's been tough for you to
22 hear about the double life he was leading;
23 wasn't it?

24 A. It wasn't tough because he doesn't
25 have a double life.

State of South Carolina v. Christopher W. Brown

315

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Belinda Brown - Cross Examination

1 Q. Okay. Now, you testified on direct
2 about Marcus Gibbes?

3 A. Uh-huh (affirmative).

4 Q. You also socialize with his family?

5 A. No, I don't see the kids. The kids
6 used to live in the community, but they've
7 moved to Atlanta so I don't see them.

8 Q. Were they socializing as of last
9 year?

10 A. I believe so, yes. They were still
11 there.

12 Q. And your kids were still playing
13 with them as of last year; right?

14 A. Well, the two boys played football
15 on Chris' football team, so, yes.

16 Q. Okay. Now, the night of the search
17 warrant, that was a Wednesday night; right?

18 A. I believe so, yes.

19 Q. Was it a school night?

20 A. Yes.

21 Q. Okay. You were asleep?

22 A. Yes.

23 Q. About one o'clock in the morning you
24 testified?

25 A. Yes.

State of South Carolina v. Christopher W. Brown

316

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Belinda Brown - Cross Examination

1 Q. But Chris wasn't at home when the
2 detectives came?

3 A. He was home. He was home, but he
4 wasn't home when they came. He was right
5 down the street.

6 Q. Do you recall giving an interview to
7 a DEA agent that night?

8 A. Yes.

9 Q. Would you recall saying that Chris
10 had just left?

11 A. Yes.

12 Q. So he wasn't home?

13 A. No. He was right down street.

14 Q. Was it normal for him to be around
15 and about at one o'clock in the morning?

16 A. He goes down the street to our
17 neighbor's house. I mean, it wasn't a big
18 deal that he was down the street, but he was
19 down the street.

20 Q. Okay.

21 MS. COMPTON: Beg the Court's indulgence.

22 THE COURT: Yes.

23 MS. COMPTON: Nothing further, Your
24 Honor.

25 THE COURT: Any redirect based on her

State of South Carolina v. Christopher W. Brown

317

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Wes Vicars - Direct Examination

1 cross?

2 MR. KING: No, Your Honor.

3 THE COURT: Thank you. You may step
4 down.

5 (WITNESS STEPS DOWN)

6 MR. KING: The defense calls Wes Vicars.

7 THE COURT: All right. Mr. Vicars, come
8 forward.

9 (WITNESS TAKES STAND)

10 *WELSEY VICARS, having been sworn to
11 tell the truth, and nothing but the truth,
12 testified as follows:

13 DIRECT EXAMINATION

14 BY MR. KING:

15 Q. Mr. Vicars, where do you work?

16 A. Horizon Forest Products.

17 Q. And what do you do there?

18 A. I'm the branch manager.

19 Q. And what kind of business is Horizon
20 Forest Products?

21 A. We're a hardwood distributor.

22 Q. Hardwood for what?

23 A. Hardwood flooring, lumber, hardwood
24 plywood.

25 Q. You sell hardwood flooring to, I

1 guess, contractors, things like that?

2 A. Flooring contractors, retail stores.

3 Q. You know this man sitting at the
4 table here?

5 A. I do.

6 Q. Who is he?

7 A. Chris Brown.

8 Q. How do you know him?

9 A. He was a flooring contractor and
10 he's also worked for one of our customers
11 too, years ago.

12 Q. Do you know him by his name or by a
13 business that he worked under?

14 A. Port City Hardwood Flooring.

15 Q. And what business do you believe he
16 was working for in 2009?

17 A. It was Port City Flooring or
18 Hardwood Flooring.

19 Q. And how long had he been coming and
20 buying the products from you?

21 A. It's been a few years, but he's been
22 in and out of the office for eight or nine,
23 ten years. And that's between working for
24 somebody or for himself.

25 Q. So he was purchasing products from

State of South Carolina v. Christopher W. Brown

319

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Wes Vicars - Direct Examination

1 you?

2 A. Uh-huh (affirmative).

3 Q. For a flooring business?

4 A. Yes.

5 Q. How was business in 2009, the
6 flooring business?

7 A. 2009 our business was way down,
8 2009, 2008. I think everybody was down at
9 that time.

10 Q. It wasn't just flooring, it as
11 industry wide?

12 A. Yes.

13 Q. For what, 2008 and so on?

14 A. Uh-huh (affirmative).

15 Q. In your experience dealing with him,
16 did you have any experiences when he was
17 involved in drugs or anything like that?

18 A. No.

19 MR. KING: That's all the questions I
20 have, Your Honor. Please answer any
21 questions ---

22 THE COURT: Recross?

23 RE CROSS EXAMINATION

24 BY MR. LIETZOW:

25 Q. Were you aware that Chris Brown was

1 selling cocaine on multiple occasions?

2 A. No.

3 Q. And you would agree that most drug
4 dealers doing business with legitimate
5 individuals like yourself, try not to bring
6 cocaine around and openly display that
7 cocaine?

8 A. I would hope they wouldn't.

9 Q. Especially if they want to continue
10 doing legitimate business with you?

11 A. Right.

12 Q. So, specifically, you were not aware
13 that Chris Brown sold fourteen grams of
14 cocaine for six hundred dollars on February
15 3, 2009?

16 A. No.

17 Q. So you really didn't know what Chris
18 Brown was doing outside of your relationship
19 and the double life he was leading?

20 A. No.

21 MR. LIETZOW: No further questions, Your
22 Honor.

23 THE COURT: Any redirect?

24 MR. KING: No, Your Honor.

25 THE COURT: All right. Thank you. You

State of South Carolina v. Christopher W. Brown

321

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Seth Levy - Cross Examination

1 may step down.

2 (WITNESS STEPS DOWN)

3 MR. KING: The Defense would call Seth
4 Levy.

5 THE COURT: All right.

6 * (WITNESS TAKES STAND)

7 SETH LEVY, having been sworn to tell the
8 truth, and nothing but the truth, testified
9 as follows:

10 DIRECT EXAMINATION

11 BY MR. KING:

12 Q. Mr. Levy, you know this man at the
13 table here?

14 A. Yes, sir, I do.

15 Q. How do you know him?

16 A. He works for the company that I own.

17 Q. What company do you own?

18 A. I own a company called Maximum
19 Cleaning Corp, doing business as MaxCARE.

20 Q. Okay. What kind of business is
21 that?

22 A. It's a floor cleaning business and
23 Chris is one of about six or seven employees.

24 Q. How long has he been working for
25 you?

1 A. I checked my records this morning.
2 Chris has been with us since February 2011.

3 Q. What kind of work does Mr. Brown do
4 for you?

5 A. Chris is a wood floor technician,
6 which means he primarily sands and finishes
7 wood floors.

8 Q. Does he show up for work?

9 A. Absolutely.

10 Q. Is he a good worker?

11 A. Yes, he is.

12 Q. You've had a chance to interact with
13 him over the few years he's been working with
14 you to observe his character?

15 A. Chris has showed up for work. He's
16 done his job very well. We speak casually
17 sometimes about football and the like.

18 Q. Do you believe him to be honest?

19 A. Excuse me?

20 Q. Do you believe him to be honest, an
21 honest person?

22 A. Oh. Yes, I do.

23 Q. You believe he's of good character?

24 A. Yes, I do.

25 Q. You probably wouldn't hire him if he

State of South Carolina v. Christopher W. Brown

323

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Seth Levy - Cross Examination

1 was dishonest; right?

2 A. Chris has been there longer than
3 some people.

4 Q. Have you ever seen any evidence of
5 him being involved in drugs?

6 A. None.

7 Q. Using or talking about it or
8 anything?

9 A. No.

10 MR. KING: That's all the questions I
11 have, Your Honor.

12 THE COURT: Any cross?

13 MR. LIETZOW: Just briefly, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. LIETZOW:

16 Q. You said the Defendant, Chris Brown,
17 has been with you since 2011?

18 A. Yes.

19 Q. So then you weren't aware that Chris
20 Brown sold fourteen grams of cocaine on
21 February 3rd, 2009?

22 A. No.

23 MR. LIETZOW: No further questions, Your
24 Honor.

25 THE COURT: Any redirect?

State of South Carolina v. Christopher W. Brown

324

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Sam Weatherford - Direct Examination

1 MR. KING: No, Your Honor.

2 THE COURT: Thank you. You may step
3 down.

4 WITNESS: Thank you.

5 (WITNESS STEPS DOWN)

6 MR. KING: The Defense would call Sam
7 Weatherford, Your Honor.

8 THE COURT: All right.

9 (WITNESS TAKES STAND)

10 * SAM WEATHERFORD, having been sworn
11 to tell the truth, and nothing but the truth,
12 testified as follows:

13 DIRECT EXAMINATION

14 BY MR. KING:

15 Q. Mr. Weatherford, you go by Sam?

16 A. Sam, yes, sir.

17 Q. What do you do for the City of
18 Charleston?19 A. I'm an athletics coordinator. I
20 manage sporting events like football,
21 baseball, soccer, softball.22 Q. Do you know this man here sitting at
23 the table?24 A. Yes, sir. I've dealt with Mr. Brown
25 for probably about four years now in athletic

State of South Carolina v. Christopher W. Brown

325

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Sam Weatherford - Direct Examination

1 programs. He's a football coach for us.

2 Q. Okay. And what exactly does he do?

3 A. He coaches football for the West
4 Ashley Broncos football team.

5 Q. Does he get paid for that?

6 A. No, sir.

7 MS. COMPTON: Your Honor. Objection,
8 relevance.

9 THE COURT: That's -- I'm going to give
10 him a little leeway. You can cross-examine.

11 DIRECT EXAMINATION CONTINUED

12 BY MR. KING:

13 Q. And do you know how long Christopher
14 has been involved as a coach for the city?

15 A. He's been there ever since I've been
16 there and I've been there for about four
17 years. I know he's been there that long,
18 possibly longer.

19 Q. And you know he's been there before
20 you got there?

21 A. Yes, sir.

22 Q. Do you know how long before you got
23 there?

24 A. I don't.

25 Q. Did the team do well this year?

1 A. They do well every year.

2 Q. Is he a good coach?

3 A. He's a good coach.

4 Q. You've had a chance to observe his
5 character and get to know him a little bit
6 over the years?

7 A. Yes, sir.

8 Q. Do you have an opinion about his
9 character?

10 A. I think he's good at getting the
11 kids in that community involved in sports and
12 stuff and that's a good thing for us, because
13 without people like him, we wouldn't be able
14 to get those kids involved.

15 Q. Have you ever seen him or heard
16 about him being involved in drugs or anything
17 like that?

18 A. Only from him, because I run back-
19 ground checks from the city and when we have
20 an issue come up on background checks, then I
21 have to conduct an interview with that coach.
22 And they're not allowed to coach until we
23 reach that point where our legal department
24 says it's okay. So, yes, I had to do an
25 interview with Mr. Brown.

State of South Carolina v. Christopher W. Brown

327

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Sam Weatherford - Direct Examination

1 Q. And he disclosed to you the criminal
2 charges?

3 A. Yes. Yes, he did.

4 Q. The ones that are pending now?

5 A. Exactly.

6 Q. Have you ever seen any evidence of
7 him being involved in drugs?

8 A. I have not.

9 Q. Did it appear like he was ever using
10 drugs?

11 A. No, sir.

12 Q. Or anything, from observing his
13 behavior, anything that would show he was
14 involved in drugs?

15 A. No, sir. He's always been very
16 quiet. I've never had an issue with him.

17 MR. KING: That's all the questions I
18 have, Your Honor. Please answer any
19 questions the State has.

20 THE COURT: Any cross?

21 MS. COMPTON: No, Your Honor, nothing
22 from the State.

23 THE COURT: All right. You may step
24 down.

25 (WITNESS STEPS DOWN)

1 MR. KING: Your Honor, this is our last
2 witness, Spavarie Taylor.

3 (WITNESS TAKES STAND)

4 *SPAVARIE TAYLOR, having been sworn to
5 tell the truth, and nothing but the truth,
6 testified as follows:

7 DIRECT EXAMINATION

8 BY MR. KING:

9 Q. Ms. Taylor, where do you work at?

10 A. North Charleston Police Department.

11 Q. What do you do for the North
12 Charleston Police Department?

13 A. A victim advocate.

14 Q. What does that mean?

15 A. We support victims, with different
16 resource that's available to them.

17 Q. Do you know this man sitting over
18 here?

19 A. Yes.

20 Q. How do you know him?

21 A. I was his pastor about nine years
22 ago.

23 Q. How long have you know him?

24 A. About eighteen years.

25 Q. Do you know his family?

State of South Carolina v. Christopher W. Brown

329

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Spavarie Taylor - Direct Examination

1 A. Yes.

2 Q. Do you know his wife?

3 A. Yes, sir.

4 Q. And over all that time, have you had
5 a chance to observe Mr. Brown's behavior and
6 his character?

7 A. Yes.

8 Q. What opportunities have you had to
9 observe his character and his behavior?

10 A. In a church setting, church activity
11 outside the church. I've seen him out with
12 his family.

13 Q. Are you aware of him doing any
14 volunteer work?

15 A. I don't know about now. I know
16 before when I was pastor at his church that
17 he worked a lot with the young people and
18 with the children.

