

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions
Roger L. Couch, Circuit Court Judge

SC Court of Appeals

Appellate Case No. 2018-001909

The State, ...Respondent,

v.

Dana L. Morton, ...Appellant.

Record on Appeal – Volume III of III

E. Charles Grose, Jr.
S.C. Bar Number 66063
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466
(864) 538-4405 (fax)
Email: charles@groselawfirm.com

Attorney for Appellant

Alan Wilson
Attorney General

William M. Blicht, Jr.
Senior Assistant Deputy Attorney General
S.C. Bar No. 15608

Post Office Box 11549
Columbia, Sc 29211
(803) 734-3727

Barry J. Barnette
Solicitor, Seventh Judicial Circuit

Attorneys for Respondent

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State's Exhibit No. 1 (a DVD) will be transported to the Court.

1 matters to rebut what you said.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Okay. That's the way we go.

4 All right. The State ready to proceed?

5 SOLICITOR MABBS: We are, Your Honor.

6 THE COURT: And, Mr. Morton, are you ready to proceed?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Bring---

9 SOLICITOR MABBS: Actually, Your Honor---

10 THE COURT: Yes.

11 SOLICITOR MABBS: ---very briefly. I did notice that
12 one of the Defense Exhibits that was for I.D. purposes is
13 up with Ms. Moffitt. I would, again, just request that not
14 be used.

15 THE COURT: well, if it's not -- I've told him if it's
16 not in the record of the case, he can't use it for
17 arguments.

18 SOLICITOR MABBS: Yes, sir.

19 THE COURT: So, anything that was not put into the
20 record of case, you can't use for argument.

21 SOLICITOR MABBS: Yes, I was---

22 THE COURT: Do you want to specifically tell him what
23 that is---

24 THE DEFENDANT: Yeah.

25 SOLICITOR MABBS: It's just the---

1 THE COURT: ---so he knows what it's---

2 SOLICITOR MABBS: It's the Facebook post, Your Honor.

3 THE COURT: I'm sorry?

4 SOLICITOR MABBS: The Facebook post.

5 THE COURT: Oh, okay.

6 THE DEFENDANT: So, can I receive that back?

7 THE COURT: No, sir, I marked it for I.D. purposes.

8 THE DEFENDANT: Oh, okay.

9 THE COURT: So, it's part of the -- it's in the record
10 of the case. I didn't let you put it in.

11 THE DEFENDANT: Okay.

12 THE COURT: So, if you want to appeal my decision not
13 letting it in, it's there for the Court to review down the
14 road.

15 THE DEFENDANT: Okay.

16 THE COURT: And they can look at it, and see if I was
17 correct in not letting it in or not. So, you want to leave
18 it in there.

19 THE DEFENDANT: Yes, sir.

20 THE COURT: But it won't -- you can't pick it up and
21 show it to the jury, and argue it to the jury because it's
22 not in evidence.

23 THE DEFENDANT: Okay.

24 THE COURT: I didn't let it in because you couldn't
25 authenticate that, and you couldn't show any records from

1 Facebook as to who actually owned that, that page or
2 whatever you call that, that site.

3 THE DEFENDANT: May I speak, Your Honor?

4 THE COURT: Sure.

5 THE DEFENDANT: How would I go about getting something
6 else marked that way, later on down the road, I be able to
7 do the same exact thing?

8 THE COURT: Well, you have to---

9 THE DEFENDANT: I just want---

10 THE COURT: You have to proffer it or offer it, and
11 then I have to refuse it, and it has to be marked for I.D.
12 purposes.

13 THE DEFENDANT: Will I have a chance to do that?

14 THE COURT: Well, we're at the point in time where we
15 got to get ready to start arguments in the case.

16 Can you tell me what you're talking about?

17 THE DEFENDANT: It's only one sheet, Your Honor. It's
18 South Carolina, State of South Carolina, County of
19 Spartanburg, South Carolina, it's an affidavit of
20 discovery.

21 THE COURT: Show it to the State.

22 SOLICITOR MABBS: Your Honor, this appears to be just
23 the initial affidavit that would have been the receipt from
24 Mr. Yarborough from the original discovery.

25 THE COURT: Do you have any problem me marking that

1 for identification purposes?

2 SOLICITOR MABBS: For identification purposes, no,
3 Your Honor.

4 THE COURT: All right. Give it to, to the court
5 reporter. We'll mark it for I.D. purposes, and it will be
6 in the record, but not in evidence.

7 THE DEFENDANT: Thank you.

8 (WHEREUPON, the affidavit was marked as Defendant's
9 Exhibit No. 8 for identification purposes only at this
10 time.)

11 THE COURT: That's, that's the only thing you wanted
12 to put in like that?

13 Is that right?

14 THE DEFENDANT: Yes, sir, I ain't gonna take---

15 THE COURT: Okay. That's fine.

16 THE DEFENDANT: ---no more.

17 THE COURT: I wanted to be sure I covered it.

18 SOLICITOR MABBS: And, Your Honor, as we're talking
19 about things that have not been placed in evidence, the
20 package that's been used as demonstrative, since that's not
21 in evidence, I'd request that that be---

22 THE COURT: Well, I'm, I'm not gonna go through every
23 paper he might have on his desk, and, and do that.

24 SOLICITOR MABBS: No, sir.

25 THE COURT: I've explained it to you.

1 SOLICITOR MABBS: The, the package of what he's saying
2 is fake drugs.

3 THE COURT: I've allowed him to use that for
4 demonstrative purposes. He can pick it up and talk about
5 it.

6 SOLICITOR MABBS: Okay.

7 THE COURT: He can't pass it among the jurors.

8 SOLICITOR MABBS: Yes, sir.

9 THE COURT: It's not in evidence.

10 SOLICITOR MABBS: Yes, Your Honor.

11 THE COURT: But, for demonstrative purposes, I've
12 allowed him to use it in the trial. I'll let him use it
13 for demonstrative purposes in his argument.

14 Do you understand the difference?

15 THE DEFENDANT: Thank you.

16 THE COURT: All right. Bring the jury in.

17 (WHEREUPON, the following takes place within the
18 presence of the jury.)

19 THE COURT: All right. Good morning, ladies and
20 gentlemen. I hope everyone had a good evening.

21 If anybody had any problems or difficulties in
22 following my instructions overnight, please stand.

23 (No response.)

24 THE COURT: It appears that all jurors have been able
25 to comply with my instructions up to this point in time.

1 I told you that we had reached the stage of the trial
2 where the parties will be allowed to do their summation or
3 their closing argument to you, and this is the second time
4 that attorneys are allowed to directly address the jury.
5 And, under the rules, the state will be going first,
6 followed by the defense, and then the state will be given
7 an opportunity to rebut, rebut the defense's arguments.

8 So, at this time, the state will be going first.

9 You may proceed.

10 SOLICITOR MABBS: Thank you, Your Honor.

11 May it please the Court?

12 THE COURT: Yes, ma'am.

13 SOLICITOR MABBS: Members of the jury, I'm gonna start
14 my closing the same way I started my opening statement, and
15 I'd like to thank you. Like to thank you for your patience
16 this week, for your continued attention, and for your
17 continued service as you'll start your deliberations soon.

18 Now, members of the jury, as you know, at this point,
19 you've two separate indictments before you. I'm gonna
20 briefly discuss each of them in turn.

21 The first one is the trafficking in cocaine over
22 100 grams. Now, the Judge will instruct you on the law at
23 the end of closing arguments. But just to briefly go
24 through it again, trafficking is a word that the South
25 Carolina Legislature has choosen (sic) to discuss large

1 amounts of drugs. In this case, over a hundred grams.

2 Now, trafficking can mean anything from possession to
3 distribution, attempting to possess, and so on and so
4 forth. But, in this case, there's evidence of both
5 possession and the distribution.

6 You've heard that this is what the Sheriff's Office
7 calls a buy/bust operation, and the buy/bust operation
8 would be the controlled buy in front of the cameras, and
9 that they eventually do the traffic stop afterwards to
10 prevent that large sum of cash to be let out into the
11 public.

12 Now, you've heard from several officers in this case.
13 You've heard from Investigator Lachica, who's the case
14 agent. You've heard about his experience with law
15 enforcement. You heard from Investigator Swad, who was his
16 partner that day, but has thirty-five years in law
17 enforcement. He said he's a five out of five. And you
18 heard them explain that this -- they followed all the
19 regular procedures.

20 That they arrived at the house. They searched the
21 informant, both of them did. They searched the residence,
22 and that included the hiding spot that Mr. Vaughn admitted
23 that he had. They knew to search there. That they stayed
24 at that residence the entire time. That they gave him the
25 funds from the Sheriff's Office, \$5,200.00. That they set

1 up the two cameras in Mr. Vaughn's kitchen to be able to
2 observe the transaction, and so we can show y'all today.

3 You heard that, when they were able to make contact
4 with the Defendant, that they turned those cameras on.
5 That Investigator Swad and Lachica went back into the
6 bedroom, and into, I believe, the master bathroom to make
7 sure that they could stay at the home, observe the
8 operation from inside, and keep everything safe and
9 controlled.

10 And then you were able to watch the video, which I'm
11 gonna play a part of again briefly in a minute. And you
12 can see for yourselves exactly what happened. And you see
13 the Defendant arrive at Mr. Vaughn's residence. You see
14 him drop a large white package on the table. You see
15 Mr. Vaughn weigh that out cause he's explained that's
16 something that they do in the drug trade to make sure it's
17 about the right amount of money so or the right amount of
18 drugs so you know you're giving them the right amount of
19 money.

20 You saw -- you'll see Mr. Morton take that money. He
21 counts it. Then he leaves and comes back and gives the
22 marijuana.

23 Like I said, I'm gonna play that video again very
24 briefly.

25 (WHEREUPON, the video was played for the jury.)

1 SOLICITOR MABBS: So, members of the jury, not only do
2 you have the witness' testimony to see the transaction, you
3 have the videos. And I can play both of them. You've seen
4 both, and you'll have the opportunity to take the D.V.D.
5 and take it back in the jury room, and re-watch it if, if
6 y'all would like to as many times as y'all want to. But
7 you can see that he had the drugs. You see him take them
8 out of his pocket, and give them to Mr. Vaughn.

9 Now, that's obviously the main package of drugs.
10 There's also the residue that were on the digital scales
11 that were recovered from him at the traffic stop, which
12 we'll talk about the traffic stop a little bit more later.

13 Now, the other main element that we have to prove is
14 that it is cocaine, and that it weighs over a hundred
15 grams. Now, you heard from several witnesses. We went
16 through what we refer to as the chain of custody, and the
17 chain of custody is very important. It's to make sure
18 nothing gets tampered with or one drug that was suppose to
19 go to one case doesn't go to another. And we went through
20 and we went from, for the large package of drugs, which is
21 here in State's Exhibit 3, and you'll see, at the end of
22 the video, that, again, I'm not gonna play right now,
23 you're welcome to watch it again in the jury room, but you
24 see Investigator Lachica take the bags, and take custody of
25 them from Mr. Vaughn.

1 And he explained that he goes, and he takes the drugs
2 back to the narcotics office, that he puts it in the blue
3 bag here, which we've been referring to as either the
4 B.E.S.T. bag or the B.E.S.T. kit, and he explained how it's
5 labeled, how there's the control number up at the top here,
6 that matches with all the paperwork. He explained how this
7 is what's either called a tamper proof or tamper evident
8 bag that different people call different things, but that
9 you can't get into that bag without anyone knowing. It's
10 not like a zip-lock bag that you can open and close, and no
11 one would ever know.