19 Q. Based on your observations that
20 you've seen of him, what's your opinion of
21 his character?

22 A. I'm impressed with Christopher.
23 Every time I see him, he has been a gentle-
24 man, even in times when I've seen him but he
25 hasn't seen me. He's conducted himself as a

1 gentlemen.

2 Q. So there's nothing bad to say about
3 him?

4 A. Nothing I've ever seen, no.

5 Q. You've never seen him involved in
6 drugs?

7 A. No.

8 Q. Or have a reputation for being
9 involved in drugs or being a drug dealer?

10 A. No.

11 Q. And it would surprise you to hear
12 that he was involved in any kind of drugs?

13 A. Yes.

14 MR. KING: I have no further questions,
15 Your Honor.

16 THE COURT: Cross-examination?

17 CROSS EXAMINATION

18 BY MR. LIETZOW:

19 Q. Ms. Taylor, do you want to be here
20 today?

21 A. Do I want to be here?

22 Q. Yes, ma'am?

23 A. No.

24 Q. You testified that you work as a
25 victim advocate for North Charleston Police

State of South Carolina v. Christopher W. Brown

331

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Testimony of Mark Brown - Cross Examination

1 Department; right?

2 A. Yes.

3 Q. And do any of the victims that you
4 work with suffer drug addictions or victims
5 because of drug issues?

6 A. Some.

7 Q. So would you agree that drugs are a
8 tough issue for a teenager?

9 A. Yes.

10 Q. And you testified that you saw Chris
11 in a church, in a religious setting; is that
12 right?

13 A. Uh-huh, (affirmative nod).

14 Q. And I think you would agree that
15 most people are on their best behavior when
16 they're in a church setting; right?

17 A. I hope so.

18 Q. So you would agree that or you would
19 at least hope that people aren't going to
20 bring drugs or cocaine into church; right?

21 A. Right.

22 Q. And you were not aware that Mr.
23 Brown sold fourteen grams of cocaine on
24 February 3rd, 2009?

25 A. No.

State of South Carolina v. Christopher W. Brown

332

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Testimony of Mark Brown - Cross Examination

1 Q. You weren't aware of this double
2 life that Mr. Brown was living then?

3 A. No.

4 Q. Thank you.

5 MR. LIETZOW: No further questions.

6 THE COURT: Any redirect?

7 MR. KING: No, Your Honor.

8 THE COURT: Thank you. You may step
9 down.

10 MR. KING: The Defense rests, Your Honor.

11 THE COURT: Okay. Let me see the
12 attorneys for a second.

13 (BENCH CONFERENCE)

14 (THE COURT: All right. Ladies and
15 gentlemen, that is all the testimony that we
16 will have for you today. I will dismiss you
17 for the afternoon with instruction that you
18 be back here at nine-thirty tomorrow morning.
19 Please do not discuss the case with anyone or
20 amongst yourselves. But have a nice
21 evening. I won't tell anybody you got off
22 early today, so the rest of the day is yours.
23 We'll see y'all tomorrow morning at nine-
24 thirty. Thank you.

25 (JURY OUT @ 2:55 P.M.)

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Charge Conference

333

1 THE COURT: Now that the jury is
2 out, are there any motions to be made?

3 MR. KING: Yes, Your Honor. I just have
4 one. We renew our motion for *directed
5 verdict and ask Your Honor to find that
6 entrapment is a matter of law.

7 Based on the testimony from Ms. Brown and
8 then his character witnesses, I think we've
9 presented evidence that he is not predisposed
10 to sell drugs and the statement that Mr.
11 Brown's testified about, the inducement.
12 And, also, there was testimony of inducement
13 from Mr. Crosby under cross-examination and
14 the State has not proven beyond a reasonable
15 doubt that Mr. Brown is not predisposed -- or
16 prove that he is predisposed to sell drugs.

17 THE COURT: Mr. Lietzow?

18 MR. LIETZOW: Your Honor, the same
19 reasons that you denied the other directed
20 verdict motion the first time, we would ask
21 that you deny it again. Reviewing the
22 evidence in the light most favorable to the
23 State, this is clearly an issue to be
24 submitted to the jury whether Mr. Brown is
25 guilty of trafficking in cocaine.

1 THE COURT: All right. I'm going to
2 respectfully deny your motion. I think
3 there's enough to send it to the jury.

4 Anything further? Have y'all had an
5 opportunity to look at *the charge? Is it
6 satisfactory to you?

7 MR. LIETZOW: Your Honor, I would, at the
8 appropriate time, ask ---

9 THE COURT: Well, let's do it now. Let's
10 go ahead and do it now so we're ready in the
11 morning. Or do y'all want to do that in
12 chambers. We can talk about in chambers or
13 do you want to put it on the record? What do
14 you want to do?

15 MR. LIETZOW: I have a brief I've
16 prepared. I don't have a copy to the
17 Defense, but I can e-mail it to all parties
18 and I have a copy for Your Honor to look at.

19 THE COURT: You can do that tonight.

20 MR. LIETZOW: I would like to make an
21 argument to (A), not charge entrapment. In
22 the alternative, if Your Honor is so inclined
23 to charge entrapment, I would like to make an
24 argument to add some more language to what
25 was in the charge that I got from your clerk.

State of South Carolina v. Christopher W. Brown

335

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Charge Conference

1 THE COURT: Why wouldn't I charge
2 entrapment? I mean, he's raised the issue of
3 that, and he said he did it under duress.
4 Whether the jury buys that or not, I don't
5 know. But I think there's certainly evidence
6 of that. And if there's some evidence, I
7 would add it to the charge.

8 MR. KING: I'm just wondering if I should
9 request an actual duress charge, which would
10 be separate from entrapment. I think, based
11 on his testimony ---

12 THE COURT: I mean, I think that's part
13 of his entrapment is basically that it shows
14 that it was under duress. You know, I think
15 it's a credibility issue.

16 MR. KING: Yeah, I believe when he took
17 the stand and testified, Your Honor ---

18 THE COURT: I mean, if he hadn't taken
19 the stand, I would certainly -- I would
20 consider it in that light, but he took the
21 stand and he made the issue and it's evidence
22 of it. Whether the jury believes it or not
23 is a whole different matter.

24 MR. LIETZOW: Yes, Your Honor. I would
25 like to move into my second phase of the

1 argument.

2 THE COURT: Yes, sir.

3 MR. LIETZOW: Your Honor, pursuant to
4 *State v. Austin*, which is 385 S.E.2d 830,
5 South Carolina Supreme Court, 1989, the State
6 would ask that you would include the
7 language to any entrapment charge, that "the
8 defense has two elements, governmental
9 inducement and lack of predisposition."

10 And that's pursuant to *State v. Gaines*,
11 that there can be no dispute that the
12 government may use undercover agents to
13 enforce the law. That's the United States
14 Supreme Court. And the fact that the
15 government agency merely afford opportunities
16 or facilities for the commission of offense,
17 does not constitute entrapment, Your Honor.

18 THE COURT: I think most of that is in
19 here.

20 MR. LIETZOW: Your Honor, I have a brief
21 that provide those cites and will include
22 those in the e-mail.

23 THE COURT: All right. If you could do
24 that, and then I'll look at them overnight.

25 MR. LIETZOW: Okay. Thank you.

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Charge Conference

337

1 THE COURT: --- and make the --
2 before I give the jury to y'all to make your
3 arguments, I'll let you know what my ruling
4 is.

5 MR. LIETZOW: Yes, sir.

6 THE COURT: Thank you. Anything
7 further before we break?

8 MR. LIETZOW: Nothing from the State,
9 Your Honor.

10 MR. KING: Nothing from the defense.

11 THE COURT: Why don't I see y'all about
12 nine fifteen to make sure that we have the
13 changes to the charge, or whatever other
14 changes that y'all wish to make.

15 MR. KING: And Mr. Brown's okay ---

16 THE COURT: Any objection to him staying
17 out overnight?

18 MR. LIETZOW: No, Your Honor.

19 THE COURT: Thank you.

20 MR. KING: Thank you.

21 (COURT ADJOURNED @ 3:10 P.M.)

22

23

24

25

FEBRUARY 5, 2014

9:15 A.M.

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Charge Conference

338

1

2

(DEFENDANT PRESENT)

3

(IN CHAMBER CONFERENCE)

4

5

THE COURT: Good morning, anything for
the record before we bring in the jury?

6

7

8

MR. LIETZOW: Just that my client
asks that you include the language that I
proposed.

9

10

11

12

13

14

15

16

17

18

MR. KING: I would object, Your Honor,
you know, I think the State's request to
charge on the language that there can be no
dispute that the government may use
undercover agents to enforce the law and
artifice or strategy may be used in the case
to engage criminal enterprises. And to
determine whether entrapment has been
established there must be inducement between
law enforcement and the criminal.

19

20

21

22

23

Most of those are Supreme Court cases,
Your Honor. I think that are cases that
define entrapment, and that the original
charge that you gave, I thought,
substantially covered the entrapment law.

24

25

THE COURT: As I told you in chambers,
I'm satisfied that that is a correct state-

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Charge Conference

339

1 ment of the law in this case and that's
2 what's going to be charged. Your objection
3 is noted.

4 MR. KING: And I also requested the
5 charge, too, Your Honor, *Sherman v. United*
6 *States* ---

7 THE COURT: Which I deny, and I, in
8 essence, think that's kind of incorporated in
9 there. Your Motion for that is denied.

10 MR. KING: Your Honor, can we mark as
11 an exhibit our charge part of the record?

12 THE COURT: Yes. You may. We'll get
13 it and make it a part of the record.

14 MR. KING: Thank you, Your Honor.

15 THE COURT: But I deny that.

16 Also, the question was, did anybody
17 object to my sending the verbatim copy of the
18 charge to the jury? Any objection from the
19 State?

20 MR. LIETZOW: No, Your Honor.

21 THE COURT: Any objection from the
22 Defense?

23 MR. KING: None, Your Honor.

24 THE COURT: Okay. Anything further?

25 MR. LIETZOW: Nothing from the State,

State of South Carolina v. Christopher W. Brown

340

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Charge Conference

1 Your Honor.

2 THE COURT: Let's bring our jury in.

3 COURT REPORTER: The defendant's request
4 to charge will be Court's 3, and the copy of
5 your charge will be Court's 4.

6 (SO ENTERED AS COURT'S EXHIBIT 3)

7 (SO ENTERED AS COURT'S EXHIBIT 4)

8 (JURY IN @ 9:35 A.M.)

9 BAILIFF: The jury's all present, Your
10 Honor.

11 THE COURT: All right. Please be seated.
12 Well, good morning, ladies and gentlemen. I
13 hope you had a nice evening.

14 This crummy weather has just been on us
15 all over the place. Hasn't it? I tell you.
16 I drove down from Sumter this morning. It
17 was foggy and wet. It was like coming back
18 last week, except that it is a lot warmer.

19 Ladies and gentlemen, all of the evidence
20 in this case has been presented to you. Now,
21 is the time where the attorneys will give you
22 their closing arguments.

23 After that, I'll charge you the law and
24 then I'll send you back to start your
25 deliberations, all right. Is the State ready

State of South Carolina v. Christopher W. Brown

341

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Closing Argument by Defense Counsel

1 to proceed?

2 MR. LIETZOW: We are, Your Honor.

3 THE COURT: Is the Defense ready to
4 proceed?

5 MR. KING: Yes, Your Honor.

6 THE COURT: All right. Thank you.

7 MR. LIETZOW: Your Honor, we'd like to
8 waive opening on the law and just have final
9 closings.

10 THE COURT: Yes, sir. Mr. King?

11 *MR. KING: Is this what law enforce-
12 ment is supposed to be doing?

13 Is that what law enforcement supposed to
14 be doing and was it worth this? You have
15 Christopher Brown who's seated over here.
16 He's a family man, married for fourteen
17 years, three children, same home for twelve
18 years, same phone number for years, trying to
19 make a living with his own business back in
20 2009, times were tough. He volunteers his
21 time. He volunteers his time as a football
22 coach. Never involved in drugs before this
23 and not since his arrest from this a few
24 years ago.

25 I even brought in witnesses that he.

1 The director of the City football league
2 comes in and speaks for him.

3 His current boss comes in and speaks for
4 him.

5 Someone who has known him for a few
6 years, who has done business with him for
7 some seven or eight years, came in and spoke
8 for him.

9 His wife took the stand and spoke for
10 him.

11 And most importantly, his pastor. She
12 works for the North Charleston Police
13 Department. She works in the police
14 department and has known him, I think she
15 said eighteen years. And she came in and
16 took the stand and spoke up for him.

17 And he spoke up for himself. He doesn't
18 have to take that stand. He has a right to
19 remain silent. And the Judge would have
20 instructed you, you couldn't hold that
21 against him. He got up on that stand and he
22 testified.

23 Now, all the State has on their side is
24 Will Crosby. And you saw the way he was on
25 the stand. The way he acted on the stand.