12 It's sealed and he explained he followed the proper
13 procedures, and took that to the evidence lockers at the
14 Sheriff's Office. And he explained how the evidence
15 lockers are obviously locked. And then we heard from
16 Angela Nelson, and she explained to you the way that the
17 evidence room works. She explained that the keys for the
18 evidence locker are kept in the evidence room. She went
19 through all the different procedures that they have to make
20 sure that that room stays secure. Therefore, the keys to
21 the evidence locker stay secure. She explained how there's
22 a key, a pass code, and even a fingerprint scanner all
23 needed just to get into the evidence room, and, and she
24 explained that, again, even to get back where they end up
25 storing any narcotics or drugs while they wait, again,

1 requires more security levels.

2 she explained her job and the paperwork of adding some
3 of the names to the documents, and that she does her own
4 form. I believe she does the Form C in the chain of
5 custody.

6 Then you heard from Holly Tobias, who was qualified as
7 an expert witness in chemistry, and the analysis of
8 narcotics. And she explains how it's her job to go and
9 pick up the drugs from evidence, walk down the hall to her
10 lab, which, again, is locked and secure, and she's gone
11 through the testing that she does. That they do what is
12 called the field test or the presumptive test just to get a
13 basis of what they think the substance might be. In this
14 case, cocaine.

15 she explained that then she puts it into, and I'm not
16 gonna try and say the long name, but G.C.M.S. machine. She
17 explained how that's calibrated, and that that runs this
18 through, and I believe the way she described it is drugs
19 are like fingerprints. They're unique.

20 So, you can go and you can read the calculations and
21 you know exactly what that substance is. In this case, it
22 was cocaine.

23 And then she explained how, after all this, that's
24 when she weighs it, and she weighs it without the bag. She
25 just weighs the powder substance, which is the most fair

1 because, obviously, a bag would add some additional weight
2 to it. So, by weighing the powder substance by itself, you
3 know that you're getting the true weight, and this is even
4 after some small amounts have been taken out for field
5 testing, and then for the G.C.M.S. And she explained, at
6 that point, the cocaine weighed 111.76 grams, and that the
7 same procedures were handled with the digital scale that
8 was found on Mr. Morton's person, and, in this case,
9 because there's just residue, there's not enough to get a
10 weight obtained, but it was proven to be cocaine. Again,
11 using those same steps, the same machines, we know that
12 this was cocaine.

13 And, again, you'll be able to take both of these items
14 back with you. You can take a closer look at them once you
15 get back into the jury deliberation room. And she
16 explained that, on both of these items, once she's done,
17 she then goes and does this outer heat sealed bag, again,
18 to make sure that nothing gets tampered with, and that
19 everything stays intact.

20 The second indictment for your consideration is the
21 possession with intent to distribute marijuana. Now,
22 again, the Judge will instruct you on the law, and I know I
23 mentioned this at the beginning of the case. There's a few
24 different elements to possession with intent to distribute.
25 The first, of course, being possession.

1 In this case, we heard from Mr. Vaughn that, off
2 camera, he got a little bit of marijuana from the Defendant
3 after they concluded with the deal for the cocaine, so,
4 that's part of what they would normally do when they would
5 interact, and that the narcotics officers told him to do
6 things as normally as he could. While it might not have
7 been part of the initial plan, it's still all within the
8 regular police procedures.

9 And you also heard from Investigator Harbin, who was
10 present during the traffic stop or the takedown, whatever
11 you want to call it. And she explained that, after
12 Mr. Morton was placed under arrest for the distribution of
13 the cocaine, that they searched his person, which, again,
14 is normal police procedure, and that they found additional
15 marijuana on his person.

16 Now, the next step -- and there's two different types
17 of possession. There's what's considered constructive
18 possession and actual possession.

19 Now, constructive possession is -- has to do with if
20 you have something that might not physically be in your
21 hand, but you have control over it. So, for example, right
22 now these are my notes that are sitting here on the witness
23 stand. They're not in my hand, but they're still my notes.
24 I can reach out. I can grab them. I still have possession
25 of them. Now, actual possession would be if I picked them

1 up and held them in my hand because I am actually
2 possessing them.

3 So, in this case, we have actual possession because
4 the drugs were taken out of Mr. Morton's pocket.

5 Now, the intent to distribute is something that's a
6 little built loftier because, obviously, it's impossible to
7 read someone's mind. So, we have to look at context clues
8 and think about what the intent was here.

9 Now, in this case, the intent to distribute is
10 probably more clear than it is in most cases because he
11 actually did distribute it by giving it to Mr. Vaughn.
12 Additionally, the marijuana that was found in his pocket
13 came in multiple bags, and you can infer that, if you
14 have -- if you're gonna carry drugs for your own personal
15 use, probably just keep them in one bag. If you're keeping
16 in multiple bags, it's more likely they're going to be
17 giving them to someone else.

18 Now, again, with the marijuana, we go through with the
19 chain of custody, and, in this case, instead of using the
20 B.E.S.T. bag, as explained, they have the manila envelopes
21 that they refer to as the marijuana bags. And, again,
22 these are all filled out by the officers. In this case,
23 they explain that they don't have control numbers because
24 it's just an envelope. It's not those specific B.E.S.T.
25 bags that are ordered. And, again, we go through the chain

1 of custody. We go through the evidence room that I, I just
2 discussed.

3 Again, Holly Tobias explained that she tested these.
4 It was slightly different test. But, again, both items did
5 test positive for marijuana. The marijuana that was given
6 to Mr. Vaughn came back as .28 grams, and then the two
7 separate baggies found on Mr. Morton's person came back as
8 .54 grams and 5.27 grams. So, again, we have three
9 different baggies, which would tend to show intent to
10 distribute.

11 Now, in this case, you also have not just the actual
12 items, not just the drugs, but you have the chain of
13 custody documents that I'm just gonna go through very
14 briefly here. You'll be able to take them back, and you'll
15 be able to see them. I know a lot of these have been
16 passed around already. You'll see the original signatures,
17 that all the information's filled out. They've been
18 through the fact that a notary, while there is a spot for
19 it, it's not required. It's not their common policies and
20 procedures to follow.

21 Now, some of these exhibits have been taken out of the
22 original exhibit, but I think y'all will be able to figure
23 out which one goes with which by following the names on the
24 documents, and, again, you'll be able to take those all
25 back. There are a few defense exhibits in there that are

1 copies of the chain of custody documents, but you'll be
2 able to tell which ones are the originals, and you'll have
3 the copies to consider as well.

4 Now, members of the jury, it's my responsibility to
5 prove both of these indictments to you beyond a reasonable
6 doubt, and that was done through witness testimony, through
7 the evidence that's been entered in, through the video, and
8 it's now up to you.

9 At the beginning of this trial I said that you started
10 off as 12 or 13 people, and, in a few moments, once we're
11 done with closing arguments, and the judge charges you,
12 this is the time that you become one. You will not be the
13 12 eyes and ears that were able to watch the witnesses, see
14 their demeanor, listen to their testimony, observe the
15 evidences (sic), watch video. You won't be the 12 people
16 who came in, brought your own common sense, and life
17 experience. You'll become one. You'll become one voice,
18 one verdict, one jury, and we will ask that the verdict be
19 guilty.

20 Thank you.

21 THE COURT: Mr. Morton, your opportunity to address
22 the jury.

23 THE DEFENDANT: Thank you.

24 THE COURT: Yes, sir.

25 THE DEFENDANT: Good morning, ladies and gentlemen of

1 the jury.

2 I'm here. You have heard plenty testimony that
3 they -- so-called testimony, but you also have heard a
4 bunch of lies and fabrications that are made to make
5 certain people look a certain way. Once you obtain certain
6 information about the judicial system, they feel that you
7 are a threat. So, they would do anything in their power to
8 eliminate you.

9 When I mean anything, you have heard testimony from
10 officers that claim to be professional at what they do, and
11 don't know the definition of professional at the end. And,
12 at the end of the day, you have just say a hundred people
13 against one man. And I don't know if I can change your
14 mind, but I know that I have a heart. I have a soul inside
15 of me, and I refuse to sell that for anyone. And if you
16 don't play the game they want you to play, they will make
17 you out example, and that is what I am going through.

18 I don't know -- I cannot tell you what to believe, and
19 what not to believe because you have people that's
20 "professionals" that are willing to taint, and tamper with
21 evidence to make someone wrong at the end of the day.

22 So, if I -- if that man sat up here and gave testimony
23 that, that he know about what flexing is, the handshake,
24 the hug, the kisses, and all that come with flexing
25 somebody out they money when you need money to provide for

1 your family. So, I do whatever it take to do for what I
2 love.

3 So, I cannot tell you how to feel unlike some people.
4 They can tell you what to feel. They can play the video.
5 My thing is this.

6 If you trusted a person so much, why would you have to
7 search this person?

8 If he was so reliable, why would you have to search
9 this person?

10 why would you have to search his house?

11 why would he have to call someone so many times to try
12 to persuade someone to come to where they at, and make them
13 feel like oh, yeah, you comfortable, yeah, it's okay?

14 You know, like I said earlier, now, this is not to
15 degrade these people because I understand what's going on.
16 Once you obtain certain information about the system, they
17 feel that you are a threat. No matter if it's me, no
18 matter if it's you, no matter if it's your brother, no
19 matter if it's your baby, they would get rid of you at all
20 costs.

21 And, like I say, if you watch that video, the video
22 speak for your itself. You cannot have, and I refuse to
23 accept the fact that this video has been tampered with,
24 have two different dates on it, and they expect for people
25 just to accept anything they say because they're in a

1 position of power, and we the ones that give them that
2 power.

3 And you what they'll do?

4 Turn around and use that same power on you, and that's
5 all I got to say.

6 I'm sorry for your time, but thank you.

7 THE COURT: State may reply.

8 SOLICITOR MABBS: Thank you, Your Honor.

9 If I may---

10 THE COURT: Yes, ma'am.

11 (Pause.)

12 SOLICITOR MABBS: Members of the jury, I'd like to
13 just briefly address a couple of the issues that Mr. Morton
14 just raised.

15 First off, as far as the dates on the camera, you were
16 able to hear Investigator Swad explain to you that, when he
17 does the cameras, the cameras that are shifted, and he's,
18 with all of his 35 years of experience, he might not be the
19 most tech savvy person we've ever seen, and he explained
20 that the dates on the cameras, sometimes they automatically
21 set. There's a whole separate system that has to go into
22 making sure that the dates get changed.

23 To me, it reminds me a little bit of back before we
24 all used cell phones to take pictures, when we had the
25 actual digital cameras with the video recorders. It's one

1 thing to print a picture or things like that, but to go in
2 the camera and change the date, it's a slightly different
3 procedure. But follows some different protocols, and it's
4 a little bit messy sometimes.

5 But you can see from watching the videos, not only
6 from the audio, but you can also tell from, if you watch
7 the T.V. in the background of both videos that it's from
8 the same date. But I believe that's been fully explained
9 by Investigator Swad, and, again, y'all will be able to
10 watch the videos, and see that it all lines up.

11 As far as the procedures go with searching the
12 informants, that is standard police procedure. That is
13 forever's protection. That is for the protection of Mr.
14 Morton because, as Investigator Lachica said when he was
15 being examined by Mr. Morton and he was asking, you know,
16 did you trust Mr. Vaughn, and he said well, trust comes at
17 different levels. You can trust someone, but you still
18 want to check and verify.

19 And it's important in these cases, because we have --
20 we, the state, have to prove this beyond a reasonable doubt
21 that everything falls in line, and that's why these
22 searches are performed, to make sure that drugs aren't
23 swapped out, to make sure things aren't tampered with, to
24 make sure that the chain of custody is full and complete as
25 it is in this case.

1 Members of the jury, this is not anything here
2 personal against Mr. Morton. We're not here today to judge
3 whether or not he's a good person. We're here to judge
4 that, whether or not, he brought this hundred grams of
5 cocaine into Spartanburg County. We're here today to judge
6 whether or not he possessed marijuana with the intent to
7 distribute it.