State of South Carolina v. Christopher W. Brown

343

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Closing Argument by Defense Counsel

1 He seemed miserable up there. He was -- it
2 seemed like he didn't even seem to have any
3 respect for this courtroom and the duty you
4 have when you take the stand in a serious
5 case like this.

6 He's a convicted felon, assault and
7 battery first degree felony. He's been a
8 drug addict and drug dealer for years. He
9 admitted that himself.

10 Said he was strung out at that time. So
11 he gets busted back in 2008 with thirty-six
12 (36) grams of Marcus' Gibbes cocaine.

13 Now, he's testified he's dealing directly
14 with Marcus Gibbes, the kingpin. So if he
15 has thirty-six grams of Marcus Gibbes'
16 cocaine, and he's dealing directly with the
17 kingpin, that would make him the lieutenant
18 that the State was discussing in opening
19 statement. He's the lieutenant.

20 Now, in 2008, he finds himself charged
21 with trafficking cocaine, which carries a
22 minimum of three years and a maximum of ten
23 years. And possession with intent to
24 distribute cocaine in the proximity of a
25 school, which is up to ten years. Two

State of South Carolina v. Christopher W. Brown

344

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Closing Argument by Defense Counsel

1 serious felonies, mandatory jail time if he
2 is convicted -- at least three. And he told
3 the police where he got the cocaine. He's
4 confessed. They've got him red-handed with
5 all that cocaine. So what's he going to do?
6 He gets the opportunity to try to work these
7 charges off. He doesn't want to go to
8 prison. No one wants to go to prison. So he
9 becomes a CI at the end of 2008, confidential
10 informant. And he goes to Detective in
11 January of 2009.

12 And they really want -- "they," the
13 police, really want Marcus Gibbes. They
14 know who he is. They've never heard of
15 Christopher Brown. They know who Marcus
16 Gibbes is and they want him.

17 Crosby told us that that's the name we
18 knew first, Marcus Gibbes. He said, I
19 started off with telling them about Marcus
20 Gibbes. And he thinks Marcus Gibbes is going
21 to save him from going to prison. Will
22 Crosby's back on the street but he's an
23 outcast now. He just got busted with all
24 these drugs and now he's back out on the
25 street. He's got "Snitch" written all over

State of South Carolina v. Christopher W. Brown

345

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Closing Argument by Defense Counsel

1 him because the real drug dealers know not to
2 mess with this guy, because he could be a
3 snitch.

4 So, how is Crosby going to get to Marcus
5 Gibbes? He's got to go outside that drug
6 ring, because anybody in that drug ring is
7 going to know not to mess with this guy. So
8 he's has to go around them, to somebody
9 outside of that circle. He goes to
10 Christopher, a childhood friend of Marcus
11 Gibbes, who's not involved in that drug ring.
12 Crosby knows he's in the construction
13 business. He's trying to get a job from him.
14 Christopher's not a drug dealer. He's not a
15 part of Marcus Gibbes' drug-dealing circle.
16 If he was, if he was a lieutenant, he would
17 have known to avoid Will Crosby because
18 Marcus Gibbes sure did. Marcus Gibbes
19 wouldn't have anything to do with him. So he
20 could not get Marcus Gibbes. He can't get
21 who the police want.

22 Christopher won't take the money that
23 he's trying to get back to Marcus, because
24 Christopher's not involved in that, doesn't
25 have anything to do with that.

1 But Crosby's desperate. He's already
2 invested his time in calling Christopher,
3 trying to get to Marcus because that's what
4 he's been doing. He's been getting -- the
5 police encouraged that. Calling Christopher
6 and is trying to find out the number for
7 Marcus, any information pertaining to Marcus
8 Gibbes. He's already invested all of that
9 time working on Christopher to get to Marcus.

10 And so if he can't get Marcus, what's the
11 next best thing? He's been dealing with
12 Christopher now, been phoning him for a
13 while. And he makes all these unsupervised
14 phone calls to Christopher. Goes to work on
15 him. All he has to do is get him to sell
16 some drugs. You know, at least he has
17 somebody. He can't get Marcus. He needs to
18 get somebody.

19 And he makes five phone calls in the
20 video alone, within an hour. Imagine how
21 often he's calling him leading up to this.
22 So the government, our police department,
23 took this guy, Crosby. They took him. A guy
24 you can't trust, that they don't trust. They
25 strip search him, take off all of his clothes

State of South Carolina v. Christopher W. Brown

347

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Closing Argument by Defense Counsel

1 and search him after a buy to make sure he's
2 not hiding anything. They don't trust him.
3 And you saw him on the stand. Do you think
4 he's a trustworthy guy? A guy with
5 credibility?

6 They took this guy and they sent him in
7 our community. Sent him in our community, a
8 cocaine addict, a drug dealer, desperate man.
9 The only thing standing between him and
10 prison time is getting somebody to sell him
11 cocaine. And he's willing to do whatever he
12 needs to do to save his own skin.

13 Everything the police know about Chris-
14 topher Brown, is just what Will Crosby told
15 them. Detective Perkins and Detective
16 Miller, they didn't know to follow Chris-
17 topher Brown around. They didn't do police
18 work, find somebody else who was a drug
19 dealer. They just accept everything Will
20 Crosby tells them as the truth after he's
21 been working on Christopher for weeks on the
22 telephone.

23 But that's what you do, when you do a
24 real investigation, not just to send Will
25 Crosby out to try to get drugs from somebody

State of South Carolina v. Christopher W. Brown

348

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Closing Argument by Defense Counsel

1 you know nothing about. They encouraged him.
2 They encouraged him to make these phone
3 calls, and not recording any of them. And
4 that's important for this controlled buy,
5 that's what the word "control" is all about.
6 You set up an informant, you have them make a
7 phone call to a target and you record it. If
8 they had recorded all of these phone calls,
9 they could play those phone calls and you
10 could hear every one. And you could hear
11 what Will Crosby is saying to Christopher
12 leading up to February 3rd, that would be
13 nice to know.

14 It is the State's job to do that. They
15 have the burden of proof. They haven't
16 brought you any of that.

17 Instead, he was sent on uncontrolled when
18 he made these phone calls. He spent time,
19 working on Chris, becoming his friend. They
20 talked about work, his personal life, no
21 money coming in. Talked to him about Marcus,
22 about -- eventually leading up to cocaine,
23 mentioning his partners. And now he has --
24 even though he says he's got no money coming
25 in, he has six hundred dollars now to spend

State of South Carolina v. Christopher W. Brown

349

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Closing Argument by Defense Counsel

1 on cocaine and is talking about partners. So
2 Chris was afraid of him and this is a
3 dangerous business. Christopher knows that.
4 He is not naïve. It doesn't mean he's a drug
5 dealer, either.

6 And so on February 3rd, 2009, Crosby
7 shows up and he has a partner with him,
8 Detective Brown. And he wasn't a small guy
9 and Detective Brown's not a small guy. So
10 here he comes pulling up with a partner
11 sitting in the driver's seat, which confirms
12 everything that he's said. So, yeah, Chris
13 is feeling a little threatened because he's
14 got Will Crosby constantly calling him, won't
15 leave him alone, and Will Crosby has partners
16 that give him money to buy cocaine. And
17 Christopher doesn't know that his "partner"
18 is really a cop. He doesn't know this guy or
19 what this people with money really could do.

20 By the time the police were recording
21 anything, Christopher's already pulled into
22 this. He's already in. And we don't get to
23 hear or see what lead up to all of this,
24 although we could have if they had just
25 recorded it.

State of South Carolina v. Christopher W. Brown

350

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Closing Argument by Defense Counsel

1 Detective Perkins said they can't be with
2 them 24/7. They don't have to be. The can
3 set up specific times to make specific phone
4 calls, like I said, and then you can hear it,
5 everything that was leading up to this buy,
6 to know exactly what was said: if there were
7 threats made, if he made them or what he said
8 to manipulate Christopher.

9 But by the time the police start
10 recording anything the damage was done. And
11 I'm going to play just a few clips from the
12 video that's been moved into evidence. And
13 listen to this. This is the very beginning.
14 The first thing you're going to hear is
15 Detective Perkins talking about Marcus
16 Gibbes, because that's a big part of this
17 case. Then Will Crosby tells him how he was
18 talking Christopher yesterday, (audio
19 playing).

20 So Will Crosby's saying, 'yeah, I talked
21 to him yesterday.'

22 And later, 'I'm not dodging him or
23 anything.' Will Crosby owes Marcus Gibbes a
24 lot of money for that cocaine that was
25 seized. I'm going to play you that, (audio

State of South Carolina v. Christopher W. Brown

351

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Closing Argument by Defense Counsel

1 playing).

2 In this one, now he's in the car with
3 Detective Brown and is driving to the
4 Ponderosa neighborhood, (audio playing).

5 (Audio playing), "I'll be calling him and
6 talking to him about work and about my
7 homeboy." His homeboy could be nobody other
8 than Marcus Gibbes.

9 Here's another one where he's talking
10 about how he has no work, no money coming in
11 to try to make a living, (audio playing).

12 So he's telling him, "I don't have any
13 money coming in."

14 Now, this last is where Crosby slips up
15 because the police are testifying that in the
16 video when they're waiting on Christopher,
17 he's off selling drugs to somebody else,
18 (audio playing).

19 All right. And listen to what Will
20 Crosby says, but he slips up and he says that
21 "he's waiting on somebody who's supposed to
22 bring it." In other words, Christopher is
23 out there waiting and he's got to go out and
24 find him some drugs. He's waiting for the
25 guy to bring the drugs to take to Will

1 Crosby, but he's flipping back and forth.
2 He slips this out and then he goes back to,
3 the "drugs are at Christopher's house.
4 Mine's in the house." But listen to what he
5 says first, (audio playing).

6 "Still at Red Top", (audio playing).

7 He said he was waiting on somebody that
8 was supposed to bring it. But then he
9 switches back to "mine's at the house."

10 But the detective heard somebody's
11 supposed to bring it. Listen to what he
12 says, (audio playing).

13 See, the detective heard it and confirms,
14 he's waiting on somebody to bring it. And
15 then Will Crosby corrects him. He got -- he
16 slipped out. The truth slipped out there.
17 He's trying to make it sound like Christopher
18 was a drug dealer, but the truth slips right
19 out of his mouth when he says, "he's waiting
20 on somebody who's supposed to bring it",
21 because he's trying to make Christopher look
22 like he has these drugs at his house, that
23 he's a big-time drug dealer. He's not.
24 He's driving around Red Top trying to find
25 somebody that can get him cocaine, so he can

State of South Carolina v. Christopher W. Brown

353

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Closing Argument by Defense Counsel

1 get it to Will Crosby and get this guy off
2 his back.

3 And you saw how -- Detective Brown
4 accepted whatever Will Crosby told him. He
5 heard him say, he's waiting on somebody to
6 bring it. Will Crosby goes along with that.
7 They accept whatever he tells them as the
8 truth.

9 So how do you know Christopher's not a
10 drug dealer? Will Crosby had to call him
11 repeatedly to try to get drugs.

12 And the only evidence they have that
13 Christopher sold any drugs before February
14 3rd, is just that Crosby said so, because he
15 said so. Do you think this guy is somebody
16 you can believe? I don't think he is.

17 Had to call him repeatedly. Had to call
18 him five times on the video to try to get it,
19 because Christopher has to go out and find
20 somebody who has drugs. He doesn't have
21 ready access to drugs like that.

22 There's another guy in the car. And
23 Christopher says that's the guy who actually
24 hands him the drugs. And you can see Crosby
25 approach the window of that passenger, not

1 around where the driver, where Christopher
2 is. He goes up to the passenger side window.
3 And you can't see who gives it to him. And
4 Detective Brown couldn't see who actually
5 gave it to him. There's another guy in the
6 car, Christopher says that he went and got to
7 get the drugs from.

8 The deals were done in his car. He's
9 just getting out of the car on the street.
10 Just random locations. He's not -- he's not
11 going by his house, knocking on the door,
12 going in there and getting some drugs and
13 leaving.

14 When they searched Christopher's house,
15 they found nothing. They found nothing at
16 all that would indicate he was a drug dealer.

17 When they searched Crosby's house when he
18 got pulled over in 2008, they found all those
19 drugs.

20 When they tried -- then they gave
21 Christopher a chance. Okay. Christopher
22 became an informant and he can get himself
23 out of these charges. He couldn't help
24 himself out of that because he doesn't know
25 the drug business like that. He doesn't know

State of South Carolina v. Christopher W. Brown

355

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Closing Argument by Defense Counsel

1 the lieutenants. He doesn't deal with Marcus
2 Gibbes like that. He doesn't deal with him
3 and his drug life. Their relationship is
4 different. It's based on childhood friend-
5 ship. Their children know each other.

6 And how else do we know he's not a drug
7 dealer? His character witnesses told you
8 that. All those witnesses that came that
9 said -- do you think Will Crosby could
10 provide witnesses like that, to say good
11 things about him?

12 So his character witnesses told you --
13 Sam Weatherford, Seth Levy, Wes Vicars, Ms.
14 Taylor -- they all told you he's not a drug
15 dealer. His wife told you he's not a drug
16 dealer. That's his wife and she loves him
17 but that doesn't mean she lied. And he told
18 you he's not a drug dealer. He took the
19 stand and told you that.

20 So I say it again, is this what we're
21 supposed to be doing? I mean, we had the
22 guy. We had Will Crosby red-handed. We had
23 the "lieutenant" with all this cocaine. The
24 police had him in their hands, only to let
25 him go. They let him go in exchange for

State of South Carolina v. Christopher W. Brown

356

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Closing Argument by Defense Counsel

1 Christopher Brown, a family man that people
2 respect in this community. Who can bring
3 witnesses in to say what kind of a man he is.
4 A working man with a wife and three kids and
5 a mortgage. Never involved in drugs before
6 this or since this.

7 Will Crosby was a drug dealer for years.
8 We had him and they let him go. And now Will
9 Crosby's a convicted felon, walking around
10 among us. So they want you to exchange Will
11 Crosby for Christopher Brown and that's not
12 right.

13 This case is really about Marcus Gibbes,
14 because that's what all of this about in the
15 beginning. And they've got him, they've got
16 Marcus Gibbes. He's in jail. They got the
17 kingpin. He's in prison. It's not a perfect
18 system, definitely not. But they got the
19 guy, but Christopher got hurt along the way.

20 These tactics the police use can
21 sometimes hurt innocent people and that's
22 what happened in this case. Christopher's
23 not a part of that world. They stepped on
24 him to get to Marcus Gibbes.

25 But you, the twelve of you can make this

State of South Carolina v. Christopher W. Brown

357

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Closing Argument by Solicitor

1 right. Monday was five years from
2 February 3rd. So it's been five years and
3 this loose end is still dangling out there.
4 Marcus Gibbes' case is over and he's
5 sentenced.

6 You can make it right and we're asking to
7 do that, he was induced by Will Crosby to
8 commit this crime and he would not normally
9 have done that, but for Will Crosby pulling
10 him into this. If you believe that, then
11 he's not guilty. Thank you.

12 THE COURT: Mr. Lietzow:

13 MR. LIETZOW: May it please the Court,
14 Your Honor.

15 THE COURT: Yes, sir.

16 *MR. LIETZOW: Ladies and gentlemen,
17 I started off the week by thank you and right
18 now I've got to thank you for being here.
19 Y'all have been very attentive during the
20 trial and we appreciate your attention you've
21 given to it.

22 What are the elements of trafficking
23 cocaine? We're here today because on
24 February 3rd, 2009, we must prove that Chris
25 Brown trafficked cocaine beyond a reasonable

1 doubt.

2 I know this term might be unfamiliar or
3 you might say, what, exactly is beyond a
4 reasonable doubt? The Judge is going to go
5 into much detail in just a minute. But for
6 now, beyond a reasonable doubt does not mean
7 all doubt. It does not mean there's no
8 uncertainty. It just means you must be
9 firmly convinced of the Defendant's guilt.

10 The charge of trafficking cocaine has two
11 elements. First, it is possession of cocaine
12 or any mixture there. Remember I told you
13 that it does not have to involve the sale of
14 drugs, but we did go one step further and
15 proved that he was selling drugs. Possession
16 of cocaine or a mixture there.

17 The second element is weighing more than
18 ten (10) grams.

19 The defendant is claiming that he was
20 entrapped and I'm going to go into that in
21 just a minute. But essentially, by claiming
22 entrapment, the Defendant is consenting that
23 he has been in possession of these drugs and
24 that they do, in fact, weigh more than ten
25 grams.

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Closing Argument by Solicitor

359

1 The Defendant testified on the stand that
2 it wasn't him on February 3rd, 2009. But you
3 can't have it both ways, ladies and
4 gentlemen. The very nature of entrapment
5 defense is yes, that they consent that it was
6 him. Now we just need to determine whether
7 or not he was entrapped.

8 And one more point I would like to make
9 about the elements of trafficking cocaine.
10 Jennifer Lieser, a expert in chemical
11 analysis came in an testified that, yes, she
12 ran test, a second test, that that substance
13 did, in fact, contain cocaine and it did
14 weigh fourteen (14) grams.

15 Mr. King talked about the elements of
16 entrapment and I'm going to go over those
17 again. The first element is that the
18 government induced or coerced the Defendant
19 into committing a crime. This is what I've
20 been referring to all along as twisting the
21 arm. This is the twisting of the arm.

22 The second element is that ---

23 MR. KING: Objection, Your Honor. I
24 think that misleads the definition of ---

25 THE COURT: I'll ---

State of South Carolina v. Christopher W. Brown

360

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Closing Argument by Solicitor

1 MR. KING: It can be persuasion.

2 THE COURT: These are arguments. I will
3 give you the charge on the law and define
4 entrapment for you.

5 BY MR. LIETZOW: The second element of
6 entrapment is that the defendant was not
7 predisposed to be engaged in the activity
8 that he was doing.

9 And essentially, that's what we've been
10 referring to as, 'is Chris Brown a drug
11 dealer or not' throughout this trial.

12 So you have the twisting the arm, and is
13 Chris Brown a drug dealer?

14 And another point I'd like to make, and
15 the Judge is going to address this in just a
16 minute again, is that the fact that the
17 officer/agent merely presented opportunity
18 for the commission of a crime is not
19 entrapment. The use of a confidential
20 informant by itself does not constitute
21 entrapment.

22 Let's talk about the trial you guys saw
23 over the last two days, particularly the use
24 of a confidential informant in this case.
25 All of the detectives that testified told you

State of South Carolina v. Christopher W. Brown

361

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Closing Argument by Solicitor

1 that using a confidential informant is a
2 common law enforcement tactic. It's their
3 go-to strategy when fighting with the drug
4 individuals that they have to deal with in
5 our community. They are a vital tool in the
6 drug war.

7 Unfortunately, we don't get to choose and
8 pick all the confidential informants that
9 come our way. Chris Brown is the one that
10 chose that confidential informant by selling
11 him drugs in the past and then continuing to
12 sell him drugs once law enforcement got
13 involved.

14 But we agree, it isn't perfect. Drug
15 organizations have an insular nature and
16 because of that, we have to use confidential
17 informants. The officers told you that they
18 carefully vetted and they do extensive
19 debriefings. They told you they're not going
20 to work with somebody that they don't feel
21 like it's going to be a safe environment for
22 them or for the confidential informant
23 themselves. And they said that they have
24 chosen not to work with confidential
25 informants in the past.

1 I don't want to take a lot of time to try
2 and talk up Will Crosby. That's not
3 necessary. It was obvious to you guys that
4 he didn't want to be here. He told you that.
5 He's not here. He's a criminal. He's a drug
6 dealer. He's an addict. He had a chance to
7 help himself, though and he had a chance to
8 give information about the organization that
9 the defendant was dealing drugs from and he
10 took it.

11 But we know he told the truth, because
12 you can corroborate that truth with the video
13 and the audio that you have at your disposal.

14 He was hesitant on the stand. He wasn't
15 proud and he sure as heck wanted to get down
16 as quickly as possible.

17 But I ask you, what does a liar sound
18 like? Isn't a liar someone who is going to
19 lie and come into court and have a well-
20 rehearsed story that he's eager to have
21 everybody to believe ever last word that he's
22 going to tell you? That sure wasn't Will
23 Crosby.

24 Will Crosby ultimately told you the
25 truth, that he bought cocaine from Chris

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Closing Argument by Solicitor

363

1 Brown at least twenty times in the past and
2 he bought it on February 3rd, 2009 and every
3 time after that. And you can verify his
4 truth by watching the video -- and you guys
5 can request to rewatch that at any time
6 during your deliberations.

7 Let's talk a little bit more about
8 entrapment. You had arm twisting and drug
9 dealing.

10 Remember, providing an opportunity isn't
11 entrapment.

12 Let's go with the first element,
13 inducement. You guys saw the sale as it that
14 took place. There was no arm twisting. That
15 was two individuals freely and voluntarily
16 associating with each other that were
17 involved in the drug trade.

18 Chris Brown was in control of the sales.
19 He was the one that picked the meeting
20 locations. He was the one that would change
21 locations at the last minute. And you heard
22 what Crosby said on the video. He said,
23 'Hey, man, where do you want to go? Where do
24 you want to meet me at?' If he's being
25 forced to do something, he's the one that's

1 being told where to go, not the other way
2 around.

3 He also said he felt threatened. That
4 makes no sense. He claims he's a law abiding
5 citizen. As a law abiding citizen, if you
6 feel threatened, why don't you call the
7 police? You're not going to sell half ounces
8 and ounces of cocaine to someone. You're
9 going to do what a law abiding citizen does.

10 Mr. Brown also claimed that Will's
11 partner was there. You saw Detective Brown.
12 He was the one that was there on that
13 February 3rd buy. September 15, there was
14 nobody there except for Will Crosby and Chris
15 Brown. And at no time in that February 3rd
16 video did Mark Brown try to make contact or
17 make any comment to Chris Brown. It's not
18 believable to think that he was coerced or
19 forced to sell cocaine over an eighteen-month
20 span. There's no evidence of that on the
21 videos. You guys, like I said, will have a
22 chance to look at that.

23 Let's talk about the second element:
24 predisposition, the drug dealing.

25 He wants you to think he's not a drug

State of South Carolina v. Christopher W. Brown

365

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Closing Argument by Solicitor

1 dealer and that makes no sense. I'll give
2 him credit, he was good at what he did. He
3 had no criminal history of selling drugs. He
4 stayed out of trouble. But we've seen it all
5 too often. You push something too far, and
6 it will fall apart. And on February 3rd,
7 2009, it did fall apart for Chris Brown.

8 Mr. King played video for you, cherry-
9 picking certain aspects of the video to make
10 it look like it was most favorable to him.

11 What we do know is that before Chris
12 Brown sold Will Crosby cocaine on February
13 3rd, 2009, Chris Brown was off running around
14 Red Top. Whether he was waiting on a sale or
15 not, the fact was he was running around with
16 other drug folks. Then you heard "he's
17 *waiting on somebody to bring him his*", but
18 *"he's got mine back at the house."* You guys
19 can make of that what you want to.

20 I can tell you though that that Chris
21 Brown was storing drugs at his house that he
22 was going to sell to Will Crosby. A drug
23 dealer doesn't store drugs in their house?
24 Come on. A drug dealer has ready access to
25 those drugs.

State of South Carolina v. Christopher W. Brown

366

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Closing Argument by Solicitor

1 Let's talk about the weight that Chris
2 Brown had access to him to sell. You've
3 heard that a common street-level user and
4 common street-level dealer, you know, in
5 grams, three grams, what they call eight-
6 balls, which is an eighth of an ounce, those
7 are the low-level, normal kind of transact-
8 tions that it would be believable to think
9 that somebody for the first time, who's never
10 been involved.

11 But somebody that has access to a half
12 ounces or ounces of cocaine -- remember five
13 hundred to a thousand dollars worth of
14 cocaine, it's not believable to think they're
15 going to jump right on to that kind of level
16 of cocaine.

17 Mr. Brown and the defense have said times
18 were tough for Chris Brown back in 2008 and
19 2009. If times were tough, where was he
20 getting the money to front this kind of
21 drugs? He's not going to just be able to go
22 and trade off his reputation and go, 'Hey,
23 I'm a good guy. Let me get a half an ounce
24 and go sell it to somebody.' That's not how
25 it works. He had to have the money to pay up

State of South Carolina v. Christopher W. Brown

367

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Closing Argument by Solicitor

1 front for those drugs that he ultimately sold
2 to Will Crosby.

3 You've heard that Chris Brown sold drugs
4 to Will Crosby approximately twenty times
5 before February 3rd, 2009. Mr. Brown wants
6 you to believe otherwise. I don't think that
7 adds up either. You guys saw on the videos
8 that Will Crosby and Chris Brown had an
9 established routine. They had an amount that
10 they were used to dealing with each other and
11 they had an amount that they were used to
12 trading for those drugs.

13 You didn't hear Chris Brown say, "Hey,
14 man, I don't know how much to sell [sic] you
15 for a half an ounce." It's not believable to
16 think that somebody who isn't a drug dealer
17 knows that kind of information. It's also
18 not believable to think that somebody who
19 isn't a drug dealer and he's going to sell
20 drugs for the first time, is going to sell
21 that amount of cocaine to somebody that they
22 are not familiar with and never dealt drugs
23 to before.

24 Specifically, we're here today because of
25 February 3rd, 2009. We talked about on

State of South Carolina v. Christopher W. Brown

368

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Closing Argument by Solicitor

1 February 19, 2009 the sale, the September 15,
2 2009 sale and the August 26, 2010 sale, to
3 show you guys that the February 3rd was not a
4 one-time fluke. This was an on-going,
5 repeated course of action; which, again,
6 diminishes the defense's argument that he was
7 entrapped.

8 Chris Brown knew the lingo. You heard
9 him say a "half O." . I didn't know what
10 that was until I asked Detective Perkins. I
11 didn't want to Google it at work and get in
12 trouble.

13 He also says the drugs weren't "stepped
14 on", no sticking to the bag. I didn't know
15 about that.

16 He knew how to weigh the drugs so that
17 they came out to the right amount, to that
18 half ounce. He knew how to package the
19 drugs.