8 That's the question that we have for today, and, with
9 that question, I ask that you return a verdict of guilty.

10 Thank you.

11 THE COURT: Now, ladies and gentlemen of the jury,
12 that completes the final arguments or summations from the
13 parties. It's now my responsibility to charge you
14 concerning the law.

15 We're gonna take a short break before I start that.
16 There's a couple of things I need to go over with the
17 lawyers with before I make that charge. It won't take
18 long, but I will ask you to step back to the jury room,
19 and, as always, until you begin your deliberations, my
20 instructions are don't discuss anything about the case
21 until I ask you to begin those deliberations.

22 You may retire to the jury room.

23 (WHEREUPON, the following takes place outside the
24 presence of the jury.)

25 THE COURT: I wanted to go over with the State and

1 with Mr. Morton the presumptions that weight gives. I
2 know, in the case of cocaine, the State has charged in the
3 indictment, and, and the code provides that there is a
4 presumption when more than a hundred grams is sold, and I
5 think you want me to charge that presumption.

6 Am I correct?

7 SOLICITOR MABBS: Yes, sir, Your Honor.

8 THE COURT: Now, in the case of the marijuana, the
9 indictment does not state a presumptive amount.

10 Are you asking for a charge of, of a presumptive
11 amount in that case?

12 SOLICITOR MABBS: No, sir, Your Honor.

13 THE COURT: Okay. I just wanted to be sure I was
14 correct in doing -- in not charging that presumptive
15 amount.

16 All right. Any other matters that you'd like to take
17 up with me before I begin the charge, from the State?

18 SOLICITOR MABBS: No, sir, Your Honor. If I may, just
19 so I don't forget to take out Exhibit 1 from the laptop --

20 THE COURT: Why don't you go ahead and do that right
21 now?

22 SOLICITOR MABBS: -- while the jury's out. And, Your
23 Honor, would you like me to make---

24 THE COURT: Is there -- is that a clean computer we
25 can send back to them to watch it?

1 SOLICITOR MABBS: It is, Your Honor. That was gonna
2 be my next question.

3 THE COURT: Okay.

4 SOLICITOR MABBS: I'll be happy to pack it up into a
5 bag so they can take it back. The only issue with this
6 computer---

7 THE COURT: Why don't you go ahead and do that, and
8 let's get it ready for them.

9 SOLICITOR MABBS: Yes, sir, Your Honor. The only
10 thing I'll inform the Court is they can let the jury know
11 is this is one of the older laptops. It will need to be
12 plugged in for it to turn on.

13 THE COURT: Okay. I'll tell them, I'll tell them. If
14 they have a problem, they can ask for help.

15 (Pause.)

16 THE COURT: Do you want to step up?

17 Mr. Allen, can I get you and Mr. Morton to come up for
18 just a moment, and go over one thing with you. And I'll do
19 it on the record. It's not a bench conference.

20 I intend to send the indictments back to the jury.
21 I'm gonna tell them that in my charge, but I want you to
22 look at them first and see if there's anything you find
23 objectionable on the indictments before I send them back.

24 SOLICITOR MABBS: And, for the record, Your Honor, we
25 don't put if there's any history or anything on our---

1 THE COURT: Okay.

2 SOLICITOR MABBS: ---narcotics indictments.

3 THE COURT: I didn't see any prior events in there,
4 prior allegations.

5 SOLICITOR MABBS: No, and we don't include the C.D.R.
6 code either. So --.

7 THE COURT REPORTER: Excuse me. I can't---

8 THE COURT: They don't include C.D.R. code in there.

9 THE COURT REPORTER: Okay.

10 (Pause.)

11 THE COURT: This is the verdict form I intend to send.
12 Do you want to take a look at that, and see if there's
13 a problem with that before I explain it to them?

14 (Pause.)

15 THE COURT: Let the State take a look at it, and see
16 if they have any objections.

17 THE DEFENDANT: Oh, I'm sorry.

18 SOLICITOR MABBS: That's okay.

19 THE COURT: Just a moment. Let's let them look at
20 that, and then we'll talk about it.

21 SOLICITOR MABBS: No objections, Your Honor.

22 THE COURT: All right. Any objections?

23 THE DEFENDANT: No, sir.

24 THE COURT: If you'll step back, I'll get whatever you
25 want to tell me.

1 SOLICITOR GHENT: Your Honor, there were two officers
2 who were involved in the case. So, looking in, could they
3 come in before the charge is---

4 THE COURT: Yeah, go ahead and let them come in before
5 the charge.

6 Mr. Woodward, Officer Woodward, or Joan, if they want
7 to come in. Some people like to just look through the
8 porthole there. It's safer out there I think.

9 All right. Mr. Morton, during our bench conference
10 concerning the indictments, and the verdict form, you
11 indicated you might want to say something.

12 So, I'll be happy to hear from you.

13 THE DEFENDANT: Your Honor, will you be able to say
14 something to the jurors about the, the camera situation
15 that we spoke on?

16 THE COURT: The camera situation?

17 THE DEFENDANT: Yeah, about the film, about the
18 taping.

19 THE COURT: Well, I've already gone over that with you
20 this morning, if you're referring to the taping at the
21 scene of the stop---

22 THE DEFENDANT: Yes, sir.

23 THE COURT: ---I do intend to give the charge that I
24 talked about earlier.

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Yes, sir.

2 THE DEFENDANT: Thank you.

3 THE COURT: I've, I've, I've re -- I've worded it a
4 little differently, but the gist is the same. You'll hear
5 it, and, once I finish, I always send the jury out, and
6 give both parties an opportunity to object or ask for
7 clarification or ask for additional charges before I tell
8 them to start deliberations.

9 THE DEFENDANT: Okay.

10 THE COURT: So, you'll have a chance to tell me if you
11 feel like I didn't cover it properly.

12 THE DEFENDANT: Okay.

13 THE COURT: Okay.

14 THE DEFENDANT: Thank you.

15 SOLICITOR MABBS: All right. I'm just going to see if
16 they want to come in during closing -- charge.

17 THE COURT: All right. Let's bring the jury in.

18 (WHEREUPON, the following takes place within the
19 presence of the jury.)

20 THE COURT: All right. The record will reflect the
21 jury has returned to the courtroom. And, first of all, I
22 want to thank you, as members of the jury, for your
23 attention to your duties in this case. It's gone on for
24 the full week, and I appreciate your diligence in appearing
25 on time, and being available when we needed you. And, and

1 I'll talk to you a little bit more about that a little
2 later on.

3 It is now my duty to charge you concerning the law in
4 this case. And while you are the sole judges of the facts
5 in this case, the State and the rules and our Constitution
6 makes me the sole judge of the law in this case.

7 I'm going to begin discussing the law of the case with
8 you by going over the indictments in this case with you.
9 You may recall, when we did jury selection, I went over
10 these with you at that time. These documents will be given
11 to you, and you can take them back into the jury room, and
12 look at them.

13 I will point out to you that these are the documents
14 that contain the charges in the case. They are not
15 evidence in this case. They cannot be used by you as
16 evidence in this case. They are simply the documents that
17 bring these cases into this court, and they inform us, as a
18 court, what charges are to be tried. It informs the
19 Defendant of the charges that have been lodged against him.
20 So, they are informational documents. They inform us of
21 what this case is about.

22 But, in that regard, it's the State's obligation to
23 prove the allegations contained in the indictment to you by
24 proof beyond a reasonable doubt. And I'll discuss all of
25 those concepts with you for later in the charge, but I want

1 to be sure you understand the indictments, and what they
2 mean, and, when I give them to you, how they can be used.

3 The first indictment that I'm going to talk about will
4 be case Number 17-4141. This indictment is for the charge
5 of possession with intent to distribute.

6 It says, in part, and you'll be able to read it when
7 you have it, but I'll go over it with you now so we have an
8 understanding of the charges, that Dana L. Morton did, in
9 Spartanburg County, on or about February the 2nd, 2017,
10 manufacture, distribute, dispense, deliver, purchase, aid,
11 abet, attempt, or conspire to manufacture, distribute,
12 dispense, deliver, or purchase, or possess with the intent
13 to manufacture, distribute, dispense, deliver, or purchase
14 a quantity of marijuana. That's Schedule 1 controlled
15 substance. That's alleged to be in violation of Code
16 Section 44-53-370 of the Code of Laws of South Carolina,
17 1976, as amended, and all indictments end by stating that
18 this action was against the peace and dignity of the State,
19 and contrary to the statute in such case made and provided.

20 That's the first indictment that's before the Court.

21 The second indictment is Case Number 17-4142, and this
22 charge is for trafficking in cocaine, and this indictment
23 states that Dana L. Morton did, in Spartanburg County, on
24 or about February 2nd of 2017 knowingly sell, manufacture,
25 deliver, purchase, or bring into the State, or did provide

1 financial assistance, or did otherwise aid, abet, attempt,
2 or conspire to sell, manufacture, deliver, purchase, or
3 bring into the state or did knowingly or actually or
4 constructively possess, and did knowingly attempt to
5 actually or constructively possess more than 100 grams of
6 cocaine, a schedule 2 controlled substance, in violation of
7 section 44-53-370 of the code of laws of south carolina,
8 1976 as amended, against the peace and dignity of the
9 state, and contrary to the statute in such case made and
10 provided.

11 Again, those are the indictments. That's the charges
12 that are before the court, and the charges that we're to
13 try.

14 Now, again, those cannot be used as evidence by you in
15 determining your verdict, and the fact that they exist does
16 not create any inference or presumption of guilt. Again,
17 it's simply an informational document.

18 The indictments allege the two different offenses, and
19 each indictment is a separate charge. And you, the jury,
20 will be called upon to write a verdict, a separate verdict,
21 for each of those two charges, and you'll decide each
22 indictment separately from the other, but based upon the
23 law and evidence presented during the trial in this case.

24 Therefore, a defendant can be convicted or acquitted
25 on either or both of the indictments that are before the

1 court, and, again, you'll be asked to write a separate
2 verdict of guilty or not guilty as to each of those
3 indictments.

4 The defendant has pled not guilty to the indictments.
5 That plea, under our system of justice, places the burden
6 of proof in this trial solely upon the State. The
7 Defendant or a person who's charged with a commission of a
8 criminal offense in this state is never required to prove
9 himself innocent. I charge you that it's an important rule
10 of law that, no matter how serious a crime might be, a
11 defendant will always be presumed to be innocent of the
12 crime for which an indictment has been issued until and
13 unless you, the jury, have had his guilt proven to you by
14 proof that you find meets the standard of proof beyond a
15 reasonable doubt.

16 Now, the presumption of innocence doesn't end when you
17 begin your deliberations. It continues throughout the
18 trial, and into your deliberations. It continues until
19 such time as this presumption of innocence has been taken
20 by the -- from the Defendant by evidence that satisfies you
21 of the Defendant's guilt beyond a reasonable doubt.

22 Some people describe that presumption of innocence
23 like a robe that the judge wears into the courtroom. At
24 the beginning of the trial, that presumption of innocence
25 is around the Defendant's shoulder. It remains on his

1 shoulders throughout the trial. It's on his shoulders into
2 the jury room and as you begin your deliberations. And it
3 remains in that place until it's taken from him or stripped
4 from him by evidence that satisfies you of the Defendant's
5 guilt beyond a reasonable doubt.

6 So, the presumption of innocence is not a legal
7 therapy. It's not a legal phrase. It's a substantial
8 right that every defendant is entitled to unless you, the
9 jury, find the Defendant guilty beyond a reasonable doubt.

10 Now, you've heard me talk about this proof beyond a
11 reasonable doubt about three or four times already in this
12 charge, and I will tell you that that is a very important
13 concept in our criminal justice system.