20 The Defense wants you to believe that
21 Chris Brown and Marcus Gibbes were not
22 associating. And I'll talk about that just
23 a little bit more in a minute.

24 But what we do know is that Chris Brown
25 did, in fact, know what Marcus Gibbes was up

State of South Carolina v. Christopher W. Brown

369

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Closing Argument by Solicitor

1 to. On that September 15th buy he says,
2 "Hey, man, Marcus Gibbes was running from the
3 police earlier today. He got away." How
4 does he know that about Marcus Gibbes if he
5 isn't tied into the drug trade that they're
6 all working in?

7 And Mrs. Brown originally lied upon the
8 stand, then changed her story. Chris Brown
9 wasn't home for the search warrant when that
10 was conducted. He was gone at one a.m. on a
11 school night, Wednesday. I'll let you guys
12 draw your own conclusion from that.

13 Chris Brown is desperate for you to
14 believe that he was entrapped, that he wasn't
15 a dealer because he doesn't want to be held
16 accountable for his actions. Commonsense
17 shows otherwise.

18 Let's talk about the search warrant for
19 just a minute. The Defense makes the theory,
20 the argument, that drugs were found in Will
21 Crosby's house and, therefore, he's a dealer.
22 Drugs were found in Marcus Gibbes' house,
23 therefore he's a dealer. But no drugs were
24 found in Chris Brown's house so, therefore,
25 he can't be a dealer.

State of South Carolina v. Christopher W. Brown

370

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Closing Argument by Solicitor

1 We already know he's had drugs in the
2 house. We heard the February 3rd buy, saying
3 he had to go get the drugs. But remember, on
4 August 26, 2010, Detective Miller said they
5 had an eyes on Chris Brown while he left his
6 house before he went to sell Will Crosby
7 cocaine. And then he said Chris Brown drove
8 directly to the meeting location. There was
9 no need to go get drugs and then sell the
10 drugs. Where did those drugs come from? His
11 house.

12 Law enforcement had to move fast on the
13 Defendant's house when they were doing the
14 search warrant. They told you that the
15 search warrant was done on Marcus Gibbes'
16 house and by Federal, FBI presumably with
17 DEA. And that they were caught a little off
18 guard. They didn't realize it was going to
19 happen that fast. Detective Miller also told
20 you that once one member of a drug
21 organization's house gets a search warrant on
22 it, word spreads like wildfire.

23 So they knew they had to move fast in
24 order to prevent Chris Brown from being able
25 to remove any evidence, and keep the element

State of South Carolina v. Christopher W. Brown

371

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Closing Argument by Solicitor

1 of surprise. And they weren't able to move
2 fast enough. They said several hours passed
3 in between the time that Marcus Gibbes' house
4 -- the search was done around eleven. I
5 think the search warrant on Chris Brown's
6 house -- was plenty of time to remove the
7 evidence and he wasn't there when they got
8 there. Where was he? He was out removing
9 evidence.

10 The Defense is presenting a case where
11 they wanted to talk about anybody but Chris
12 Brown. They talked at length about Will
13 Crosby. They talked at length about Marcus
14 Gibbes.

15 Will Crosby's not on trial today, Chris
16 Brown is. Will Crosby had a chance to help
17 himself by working as a confidential
18 informant with law enforcement and he took
19 that. Whether you believe Will Crosby also
20 should be in jail does not excuse the fact
21 that Chris Brown is guilty of trafficking
22 cocaine. And that's why we're here today.

23 Marcus Gibbes, you heard that name over
24 and over and over again. Marcus Gibbes isn't
25 on trial today. You heard he was convicted

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Closing Argument by Solicitor

372

1 and is in federal prison. He had his day in
2 court.

3 Today is Chris Brown's day in court.
4 Please don't lose sight of that.

5 Last point that I would like to make,
6 mitigation evidence versus evidence of guilt
7 or innocence. You heard from several
8 witnesses that Chris Brown is a good person.
9 I don't doubt this. I'm not going to try and
10 talk you out of it. But there is a
11 difference between mitigating evidence and
12 evidence of guilt. Chris Brown's redeeming
13 and positive qualities are something that the
14 Judge is going to get to determine in a way
15 when fashioning an appropriate sentence.

16 Your job as judges of the facts are to do
17 just that, view the facts. You took an oath
18 as a juror to look at those facts and deter-
19 mine whether or not Chris Brown committed
20 this crime.

21 I told you that Chris Brown wasn't the
22 biggest drug dealer in Charleston, and the
23 standard high-level drug dealer, dealing in
24 ounces and half ounces, but it's true that he
25 did intend to sell thousands of dollars of

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Jury Charge

373

1 cocaine into the Charleston community.

2 In conclusion, please look at all of the
3 facts and determine that Chris Brown was not
4 entrapped. His arm was not twisted and he
5 had plenty of opportunity to be a drug
6 dealer. Hold the Defendant accountable and
7 find him guilty of trafficking cocaine.
8 Thank you.

9 *THE COURT: Thank you, Mr. Lietzow.
10 Please secure the courtroom.

11 All right. Ladies and gentlemen, all
12 the testimony and other evidence has been
13 presented in this case. Now is the time of
14 the trial where I will charge you the law
15 that is applicable to this case.

16 I remind you, ladies and gentlemen, that
17 during this trial, you and I have certain
18 duties to perform. As the trial Judge, it is
19 my responsibility to preside over this case.
20 And I also have the duty to rule on the
21 admissibility of the evidence that's been
22 offered during this trial.

23 You are to consider only the competent
24 evidence before you. If there was any
25 testimony ordered stricken from the record

State of South Carolina v. Christopher W. Brown

374

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Jury Charge

1 during this trial, you are to disregard that
2 testimony, because you are only to consider
3 the testimony that's been presented from that
4 witness stand and any exhibits, which have
5 been made a part of the record in this case,
6 and any stipulations of counsel.

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

19 In every case tried before the Court,
20 before a jury, the jury becomes the sole and
21 exclusive judges of the facts in this case.

22 As the trial Judge, I cannot intimate,
23 state, comment, or in any way make a state-
24 ment to the trial jury about the facts in a
25 case. Since you're the jury, you're the sole

State of South Carolina v. Christopher W. Brown

375

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Jury Charge

1 judges of the facts and you're not to infer
2 by what I have said during the progress of
3 the trial, on ruling upon the admissibility
4 of evidence or otherwise, or anything that I
5 now say during the course of these closing
6 instructions, that I have any opinion about
7 the facts of this case. The law simply does
8 not allow me to have an opinion, as this is a
9 matter solely for you to determine.

10 And as jurors, it is your duty to
11 determine the effect, the value, the weight,
12 and the truth of the evidence that has been
13 presented during this trial.

14 Now, ladies and gentlemen, the indictment
15 in this case, indictment number 2011-GS-10-
16 06482 alleges that on or about February 3rd,
17 2009, the Defendant, Christopher Wynne Brown,
18 committed the offense of trafficking in
19 cocaine, more than ten grams, but less than
20 twenty-eight grams. And I remind you, the
21 fact that the Defendant was arrested,
22 charged, and indicted, is not evidence in
23 this case, nor can it be considered by you as
24 evidence for guilt, nor does it create any
25 presumption or inference of guilt. The

State of South Carolina v. Christopher W. Brown

376

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Jury Charge

1 indictment is simply the formal written
2 document which brings this case and the
3 Defendant into court.

4 Now, ladies and gentlemen, the Defendant
5 ha pled not guilty to the charge in the
6 indictment. And that plea puts the burden on
7 the State to prove the Defendant guilty.

8 I remind you that a person charged with
9 committing a criminal offense in South
10 Carolina is never required to prove his
11 innocence. I charge you that this is an
12 important rule of law, that the defendant in
13 a criminal trial, no matter how serious the
14 charge may be, will always be presumed to be
15 innocent of the crime for which the
16 indictment was issued, unless guilt has been
17 prove by evidence satisfying you of that
18 guilt beyond a reasonable doubt.

19 The presumption of innocence does not end
20 when you begin your deliberation, but it
21 accompanies the defendant throughout this
22 trial until you reach a verdict of guilt of
23 evidence satisfying you of the guilt beyond a
24 reasonable doubt.

25 Now, ladies and gentlemen, the

State of South Carolina v. Christopher W. Brown

377

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Jury Charge

1 presumption of innocence is like a robe of
2 righteousness that is placed about the
3 shoulders of the Defendant, which remains
4 with the Defendant until it has been stripped
5 from that Defendant by evidence that
6 satisfies you of the Defendant's guilt beyond
7 a reasonable doubt.

8 Now, I remind you that the presumption of
9 innocence is not a mere legal theory. It is
10 not just a legal phrase that we use, but it
11 is a substantial right to which every
12 Defendant is entitled to, unless you, the
13 jury, are satisfied from evidence of the
14 Defendant's guilt beyond a reasonable doubt.

15 Now, ladies and gentlemen, there are two
16 types of evidence, which are generally
17 presented during your trial. There's direct
18 evidence and circumstantial evidence:

19 Direct evidence is the testimony of
20 a person who claims to have actual knowledge
21 of a fact, such as an eyewitness. It is
22 evidence which immediately establishes the
23 main fact to be proved.

24 Circumstantial evidence is a proof
25 of a chain of facts and circumstances

1 indicating the existence of a fact. And it
2 is evidence which immediately establishes
3 collateral facts, from which the main fact
4 may be inferred. And circumstantial evidence
5 is based on inference and not on personal
6 knowledge or observation.

7 The law makes absolute no distinction
8 between the weight or value to be given to
9 either direct or circumstantial evidence.
10 However, to the extent that the State relies
11 on circumstantial evidence, all of the
12 circumstances must be consistent with each
13 other, and when taken together, point
14 concisely to the guilt of the accused beyond
15 a reasonable doubt. If these circumstances
16 merely portray the Defendant's behavior as
17 suspicious, the proof has failed.

18 The State has the burden of proving the
19 Defendant guilty beyond a reasonable doubt.
20 The burden rests with the State regardless of
21 whether the State relies on direct evidence,
22 circumstantial evidence, or some combination
23 of the two.

24 Now, ladies and gentlemen, you should
25 weigh all the evidence in this case. And

State of South Carolina v. Christopher W. Brown

379

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Jury Charge

1 after weighing all the evidence, if you are
2 not convinced of the guilt of the defendant
3 beyond a reasonable doubt, you must find the
4 Defendant not guilty.

5 Now, necessarily, ladies and gentlemen,
6 you must determine the credibility of
7 witnesses who have testified in this case.
8 Credibility simply means believability. It
9 becomes your duty as jurors to analyze and to
10 evaluate the evidence and determine which
11 evidence convinces you of its truth. In
12 determining the believability of a witness,
13 who has testified in this case, you may
14 believe one witness over several witnesses or
15 several witnesses over one witness.

16 You may believe a part of the testimony
17 of a witness and reject the remaining parts
18 of the testimony of that same witness.

19 You may believe the testimony of witness
20 in its entirety or reject the testimony of
21 that witness in its entirety.

22 You may consider whether any witness has
23 any interest, bias, prejudice, or other
24 motive in this case.

25 You may also consider the appearance and

State of South Carolina v. Christopher W. Brown

380

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Jury Charge

1 manner of a witness while on the witness
2 stand.

3 Ladies and gentlemen, the rules of
4 evidence ordinarily do not permit witnesses
5 to testify to opinions or conclusion, but
6 there's an exception to this rule for
7 witnesses we call expert witnesses. A
8 witness who by education and experience have
9 become expert in some art, science, or
10 profession may give an opinion as to the
11 subject that the witness claims to be an
12 expert in, and may also give the reason for
13 that opinion. You should consider any expert
14 opinion given by this, and like any other
15 evidence, give it the weight that you think
16 it deserves.

17 If you decide that an expert's opinion is
18 not based upon sufficient education and
19 experience, or if you decide that the reason
20 given in support of the opinion are not
21 sound, or that the opinion is outweighed by
22 other evidence, you may disregard the opinion
23 entirely. And an expert witnesses opinion is
24 to be given no greater weight than that of
25 any other witnesses simply because the

State of South Carolina v. Christopher W. Brown

381

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Jury Charge

1 witness is an expert. And you do not have to
2 accept an expert's opinion, even though it is
3 uncontradicted.

4 Ladies and gentlemen, we have discussed
5 reasonable doubt throughout this trial. And
6 this begs the question, what is reasonable
7 doubt in the law? And reasonable doubt is
8 the type of doubt that would cause a
9 reasonable person to hesitate to act. The
10 State has the burden of proving the Defendant
11 guilty beyond a reasonable doubt.

12 Some of you may have served as jurors in
13 civil cases where you were told that it is
14 only necessary to prove that a fact is more
15 likely true than not true, such as by the
16 greater weight or the preponderance of the
17 evidence. In criminal cases, however, the
18 State's proof must be more powerful than
19 that. It must be beyond a reasonable doubt.

20 And proof, which is proof beyond a
21 reasonable doubt that leaves you firmly
22 convinced of the Defendant's guilt.

23 Now, ladies and gentlemen, there are very
24 few things in this world that we know with
25 absolute certainty. And in criminal cases,

State of South Carolina v. Christopher W. Brown

382

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Jury Charge

1 the law does not require proof that overcomes
2 every possible doubt.

3 If, based upon your consideration of the
4 evidence, you are firmly convinced that the
5 Defendant is guilty of the crime charged, you
6 must find the Defendant guilty.

7 If, on the other hand, you think there's
8 a real possibility that the Defendant is not
9 guilty, you must give the Defendant the
10 benefit of the doubt and find him not guilty.

11 Now, ladies and gentlemen, the Defendant
12 is charged with trafficking cocaine in an
13 amount of more than ten (10) grams, but not
14 more than twenty-eight (28) grams. And the
15 State must prove beyond a reasonable doubt
16 that the Defendant was knowingly, in actual
17 or constructive possession of more than ten
18 (10) grams, but not more than twenty-eight
19 (28) grams of cocaine.

20 In proving possession, the State must
21 prove beyond a reasonable doubt that the
22 Defendant had both the power and the intent
23 to control the disposition or use of the
24 drugs. And possession may be actual or
25 constructive.

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Jury Charge

383

1 Actual possession means that the drugs
2 were in the actual physical custody of the
3 Defendant.

4 Constructive possession means that the
5 Defendant had dominion and control or the
6 right to exercise dominion or control over
7 either the drugs themselves or the property
8 on which the drugs were found.

9 Mere presence at the scene where the
10 drugs were found is not enough to prove
11 possession. And the Defendant's knowledge
12 and possession may be inferred when a
13 substantial substance is found on the
14 property under the Defendant's control.
15 However, this inference is simply an
16 evidentiary fact to be taken into
17 consideration by you, along with other
18 evidence in this case, and be given the
19 weight that you decide it should have.

20 And two or more persons may have joint
21 possession of the drug.

22 Now, ladies and gentlemen, in order to
23 meet their burden with regard to the charge
24 of trafficking, the State must also prove
25 beyond a reasonable doubt that the amount of

State of South Carolina v. Christopher W. Brown

384

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Jury Charge

1 cocaine or any mixture containing cocaine was
2 more than ten (10) grams but not more than
3 twenty-eight (28) grams.

4 Ladies and gentlemen, the Defendant in
5 this case has raised the defense of entrap-
6 ment. Entrapment is shown if:

7 One, the crime was conceived
8 and planned by an officer or someone acting
9 as an agent of law enforcement;

10 Two, the officer or agent
11 induced, solicited, proposed, initiated,
12 suggested, or persuaded the Defendant to
13 commit the crime; and, the Defendant would
14 not have committed the crime without the
15 trickery, persuasion, or fraud of the officer
16 or agent.

17 Now, the State is required to prove
18 beyond a reasonable doubt that the Defendant
19 was predisposed to commit the crime without
20 the inducement of the officer or agent. And
21 predisposition to commit a crime means that
22 the Defendant had the intent, purpose,
23 readiness, or willingness to commit the crime
24 without the inducement or persuasion of the
25 officer or agent.

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Jury Charge

385

1 The fact that the officer or agent merely
2 presented opportunities or facilities for the
3 commission of a crime, is not entrapment.

4 If you find that the Defendant had any
5 predisposition without any government induce-
6 ment and influence to commit the crime, the
7 defense of entrapment would not apply.

8 The fact that the government agents
9 merely afford opportunity or facilities for
10 the commission of the offense, does not
11 constitute entrapment. And there can be no
12 dispute that the government may use
13 undercover agents to enforce the law.
14 Artifice and strategy may be employed to
15 catch those engaged in criminal enterprises.

16 To determine whether entrapment has been
17 established, a line must be drawn between the
18 trap for the unwary innocent and the trap for
19 the unwary criminal.

20 In deciding whether the Defendant had any
21 predisposition to commit the crime, you may
22 consider evidence such as an existing course
23 of criminal conduct by the Defendant, similar
24 to the crime charged, an already formed plan
25 by the Defendant to commit the crime, and,

State of South Carolina v. Christopher W. Brown

386

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Jury Charge

1 three, a willingness to commit the crime
2 charged as shown by the Defendant's ready
3 response to the inducement.

4 If you find the Defendant was entrapped
5 into committing the crime, you must find the
6 Defendant not guilty.

7 Now, ladies and gentlemen, the Defendant
8 has presented evidence of his good reputation
9 and character to show that it would be
10 inconsistent with the Defendant committing
11 the crime. The weight you give to that
12 testimony, like all testimony in this case,
13 is for you decide in your good judgment. You
14 may consider the testimony of the Defendant's
15 good character, along with all the other
16 evidence in deciding whether or not the
17 Defendant committed the crime.

18 Now, during the trial, other acts of this
19 Defendant were discussed by the witnesses for
20 the State. But I remind you that we are here
21 only today for the charge of trafficking of
22 cocaine on February 3rd, 2009, and that you
23 may only convict the Defendant if the State
24 has proven to you beyond a reasonable doubt
25 that the Defendant is guilty of trafficking

State of South Carolina v. Christopher W. Brown

387

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Jury Charge

1 cocaine on that date. And any evidence of
2 alleged drug activity on other dates may not
3 be considered as evidence of a sale or
4 trafficking on the February 3rd, 2009 date.

5 Now, ladies and gentlemen, there are two
6 possible verdicts which you may find in this
7 case under Indictment 2011-GS-10-06482.

8 Count one, trafficking cocaine more than
9 ten grams but not more than twenty-eight
10 grams, not guilty or guilty.

11 Ladies and gentlemen, there's no
12 significance whatsoever in the order that I
13 stated the possible verdict. It's simply one
14 must be stated first.

15 Now, ladies and gentlemen, your verdict
16 must be unanimous. All twelve of you must
17 agree on the verdict and your decision must
18 not be based on sympathy, passion, prejudice,
19 emotion or any other consideration that is
20 not in evidence in this case.

21 Now, Madam Forelady, when the jury agrees
22 on the verdict, you will write the verdict on
23 the verdict form, which I will give you, and
24 you will check whether guilty or not guilty.
25 Then you'll sign your name on the verdict

State of South Carolina v. Christopher W. Brown

388

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Jury Charge

1 form and then knock on the jury room door and
2 let the bailiffs know that you have reached a
3 verdict. At that time, you will be then
4 received back into this courtroom for
5 publication of your verdict.

6 Now, ladies and gentlemen, I ask that you
7 go back to your jury room, but please don't
8 begin your deliberation until you are told to
9 do so by the Clerk. There are still a few
10 matters that we must take up here in Court
11 before you begin your deliberations.

12 Thank you very much, ladies and
13 gentlemen.

14 (JURY OUT @ 10:44 A.M.)

15 THE COURT: Any new objection(s) to the
16 charge?

17 MR. KING: Not other than the ones I've
18 made before. I renew those.

19 THE COURT: Right. You're protected on
20 those.

21 MR. KING: There's one -- it's just -- if
22 we could clear this up before the charge goes
23 back, I think that one phrase you repeated
24 twice under entrapment, the fact that the
25 officer or agent merely presented

State of South Carolina v. Christopher W. Brown

389

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Jury In Deliberations - Question #1

1 opportunities does not constitute
2 entrapment. I think that might have gone in
3 twice and I think that it would give unduly
4 influence on that.

5 THE COURT: I tell you what, we just go
6 ahead and start sending the stuff back and
7 we'll look at it. Show me exactly what you
8 are talking about.

9 (OFF RECORD SIDEBAR RE STATE'S EXHIBIT 4)

10 THE COURT: Okay, we will reprint that.
11 I agree.

12 (EXHIBITS APPROVED BY COUNSEL)

13 THE COURT: All right. The court will
14 stand at-ease pending the call of the case.

15 (JURY IN DELIBERATION @ 10:50 A.M.)

16 (RECEIVED JURY QUESTION @ 11:40 A.M.)

17 (DEFENDANT PRESENT)

18 THE COURT: Go ahead and mark this as
19 Court's Exhibit 5.

20 (SO ENTERED AS COURT'S EXHIBIT 5)

21 THE COURT: All right. I've got a
22 question from the jury in regards to
23 possession, (reading): *"If the passenger of*
24 *the car on 2/3/09 actually held the drugs and*
25 *gave them to the CI, is it constructive*

1 *possession on the grounds that he knew the*
2 *passenger was holding the drugs?"*

3 How would you like for me to recharge
4 them? I can recharge on possession and --
5 would you like me to add the charge of hand
6 of one.

7 MR. LIETZOW: I think we would like to
8 request the charge of hand of one, hand of
9 all. And, also, possibly recharge on
10 possession.

11 MR. KING: I thought the constructive
12 possession charge would have covered that.
13 I would ask you to just re-instruct them
14 on ---

15 THE COURT: Because now that this is an
16 issue that they're thinking about, I think
17 the only way to properly cure that is to
18 charge the hand of one is the hand of all.
19 I will just do that.

20 Let's bring our jury back in.

21 (JURY IN @ 11:50 A.M.)

22 BAILIFF: The jury's present, Your Honor.

23 THE COURT: All right. Thank you. All
24 right. Madam Forelady, I received your note.
25 So what I'm going to do now is I'm going to

State of South Carolina v. Christopher W. Brown

391

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Jury In Deliberations - Question #1

1 recharge you on the possession and give you
2 an additional charge of the hand of one is
3 the hand of all, just for clarification.

4 So the original possession charge is, to
5 prove possession the State must prove beyond
6 a reasonable doubt that the Defendant had
7 both the power and the intent to control the
8 disposition or use of the drugs.

9 Possession may be either actual or
10 constructive. Actual possession means that
11 that the drugs were in the actual physical
12 custody of the Defendant. Constructive
13 possession means that the Defendant had
14 dominion and control or the right to exercise
15 dominion or control over either the drugs
16 themselves or the property on which the drugs
17 were found.

18 Mere presence at the scene where the
19 drugs were found is not enough to prove
20 possession. The Defendant's knowledge and
21 possession may be inferred when a substance
22 is found on the property under the
23 Defendant's control. However, this inference
24 is simply an evidentiary fact to be taken
25 into consideration by you along with the

1 other evidence in this case, and to be given
2 the weight you decide it should have. And
3 two or more persons may have joint possession
4 of the drug.

5 And then I charge, in supplementing that,
6 would be if a crime is committed by two or
7 more people who are acting together in
8 committing a crime, the act of one is the act
9 of all. A person who joins with another to
10 commit an unlawful act is criminally
11 responsible for everything done by the other
12 person, which happens as a probable or
13 natural consequence of the acts done in
14 carrying out the common plan and the purpose.

15 For example, two people can be guilty of
16 killing another person where only one of the
17 two had a gun, there was only one bullet, and
18 only one of the two fired the shot that
19 caused the death.

20 If two or more people are acting together
21 -- are together, acting together, assisting
22 each other in committing the offense, the act
23 of one is the act of all. Or as sometimes
24 said, the hand of one is the hand of all.

25 Prior knowledge that a crime is going to

State of South Carolina v. Christopher W. Brown

393

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Jury In Deliberations - Question #1

1 be committed without more is not sufficient
2 to make a person guilty of that crime. The
3 mere knowledge that another person is going
4 to commit a crime, even if Defendant's
5 present when the crime is committed, is not
6 sufficient to convict the Defendant as a
7 principal. Guilt as a principal is shown by
8 actual or constructive presence at the scene
9 as a result of prior arrangement. Therefore,
10 a finding of a prior arrangement plan or
11 common scheme is necessary for a finding of
12 guilt as a principal.

13 The State must prove beyond a reasonable
14 doubt by competent evidence the theory of the
15 hand of one is the hand of all.

16 The principal in a crime is one who
17 either actually commits the crime or who is
18 present, aiding, abetting, or assisting in
19 committing the crime. And when a person does
20 an act in the presence of and with the
21 assistance of another. The act is done by
22 both where two or more are acting in the
23 common scheme or plan or present at the
24 commission of a crime. It does not matter
25 who actually commits the crime. All are

State of South Carolina v. Christopher W. Brown

394

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Jury In Deliberations - Question #1

1 guilty. The hand of one is the hand of all.

2 And presence at the commission of a crime
3 means to be sufficiently near to aid and abet
4 and assist in the commission of the crime.

5 However, mere presence at the scene of
6 the crime is not sufficient to convict one as
7 a principal on the theory of aiding and
8 abetting.

9 Intent is also a necessary element for
10 which there must have been a common desire or
11 intent to commit the crime and the crime must
12 have been committed pursuant thereto, with
13 the person aiding and abetting by some overt
14 act. Intent means to intend the result,
15 which actually occurs, not accidentally or
16 involuntarily. And intent may be shown by
17 acts and conduct of the Defendant and under
18 circumstances from which you may naturally
19 and reasonably infer an intent.

20 The State must prove these elements
21 beyond a reasonable doubt.

22 Now, I will have a copy of that made for
23 you and sent back to the jury room. All
24 right. Thank you, ladies and gentlemen. If
25 you'll please continue your deliberations,

State of South Carolina v. Christopher W. Brown

395

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Jury In Deliberations - Question #2

1 your lunch should be here shortly.

2 (JURY OUT @ 12:00 NOON)

3 THE COURT: Thank you. The court will
4 stand at ease pending the call of the jury.

5 (NOTIFIED OF QUESTION @ 1:35 P.M.)