14 First of all, let me point out one thing before I talk
15 about reasonable doubt. There are different standards of
16 proof in courts of law for, depending on the type of cases
17 that's being, that's being handled, let me explain what I
18 mean by that. If this case has been a case where someone
19 was seeking monetary damages, they can be because there's
20 been an accident. It can be because somebody didn't comply
21 with their contracts, or they didn't pay their bills, where
22 someone's seeking monetary, monetary relief in the court.
23 That's a civil case, and, in civil cases, in, in our court
24 system, for someone to win that case, they have to prove or
25 have the greater weight or the preponderance of the

1 evidence on their side.

2 So, if you imagine the scales of justice, in a civil
3 case, if the weight of the evidence tilts ever so slightly
4 in favor of a plaintiff, the plaintiff wins, or, if the
5 evidence tilts ever so slightly in favor of a defendant,
6 the defendant wins. So, that's in a civil case where just
7 the tilting of the scales one way or the other can result
8 in a verdict in favor of one side or the other. So, if
9 you've been involved in a civil case, that's the standard
10 you would of applied in those cases.

11 Now, this isn't a civil case. This is a criminal
12 case, and the standard of proof required for one side to
13 win is proof beyond a reasonable doubt.

14 Now, you might ask yourself well, what do you mean by
15 proof by reasonable doubt. Just what does that mean. And,
16 you know, the Courts that have tried to define what a
17 reasonable doubt is have used generally this definition.
18 They say that a reasonable doubt is that kind of doubt that
19 would cause a reasonable person to hesitate to act. The
20 state has the burden of proving the defendant guilty beyond
21 a reasonable doubt.

22 Now, the State does not have the burden, however, of
23 proving a defendant guilty beyond any doubt whatsoever
24 because there's very few things that happen in our lives
25 that can be proven beyond any doubt whatsoever. So, that's

1 not the standard of proof. They don't have to offer that
2 to over, overcome every possible doubt. What I will tell
3 you that if, after you weight the evidence in the case, if
4 you are firmly convinced of the Defendant's guilt beyond a
5 reasonable doubt, you must find the Defendant guilty. If,
6 however, you think there's a real possibility that the
7 Defendant is not guilty from the evidence that you've
8 weighed, then you must give the Defendant the benefit of
9 that doubt, and find the Defendant not guilty.

10 Now, during this trial, you and I have had certain
11 duties to. It's my, as the judge, it's been my
12 responsibility to preside over the trial of the case, and
13 I've had to be very active in this one this time, and I
14 want to caution you that, that, in doing my job as the
15 presiding officer in this case, you should not take from
16 anything that I might have said or done, in making rulings
17 on motions or making rulings on objections or even having
18 you step in and out of the courtroom, don't take from
19 anything that I have done during the trial of this case to
20 somehow indicate that you I -- that I have an opinion one
21 way or the other as to how you decide this case. I want
22 you to know you are the sole judges of the facts in this
23 case. The law doesn't allow me, as the judge of the law,
24 to have an opinion concerning the facts.

25 So, don't infer from anything that I have done that I

1 have an opinion one way or the other as to how you decide
2 the case. You are the sole judges of the facts in this
3 case, and I have no opinion as to how you determine the
4 facts in this case.

5 I am the sole judge of the law in this case, and,
6 under your oath, you are required to accept the law exactly
7 as I give it to you, and apply that law to the facts as you
8 decide the facts to be. That should put you in a position
9 to render a verdict in this case.

10 Now, in making your decision in this case, it's going
11 to be your duty at the -- during deliberations to determine
12 the effect, the value, the weight, and the truth of the
13 evidence that's been presented to you. You have the right
14 to determine what inferences you think can be reasonably
15 drawn from the evidence that you've heard.

16 In deciding a case, you have the right to consider two
17 types of evidence in reaching a verdict in this case, and
18 you may say well, what do you mean by two types of
19 evidence. Well, the law divides evidence into either
20 direct or circumstantial evidence, and let me explain to
21 you what that means so you'll understand, later on when I
22 talk about these concepts, what I mean.

23 Direct evidence is testimony from a witness who claims
24 to have direct knowledge of the facts about which that
25 witness testifies. In other words, somebody who actually

1 saw the event, experienced the event, heard what happened,
2 smelled what happened. They, they directly experienced the
3 things that they're talking about or testifying about in
4 court. That's direct evidence in a case.

5 Now, the other type of evidence that a jury has the
6 right to consider in reaching a verdict in this case is
7 what we refer to as circumstantial evidence. Now,
8 circumstantial evidence is proof of a chain of facts or
9 circumstances that somehow indicates the existence of some
10 other fact. It's been described as proof of collateral
11 facts from which a main fact can be reasonably inferred.

12 Now, that's some pretty fancy lawyer talk in my
13 opinion, and I try to make it a little bit easier to
14 understand what I mean by proof of a fact by collateral
15 facts.

16 Let's say, last night before you went to bed, you went
17 to the window in your bedroom, and you looked outside and
18 the stars were shining. You could see the moon out, and
19 everything looked really nice, and beautiful. A little
20 chilly last night. And then so you got in bed, and you
21 slept well all night. Didn't wake up at all during the
22 evening, and, the next morning, you get up and you walk
23 over to the very same window that you were at the night
24 before. And you look outside, and the sun's up, but then,
25 when you look a little closer, you notice there's water

1 dripping out of all the trees. There's puddles in the
2 walkway or the sidewalk or the road in front of your house
3 that wasn't there the night before. Maybe the lawn's
4 covered all over with, with a lot of water.

5 Now, you know you slept all night. You didn't see it
6 rain. You didn't hear it rain. You didn't directly
7 experience that happening. But, from the collateral facts
8 that you've observed, and you know to be true, water
9 dripping out of the trees, puddles that weren't there
10 before, water all over the lawn, you can reasonably infer
11 that, at some time during the night, it rained. So, that's
12 what we mean by proof of collateral facts from which you
13 can reasonably infer the existence of another fact.

14 Now, the law doesn't make a distinction between the
15 weight or the value that you can give to either direct or
16 circumstantial evidence. Nor does the law require a
17 greater degree of certainty for circumstantial evidence
18 than that of direct. I will tell you that you should weigh
19 all of the evidence in this case. You give it the weight
20 or the value that you think it deserves.

21 And, after weighing all of the evidence in this case,
22 if you are not convinced of the guilt of the Defendant
23 beyond a reasonable doubt, you must find the Defendant not
24 guilty. But, on the other hand, if you are firmly
25 convinced of the Defendant's guilt beyond a reasonable

1 doubt, you must find the Defendant guilty.

2 Now, in doing your job as jurors in determining the
3 facts of the case, it's necessary that you determine the
4 credibility of the testimony you heard. Credibility means
5 believability.

6 Now, I'll tell you, and I will suggest to you that you
7 should use your own good common sense in determining the
8 credibility or the believability of what you've heard in
9 this case. You know every single day of your life, whether
10 think about it or not, you make common sense decisions as
11 to what you believe, and what you choose not to believe.
12 You do it every day about a lot of things that you might
13 hear. So, you make those decisions sometimes without even
14 thinking about that, using your own good common sense.

15 And I want you to do that in this case, and that is
16 use your own good common sense. It's your duty, as jurors,
17 to analyze and evaluate the evidence. Determine which
18 evidence convinces you of its truth.

19 As the sole judges of the facts in this case, you have
20 the right to believe one witness against all the others,
21 all the others against one. You have the right to believe
22 all of, part of, or none of what a witness may have
23 testified to. You have the right to consider such factors
24 as whether or not a witness may have a stake in the outcome
25 of the trial, whether or not a witness may have a reason

1 for a bias or a prejudice one way or the other. You have
2 the right to consider whether a witness actually had the
3 ability to know the facts about which the witness
4 testified. And I suggested to you earlier, and I will tell
5 you again, one of the more important things you do is you
6 observe the courtroom as it goes on, the witnesses as they
7 testify. That's why we put this seat right in front of the
8 box, your jury box, so that you can observe the witnesses
9 as they speak, the way they deliver their testimony.

10 Again, apply your good common sense to what you've
11 observed in the courtroom, and listen to, make a
12 determination as to the credibility, the believability of
13 the testimony that you've heard in this case.

14 Now, during the trial of this case, we had witnesses
15 and persons who had prior criminal records, and those were
16 brought up during examination. A past criminal record
17 doesn't affect the ability of anyone to testify. Someone
18 with a past record has the right to testify in a case.

19 The past record of, of a witness can be considered by
20 you, if at all, only in determining the credibility or the
21 believability of the witnesses. Remember, you're the sole
22 judges of the facts in this case. You're the sole judges
23 of the believability of any and all witnesses who've
24 testified in this case, and make that determination based
25 on the evidence, and what you have observed.

1 Also, during this trial, you heard discussion about
2 possible penalties that might exist for the crimes that are
3 before this court. In determining the guilt or the
4 innocence of a defendant, a jury should not consider any
5 possible penalty for any particular crime in making that
6 decision. The punishment for a crime is not a matter for
7 you, the jury, to determine. Your job is to determine
8 whether or not the state made its -- met its burden of
9 proof, and whether or not it has proved the defendant
10 either guilt or not guilty. The punishment for a crime is
11 for me, the judge, to determine, and should never be
12 considered by you in any way in arriving at an impartial
13 verdict as to the guilt or the innocence of the Defendant
14 in this case.

15 Now, in this case, there was some evidence that some
16 evidence may have existed, and was not produced at the
17 trial. And I will tell you the State not only has the
18 burden of proof of guilt, but it also has the burden of
19 producing evidence. Even evidence which might establish
20 the innocence of a defendant. And I will tell you that,
21 when evidence is either lost or destroyed by a party, you
22 can infer that the evidence which was either lost or
23 destroyed by that party would have been adverse to that
24 party.

25 Now, should you find that the evidences, first of all,

1 was lost or destroyed, or if you should further find that
2 the evidence would help to establish innocence of a
3 defendant, then you have the right to consider those
4 factors in determining, along with all of the other factors
5 in this case, to determine whether or not the State has met
6 its burden of proof.

7 Now, we had some discussion during the trial about
8 witnesses who were qualified as experts. And, when I
9 qualified those witnesses as experts, I mentioned I'd talk
10 to you about that later on during my charge, and so I'm
11 going to do that now.

12 As I explained at that time, the rules of evidence
13 generally don't allow witnesses who testify before you to
14 state opinions. The average witness, the ordinary witness
15 who testifies must, must testify from their own personal
16 knowledge about things, and not give you opinions about
17 things that, that might be in their experience. But now
18 there's an exception to that rule, and the exception to
19 that rule is that, when the Court qualifies a person as an
20 expert within a field or a profession or a calling or
21 whatever they do, if they're declared to be an expert, then
22 that person will be allowed to state their opinion within
23 the area of their expertise, and state the reasons why they
24 might have that opinion.

25 Now, you, the jury, as the sole judges of the facts,

1 and you have the right to consider the testimony of any
2 witness, including an expert, just like any other witness.
3 You have the right to give that testimony the weight you
4 think it deserves. Should you find that the opinion of an
5 expert was not based on sufficient knowledge or training or
6 should you find that the opinion of an expert is outweighed
7 by other evidence or if you conclude that the reasons given
8 in support of the opinion are not sound, then you have the
9 right to either accept the opinion or disregard the opinion
10 in its entirety.

11 I will tell you that just because this court has
12 declared someone to an expert in, in a field doesn't mean
13 that you have to give that testimony any greater weight
14 than any other witness simply because that person was made
15 an expert, and you're not required to accept an expert's
16 opinion even though it might be not contradicted by other
17 evidence. Again, you're the sole judges of the facts. You
18 determine the weight and the value that you give to any
19 witness' testimony, being they lay witnesses or expert
20 witnesses. That's for you to decide.