6 (DEFENDANT PRESENT)

7 (SO ENTERED AS COURT'S EXHIBIT 6)

8 THE COURT: Okay, we've received
9 another question, questioning predisposition,
10 (reading): *"Does predisposition mean before*
11 *the date in question or after the date in*
12 *question of 2/3/09. Can you give us another*
13 *example?"*

14 I don't think I can give them an example,
15 but it would have to a predisposition because
16 the only thing he can be found guilty of is
17 the one on 2/3/09. So the predisposition
18 would have to be before that particular one.
19 Do you agree with that?

20 MR. LIETZOW: I beg the Court's indul-
21 gence, (sidebar with Ms. Compton).

22 THE COURT: Yes, sir.

23 MR. LIETZOW: Your Honor, we do agree
24 with that. Our position is that the
25 subsequent buys are just evidence that ---

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Jury In Deliberations - Question #2

396

1 THE COURT: That's right. And that
2 would make sure that he had a predisposition.
3 He would still have to have a predisposition
4 before 2/3/09. Would you agree with that,
5 Mr. King?

6 MR. KING: Yes, Your Honor. He
7 would have to be predisposed before that
8 date. That's correct, Your Honor.

9 MR. LIETZOW: Your Honor?

10 THE COURT: Yes, sir.

11 MR. LIETZOW: It's also our contention
12 that he could have predisposition the day of.

13 THE COURT: Right. Otherwise it would
14 not be predisposition -- we have to remember
15 our prepositions.

16 MR. KING: Your Honor, remember our

17 THE COURT: All right. So my answer is
18 there must be a predisposition on 2/3/09 or
19 before.

20 MR. KING: Before.

21 MR. LIETZOW: Yes, sir.

22 THE COURT: Would y'all like to look at
23 it?

24 MR. LIETZOW: Would Your Honor include
25 language that the buys therefore -- I guess.

State of South Carolina v. Christopher W. Brown

397

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Jury In Deliberations - Question #2

1 We agree that it must be a predisposition on
2 that date, but is there a way to include that
3 the buys thereafter ---

4 THE COURT: I don't know that I can.
5 Because predisposition is a pretty definite
6 term.

7 MR. LIETZOW: Yes, sir.

8 THE COURT: I think what you're trying
9 to use it for is that he would have probably
10 have done it then because he didn't have a
11 problem afterwards. But he's only on trial
12 for that one so there's no way you can get it
13 for after. That shows his character maybe,
14 but it doesn't go to whether or not he was
15 predisposed on that date. All right.

16 COURT REPORTER: And that will be Court's
17 Exhibit Number ---

18 THE COURT: You want to mark it?

19 COURT REPORTER: Yes, sir. That will be
20 State's Exhibit 7.

21 (SO ENTERED AS STATE'S EXHIBIT 7)

22 THE COURT: All right. The Court
23 will remain at-ease.

24 (ANSWER TO EXHIBIT 6 SUBMITTED TO JURY)

25 (JURY IN DELIBERATION)

State of South Carolina v. Christopher W. Brown

398

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Jury In Deliberations - Question #3

1 (NOTIFIED OF JURY QUESTION @ 2:20 P.M.)

2 THE COURT: The question posed by the
3 jury this time, (reading): "In regards to
4 entrapment, is entrapment shown only if all
5 three points on page six are met" -- or one
6 or two points. "Or would it still be
7 considered entrapment if only one or two
8 points are met?"

9 Reading of the law on that, the charge,
10 it refers to and. So ---

11 MS. COMPTON: May I hear that again,
12 Your Honor?

13 THE COURT: All right. Let me read
14 what the entrapment, (reading):

15 "The Defendant in this case has
16 raised the defense of entrapment. Entrapment
17 is shown if:

18 One, the crime was conceived
19 and planned by the officer or someone acting
20 as an agent of law enforcement; or

21 Two, the officer or agent
22 induced, solicited, proposed, initiated,
23 suggested, or persuaded to commit the crime;
24 and, if the defendant would not have
25 committed the crime without the trickery,

State of South Carolina v. Christopher W. Brown

399

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young

Jury In Deliberations - Question #3

1 *persuasion or fraud of the officer..."*

2 *And then it goes on, the State is*
3 *required to prove beyond a reasonable doubt*
4 *the Defendant was predisposed to commit the*
5 *crime without the inducement of the officer.*

6 *And then there's the definition of*
7 *"predisposed." Based upon the conjunction of*
8 *"and", the Court will take the position that*
9 *it is all three. You could have one and two*
10 *and if there be no predisposition. I think*
11 *that's pretty clear.*

12 MR. KING: Can I get the question,
13 that question again, Judge.

14 THE COURT: Yeah. *"In regards to*
15 *entrapment, is entrapment shown only if all*
16 *three points on page six..." -- which is what I*
17 *just read -- "are met? Or would it still be*
18 *considered entrapment if only one or two*
19 *points were met?"*

20 I think it's pretty clear in order to
21 have entrapment, you'd have to have all three
22 prongs presented by the State.

23 Now, any one of them is lacking then is
24 not entrapment. Would that be your interpre-
25 tation?

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Verdict

400

1 MR. KING: Yes, sir.

2 THE COURT: Would y'all like to read my
3 response?

4 MR. LIETZOW: (Review)

5 MR. KING: (Upon review), thank you.

6 COURT REPORTER: Court's Exhibit 8.

7 (SO ENTERED AS COURT'S EXHIBIT 8)

8 THE COURT: Thank you. The court will
9 remain at ease pending the call of the case,
10 and we can get the other case started.

11 MR. KING: Your Honor, I am concerned
12 about whether -- the burden of proof. If
13 they think all ---

14 THE COURT: I mean, that wasn't
15 the question. The question is 'of the three,
16 do all three of them have to be met?'

17 That would have to go into a whole other
18 -- and they didn't ask that question.

19 (JURY IN DELIBERATION)

20 (NOTIFIED OF VERDICT @ 3:00)

21 (DEFENDANT PRESENT)

22 THE COURT: I am informed that the jury
23 has reached a verdict. State ready?

24 MS. COMPTON: Yes, Your Honor.

25 THE COURT: Defense ready?

State of South Carolina v. Christopher W. Brown

401

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Verdict

1 MR. KING: Yes, sir.

2 THE COURT: Bring in the jury. The
3 defendant is present.

4 (JURY IN @ 3:09 P.M.)

5 THE COURT: Madame Forelady, I am
6 informed that the jury has reached a verdict?

7 FORELADY: Yes, Your Honor.

8 THE COURT: Is your verdict unanimous?

9 FORELADY: Yes, Your Honor.

10 THE COURT: Please pass the verdict
11 form to the bailiff.

12 FORELADY: (Tenders form to bailiff).

13 BAILIFF: (Tenders form to Judge).

14 THE COURT: (Upon review), the verdict
15 form has been properly completed. Please
16 publish the verdict. The Defendant will
17 stand.

18 DEFENDANT: (Complies)

19 CLERK: The State of South Carolina
20 versus Christopher Wynne Brown, Indictment
21 Number 2011-GS-10-6482, on the charge of
22 Trafficking Cocaine, *"We, the jury, by*
23 *unanimous consent find the Defendant guilty."*24 Signed by the forelady on February 5,
25 2014.

State of South Carolina v. Christopher W. Brown

402

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Verdict

1 If this is your verdict, please so
2 indicate by raising your right hand -- (all
3 jurors raise their right hand).

4 Your Honor, let the record reflect that
5 all jurors have raised their right hand.

6 THE COURT: Thank you. Does the
7 defendant request polling of the jury?

8 MR. KING: Yes, Your Honor.

9 THE COURT: Very well. Ladies and
10 gentlemen, when your name is called, you will
11 be asked two questions:

12 Was this your verdict?

13 Is it still your verdict?

14 Mister Clerk, please poll the jury.

15 CLERK: When I call your number, please
16 respond to the questions. Juror 207, is this
17 your verdict?

18 JUROR NUMBER 207: Yes.

19 THE COURT: Is it still your verdict?

20 JUROR NUMBER 207: Yes.

21 CLERK: Juror 252, was this your
22 verdict?

23 JUROR NUMBER 252: Yes.

24 CLERK: Is it still your verdict?

25 JUROR NUMBER 252: Yes.

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Verdict

403

1 CLERK: Juror 253, was this your
2 verdict?

3 JUROR NUMBER 253: Yes.

4 CLERK: Is it still your verdict?

5 JUROR NUMBER 253: Yes.

6 CLERK: Thank you, ma'am. Juror Number
7 32, was this your verdict?

8 JUROR NUMBER 32: Yes.

9 CLERK: Is it still your verdict?

10 JUROR NUMBER 32: Yes.

11 CLERK: Thank you, sir. Juror Number
12 114, was this your verdict?

13 JUROR NUMBER 114: Yes.

14 CLERK: Is it still your verdict?

15 JUROR NUMBER 114: Yes.

16 CLERK: Thank you, sir. Juror Number
17 293, was this your verdict?

18 JUROR NUMBER 293: Yes.

19 CLERK: Is it still your verdict?

20 JUROR NUMBER 293: Yes, sir, it is.

21 CLERK: Juror Number 111, was this your
22 verdict?

23 JUROR NUMBER 111: Yes.

24 CLERK: Is it still your verdict?

25 JUROR NUMBER 111: Yes.

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Verdict

404

1 CLERK: Thank you, ma'am. Juror Number
2 244, was this your verdict?

3 JUROR NUMBER 244: Yes, sir.

4 CLERK: Is it still your verdict?

5 JUROR NUMBER 244: Yes, sir.

6 CLERK: Thank you, sir. Juror Number
7 123, was this your verdict?

8 JUROR NUMBER 123: Yes, sir.

9 CLERK: Is it still your verdict?

10 JUROR NUMBER 123: Yes, sir.

11 CLERK: Thank you, sir. Juror Number
12 168, was this your verdict?

13 JUROR NUMBER 168: Yes, sir.

14 CLERK: And is it still your verdict?

15 JUROR NUMBER 168: Yes, sir.

16 CLERK: Juror Number 222, is this your
17 verdict?

18 JUROR NUMBER 222: Yes.

19 CLERK: And is it still your verdict?

20 JUROR NUMBER 222: Yes, it is.

21 CLERK: Thank you, ma'am. Juror Number
22 47, was this your verdict?

23 JUROR NUMBER 47: Yes, sir.

24 CLERK: Your Honor, the jury has been
25 polled and the verdict stands.

State of South Carolina v. Christopher W. Brown
Case No. 11-GS-10-6482
Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Verdict

405

1 THE COURT: Thank you.

2 THE COURT: All right. Thank you.

3 Ladies and gentlemen, let me take this
4 opportunity to thank you for participating in
5 the court system and being on this jury. You
6 know, there are a lot of important things
7 going on in Charleston yesterday and today,
8 but I can assure you that there was nothing
9 more important than what's going on here and
10 allowing the justice system to work.

11 And it's never easy to hold the life of a
12 fellow citizen in your hands, but you didn't
13 veer from that responsibility and you took
14 the responsibility on. You listened to the
15 evidence and you were an attentive jury
16 throughout this thing. Thank you for doing
17 what you've done.

18 And I would have told you the same thing
19 if you found the Defendant not guilty. It
20 makes no difference to me as far as that.
21 But you took the time and looked at the
22 evidence.

23 Now, ladies and gentlemen, throughout
24 this trial, I told you that you couldn't talk
25 to anybody about the case. Well, you can

State of South Carolina v. Christopher W. Brown

406

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Verdict

1 talk to anybody you want to. It's over with.
2 If somebody persistently wants to talk to
3 you, let me know and I'll make sure that
4 doesn't go on any longer.

5 Let me remind you that this counts as
6 your service as a juror so you can't serve as
7 a juror over the next. And if you don't want
8 to, you don't have to serve as a juror for
9 the next three (3) years. So -- but that'll
10 be up to you.

11 Now, ladies and gentlemen, they're going
12 to pay you ten dollars (\$10) a day plus a few
13 cents a mile to drive -- to drive here. And
14 I can just -- I just want to remind you that
15 that is nothing compared to the service that
16 you have given to Charleston County and to
17 the State of South Carolina by taking on this
18 awesome responsibility.

19 And, you know, there's a lot of things
20 that people try to say, what makes America
21 great? I'm telling you, that what makes
22 America great is people like y'all who get
23 taken out of their lives, their ordinary
24 lives, their routines, and come in and do
25 something that is so different from what you

State of South Carolina v. Christopher W. Brown

407

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Verdict

1 normally do. You brought your common sense
2 in here. I tell people I have the greatest
3 job in the world, because I get to sit
4 between these two great flags -- and this
5 flag right here, this is a piece of cloth,
6 but what it represents is something far
7 greater than that. It represents the freedom
8 that individuals at least have an opportunity
9 to have a trial and to have twelve of their
10 peers decide their guilt or innocence. And
11 as you leave here, I want you to think of
12 yourselves as one of the threads that makes
13 this a great banner and what makes this a
14 great country.