21 Now, I will instruct you on one thing, and I'm gonna
22 emphasize this fact to you. The fact that the Defendant
23 did not testify in this case is not a factor to be
24 considered by you in any way in your deliberations in this
25 case, in your consideration of whether the Defendant is

1 guilty or not guilty. The fact that the Defendant did not
2 testify should not be consider by you in any manner in
3 reaching your decision in this case.

4 That's because all defendants have a constitutional
5 right to remain silent, and the assertion by a citizen of
6 one of their constitutional rights is not an evidentiary
7 fact that should be considered by you in any way in
8 reaching a verdict. I will repeat to you, under the oath
9 you've taken as jurors, you are to draw no conclusions
10 whatsoever from the fact the Defendant did not testify.
11 The fact that the Defendant did not testify should not even
12 be discussed by you during your deliberations of this case.

13 As I told you, the burden of proof in this case is
14 upon the State, and only upon the State, and that burden
15 continues throughout the trial. A defendant is not
16 required, in any case, to prove his or her innocence, and
17 the burden of proof remains upon the State, and that
18 burden, again, is to prove the Defendant's guilt beyond a
19 reasonable doubt.

20 Now, I'm going to talk to you about the law that
21 applies to the specific charges in this case at this time.
22 The first charge that I'm gonna talk to you about will be
23 the marijuana charge, and that charge is possession with
24 intent to distribute, and the drug that's named in the
25 indictment is marijuana. And, in this particular case, in

1 that charge, the State has a burden of proving, beyond a
2 reasonable doubt, that the Defendant possessed the
3 marijuana with the intent to distribute it.

4 To prove possession, the State must prove, beyond a
5 reasonable doubt, that the Defendant had both the power and
6 the intent to control the disposition or the use of the
7 marijuana, and possession can be either what the law calls
8 actual or constructive possession for it to be in the
9 Defendant's possession.

10 Now, actual possession is exactly what that means.
11 Actual possession means that the drug in question was in
12 the actual physical custody of the Defendant.

13 Constructive possession, on the other hand, means that
14 the Defendant had dominion and control over the marijuana
15 itself or the property on which the marijuana was found or
16 stored.

17 Now, I'll tell you, just being present at the scene
18 where drugs are found is not enough to prove possession.
19 The Defendant's knowledge and possession may be inferred
20 when a substance is found on property under the Defendant's
21 control. However, that's just an inference, it's an
22 evidentiary fact. It can be taken into consideration along
23 with other evidence, and be given the weight you think it
24 should have. Two or more persons can have joint possession
25 of a drug, and the State must prove the Defendant intended

1 to distribute the drug.

2 Now, distribute means to deliver other than means of a
3 legal administration of a drug. Intent can be shown by the
4 acts and conduct of the Defendant, and other circumstances
5 from which you may normally and naturally infer intent.

6 Let me talk just a moment about intent. Intent's the
7 state of mind that someone has when an event occurs. We
8 can't open up people's heads and look inside of them to see
9 what they intended to do. So, we can't scientifically
10 prove what people intended to do. So, intent is always
11 proven from the facts and circumstances that surround the
12 occurrence. It's by circumstantial evidence, what you can
13 infer from what happened in the event. That's how you
14 prove intent in a case.

15 In determining the Defendant had intent, you can
16 consider the facts and circumstances surrounding the
17 alleged possession. You can consider the amount of the
18 substance that was possessed. You can consider the manner
19 in which it was possessed, how it was packaged, things of
20 that nature. You can consider the place where it was
21 possessed. You can consider any factor which you consider
22 to be important in determining whether or not the Defendant
23 had an intent to distribute a drug. You must find that the
24 Defendant did not have the intent for the drug, marijuana,
25 to be used solely for his own use.

1 Now, should you find that the State has failed to
2 produce evidence that the Defendant is guilty of possession
3 with intent to distribute, in other words, you find the
4 defendant not guilty of that charge, then you must consider
5 a lesser included charge as well. We haven't talked about
6 this before. So, I want to be sure you understand that.

7 So, if the State doesn't prove that he possessed it
8 with the intent to distribute, then you must decide whether
9 the State has proven simple possession. That is a lesser
10 included offense under the law.

11 Simple possession means that the Defendant possessed
12 the drug, and I've talked to you what possession, about
13 what possession means. That he had it knowingly. That
14 means with knowledge, consciously, not accidentally.
15 Intentionally means that he had it wilfully and intended
16 the result which occurred in the case. To prove
17 possession, the State must prove, beyond a reasonable
18 doubt, that the Defendant had both the power and the intent
19 to control the disposition and use of the drug. And,
20 again, possession, as I told you earlier, can be either
21 actual or constructive, and I won't go through that again.
22 I think you understood that. And I'll tell you again, just
23 being present where drugs are found is not enough to prove
24 possession, and possession of a drug is -- it's illegal, is
25 a crime, unless it was obtained through a valid

1 prescription or ordered from a licensed practitioner.

2 Now, the next offense I'm to talk to you about is the,
3 the other indictment, and that is the indictment for
4 trafficking in cocaine, and that's a separate charge.
5 You'll write a second verdict as to that charge.

6 The State, in this case, must prove, beyond a
7 reasonable doubt, that the Defendant knowingly sold,
8 manufactured, cultivated, delivered, purchased, brought
9 into the state, provided financial assistance, or otherwise
10 aided, abetted, attempted, or conspired to either sell,
11 manufacture, cultivate, deliver, purchase, or bring into
12 the state, and was in knowing -- was knowingly in actual or
13 constructive possession, or knowingly attempted to become
14 in actual possession or constructive possession of cocaine.

15 The state must prove, beyond a reasonable doubt, that
16 the amount of cocaine that the Defendant possessed, under
17 those circumstances, was a hundred grams or more, but less
18 than 200 grams in order for it, for it to qualify as
19 trafficking.

20 Now, let me define a couple of things to you. Deliver
21 means to actually constructively attempt to transfer a
22 drug. Distribute means to deliver, other than by
23 administering or dispensing by a valid prescription, a
24 drug. Manufacture means to produce, prepare, convert,
25 process, either plant, cultivate, grow, or harvest. Those

1 can all be manufacturing a drug, and that can be done
2 either naturally or chemically. Manufacturing it includes
3 packaging or repackaging of a drug or labeling or
4 relabeling the drugs container.

5 Ms. Morton, if you'll raise your hand?

6 (WHEREUPON, the juror complies.)

7 THE COURT: You're going to be the foreperson of the
8 jury. I told you I'd appoint somebody during my charge,
9 and I'm going to ask that you do that for me.

10 Now, what that means is that you will be the person
11 who will, in effect, preside or lead the discussions of the
12 jury in the jury room. If the jury has a question during
13 deliberations, I would ask that the jury agree upon that
14 question, that you write it down on a piece of paper that
15 will be provided to you, submit it to the bailiff, who will
16 be seated right outside the door of the jury room. He'll
17 present that question to me or she will, and, at that time,
18 I will decide what the appropriate answer might be.

19 Now, I can't answer every question you might have
20 during your deliberations. I'm not allowed to get involved
21 in your discussions on the facts, and I can't express an
22 opinion about the facts. So, there's some things I can't
23 discuss with you during your deliberations. But I'm not
24 asking you to edit any questions. Whatever question the
25 whole jury wants to pose to me, write it down, submit it

1 to me, and I'll decide whether I can answer it and not --
2 well, or not, and the manner, the proper manner, in which I
3 can respond to your question. So, submit them to me.

4 During deliberations, if there is any problem or
5 issue, I would ask that you communicate that to the bailiff
6 right outside the door.

7 Now, I know it's about 10:30. I don't know how long
8 you'll be discussing this case, and reviewing the evidence.
9 That's up to you to decide in your deliberations. If we go
10 into the lunch hour, we will deliver lunch to you. The
11 bailiffs will come into the jury room to discuss that with
12 you, and make arrangements for the delivery of lunch to
13 you. The reason I'm telling you about that is that, at any
14 time if there's someone in the jury room who is not a
15 member of the jury, suspend discussions. Don't talk about
16 the case. Don't discuss the case in their presence. Wait
17 until they leave, the door is closed, and then resume your
18 deliberations.

19 You're not to discuss this case with anyone outside of
20 the 12 jurors who are deliberating. And so, when they're
21 present, talk about getting lunch, talk about the place
22 we're gonna order, whatever you need to talk about, but
23 don't talk about the case when they're present.

24 Now, I'm going to give you a verdict form in just a
25 few minutes. I'll go over the verdict form with you. And,

1 when a verdict is reached, it will be your job to record
2 the proper verdict on the form and sign it. Then you,
3 again, knock on the door. Let the bailiff know a verdict's
4 been reached. You will be brought back into the courtroom
5 where I will receive the verdict. We will go over those
6 documents with you.

7 Now, I, I will tell you that the jury cannot reach a
8 verdict in this case on any issue unless all 12 of you
9 agree. In other words, it has to be a unanimous verdict
10 before the jury has even reached a verdict. All of you
11 must agree on the result before a verdict is reached.

12 So, you would not record any verdict on the verdict
13 form until all 12 jurors are in agreement with the verdict
14 that's been reached in this case. Then you would complete
15 the form, knock on the door again, let the bailiff know
16 that the verdict has been arrived at, and then we will
17 bring you back into the courtroom to receive the verdict.
18 And I will tell you, just because I've appointed Ms. Morton
19 as the forelady of the jury, gives her no greater say in
20 the outcome of the case than any other juror. Since it
21 requires unanimity, all of you have to agree. Every juror
22 has an equal say in the outcome of the case.

23 So, just because she's the forelady doesn't place her
24 in any greater position as far as her vote or that sort of
25 thing than anybody else on the jury. Every one has their

1 vote, and, of course, it has to be unanimous before a
2 verdict is reached.

3 Now, I've gone over a good bit with you, and I want to
4 be sure I haven't misspoken or I said something wrong or
5 don't cover it fully enough. So, I'm gonna let the lawyers
6 discuss my charge with me briefly. We're gonna gather the
7 evidence together that's been put into the record. That
8 will go back in the jury room with you so you can look at
9 it, and observe it, and that sort of thing. So, I got to
10 be sure that only the properly admitted evidence goes into
11 the jury room. So, we're gonna get all that set aside and
12 be sure we have all that together for you before you go
13 back there.

14 We're going to allow the video to go back there to you
15 on a clean computer. I'm told by the folks that control
16 that computer that it's kind of an old model. It doesn't
17 have an interior battery. So, you got to plug it into the
18 wall to get it to work, but it shouldn't be anything else
19 on there, and it should allow you to play the videos so you
20 can view that if you'd like to. You're not -- I'm not
21 telling you you have to look at it, but you got a right to
22 look at all the evidence in the case. So, it will be made
23 available to you during the time that you're deliberating.

24 So, this may be the last time I'm going to tell you to
25 step outside the courtroom and not begin any discussions.

1 The next time I'll be telling you to start those
2 discussions.

3 So, this time, I'm gonna ask you to step to the jury
4 room. Don't discuss the case until I bring you back for
5 further instructions.

6 Take them back to the jury room.

7 (WHEREUPON, the following takes place outside the
8 presence of the jury.)

9 THE COURT: All right. Corrections or exceptions to
10 the charge from the State?

11 SOLICITOR MABBS: Nothing from the State, Your Honor.

12 THE COURT: Anything from the defense?

13 THE DEFENDANT: Yes.

14 THE COURT: Yes, sir.

15 THE DEFENDANT: I asked the Court to explain or charge
16 that a person cannot conspire with an agent of the State,
17 including a undercover officer or a confidential informant,
18 or that the word conspire does not include an (sic)
19 discuss, discussion or arrangement with a person who was an
20 agent of the State including an undercover officer or a
21 confidential informant, Your Honor.

22 THE COURT: I don't follow that.

23 MR. ALLEN: If I may, Your Honor?

24 THE COURT: Mr. Allen, let him -- do you want to help
25 him phrase that so I can understand it?

1 MR. ALLEN: Yes, Your Honor.

2 I think what he means, what I meant by writing it, is
3 the Court, in finding or charging on trafficking, used the
4 word conspire, and it's my understanding of the law that
5 conspiracy cannot include or does not include someone who
6 is an agent of the State, which includes a confidential
7 informant. There may of been discussion. My concern is
8 that if there's been some attack on the, the chain of
9 custody and whether or not there was a hundred grams of
10 cocaine discussed between those two folks, and,
11 therefore---

12 THE COURT: Sure.

13 MR. ALLEN: ---I'm concerned that the word conspire --
14 it's my understanding of the law he can't be conspiring
15 with an undercover agent or a confidential informant.

16 THE COURT: Any problem with my making that statement
17 to the jury, that a conspiracy, in my charge, does not
18 include a conspiracy with any agent of the State?

19 SOLICITOR GHENT: Your Honor, it's not alleged that he
20 conspired, but if Your Honor wants to clarify---

21 THE COURT: Well, it's in my charge. I didn't use
22 that word that's in the charge, standard charge that I've
23 used.

24 SOLICITOR GHENT: Yes, sir. True.

25 THE COURT: So, I'll, I'll just make that statement.

1 I'll, I'll do -- I will correct that I think.

2 MR. ALLEN: Thank you.

3 THE COURT: Anything else, Mr. Morton?

4 THE DEFENDANT: No, sir.

5 THE COURT: Okay. Thank you very much.

6 I'm gonna ask that, Mr. Allen, if you'll help Mr.
7 Morton. We're gonna segregate the evidence. Come over and
8 be sure we got that set aside properly.

9 SOLICITOR MABBS: So, Your Honor, Defense Exhibit 7 is
10 the one that was marked for I.D. So, that would not go
11 back to the jury if I'm correct.

12 THE COURT: That's right.

13 SOLICITOR MABBS: So, I'll set that aside.

14 THE COURT: That's the Facebook posting.

15 SOLICITOR MABBS: That's---

16 SOLICITOR GHENT: Your Honor, may I ask a question as
17 it's---

18 THE COURT: Well, we got, we've got two things going
19 on.

20 Do you want it on the record?

21 SOLICITOR GHENT: Yes, sir.

22 THE COURT: Okay. Go ahead.

23 SOLICITOR GHENT: All I want -- and, again, this is a
24 rhetorical question. I know the answer. But will Your
25 Honor be releasing the alternate at this point?

1 THE COURT: Oh, yes, sir, I, I release the alternate
2 when I -- that's what the statute says to do. So, I follow
3 it.

4 SOLICITOR GHENT: Yes, sir, thank you.

5 THE COURT: I think some judges hold on to them, but
6 I, I follow the statute.

7 SOLICITOR GHENT: Yes, sir, thank you.

8 THE COURT: I think the statute is not written very
9 well, but that's okay.

10 SOLICITOR GHENT: Thank you.

11 THE COURT: I'm not in charge---

12 SOLICITOR MABBS: Your Honor, if---

13 THE COURT: ---of the Legislature.

14 SOLICITOR MABBS: while we're doing this, I'd ask that
15 Mr. Morton refer from -- I don't want to say the word
16 threaten, I don't think it got to that point, but making
17 comments.

18 THE COURT: About what?

19 SOLICITOR MABBS: Your Honor, he's asking how I sleep
20 at night making me a little uncomfortable if he's
21 whispering them, and not putting it on the record.

22 THE COURT: Mr. Morton, you're up here to look at the
23 evidence. Let's look at the evidence, and let's keep our
24 comments to ourselves.

25 THE DEFENDANT: Your Honor -- oh, okay.

1 THE COURT: Please. That's not hard to ask you to do.
2 (Pause.)

3 THE COURT: All right. Have we set the, the exhibits
4 aside in a separate stack?

5 SOLICITOR MABBS: Yes, Your Honor. The ones on --.

6 THE COURT: All right. The State's in agreement with
7 those exhibits going back?

8 SOLICITOR MABBS: Yes, Your Honor.

9 THE COURT: Mr. Morton, are you in agreement with
10 those exhibits going to the jury?

11 THE DEFENDANT: I'm not agree, but I will.

12 THE COURT: Do you agree that those are the ones that
13 are in evidence that need to go to the jury?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Okay. Thank you, sir.

16 You ready?

17 THE COURT REPORTER: Yes, sir.

18 THE COURT: Bring the jury in.

19 (WHEREUPON, the following takes place within the
20 presence of the jury.)

21 THE COURT: Now, ma'am, I have had the bailiff hand
22 you some papers. If you'll turn that over. I think the
23 one on top is the verdict form.

24 Is that right?

25 THE FORELADY: Uh-huh. (Affirmative.)

1 THE COURT: Let me go over that with you so we
2 understand what that's about.

3 THE FORELADY: Yes, sir.

4 THE COURT: At the top you'll see it has the state and
5 county, and the court that we're in, and it has a statement
6 of who the parties are, the State and Mr. Dana Morton. And
7 then below that it's the body of the verdict form that says
8 that we, the jury, unanimously find. Question number one
9 applies to the charge of possession with the intent to
10 distribute marijuana. That's the indictment -- the
11 indictments are directly behind that form.

12 THE FORELADY: Okay.

13 THE COURT: And, as to that charge, there's two
14 choices, a not guilty or guilty. I have a little blank
15 right in front of each choice. I want you to put an X or a
16 check on the line that's appropriate once the jury has
17 reached a unanimous verdict on that particular charge.

18 Now, should the jury find the Defendant not guilty of
19 that charge, that the State did not prove possession with
20 intent to distribute marijuana, then you'd go to Question
21 1-A, which is right under that, and that says, should you
22 find him not guilty of that charge, then you must decide --
23 consider the charge of simple possession, and, again, the
24 choices are guilty or not guilty. You'll only answer that
25 question if you find the Defendant not guilty of the first

1 charge. If you find him guilty of the possession with
2 intent to distribute, you don't answer 1-A.

3 Do you understand that, ma'am?

4 THE FORELADY: Yes, sir.

5 THE COURT: All right. Now, the next question, and
6 that's on the next page, has to do with the charge of
7 trafficking cocaine. And, again, the choices are not
8 guilty or guilty. Once a unanimous verdict is reached on
9 that charge, you would check the appropriate blank in front
10 of the verdict. Then, of course, you -- once it's
11 completed, the form's completed, you'll sign it and submit
12 it or inform the bailiff that a verdict has been reached.

13 Now, let me tell you the fact that I've put those
14 choices in any order on that form, don't take that that
15 means my preference for any verdict. I can assure you,
16 been doing this a lot of years, and every verdict form I've
17 ever prepared in any case is always in those same orders.
18 I always put not guilty first, and guilty second. So,
19 that's no preference on my part. That's just the way I
20 prepare the forms, and I've done it for years. So, that's
21 not a preference.

22 Below that is the indictments both for the charge
23 of -- marijuana charge, and for the cocaine charge. And
24 they're informational documents. They are there to be of
25 assistance to you considering the charges.

1 Now, during my charge, I missed -- mentioned, in the
2 cocaine portion of that charge, about a conspiracy, and I
3 tell you, under the law, the conspiracy that I was talking
4 about or in the charge cannot or would not include a
5 conspiracy with a government agent. A government agent
6 cannot be a part of the conspiracy I was talking about. It
7 would have to be a conspiracy between two persons in the
8 public. So, that's not the kind of conspiracy I was
9 talking about. Any conspiracy with a government agent
10 would be excluded from that definition.

11 All right. Now, at this point in time, I'm going to
12 ask you to step back to the jury room. I'm going to tell
13 you to begin your deliberations. We've separated the
14 exhibits. We're going to send those back to you.

15 Let me caution you. Do not try to open any of the
16 bags yourselves. If you find -- believe there's a need to
17 open any of the bags, please let us know, and we'll
18 consider how we might handle that. The -- those substances
19 are alleged to be dangerous substances. Certain doses can
20 be fatal. And so we're asking you don't try to open those
21 bags on your own.

22 So, I cautioned you about that, Madam Forelady. If
23 that is about to occur, please let us know so we can take
24 the appropriate action.

25 Now, there is a -- I told you there's a computer.

1 It's coming back with you with the disc. So, if you want
2 to watch the videos, it's available. If you have any
3 difficulty in making that operate, let us know. We'll get
4 somebody to step in, and get it running for you so that
5 you'll be able to see. We want it to be available to you
6 so you can see it if you need.

7 So, at this point in time, I'm going to ask the jury
8 to begin deliberations.

9 Ma'am, you're the alternate. I'm gonna ask you to
10 remain seated in your seat.

11 okay?

12 All right. The 12 of you may retire to begin your
13 deliberations.

14 (WHEREUPON, the jury retired to begin their
15 deliberations at 10:45AM.)

16 (WHEREUPON, the alternate juror was excused at this
17 time.)

18 THE COURT: Any objections to my final instruction
19 from the State?

20 SOLICITOR MABBS: No, Your Honor.

21 THE COURT: Any from the defense?

22 THE DEFENDANT: No, sir.

23 THE COURT: All right. We'll be in recess until such
24 time as we receive a question or a verdict.

25 Thank you very much.

1 Mr. Allen, he wishes to say something. The case --
2 I've, I've rested the case. So, I don't know what he wants
3 to say.

4 (WHEREUPON, a short recess was taken at this time.)

5 THE COURT: All right. I have been informed that a
6 verdict has been reached in the case.

7 State ready to receive the verdict?

8 SOLICITOR MABBS: We are, Your Honor.

9 THE COURT: You ready to receive the verdict?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Now, I note that they have placed shackles
12 on your hands.

13 THE DEFENDANT: Uh-huh. (Affirmative.)

14 THE COURT: I'm gonna urge you to put that under the
15 table.

16 THE DEFENDANT: Uh-huh. (Affirmative.)

17 THE COURT: There could be a problem with the jury or
18 a verdict that I have to send them back for them to
19 continue deliberations. I don't want them to see you in
20 those shackles. That could work against you later on. So,
21 I'm gonna ask you to remain seated and keep your hands out
22 of sight.

23 THE DEFENDANT: Okay.

24 MR. ALLEN: If I may, Your Honor?

25 (Pause.)

1 THE COURT: All right. Bring the jury in.

2 (Whereupon, the jury returned to the courtroom at
3 11:17AM.)

4 THE COURT: All right. The record will reflect that
5 the jury has returned to the courtroom.

6 Has the jury reached a verdict, Madam Forelady?

7 THE FORELADY: Yes, sir.

8 THE COURT: Pass the form to Mr. Alford please.

9 (WHEREUPON, the forelady complies.)

10 THE COURT: Thank you very much.

11 Madam Clerk, you may publish the verdict.

12 THE CLERK: State of South Carolina, County of
13 Spartanburg, State of South Carolina versus Dana Morton.

14 In the Court of General Sessions, Seventh Judicial
15 Circuit, we, the jury, unanimously find as the following
16 indictment:

17 In Case Number 2017-GS-42-4141, possession with intent
18 to distribute, guilty.

19 In the Case 2017-GS-42-4142, trafficking in cocaine,
20 guilty.

21 I certify this is the decision of the, of the --
22 unanimous decision of the jury signed by Melissa Morton
23 today, October the 19th, 2018.

24 Ladies and gentlemen of the jury, is this your verdict
25 and still your verdict, if so, please raise your

1 right-hand.