15 So ladies and gentlemen, you have found
16 him guilty. It will now be my responsibility
17 to sentence the Defendant. And you're
18 welcome to come back in the courtroom for
19 that. I mean, you've been here from the
20 beginning. And as I release you, if you want
21 to come back in, the bailiff will show you
22 how to get in that door so that you can and
23 see what sentence I deem to be appropriate.

24 But ladies and gentlemen, as you leave
25 out of here today, it will be my honor to

State of South Carolina v. Christopher W. Brown

408

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Defense Motion for Directed Verdict & New Trial

1 shake your hand and thank you for the
2 time that you have given to Charleston and to
3 the State of South Carolina. Ladies and
4 gentlemen, thank you very much.

5 (JURY DISMISSED)

6 THE COURT: All right. Any post-trial
7 Motions?

8 MR. KING: *Your Honor, I would renew
9 my directed verdict Motion of finding
10 trafficking as a matter of law and ask for a
11 new trial.

12 THE COURT: I have already made my
13 ruling on that and it stands. You're
14 protected for the record. I'll give you
15 about fifteen minutes to talk to the family
16 and then we will have sentencing at that
17 time.

18 (BRIEF RECESS)

19 (DEFENDANT PRESENT)

20 THE COURT: Are we ready, Solicitor?

21 MR. LIETZOW: Yes, sir.

22 THE COURT: Defendant ready, Mr. King?

23 MR. KING: Yes, Your Honor.

24 THE COURT: What was his prior record,
25 again?

State of South Carolina v. Christopher W. Brown

409

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Defense Motion for Directed Verdict & New Trial

1 MR. LIETZOW: Your Honor, he was
2 convicted in 2001, I believe, of possession
3 of stolen goods, and in 1992 he has a
4 conviction of possession of stolen goods.

5 THE COURT: Okay. Anything else?

6 MR. LIETZOW: No, Your Honor, I
7 believe the Court is aware of all the facts.
8 The State would ask that you consider a
9 sentence on the high end of the spectrum,
10 possibly even ten years.

11 THE COURT: Give me his criminal
12 history again?

13 MR. LIETZOW: He has a 1992 stolen goods
14 and a 2001 fraudulent check.

15 THE COURT: Anything from the
16 Defendant, Mr. King?

17 MR. KING: Thank you, Your Honor. He
18 did do thirty-nine days in jail and we would
19 ask that he get credit for that.

20 THE COURT: Yes, sir.

21 MR. KING: He was acquitted of another
22 count, another charge; another day, another
23 jury. Very similar facts came out and he was
24 acquitted of trafficking. So I do think that
25 it was a close call.

State of South Carolina v. Christopher W. Brown

410

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Defense Motion for Directed Verdict & New Trial

1 Your Honor, I won't go through all the
2 witnesses that we brought in, but I'd ask
3 that you accept that as mitigation. The
4 witnesses that came in and spoke on his
5 behalf were a wide range of people: his
6 current boss, people that ---

7 THE COURT: I don't know too many
8 people that tell their boss that they are
9 dealing drugs.

10 MR. KING: Well, they did at least
11 speak from what they knew his character is,
12 Judge. He's held himself out among these
13 people in the community as being a person of
14 good character. He's been volunteering to
15 coach the kids in football for years, has
16 given of his time to do that.

17 He has a minimal prior record, Judge.
18 We'd ask that you that you consider close to
19 the minimum, if not the minimum because of
20 his lack of record.

21 If you would, his wife and mother are
22 here.

23 THE COURT: If they would like to
24 speak, they certainly may.

25 MR. KING: Belinda Brown and Edna

State of South Carolina v. Christopher W. Brown

411

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Statements in Mitigation

1 Brown. Who would like to speak first?

2 BELINDA BROWN: Your Honor, I am aware
3 that the -- my name is Belinda Brown. I am
4 aware that the jury came back having found
5 Christopher guilty. But I'm asking you,
6 begging you, begging the court for -- just to
7 have some leniency on Chris. Not just for
8 Chris but for our family, our three children
9 that I have to go back home today and explain
10 to them that he is not coming home. I have
11 to take care of this kids by myself.

12 Chris just got pulled into something that
13 he would never normally do -- that he'd never
14 done.

15 I'd just ask that you have some kind of
16 lenience and some compassion for my family.
17 I understand that he can't come home but I
18 just ask that you take my feelings and family
19 and everything into consideration.

20 EDNA BROWN: My name is Edna Brown. I
21 am Christopher's mother. I have never in my
22 whole life thought that -- Christopher will
23 be forty-one years old, his birthday is
24 coming up in February. I've never had any
25 problem with Chris, since he got married or

State of South Carolina v. Christopher W. Brown

412

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Statements in Mitigation

1 even before he got married. Chris was a
2 hardworking young man. Chris would do
3 anything. Even when his workload got light,
4 he still would come by and ask me, 'Mom, do
5 you need anything?' 'No, Chris, I'm okay.'

6 My husband died this February past.
7 Chris was there for me. He's always been
8 there for me, and his wife, and his children.

9 Somehow Chris got tricked into this
10 because Chris is a hardworking young man,
11 never been in any trouble. How in the world
12 they entrapped him in this is ---

13 THE COURT: Ma'am, they did not entrap
14 him. The jury has found that it was not
15 entrapment.

16 EDNA BROWN: For his sake and his
17 family's sake, I ask that you be lenient.
18 Please. I am so sorry, Chris.

19 THE COURT: Does your client wish to
20 say anything?

21 DEFENDANT: Judge, I knew that I made a
22 mistake but I was pushed into it. I knew
23 that it was wrong, I told the police exactly
24 what happened. I know that the jury has the
25 wrong idea of me, but I did -- I know what

State of South Carolina v. Christopher W. Brown

413

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Statements in Mitigation

1 was done to me. But I faced up to the
2 situation, faced up to what I did. Though it
3 was somewhat trickery, I faced up to it even
4 knowing that I have to deal with the
5 consequences. I understand that what I did
6 was wrong but it was never in my heart, never
7 in my mind. This was pushed on me. I didn't
8 know who to trust, who to believe, so that's
9 what -- that's what happened. Thank you,
10 sir.

11 THE COURT: Anyone else want to make a
12 statement?

13 MR. KING: No, sir.

14 THE COURT: Anything else from the
15 State?

16 MR. LIETZOW: Nothing, Your Honor, from
17 the State.

18 THE COURT: He had how many days in
19 jail? Thirty-nine days?

20 MR. KING: That's right. And, Your
21 Honor, he did have to wear an electronic
22 monitoring.

23 THE COURT: He doesn't get credit for
24 that. If he wasn't in jail, he doesn't get
25 credit.

State of South Carolina v. Christopher W. Brown

414

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Sentence

1 MR. KING: We would ask that you take
2 that into consideration anyway in sentencing,
3 that he did have that for fifteen months.

4 THE COURT: All right. I listened to
5 the evidence. Quite frankly, I think that
6 the jury got it right. They actually saw
7 through what I thought was his concocted
8 testimony. I think that he would have
9 continued selling for as long as they would
10 be buying. I think that he's a drug dealer.

11 I know that he's probably not a hundred
12 percent bad. He showed an image to certain
13 people and he may have been a good family
14 man, but on those other times he was
15 spreading poison through our community. He
16 spread as much as he could. He was spreading
17 quantities that he knew would spread that --
18 this was one day that he did that, but there
19 is a severe penalty because, again, he was
20 spreading poison in our society.

21 I am not going to give him the maximum
22 but he is going to have substantial time in
23 jail. So the sentence of the Court is that
24 the Defendant, Christopher Wynne Brown, under
25 Indictment 2011-GS-10-6482, be committed to

State of South Carolina v. Christopher W. Brown

415

Case No. 11-GS-10-6482

Jury Trial of February 3-5, 2014 - Before The Honorable Jeffrey Young
Sentence

1 the State Department of Corrections for a
2 period of eight (8) years. Good luck to
3 your, sir.

4 You have ten days to file an appeal.

5 (DEFENDANT TAKEN INTO CUSTODY)

6 THE COURT: Let me commend the
7 attorneys in this case. You certainly upheld
8 your civility oath. Though it didn't go your
9 way on this one, you certainly acted
10 professional and you should be commended for
11 that.

12 MR. KING: Thank you, Your Honor.

13 (TRIAL CONCLUDED)

14

15

16

17

18

19

20

21

22

23

24

25

26

CERTIFICATE OF COURT REPORTER

I, the undersigned Deborah Garrison,
Circuit Court Reporter for the 9th Judicial
Circuit, hereby certify that the foregoing is
a complete and accurate transcript of the
jury trial in the within action heard on
February 3-5, 2014, before the Honorable W.
Jeffrey Young;

I further certify that I am neither
kin nor counsel to any of the parties and
have no interest in the outcome of this
action.



Deborah Garrison

Charleston, South Carolina

June 25, 2014

COURSE OF CONDUCT

Evidence has been presented that the defendant engaged in a series of sales of cocaine to an informant. You may find entrapment if you believe the sales were part of a course of conduct which was the product of inducement by a government agent.

Sherman v. U.S., 356 U.S. 369, 374 (1958).



418

CTN20100904694

WITNESSES

Charleston County Sheriff

AGENCY CASE NUMBER

2009002467B

ARREST WARRANT NUMBER

K638616

DATE OF ARREST

September 1, 2010

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: OCT 03 2011

VERDICT

GUILTY

Adrian Spivey 2/5/11
Foreperson of Petit Jury Date:

INDICT

DOCKET NO. 2011GS1006482

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

October Term 2011

THE STATE

vs.

CHRISTOPHER WYNNE BROWN

DOB: [REDACTED]

B/M

Indictment for

Trafficking in Cocaine

ATTEST A TRUE COPY

JULIA J. ARMSTRONG (SEAL)
CLERK OF COURT

DEPUTY CLERK

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)

INDICTMENT

At a Court of General Sessions, convened on October 3, 2011 the Grand Jurors of Charleston County present upon their oath:

Trafficking In Cocaine

That in Charleston County, South Carolina, on or about February 3, 2009, the Defendant, CHRISTOPHER WYNNE BROWN, unlawfully and knowingly did sell, manufacture, cultivate, deliver, purchase, or bring into this State; or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this State; or did possess or attempt to possess a controlled substance or a controlled substance analogue, to wit: Cocaine, in excess of 10 grams but less than 28 grams; in violation of 44-53-370 of the South Carolina 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.


 SPENCER COMPTON
 ASSISTANT SOLICITOR

ATTEST: A TRUE COPY

JUNE J. ARMSTRONG (SEAL)

CLERK, C.P. & S.

DEPUTY CLERK

420

CTN20100904694

WITNESSES

Charleston County Sheriff

AGENCY CASE NUMBER

2009002467B

ARREST WARRANT NUMBER

K638616

DATE OF ARREST

September 1, 2010

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

OCT 03 2011

VERDICT

Guilty

Foreperson of Petit Jury

2/5/11
Date:

INDICT

DOCKET NO. 2011GS1006482

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

October Term 2011

THE STATE

vs.

CHRISTOPHER WYNNE BROWN

DOB: [REDACTED]

B/M

Indictment for

Trafficking In Cocaine

ATTEST A TRUE COPY

JULIE L. ARMSTRONG (SEAL)
CLERK, C.P. & S. & C.

[Signature]
CLERK

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)

INDICTMENT

At a Court of General Sessions, convened on October 3, 2011 the Grand Jurors of Charleston County present upon their oath:

Trafficking In Cocaine

That in Charleston County, South Carolina, on or about February 3, 2009, the Defendant, CHRISTOPHER WYNNIE BROWN, unlawfully and knowingly did sell, manufacture, cultivate, deliver, purchase, or bring into this State; or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this State; or did possess or attempt to possess a controlled substance or a controlled substance analogue, to-wit: Cocaine, in excess of 10 grams but less than 28 grams; in violation of 44-53-370 of the South Carolina 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.

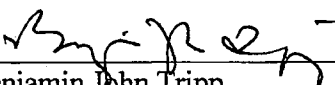
Spencer Compton
 SPENCER COMPTON
 ASSISTANT SOLICITOR

ATTEST A TRUE COPY
 JUDITH ARMSTRONG (SEAL)
 CLERK
 DEPUTY CLERK
Judith Armstrong

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."

January 12, 2015



Benjamin John Tripp
Appellate Defender

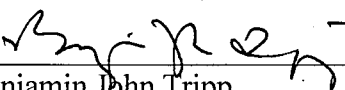
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

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."

January 12, 2015



Benjamin John Tripp
Appellate Defender

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

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

ORIGINAL

IN THE COURT OF APPEALS

Appeal from Charleston County

William Jeffrey Young, Circuit Court Judge

THE STATE,

RESPONDENT,

RECEIVED

JAN 12 2015

SC Court of Appeals

V.

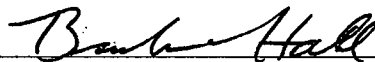
CHRISTOPHER W. BROWN,

APPELLANT

APPELLATE CASE NO. 2014-000293

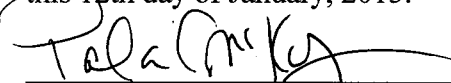
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 12th day of January, 2015.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 12th day of January, 2015.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: July 24, 2022