2 (WHEREUPON, all juror raise their right-hands at this
3 time.)

4 THE CLERK: So say you all.

5 THE COURT: Thank you.

6 Anything further from the State before I release the
7 jury?

8 SOLICITOR MABBS: Nothing from the State, Your Honor.

9 THE COURT: Anything from the defense?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Yes, sir.

12 THE DEFENDANT: I would like a poll.

13 THE COURT: All right. Madam Clerk, we'll poll the
14 jury.

15 Ladies and gentlemen of the jury, we're gonna call
16 your names. You need to follow the clerk's instructions as
17 to how to respond to her question.

18 Madam Clerk.

19 THE CLERK: Ladies and gentlemen, I'll be asking you
20 the question, and the question is is this your verdict and
21 still your verdict. Once I call your name and number, if
22 you'd just please raise your right-hand, and answer yes or
23 no.

24 Juror 163, Brittney Sarratt, is this your verdict and
25 still your verdict?

1 THE JUROR: Yes.
2 THE CLERK: Juror 123, Melissa Morton.
3 THE JUROR: Yes.
4 THE CLERK: Juror Number 80, Robert Hartranft.
5 THE JUROR: Yes.
6 THE CLERK: Juror Number 33, Sarah Clemons.
7 THE JUROR: Yes.
8 THE CLERK: Juror Number 90, Edna Jackson.
9 THE JUROR: Yes.
10 THE COURT: Juror Number 155, Matthew Shields.
11 THE JUROR: Yes.
12 THE CLERK: Juror Number 13, David Bowyer.
13 THE JUROR: Yes.
14 THE CLERK: Juror Number 11, Crystal Bland.
15 THE JUROR: Yes.
16 THE CLERK: Juror Number 104, Jordan Lawson.
17 THE JUROR: Yes.
18 THE CLERK: Juror Number 123, Thai Nguyen.
19 THE JUROR: Yes.
20 THE CLERK: Sorry.
21 Juror Number 22, William Morris.
22 THE JUROR: Yes.
23 THE CLERK: And Juror 179, Kelsey West.
24 THE JUROR: Yes.
25 THE CLERK: So say you all.

1 THE COURT: All right. After polling, it appears the
2 verdict is unanimous.

3 (WHEREUPON, the jury panel was released at this time.)

4 THE COURT: Mr. Morton, you can stand.

5 (WHEREUPON, the Defendant complies.)

6 THE COURT: Mr. Morton, I have received the sentencing
7 sheets in your case, and you have been found guilty by a
8 jury of your peers of the two charges that are before this
9 Court, which is possession with the intent to distribute
10 marijuana, and trafficking in cocaine.

11 Now, it does not -- I note that you have signed the
12 sentencing sheet. There's a blank for the -- there's a
13 blank for an attorney for the Defendant, and, of course,
14 you were representing yourself.

15 Do you have any objection to my adding that you were
16 pro se, that's a Latin word that meant you were for
17 yourself?

18 THE DEFENDANT: No.

19 THE COURT: Do you have any objection to me adding
20 that to the sheet?

21 THE DEFENDANT: No.

22 THE COURT: All right, sir.

23 All right. At this time, the Court is considering the
24 appropriate sentencing in this case. I will tell you that
25 I have been informed that the offense of trafficking in

1 cocaine 100 grams or more, but less than 200 grams is
2 classified in this State as a violent and a serious
3 offense. As such, it carries certain restrictions
4 concerning availability of parole, and things of that
5 nature. This Court does not determine parole. At this
6 point in time, my job is to determine the appropriate
7 sentencing in this case.

8 Now, I'll talk to the State.

9 Ms. Mabbs, my understanding of the sentencing for
10 trafficking in cocaine at that level is a mandatory 25
11 years.

12 Is that correct?

13 SOLICITOR MABBS: Correct, Your Honor, and a---

14 THE COURT: And a fine of \$50,000.

15 SOLICITOR MABBS: That's correct, Your Honor.

16 THE COURT: All right.

17 MR. ALLEN: Your Honor?

18 THE COURT: And the other offense, which is possession
19 with the intent to distribute marijuana, and I believe that
20 you're asking that this be classified as a second offense.

21 SOLICITOR MABBS: That's correct, Your Honor, and I do
22 have the certified convictions if Your Honor---

23 THE COURT: Okay. I'll let you put that in at the
24 appropriate time.

25 My understanding of the maximum sentence on that

1 particular charge is anywhere from zero up to ten years
2 and/or a fine of zero up to \$10,000.

3 SOLICITOR MABBS: That's correct, Your Honor.

4 THE COURT: Is that your understanding?

5 SOLICITOR MABBS: Yes, Your Honor.

6 THE COURT: Yes, sir, Mr. Allen.

7 MR. ALLEN: May he make a posttrial motion, Your
8 Honor?

9 THE COURT: Yes, sir, I'll be glad -- I, I just wanted
10 to go over it to be sure we had an agreement as to the
11 potential penalties.

12 MR. ALLEN: Okay.

13 THE COURT: And do you have a disagreement with what
14 we said about that, either Mr. Morton or Mr. Allen,
15 concerning those potential penalties?

16 MR. ALLEN: No, Your Honor. That's my understanding
17 of the law.

18 THE COURT: Is that your understanding as well, Mr.
19 Morton?

20 THE DEFENDANT: I assume so.

21 THE COURT: Okay. Now, you -- I understand you do
22 wish to introduce or place in the record posttrial motions.
23 I'll hear from you at this point in time.

24 THE DEFENDANT: I move for a new trial on the grounds
25 as I have previously stated in my motions for direct

1 verdict based upon all the previous motions, and objections
2 made during this -- during the trial, and rule against the
3 defenses, Defendant, which is me.

4 THE COURT: Yes, sir.

5 All right. I note those motions, motion for new
6 trial. I have been present and reviewed the evidence
7 throughout the trial. I see no reason to disturb or
8 overturn the verdict or for me to act as a 13th juror. So,
9 at this point in time, the motions will be denied.

10 MR. ALLEN: Yes, sir.

11 THE COURT: I'll allow the conviction to stand at this
12 time.

13 Now, Mr. Morton, I'm going to give you an opportunity
14 to speak to me about sentencing --

15 THE DEFENDANT: Uh-huh. (Affirmative).

16 THE COURT: -- at this point in time. And, once
17 you've finished, I'm going to talk with the State about the
18 situation. They're going to go over with me your prior
19 criminal record, and some other information they want to
20 share. I'll come back to you and give you a chance to
21 respond to that once they've finished.

22 Do you understand that?

23 THE DEFENDANT: Yeah.

24 THE COURT: All right. Mr. Morton, anything you'd
25 like to say to me concerning sentencing, I'll be happy to

1 hear from you.

2 THE DEFENDANT: No, sir.

3 THE COURT: Okay. Now, the State, can you tell me
4 some information please, ma'am?

5 SOLICITOR MABBS: Yes, sir, Your Honor.

6 would you like to start with his prior record?

7 THE COURT: That would be fine, yes, ma'am.

8 SOLICITOR MABBS: Your Honor, his prior record is, in
9 1997, possession of cocaine.

10 1999, driving under suspension.

11 2000, giving false information, and a Court charge
12 that was not submitted. It appeared the arrest was for
13 loud music.

14 2001, failure to stop for a blue lights.

15 2002, simple assault and battery.

16 2003, fraudulent check.

17 2005, malicious injury to personal property.

18 2006, criminal domestic violence first, and simple
19 assault and battery.

20 2007, simple possession of marijuana, and giving false
21 information.

22 2011, possession with intent to distribute marijuana,
23 possession with intent to distribute cocaine base third
24 offense, and receiving stolen goods.

25 And, Your Honor, as I did mention, I do have certified

1 convictions from Greenwood. Your Honor, those are for the
2 possession of crack cocaine from 2010, or was it -- I'm
3 sorry, Your Honor, 2011. And then I do have the possession
4 of marijuana with intent to distribute as well, Your Honor.

5 THE COURT: All right.

6 SOLICITOR MABBS: I believe it would---

7 THE COURT: If you would, please let's pass those over
8 to let him look at those.

9 (Pause.)

10 THE COURT: Have you had a chance to look at those,
11 Mr. Morton?

12 THE DEFENDANT: Uh-huh. (Affirmative).

13 THE COURT: They're asking that I put that in the
14 record concerning your prior record primarily because they
15 are asking that you be charged, on the marijuana charge,
16 it's a second offense.

17 Is that correct, ma'am?

18 SOLICITOR MABBS: That's correct, Your Honor.

19 THE COURT: All right. Do you understand that?

20 THE DEFENDANT: I guess so.

21 THE COURT: well, that's to establish the fact you do
22 have prior convictions.

23 THE DEFENDANT: Uh-huh. (Affirmative).

24 THE COURT: Because they're claiming that that charge
25 would be -- constitute a second offense. At least a second

1 offense.

2 All right. You may put those into the record.

3 SOLICITOR MABBS: Thank you.

4 (WHEREUPON, the indictments were marked as Court's
5 Exhibit Nos. 3 and 4 and received into evidence at this
6 time.)

7 THE COURT: Mr. Mabbs, any other information the State
8 would like to share concerning sentencing?

9 SOLICITOR MABBS: Your Honor, as far as sentencing
10 goes, I believe this was mentioned briefly before we
11 started the trial. Mr. Morton was placed on a list by the
12 Spartanburg County Sheriff's Office narcotics team that we
13 quickly refer to as the target list.

14 Your Honor, that was a list that our office spoke to
15 the Sheriff's Office about, and asked them to pick
16 basically their four biggest targets in Spartanburg County
17 that they were concerned about bringing drugs into
18 Spartanburg County. Mr. Morton was on that list, Your
19 Honor. As I believe I mentioned earlier, that's how the
20 structure of the previous offers was done. We did that for
21 all of the targets on that list.

22 Your Honor, since he was such a high target, we would
23 request consecutive sentencing.

24 THE COURT: All right. Any -- I told you I'd let you
25 speak to me after she did. If there's something you'd like

1 to respond to or correct.

2 THE DEFENDANT: Your Honor, I'd like to get it all in
3 one. That way it can be 40 years, or whatever it is, all
4 in one instead of doing two. I'd be able to go down, get
5 my G.E.D., high school diploma, whatever I got to do.

6 THE COURT: Okay, sir. I know he has been out on bond
7 while this charge was pending.

8 Do you know how much time he may have served already?

9 SOLICITOR MABBS: Your Honor, let me pull his bond
10 sheet, and I can confirm that.

11 THE COURT: Thank you, ma'am.

12 SOLICITOR MABBS: Your Honor, he was arrested on
13 February 2nd, 2017. It appears he posted bond on
14 February 3rd, 2017.

15 THE COURT: Okay. One day?

16 SOLICITOR MABBS: Yes, sir, Your Honor.

17 THE COURT: Mr. Morton, I know that you've been in
18 custody during the trial of this case. So, I am giving you
19 credit for six days of time already served.

20 All right. Mr. Morton, in the case 2017-4142, the
21 trafficking in cocaine, it's the sentence of this Court
22 that you be confined in the State Department of Corrections
23 for a period of 25 years, and pay a fine of \$50,000. Give
24 him credit for six days. I have run that concurrently with
25 the other sentence. That sentence is ten years, again

1 concurrent, with credit for six days on the marijuana
2 charge.

3 Good luck to you, sir.

4 THE DEFENDANT: Thank you.

5 SOLICITOR MABBS: Thank you, Your Honor.

6 THE COURT: Thank you very much.

7 Court is adjourned at this time.

8

9 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 15th, 16th 17th, 18th, and 19th days of October, 2018.

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

February 18th, 2019

PAMELA E. GREEN, Court Reporter

04/07/2017

Page 2/18/17

Form Approved by
S.C. Attorney General
April 21, 2005
SCGA 518

ORIGINAL

AFFIDAVIT

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Spartanburg

Personally appeared before me the affiant Anthony Lachicabeing duly sworn deposes and says that defendant Dana L. Mortondid within this county and state on or about 2/2/2017State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

Spartanburg

in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in cocaine, 100 g or more, but less than 200 g

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on February 2, 2017, in the city/county of Spartanburg, one Dana L. Morton did knowingly sell, manufacture, deliver, bring into this state and/or possess between 100 and 200 grams of cocaine, a schedule II controlled substance, without authority to do so. Affiant's belief based on police investigation. MF

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Spartanburg

Affiant's Address 8045 Howard StreetSpartanburg 29303-Affiant's Telephone (864) 503-4500

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 2/2/2017 defendant Dana L. Morton

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Spartanburg) as set forth below:DESCRIPTION OF OFFENSE: Drugs / Trafficking in cocaine, 100 g or more, but less than 200 g

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 2/2/2017Signature of Issuing Officer D. Smith (L.S.)

Dwight Gibson Smith

Judge Code: 7151

ORIGINAL

ORIGINAL

☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ARREST WARRANT

2017A4210200375

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Spartanburg

THE STATE

against

Dana L. Morton

Address: [REDACTED]

Greenwood, SC 29648-

Phone:

Sex M Race B Height 5 Weight 150DL Star: [REDACTED] DL #: [REDACTED]DOB: [REDACTED] Agency ORI #: SC0420000Prosecuting Agency: Spartanburg County SheriffProsecuting Officer: Anthony Lachica - 0772Offense: Drugs / Trafficking in cocaine, 100 g or more, but less than 200 gOffense Code: 0280Code/Ordinance Sec: 44-53-0370(e)(2)(c)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Dana Mortonon 2-2-17Signature of Constable/Law Enforcement Officer: D. Adams

RETURN WARRANT TO:

General Sessions

180 Magnolia Street

P O Box 3483

Spartanburg, SC 29304

ORIGINAL

ORIGINAL

04/07/2017

Form Approved by
U.S. Department of Justice
April 21, 2003
SCCA 518

ORIGINAL

AFFIDAVIT

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Spartanburg

Personally appeared before me the affiant Anthony Lachicabeing duly sworn deposes and says that defendant Dana L. Mortondid within this county and state on or about 2/2/2017State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Spartanburg

in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Manufacture, possession of other sub. in Sch. I, II, III or flunitrazepam or analogue, w.i.t.d.
1st offense

violate the criminal laws of the

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on February 2, 2017 in the city/county of Spartanburg, one Dana L. Morton did aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver, purchase and or possess, with the intent to manufacture, distribute, dispense, deliver, or purchase Marijuana, a controlled substance or a controlled substance analogue classified in Schedule I (b) and (c) which is a narcotic drug or lysergic acid diethylamide (LSD) or in Schedule II which is a narcotic drug. Affiant's belief based on police investigation. MF

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Spartanburg

Affiant's Address 8045 Howard Street

Spartanburg 29303-

Affiant's Telephone (864)503-4500

FEB 09 2017

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 2/2/2017defendant Dana L. Morton

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Spartanburg

) as set forth below:

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1st offense

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 2/2/2017Signature of Affiant (L.S.)Judge's Address Spartanburg County Judicial CenterSpartanburg, SC 29306-5221Judge's Telephone (864)596-2228

Dwight Gibson Smith

Judge Code: 7151Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL ORIGINAL ORIGINAL

ORIGINAL

ARREST WARRANT

2017A4210200377

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Spartanburg

THE STATE
against

Dana L. Morton

Address: Greenwood, SC 29648-Phone: SSN:Sex: M Race: B Height: 5 Weight: 150DL State: DL #:DOB: Agency ORI #: SC0420000Prosecuting Agency: Spartanburg County SheriffProsecuting Officer: Anthony Lachica - 0772Offense: Drugs / Manufacture, possession of other sub. inSch. I, II, III or flunitrazepam or analogue, w.i.t.d.Offense Code: 0186Code/Ordinance Sec: 44-53-0370(b)(2)This warrant is CERTIFIED FOR SERVICE in the☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law.

(L.S.)

Date:

Signature of Judge

RETURN

A copy of this arrest warrant was delivered to

defendant

on

Dana Morton2-2-17D. Adams

Signature of Criminal Law Enforcement Officer

RETURN WARRANT TO:

General Sessions

180 Magnolia Street

P O Box 3483

Spartanburg, SC 29304

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

DOCKET NO. -

WITNESSES

SCSO

17-GS-42-4141

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 21 2017

TERM

ARREST WARRANT NUMBER

2017A4210200377

ACTION OF GRAND JURY

Return True Bill

Foreperson of Grand Jury

Date:

VERDICT

Guilty

Foreperson of Petit Jury

Date: 10/19/18

RECEIVED
OCT 24 2018
SC Court of Appeals

THE STATE

vs.

DANA L. MORTON

Indictment for

POSSESSION WITH INTENT TO
DISTRIBUTE MARIJUANA

SC Code: 44-53-370

R. 1076

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF SPARTANBURG)

At a Court of General Sessions, convened on AUG 18 2017, the
Grand Jurors of Spartanburg County present upon their oath:

POSSESSION WITH INTENT TO DISTRIBUTE

That Dana L. Morton did in Spartanburg County on or about February 2, 2017, manufacture, distribute, dispense, deliver, purchase, aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, distribute, dispense, deliver, or purchase a quantity of Marijuana, a schedule I controlled substance, in violation of § 44-53-370, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.*

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

Allison Mells
ASSISTANT SOLICITOR

DOCKET NO.

17-GS-42-4142

WITNESSES

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 21 2017

TERM

THE STATE
vs.

DANA L. MORTON

Indictment for

TRAFFICKING IN COCAINE

SC Code: 44-53-370

SCSO

[Signature]

ARREST WARRANT NUMBER

2017A4210200375

ACTION OF GRAND JURY

[Stamp: True Bill]

Foreperson of Grand Jury

Date:

VERDICT

[Signature]

[Signature]

Foreperson of Petit Jury

Date: 10/19/18

RECEIVED
OCT 24 2018
SC Court of Appeals

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

AUG 18 2017

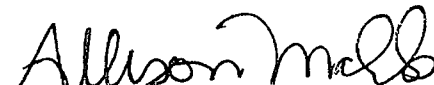
At a Court of General Sessions, convened on _____, the

Grand Jurors of Spartanburg County present upon their oath:

TRAFFICKING IN COCAINE

That Dana L. Morton did in Spartanburg County on or about February 2, 2017, knowingly sell, manufacture, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or did knowingly actually or constructively possess, or did knowingly attempt to actually or constructively possess more than (100) One Hundred grams of Cocaine, a schedule II controlled substance, in violation of §44-53-370, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE

VS.

Dana L. Morton

AKA:

Race: BSex: MAge: 40DOB: ##

Address:

City, State, Zip:

DL#:

SID#:

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

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

TO: Possession With Intent To Distribute Marijuana, 2nd offense- 0-10 years and/or \$0-10,000

☒ CONVICTED OF

or

☐ PLEADSin violation of § 44-53-0370(b)(2)

of the S.C. Code of Laws, bearing CDR Code #

0187☒ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS(CSC
w/minor 1st or Lewd Act)☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

MABBS, ALLISON M

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

for a determinate term of 10 days/months/years or

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc. day (six)☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§14-1-206 (Assessments 107.5 %)	\$	
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso (Public Def/Probation)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$ <u>150.00</u>
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$ <u>8.25</u>

TOTAL

\$ 283.25

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS4204141A/W#: 2017A4210200377Date of Offense: 2/2/2017S.C. Code § 44-53-0370(b)(2)CDR Code #: 0187

SENTENCE SHEET

☒ CONVICTED OF

or

☐ PLEADSin violation of § 44-53-0370(b)(2)

of the S.C. Code of Laws, bearing CDR Code #

0187☒ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS(CSC
w/minor 1st or Lewd Act)☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

MABBS, ALLISON M

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

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for a determinate term of 10 days/months/years or

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Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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3% to County (if paid in installments)	\$	\$ <u>8.25</u>

TOTAL

\$ 283.25

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS4204141A/W#: 2017A4210200377Date of Offense: 2/2/2017S.C. Code § 44-53-0370(b)(2)CDR Code #: 0187

SENTENCE SHEET

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or

☐ PLEADSin violation of § 44-53-0370(b)(2)

of the S.C. Code of Laws, bearing CDR Code #

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w/minor 1st or Lewd Act)☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

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SC Bar#

Defendant

Attorney for Defendant

SC Bar#

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and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

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Clerk of Court/ Deputy Clerk

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INDICTMENT/CASE#: 2017GS4204141A/W#: 2017A4210200377Date of Offense: 2/2/2017S.C. Code § 44-53-0370(b)(2)CDR Code #: 0187

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and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc. day (six)☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§14-1-206 (Assessments 107.5 %)	\$	
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso (Public Def/Probation)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$ <u>150.00</u>
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$ <u>8.25</u>

TOTAL

\$ 283.25

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (04/2018)

Presiding Judge

Judge Code: 2135Sentence Date: 10/19/18

RECEIVED
OCT 24 2018
SC Court of Appeals

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
STATE VS.

Dana L. Morton

AKA:

Race: B Sex: M Age: 40

DOB:

Address:

City, State, Zip:

DL#:

SID#:

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

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

TO: Drugs / Trafficking in cocaine, 100 g or more, but less than 200 grams- 25 years and \$50,000

in violation of § 44-53-0370(e)(2)(c)

of the S.C. Code of Laws, bearing CDR Code #

0280

☐ NON-VIOLENT

☒ VIOLENT

☒ SERIOUS

☐ MOST SERIOUS

☐ Mandatory GPS(CSC

☐ §17-25-45

w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense,

☐ Defendant Waives Presentment to Grand Jury.

(defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation,

☐ Negotiated Sentence,

☐ Recommendation by the State.

ATTEST:

MABBS, ALLISON M

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections,

☐ County Detention Center,

for a determinate term of 25 days/months/years or

☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$ 50,000.00 provided that upon the service of days/months/years and/or payment

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

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

☒ CONCURRENT or

☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. 60 days (six)

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fee: \$

days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§14-1-206 (Assessments 107.5 %) \$ 50,000.00

§14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 53,750.00

§14-1-211(A)(2) (DUI Surcharge) \$100 \$ 100.00

§56-5-2995 (DUI Assessment) \$12 \$

§56-1-286 (DUI Breath Test) \$25 \$

Proviso (Public Def/Probation) \$500 \$

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ 150.00

§50-21-114 (BUI Breath Test Fee) \$50 \$

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$

3% to County (if paid in installments) \$ 3,120.75

TOTAL

\$ 107,145.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

R 1081

INDICTMENT/CASE#: 2017GS4204142

A/W#: 2017A4210200375

Date of Offense: 2/2/2017

S.C. Code § 44-53-0370(e)(2)(c)

CDR Code #: 0280

SC Court of Appeals

SENTENCE SHEET

☒ CONVICTED OF

or

☐ PLEADS

Presiding Judge

Judge Code:

Sentence Date:

2135

10/19/18

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions
Roger L. Couch, Circuit Court Judge

RECEIVED
Aug 13 2020
SC Court of Appeals

Appellate Case No. 2018-001909

The State, ...Respondent,

v.

Dana L. Morton,.....Appellant.

Rule 210, SCACR Certification

The Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Respectfully Submitted,

By s/E. Charles Grose, Jr.

E. Charles Grose, Jr.
S.C. Bar Number 66063
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466
(864) 538-4405 (fax)
Email: charles@groselawfirm.com

Attorney for the Appellant

August 13, 2020